

Monday, 8 November 2021

CABINET

A meeting of **Cabinet** will be held on

Tuesday, 16 November 2021

commencing at **5.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Steve Darling (Chairman)

Councillor Carter

Councillor Long

Councillor Cowell

Councillor Morey

Councillor Law

Councillor Stockman

Together Torbay will thrive

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, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

CABINET AGENDA

1. **Apologies**
To receive apologies for absence.
2. **Minutes** (Pages 5 - 16)
To confirm as a correct record the Minutes of the meeting of the Cabinet held on 19 October 2021.
3. **Disclosure 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.)
4. **Communications**
To receive any communications or announcements from the Leader of the Council.
5. **Urgent Items**
To consider any other items the Chairman decides are urgent.
6. **Matters for Consideration**
7. **Gambling Act 2005 - Licensing Statement of Principles 2022 to 2025** (Pages 17 - 70)
To consider a report that recommends the Council approves the Gambling Act 2005 – Licensing Statement of Principles 2022 to 2025.
8. **Proposed Council Tax Support Scheme 2022/23** (Pages 71 - 78)
To consider a report that provides members with the background of

the current scheme and recommendations for the 2022/23 local Council Tax Support scheme.

9. **Temporary Accommodation - Procurement and Strategy** (Pages 79 - 100)
To consider a report that outlines the planned procurement for Temporary Accommodation services for Torbay Council and seek delegated authority to award the contracts.
10. **Budget Monitoring 2021/22 - Quarter 2 (April - September) Revenue Outturn Forecast & Capital Outturn Forecast** (Pages 101 - 128)
To consider a report that provides a high-level budget summary of the Council's final revenue and capital position for the financial year 2021/22.
11. **Renewed listing of Parkfield as an Asset of Community Value** (Pages 129 - 146)
To consider a report that outlines an application to relist Parkfield, 38 Esplanade Road, Paignton as an asset of community value.
12. **Torquay Town Deal – Business Case Assurance** (Pages 147 - 263)
To consider a report on the above.
13. **Growth Fund allocation - Edginswell Development** (Pages 264 - 277)
To consider a report that sets out a proposal for the Council, acting as landowner and developer, to progress and enter into contracts to develop and lease a new production, research and design facility, on land at Edginswell Business Park, Orchard Way Torquay.
14. **Growth Fund investment to deliver five new business units at Lymington Road Coach Station** (Pages 278 - 292)
To consider a report that seeks authorisation to increase the contribution from the Growth Fund to deliver five new business units at Lymington Road Coach Station.
15. **Report of the Overview and Scrutiny Board on the 'Impact on the Council of the increase in the Higher Needs Block of the Dedicated Schools Grant'** (Pages 293 - 297)
To consider the report of the Overview and Scrutiny Board on the impact on the Council of the increase in the Higher Needs Block of the Dedicated School Grant and formally respond to the recommendations contained within the submitted report.

Meeting Attendance

Whilst national Covid-19 restrictions were lifted on 19 July 2021, Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting please contact us to confirm arrangements for your attendance.

Minutes of the Cabinet

19 October 2021

-: Present :-

Councillor Steve Darling (Chairman)

Councillors Carter, Cowell, Law, Morey and Stockman

(Also in attendance: Councillors Barrand, Bye, Chris Lewis and David Thomas)

261. Apologies

An apology for absence was received from Councillor Long.

262. Minutes

The Minutes of the meeting of the Cabinet held on 21 September 2021 were confirmed as a correct record and signed by the Chairman subject to the 'Reason for Decision' section of the Record of Decision on the Member Champion Annual Report - Domestic Abuse and Sexual Violence being amended as follows:

'The review the previous activity of the ~~Armed Forces~~ **Domestic Abuse and Sexual Violence** Member Champion and to approve targets for the next 12 months.'

263. Communications

The Cabinet Member for Children's Services, Councillor Law raised awareness of the Children's Society petition requesting Government to prioritise funding for children in the autumn spending review.

The Leader of the Council, Councillor Steve Darling advised Members he had been liaising with the Chief Constable of Devon and Cornwall Police to raise the need for Torbay to be a police command area like Plymouth and Exeter, whilst also working with Torbay Together Strategic Partnership to develop a task force to address the use of drugs and alcohol within Torbay.

The Cabinet Member for Infrastructure, Environment and Culture, Councillor Morey provided feedback on a positive visit to Torbay by the Arts Council.

264. Matters for Consideration

The Cabinet considered the following matters, full details of which (including the Cabinet's decisions) are set out in the Record of Decisions appended to these Minutes.

265. Domestic Abuse Act - Safe Accommodation Strategy

266. Torre Abbey Development Foundation Proposal

267. Bus Service Improvement Plan

268. Member Champion for Volunteers - Annual Report

269. Member Champion for Mental Health and Wellbeing - Annual Report

Chairman

Record of Decisions

Domestic Abuse Act - Safe Accommodation Strategy

Decision Taker

Cabinet on 19 October 2021.

Decision

That:

- 1) the outline commissioning and action plan is approved in principle as set out at Appendix 1;
- 2) full consultation on the Safe Accommodation Strategy and action plan is undertaken as part of the consultation on the new DASV Strategy. A wider DA Needs Assessment has been commissioned alongside the production of the Safe Accommodation Strategy Needs Assessment, these will inform and enable the production of a new Strategy for Domestic Abuse in Torbay. This new DASV Strategy will involve a full consultation process and therefore come back to Cabinet as will form part of the Council's governance framework. Hence why at this stage it is recommended to approve this direction of travel ahead of full consultation next year; and
- 3) the progress on work to protect the safety of women and girls and to address sexual violence is noted and that the Council fully support not just the White Ribbon accreditation process, but encourage Officers and Councillors alike to become White Ribbon Ambassadors (men) or Champions (women).

Reason for the Decision

To enable the Council to meet its statutory responsibilities under the Domestic Abuse Act 2021 and protect Torbay's victims of domestic abuse from harm.

Implementation

This decision will come into force and may be implemented on Monday, 1 November 2021 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The Domestic Abuse Act 2021 requires Tier 1 Authorities to undertake an assessment of the support need of victims of domestic violence and their children in safe accommodation. The Needs Assessment has been undertaken as part of a wider review of domestic abuse in Torbay, that will inform the new Domestic Abuse and Sexual Violence (DASV) Strategy to be produced next year.

Due to the Department of Levelling Up, Housing and Communities (DLUHC) deadline for the submission of the Strategy, consultation on the draft Strategy has been necessarily limited to the statutory partners attending DASV Executive and Operations Groups. The draft Strategy will require some updating once the full strategic review has been completed. It is therefore

proposed that the current ongoing governance processes are to seek approval for the direction of travel and that full and robust consultation on the Safe Accommodation Strategy will take place as part of the consultation for the new DASV Strategy.

The Council would also be seeking to renew its White Ribbon Campaign Accreditation that expired in 2020. The White Ribbon Campaign seeks to engage and facilitate men speaking out about violence against women and girls with a view to ending it. In doing so the Council aims to recognise, amplify and facilitate the role men can play in challenging violence perpetrated by men, <https://that-guy.co.uk/> is a useful tool in starting the conversation.

At the meeting Councillor Carter proposed and Councillor Stockman seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

There were no alternative options considered.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

None.

Published

22 October 2021

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Torre Abbey Development Foundation Proposal

Decision Taker

Cabinet on 19 October 2021.

Decision

That:

- 1) The development of a Development Foundation for Torre Abbey be approved;
- 2) The Director of Place be delegated authority to establish a Memorandum of Understanding between the Council and the Torre Abbey Foundation, in consultation with the Cabinet Member for Infrastructure, Environment and Culture and the Monitoring Officer; and
- 3) The Director of Place write a letter of thanks to the Friends of Torre Abbey group recognising how vital their contribution is to the ongoing development of Torre Abbey.

Reason for the Decision

Since the Covid-19 Pandemic grant funding had become even more competitive and necessary. With many funding pots being oversubscribed and only available to charities, restrictions that limited the funding avenues for Torre Abbey. A Development Foundation would open up the opportunity for Torre Abbey to apply to a wider range of funds and to make use of the government Gift Aid scheme.

Implementation

This decision will come into force and may be implemented on Monday, 1 November 2021 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

The Cabinet were asked to approve the development of an independent foundation with charitable status to support Torre Abbey. The foundation will secure additional funding enabling Torre Abbey to move towards becoming a financially sustainable asset. The governance and operating model of Torre Abbey will not change. The asset will remain under the care and management of Torbay Council. The foundation will simply raise funds to support the asset.

At the meeting, Councillor Morey proposed and Councillor Steve Darling seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

The alternative options were:

Option 1: Stay as is – this is not feasible as Torre Abbey needs to increase the funding it receives to pay for essential maintenance work and a variety of projects.

Option 2: Request Support from Friends of Torre Abbey (FOTA) – FOTA have confirmed they are unable to undertake the level of funding bids required to be submitted by a charitable arm and do not wish to supply gift aid support.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

Councillor Bye declared a personal interest as a Member of the Torre Abbey 1196 Club.

Published

22 October 2021

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Bus Service Improvement Plan

Decision Taker

Cabinet on 19 October 2021.

Decision

That the Cabinet:

1. Note the National Bus Strategy's overarching goal to grow bus patronage: both to build it back after the pandemic and then to increase it and raise buses' mode share and to approve the priorities and principles set out in this report and appendices for inclusion within the Bus Service Improvement Plan and continue to support the work towards an Enhanced Bus Partnership by 31st March 2022; and
2. Delegates the publication and submission of the final plan by 31st October 2021 to the Assistant Director – Planning, Housing and Climate Emergency in consultation with Cabinet Member for Infrastructure, Environment and Culture.

Reason for the Decision

The submission of the Bus Service Improvement Plan will improve accessibility for everyone across Torbay, improve connectivity to facilities whether that is education, health, employment or other, ensuring those most deprived are not excluded from that connectivity, supporting our town centres and other trip generating hubs in our towns, and helps to move journeys away from the private car and onto zero emission buses to contribute to reductions in Torbay's carbon footprint.

Implementation

The decision in respect of the Bus Service Improvement Plan will come into force immediately as the decision maker has decided that any delay likely to be caused by the call-in process would prejudice the Public' and Council's interest. The Overview and Scrutiny Co-ordinator was consulted on 5 October 2021.

Information

On 15th March 2021 the Government published the National Bus Strategy, 'Bus Back Better'. The strategy sets out a vision for improving bus services nationally. It recognises the need to act quickly, whilst acknowledging that the industry will need ongoing support for some time to recover from the consequences of Covid-19. The aim was to re-establish patronage at pre-covid levels and then to exceed them. To do this, buses must be a practical and attractive alternative to the car.

The strategy makes it clear that funding will be made available to Local Authorities who pursue this vision and seek to make the improvements to their services and network. This has clear direct benefits to the Local Authority, not least in respect of accessibility for the community and supporting the carbon neutrality aims.

Following agreement earlier this year for the authority to enter into a partnership with operators,

the next step in the process is publication of a Bus Service Improvement Plan by 31st October 2021. The Plan sets out a vision and priorities for the future of bus services in Torbay and will be a high-level bidding document used to secure capital and revenue grant funding from the Department for Transport.

At the meeting Councillor Morey proposed and Councillor Law seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

The options for this decision are to:

Option 1: agree a Bus Service Improvement Plan and therefore continue the process towards a Partnership.

Option 2: to take the decision to no longer pursue a Bus Service Improvement Plan. This option was discounted due to the Local Transport Plan supporting bus travel already, the opportunities through the partnership for a greater level of improvement in services helping to meet the corporate visions and objectives, and the ongoing work towards carbon neutrality.

Is this a Key Decision?

No

Does the call-in procedure apply?

No

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

None.

Published

22 October 2021

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Member Champion Annual Report - Volunteering

Decision Taker

Cabinet on 19 October 2021.

Decision

That the report be endorsed.

Reason for the Decision

To review the previous 12 months activity of the Member Champion for Volunteering.

Implementation

This decision will come into force and may be implemented on 1 November 2021 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

In 2019 the Cabinet appointed a number of Member Champions. Member champions are elected members who act as an advocate or spokesperson for a specific area of the Council's business. The main responsibility of each member champion is to encourage communication and positive action over the issue they represent. The Member Champion for Volunteering was requested to provide an update on the activities they have undertaken over the last 12 months.

At the meeting Councillor Steve Darling proposed and Councillor Cowell seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

There were no alternative options considered.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

None.

Published

22 October 2021

Signed: _____
Leader of Torbay Council on behalf of the Cabinet

Date: _____

Record of Decisions

Mental Health and Wellbeing Member Champion - Annual Report

Decision Taker

Cabinet on 19 October 2021.

Decision

That the report be endorsed.

Reason for the Decision

To review the previous year activity of the Mental Health and Wellbeing Member Champion.

Implementation

This decision will come into force and may be implemented on 1 November 2021 unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

Information

In 2019 the Cabinet appointed a number of Member Champions. Member champions are elected members who act as an advocate or spokesperson for a specific area of the Council's business. The main responsibility of each member champion is to encourage communication and positive action over the issue they represent. The Mental Health and Wellbeing Member Champion was requested to provide an update on the activities they have undertaken over the last 12 months.

At the meeting Councillor Steve Darling proposed and Councillor Cowell seconded a motion that was agreed unanimously by the Cabinet, as set out above

Alternative Options considered and rejected at the time of the decision

There were no alternative options considered.

Is this a Key Decision?

No

Does the call-in procedure apply?

Yes

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

None.

Published

22 October 2021

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Meeting: Cabinet and Council

**Date: 16 November 2021 and 9
December 2021**

Wards Affected: All

Report Title: Gambling Act 2005 – Licensing Statement of Principles 2022 to 2025

Is the decision a key decision? Yes

When does the decision need to be implemented? 30th January 2022

**Cabinet Member Contact Details: Cllr Christine Carter, (01803) 207313,
Christine.Carter@torbay.gov.uk**

**Supporting Officer Contact Details: Steve Cox, Environmental Health Manager
(Commercial) (01803) 209029, steve.cox@torbay.gov.uk**

1. Proposal and Introduction

- 1.1 The Gambling Act 2005 requires Torbay Council, under its role as Licensing Authority, to review and publish a ‘Statement of Principles’ (*the Gambling Policy*), every three years. The Statement of Principles outlines the procedures that the Licensing authority intends to follow in discharging its statutory responsibilities under the Act. The current Statement was published on 30th January 2019 and therefore, it must be reviewed, consulted upon and re-published, on or before 30th January 2022.
- 1.2 Torbay Council are authorised to issue a ‘Small Casino Premises Licence’. The Act and Codes of Practice issued under the Act with that regard, require Licensing Authorities who are authorised to issue a ‘Small Casino Premises Licence’ to include within their ‘Statement of Principles’ certain information. This includes information on how the ‘*Small Casino Premises Licence Application Process*’ will be undertaken by the Council, including the ‘greatest benefit test headline criteria’ that will be applied to any applications received. The criteria for the greatest benefit test have been revised and simplified within this draft.
- 1.3 The draft ‘Statement of Principles 2022-25’ has been amended to include a number of changes, which have come about over the last three years through amendments to Regulations, Codes of Practice and Gambling Commission guidance, along with the changes highlighted in 1.2 above. In addition to this a few small changes have been made following the recent public consultation, which are included in **Appendix 3**.

2. Reason for Proposal and associated financial commitments

- 2.1 In accordance with the statutory requirement, as prescribed under Section 349 Gambling Act 2005, which requires that the Licensing Authority to publish a Statement and to review and re-publish the same, every 3 years. The Authority has

reviewed its current Policy, undertaken an 8 week public consultation and has prepared a draft 'Statement of Principles 2022-25' which is attached as **Appendix 2** to this report.

- 2.2 The proposals contained in this report will not commit the Council financially in any regard, other than routine staff costs which are drawn from existing budgetary resources. However, should the Authority to decide to launch a Casino Competition, then some additional funding will be required, though this possibility is not included within this report.
-

3. Recommendation(s) / Proposed Decision

That Cabinet recommends to Council:

- 3.1 That the Gambling Statement of Principles 2022 to 2025 be approved.

Appendices

Appendix 1: Supporting Information and Impact Assessment
Appendix 2: Draft Gambling Statement of Principles 2022 to 2025
Appendix 3: Consultation analysis – Proposed amendments

Background Documents

Gambling Act 2005
[Gambling Act 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

Licensing Statement of Principles 2019 to 2022
[Gambling Statement of Principles - Torbay Council](#)

Statutory Guidance issued under the Gambling Act 2005
[Guidance to licensing authorities - Gambling Commission](#)

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>Torbay Council has a statutory responsibility under Section 349 of the Gambling Act 2005 (the Act) to review, consult and to re-publish its Licensing Statement of Principles (the Statement). In doing so it is following the guidance in what needs to be included within that Statement.</p> <p>The process of review, consultation and publication must be completed on or before 30th January 2022.</p>
2.	<p>What is the current situation?</p> <p>The Statement identifies how the Council will perform its role as Licensing Authority in relation to the licensing process for gambling premises, and Permits, issued under the Act.</p> <p>The Licensing Authority has no role regarding the administration and issuing of Operator and Personal Licences. These both fall to the Gambling Commission.</p> <p>The Statement is also required to include the procedures and criteria to be applied should the Torbay Council decide to launch a Small Casino Competition. These have been simplified, following legal advice.</p>
3.	<p>What options have been considered?</p> <p>No other options have been considered as this is a statutory requirement.</p>
4.	<p>What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?</p> <p>The Statement ensures clarity as to how the Council will fulfil its role as the Licensing Authority and provides clarification and guidance to businesses and the public alike.</p> <p>Gambling premises are part of the UK culture, particularly in seaside locations, providing they are undertaken responsibly. This Statement assists business to function safely and within the law. It therefore helps to promote two of the priorities, namely thriving people and communities, and a thriving economy.</p>
5.	<p>How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?</p>

	<p>One of the three licensing objectives is Protecting Children and other Vulnerable Persons from being Harmed or Exploited by Gambling. The Act and the Mandatory Conditions applied to premises exclude children from most gambling premises, and in premises where they are allowed, excludes them from all areas where higher category gaming machines are located. So effectively they are only allowed in what would be seen as 'seaside' arcades.</p>
6.	<p>How does this proposal/issue tackle poverty, deprivation and vulnerability?</p> <p>The Statement lays out how the Council will fulfil its role as Licensing Authority and provides clarification and guidance to businesses and the public alike on what would be expected on business operators. This includes tackling the issues of vulnerability with individuals with gambling problems. This is a shared responsibility with the Gambling Commission, who have this responsibility through a premises Operators Licence.</p>
7.	<p>How does the proposal/issue impact on people with learning disabilities?</p> <p>No impact either positive or negative - neutral</p>
8.	<p>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?</p> <p>The holders of Premises Licences and future applicants are those that are more directly affected by this Statement. These are businesses and business operators that provide gambling by way of Amusement Arcades, Casinos, Betting and Bingo Premises.</p> <p>The Statement, however, looks to protect the public who may be affected by less reputable operators</p> <p>The following parties have been consulted by Torbay Council, prior to publication of the finalised 'Statement of Principles':</p> <ul style="list-style-type: none"> • The Chief Officer of Police. • One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Authority's area. • One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act. • Residents and businesses of Torbay. • Bodies representing existing gambling businesses in Torbay. • The Chief Officer of Devon and Cornwall Police. • The Chief Officer of Devon and Somerset Fire and Rescue Service. • Torbay and South Devon NHS Foundation Trust • Torbay Safeguarding Children's Partnership • Torbay Council: Planning and Community Safety Department

- | | |
|--|--|
| | <ul style="list-style-type: none">• SWISCo Highways Team• Safer Communities Torbay.• Facilities in Torbay assisting vulnerable persons.• Faith groups; via Torbay Interfaith Forum and the Street Pastors.• Brixham Town Council.• English Riviera BID• Torbay Economic Development Company trading as the Torbay Development Agency |
|--|--|

Section 2: Implications and Impact Assessment

9.	<p>What are the financial and legal implications?</p> <p>There are no significant additional resource implications that will derive from the Council discharging its statutory obligations, under the Act, though appeals against Licensing Authority decisions do place some additional burden on resources. This is however the due process of law.</p> <p>There will be potentially some costs, should the authority consider undertaking a process with regard to the Small Casino Licence, however this draft statement does obligate the authority to start this process and that decision would need to be made separately.</p>
10.	<p>What are the risks?</p> <p>The risks are more associated with any failure to review and re-publish the Statement in time, as the effect would be that the Council would have no Policy in place, which effectively would prevent lawful discharge of functions under the Gambling Act 2005, which may lead to legal challenge against the Council and financial penalties being incurred.</p> <p>The risks associated with agreeing the Statement are minimal as it has been reviewed in line with regulatory requirements, which include full consultation and consideration of any comments that are received, as well as having been shared with a QC for his comments. These have been adopted within the revised statement.</p>
11.	<p>Public Services Value (Social Value) Act 2012</p> <p>Does not apply</p>
12.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Research and data have been compiled in relation to the Local Area Profiles, though this data is already in the public domain.</p>
13.	<p>What are key findings from the consultation you have carried out?</p> <p>This is included with Appendix 3.</p>
14.	<p>Amendments to Proposal / Mitigating Actions</p> <p>This is included with Appendix 3.</p>

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups The Policy is a review of an existing Policy and therefore there is no change to impact of specific groups. Where there exists any potential for impact, this would generally be through the application process where there is the safeguard that any responsible authority or 'other person' may make representation. The four licensing objectives are also designed to ensure consideration of any impacts.		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	X (young people)		
People with caring Responsibilities			X
People with a disability			X
Women or men			X
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			X
Religion or belief (including lack of belief)			X
People who are lesbian, gay or bisexual			X
People who are transgendered			x

	People who are in a marriage or civil partnership		X
	Women who are pregnant / on maternity leave		X
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	X	
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	X	
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None	
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None	

Gambling Act 2005 Statement of Licensing Principles

Commencement: 30 January 2022

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Version control

Date	Details	Updated by
19.07.2021	Draft policy submitted for consultation	S Clarke
21.07.2021	Draft policy submitted for consultation – updated version with numbering posted to website	S Clarke
13.10.2021	Draft policy inclusive of suggested amendments following public consultation	S Clarke
15.10.2021	Track changes removed and submitted for approval by Council	S Clarke/S Cox
27.10.2021	Removal of references to “draft” Policy following approval by SLT on 26.10.2021 and inclusion of effective date of Policy	S Clarke
04.11.2021	Amendment following feedback at Informal Cabinet to Para 37.2 to provide correct name of the Torbay Economic Development Company trading as the Torbay Development Agency	S Clarke

Part A - Overview

1 Introduction

- 1.1 This Statement of Principles is published in accordance with the requirement set out in the Gambling Act 2005 requiring the Licensing Authority to prepare and publish a Statement of Principles that sets out the principles that the Licensing Authority proposes to apply when exercising its functions.
- 1.2 This Statement was written in accordance with legislation and guidance in place at the time of publication. It includes details of the steps taken in relation to its preparation and details of the policies to which the Licensing Authority will have regard in determining applications submitted under the Act. It is intended to comply with and fulfil the requirements of the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 (SI 2006 No. 636).
- 1.3 The Licensing Authority consulted widely on this Statement of Principles 2022-2025, before approving and publishing the finalised 'Statement of Principles 2022-2025. The consultation period commenced 19 July 2021 and concluded 13 September 2021.
- 1.4 It should be noted that this Statement of Principles 2022-2025 will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each application will be considered on its own merits and in accordance with the statutory requirements of the Act.
- 1.5 This Statement of Principles 2002-2025 was approved and adopted by Torbay Council on 9 December 2021.

2 The Licensing Objectives

- 2.1 In exercising its functions under the Gambling Act 2005 (hereinafter referred to as 'the Act'), the Licensing Authority will have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - Ensuring that gambling is conducted in a fair and open way.
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
[The Act defines a 'Child' as an individual aged 15 years or under; and defines a 'Young Person' as an individual aged 16 to 17 years].
- 2.2 In making decisions in relation to premises licences the Licensing Authority will, in accordance with Section 153 of the Act, aim to permit the use of premises for gambling in so far as it thinks that use will be:
 - In accordance with any relevant code of practice issued by the Gambling Commission, available here: <https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp>
 - In accordance with any relevant guidance issued by the Gambling Commission, available here: <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>.

- Consistent with the Licensing Objectives (subject to the above).

2.3 In accordance with Torbay Council's 'Statement of Principles', issued under the Act (subject to the above).

3 Torbay Council Area Overview

3.1 Torbay is situated on the South Devon coast, on the southwest peninsular of England and comprises the three towns of Torquay, Paignton and Brixham. Torbay is an outstanding coastal destination, including 22 miles of coastline, which was recognised as a Global Geopark in 2007. The Council area is mainly urban, comprising the three bay towns of Torquay, Paignton, and Brixham; please refer to a map of the Torbay area in the [Local Area Profile](#).

4 Declaration

4.1 In producing this Statement of Principles 2022-2025, the Licensing Authority declares that it has had regard to the Licensing Objectives of the Act and the Gambling Commission's '[Guidance to Licensing Authorities](#)', updated 13 May 2021.

5 Interested Parties

5.1 'Interested Parties' can make representations to the Licensing Authority in respect of an application for a 'Premises Licence' or in respect of an application for a 'Provisional Statement', submitted to the Licensing Authority by an applicant, under the Act.

5.2 Interested parties can also initiate, (or make representation in respect of), a review of a Premises Licence, the detail of which is outlined at Section 28 of this 'Statement of Principles', under the heading of 'Reviews'.

5.3 The Act states that a person is an 'Interested Party', if in the opinion of the Licensing Authority, that person:

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities.
- b) Has business interests that might be affected by the authorised activities, or
- c) Represents persons who satisfy the criteria at paragraph a) or b).

5.4 Persons at a) include trade associations, trade unions, and residents' and tenants' associations. However, the Licensing Authority will not generally view these bodies as interested parties, unless they have a member who satisfies the criteria in paragraphs a) or b) above; and they have written Authority of representation.

5.5 'Interested Parties' can also be persons who are democratically elected, such as Councillors, (including Town Councillors), and Members of Parliament. In such circumstances, no specific evidence of being '*asked*' to represent an interested person will be required, provided the relevant Elected Member represents the ward or town likely to be affected.

5.6 In respect of any application for the grant of a small casino premises licence the Act provides that at Stage 1 of the consideration procedure, each competing applicant is an '*Interested Party*' in relation to each of the other competing applications.

- 5.7 The Licensing Authority will apply the following principles in determining whether a person or body is an interested party for the purposes of the Act:
- Each case will be decided upon its own merits subject to the Licensing Objectives and to any requirements imposed by the Act.
- 5.8 The Licensing Authority will not apply a rigid rule to its decision making.
- 5.9 The Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the status and interpretation of 'Interested Parties'.
- 5.10 In respect of any representation made by an interested party, the Licensing Authority may disregard the representation if it considers that the representation is frivolous, vexatious or will certainly not influence the Authority's determination of the application.
- 5.11 The following are examples of grounds which may be discounted by the Licensing Authority.
- Representations which relate to the objection to gambling activity generally, for instance on moral or ethical grounds.
 - Representations in relation to the demand or unmet demand for gambling premises.
 - Representations in relation to planning matters.
 - Public Safety issues.
 - Traffic congestion issues.
 - Public Nuisance.

6 Exchange of Information

- 6.1 The Licensing Authority will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission; this includes a provision that the General Data Protection Regulations will not be contravened. The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant Regulations issued by the Secretary of State under the powers provided in the Act.

7 Enforcement

- 7.1 The main enforcement and compliance role for the Licensing Authority in terms of the Act is to ensure compliance with the Premises Licences and other permissions which it authorises.
- 7.2 This Authority adopts a graduated approach to enforcement and when seeking to resolve or address issues the general expectation of the Authority is that operators promptly work alongside the Licensing Authority in taking remedial action. However, where a serious issue is identified, it is likely that the Authority will immediately initiate some form of enforcement action.
- 7.3 In discharging its responsibilities under the Act with regard to inspection and enforcement regimes, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and Torbay Council 'Enforcement and Prosecution Policy' and will endeavour to be:
- Proportionate: The Licensing Authority will only intervene when it is deemed necessary, and remedies will be appropriate to the risk posed; costs will be identified and minimised.

- **Accountable:** The Licensing Authority will ensure that it can justify decisions and will provide facilities for the public scrutiny of decisions taken.
- **Consistent:** The Licensing Authority will ensure that rules and standards are 'joined up' and implemented fairly.
- **Transparent:** The Licensing Authority will be open and will endeavour to keep regulations simple and user friendly.
- **Targeted:** The Licensing Authority will endeavour to focus on the problem, minimise side effects and avoid duplication with other regulatory regimes.

7.4 The Licensing Authority has adopted and implemented a risk-based/intelligence led inspection programme, based on:

- The Licensing Objectives.
- Relevant codes of practice - <https://www.gamblingcommission.gov.uk/authorities/guide/codes-of-practice>
- Guidance issued by the Gambling Commission - <https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>
- The principles set out in this Statement of Principles 2022-2025.
- Regulators Code - [Regulators' Code](https://www.gov.uk/government/publications/regulators-code) - GOV.UK (www.gov.uk)
- Departmental and Partner Agency intelligence.

7.5 The Gambling Commission has the following principal statutory functions:

- Issuing operating and personal licences to gambling businesses and individuals occupying certain positions in the gambling industry, with appropriate conditions, and ensuring that holders of licences adhere to their terms
- Publishing codes of practice
- Publishing statutory guidance to licensing authorities.

7.6 The Commission also has a duty to advise the Secretary of State on gambling and its regulation.

8 Licensing Authority Functions

8.1 The Licensing Authority has a duty under the Act to:

- Issue '*Premises Licences*' where gambling activities are to take place.
- Issue '*Provisional Statements*' where gambling activities may take place.
- Regulate '*Members Clubs*' that wish to undertake certain regulated gaming activities by issuing '*Club Gaming Permits*' or '*Club Machine Permits*'.
- Issue '*Club Machine Permits*' to '*Commercial Clubs*'.
- Grant '*Permits*' for the use of certain lower stake gaming machines at '*Unlicensed Family Entertainment Centres*'.
- Receive '*Notifications*' from premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), for the use of up to two gaming machines on the premises.
- Grant '*Licensed Premises Gaming Machine Permits*' for premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), where there are more than two machines on the premises.
- Register '*Small Society Lotteries*' below prescribed thresholds.
- Issue '*Prize Gaming Permits*'.
- Receive and endorse '*Temporary Use Notices*'.

- Receive 'Occasional Use Notices'.
- Provide information to the Gambling Commission.
- Maintain registers of the permits and licences issued.

Part B – Premises Licences

9 General Principles

- 9.1 In exercising its functions under the Act in relation to premises licences, the Licensing Authority will have regard to the provisions of the Act, Regulations drafted under the Act, the mandatory and default conditions and any guidance or codes of practice issued by the Gambling Commission.
- 9.2 The Licensing Authority may:
- Exclude default conditions from the premises licence where the exclusion does not adversely affect the Licensing Objectives.
 - Attach additional licence conditions, if it is deemed necessary to do so to ensure the operation of the licence is consistent with the Licensing Objectives.

10 Guiding Principles

- 10.1 The Licensing Authority will treat each Licensing Objective with equal importance.
- 10.2 The Licensing Authority will have regard to its responsibilities under Section 17 of the Crime and Disorder Act 1998 and within the strategic aims of the Community Safety Partnership Strategic Assessment 2020-2021, to do all that is reasonable to prevent crime and disorder in Torbay.
- 10.3 The Licensing Authority will have regard to its responsibilities under the European Convention on Human Rights, set out by the Human Rights Act 1998, and its statutory role as a Local Authority to fulfil the duties and responsibilities vested in it.
- 10.4 The Licensing Authority will have regard to its responsibilities under the Equalities Act 2010.
- 10.5 Torbay Council's Constitution states that the Licensing Committee shall be comprised of 15 Elected Members of the Council; with a quorum of 5, and the Licensing Sub Committee shall be comprised of 3 Elected Members of the Council; with a quorum of 3.
- 10.6 The Chair of Torbay Council's Licensing Committee will be elected at the annual meeting of the Council.
- 10.7 Torbay Council will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with Torbay Council's constitution. No Member of Torbay Council shall sit upon the Licensing Committee or Sub-Committee unless they have received appropriate training.
- 10.8 The Licensing Authority considers that effective Licensing can only be achieved by recognising the value of all contributors and will work in partnership with the Police and other statutory services, local businesses, local people, professionals involved in child protection

and all others who can contribute positively, to the successful promotion of the three Licensing Objectives.

- 10.9 Torbay Council considers that the decisions of the Licensing Authority can be a key factor of the Council effectively discharging its duties under the Section 17 of the Crime and Disorder Act 1998. Whilst the Licensing Authority will not use licensing conditions to control anti-social behaviour by patrons once they are away from licensed premises, licence holders will be expected to demonstrate they have taken appropriate action to minimise the potential impact of that behaviour, within the general vicinity of the licensed premises.
- 10.10 The Licensing Authority will ensure that any conditions attached to a licence will relate to matters within:
- The control of the licence holder, or,
 - The control of other persons who may have relevant licences or authorisations, in respect of the subject premises, or adjacent premises.
- 10.11 In determining any such conditions, the Licensing Authority will have regard to the Act, any guidance or codes of practice issued by the Gambling Commission and this Statement of Principles.
- 10.12 Torbay Council will ensure that decisions made in relation to planning and building control legislation will be made independently of those made in respect of the Act. The Licensing Authority will not have regard to the likelihood of obtaining consents under planning or building legislation in considering any application for a premises licence, made under the Act.
- 10.13 The Licensing Committee will receive reports, compiled six-monthly, on decisions made by Officers under the provisions of the scheme of delegation.
- 10.14 The Licensing Authority will, where relevant to its functions under the Act, have regard to and promote Torbay Council's Economic Strategy 2017-2022 and Torbay Council's Economic Recovery Plan, which forms part of the Council's Policy Framework.
- 10.15 Section 156 of the Act requires licensing authorities to maintain a register of the premises licences that it has issued. The register must be made available, at any reasonable time, to the public who may request copies of the entries. The Licensing Authority achieves this requirement using an online register which is accessible via the Council's website.

11 Decision Making Process

- 11.1 In making decisions about premises licences, the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant code of practice issued by the Gambling Commission.
 - In accordance with any relevant guidance issued by the Gambling Commission.
 - Reasonably consistent with the Licensing Objectives (subject to the above).
 - In accordance with the Licensing Authority's 'Statement of Principles 2022-2025' (subject to the above).
- 11.2 In determining a premises licence application, the Licensing Authority shall not have regard to any objections which are deemed to be raised on moral or ethical grounds, nor will it be concerned with matters of sufficiency of, or unmet demand for, gambling facilities.

12 Definition of Premises

- 12.1 In deciding if parts of a given building constitute premises in their own right, the Licensing Authority will have due regard to the definition of premises meaning “any place” set out at Section 152 of the Act and any guidance issued by the Gambling Commission and any decisions handed down by the Courts.
- 12.2 The Act allows for a single building to be subject to more than one premises licence, provided those premises licences are for different parts of the building, and the different parts of the building can reasonably be regarded as being ‘different premises’. This provision exists to allow large multiple unit premises, such as a pleasure park, pier, track or shopping mall, to obtain separate premises licences. However, this does not mean that a premises cannot be the subject of a separate licence for example the basement and ground floor, if they are configured to a standard approved by the Licensing Authority.
- 12.3 The Licensing Authority will pay particular attention, as recommended by Gambling Commission at 7.5 of its Guidance to Local Authorities (<https://www.gamblingcommission.gov.uk/guidance/guidance-to-licensing-authorities>), if there are issues about sub-division of a single building or plot and will ensure any applicable mandatory conditions relating to access between premises are observed. The Licensing Authority does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
- 12.4 The Licensing Authority will pay particular attention, as referenced above, to premises licence applications and applications for permits, such as UFEC’s, where access to the proposed licensed premises, can only be made by passing through other premises; being other premises which may or may not have the benefit of licences in their own right.
- 12.5 The Licensing Authority will also take particular care in considering applications for multiple licences for a building and/or those relating to a separate part of a building used for other (non-gambling) purposes. In particular, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable, so that the separation of different premises is not compromised, and that people do not ‘drift’ into a gambling area.
- 12.6 Where access to the proposed licensed premises or an area covered by a permit such as a UFEC, cannot be made directly from the public highway the Licensing Authority will consider specific issues before granting such applications, for example:
- The general access arrangements of the premises.
 - The structural integrity and nature of any premises separation.
 - Whether persons under 18 years of age can gain access to or have sightlines into the premises.
 - The compatibility of adjacent establishments.
 - Supervision and monitoring systems.
 - The nature and legitimacy of any unlicensed areas providing separation of licensed premises.
 - The overall ability to comply with the requirements of the Act, specifically but not exhaustively, the mandatory and default Licensing conditions.

13 Provisional Statements – Premises not yet ready for Gambling

13.1 Where there is an intention on the part of an applicant, to provide gambling facilities at premises:

- Which they expect to be constructed, or
- Which they expect to be altered, or
- For which they do not yet have the right to occupy the premises, then an application may be made to the Licensing Authority for a 'Provisional Statement'.

13.2 The Licensing Authority will issue 'Provisional Statements' in accordance with the provisions of the Act, any guidance or codes of practice issued by the Gambling Commission and the principles contained within this 'Statement of Principles'.

13.3 'Responsible Authorities' and 'Interested Parties' (in accordance with the procedures outlined at Section 4 of this Statement of Principles) can make representations to the Licensing Authority, in respect of an application for a 'Provisional Statement'. Following the grant of a 'Provisional Statement', no further representations from Relevant Authorities or Interested Parties can be taken into account unless:

- The representations concern matters which could not have been addressed at the 'Provisional Statement' stage.
- The representations reflect a change in the applicant's circumstances.

13.4 The Licensing Authority may refuse the grant of a Premises Licence, or grant the licence on terms different to those which may have been attached to the 'Provisional Statement', only by reference to matters which:

- Could not have been raised by objectors at the 'Provisional Statement' stage
- In the Licensing Authority's considered opinion, reflect a material change in the operator's circumstances.

14 Premises Location

14.1 The Licensing Authority must be satisfied that the potential location of a premises intended for gambling is suitable for the purposes of the required gambling activity. In considering matters of location, the Licensing Authority will have particular regard to the Licensing Objectives, Local Area Profile and the Local Area Risk Assessment. In considering location, the Authority may consider the general characteristics of the area. For example, if the premises is in a Cumulative Impact Area for the purposes of the Licensing Act 2003, the Authority will consider whether this may negatively impact on the gambling licensing objectives and how the applicant proposes to mitigate such impact.

15 Duplication with other Regulatory Regimes

15.1 The Licensing Authority will endeavour to avoid any duplication with other statutory and regulatory regimes in discharging its functions under the Act, unless the Licensing Authority believes such duplication is necessary for compliance with the Licensing Objectives.

15.2 In considering an application for a premises licence the Licensing Authority will not take into account matters which lie beyond the remit of the Licensing Objectives. Although this is not an exhaustive list, this would include issues such as:

- Whether the premises, which is the subject of the licence application, is likely to be awarded planning permission or building consent.
- Whether the premises is safe for the intended use, (e.g., the structure, the means of escape, fire precaution provisions, etc).
- Whether the use of the premises under the licence may cause any public nuisance (e.g., to residents within the vicinity).

15.3 The above matters will be addressed by other regulatory regimes.

16 Licensing Objectives

16.1 The Licensing Authority will endeavour to ensure that any premises licences granted will be consistent with the Licensing Objectives.

16.2 The Licensing Objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
- Ensuring that gambling is conducted in a fair and open way.
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

Licensing Objective: Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

16.3 The Gambling Commission will take a lead role in preventing gambling from becoming a source of crime. However, the Licensing Authority acknowledges this objective in the delivery of its responsibilities. For instance, in considering applications for premises licences the Licensing Authority will have particular regard to the following:

- Where an area has known high levels of organised crime the Licensing Authority will consider carefully whether gambling premises should be located in the proximity of that area.
- Whether additional licence conditions may be appropriate, such as the provision of Security Industry Authority (SIA), registered door supervisors.
- Whether additional security measures should be installed at the premises, such as monitored CCTV.
- The likelihood of any violence or public order issues if the licence is granted.
- The design and layout of the premises.
- The training given to staff in crime prevention measures appropriate to those premises, for example, the detection and prevention of money laundering.
- Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system.
- If premises are to be subject to age restrictions; the procedures in place to conduct age verification checks.
- The Local Area Profile.
- The premises' Local Risk Assessment.

Licensing Objective: Ensuring that gambling is conducted in a fair and open way.

16.4 The Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way, (as that is the remit of the Gambling Commission), unless the gambling facilities are being provided at a Track; see Section 28 . ‘However, the fair and open principle will be considered as an integral part of any inspection carried out by this Authority’.

Licensing Objective: Protecting children and other vulnerable persons from being harmed or exploited by gambling.

16.5 This objective is concerned with protecting children from gambling, as well as restrictions upon advertising, to ensure that the commercial promotion of gambling is not targeted towards children or portrayed as attractive to children. It is also concerned with protecting vulnerable people from being harmed or exploited by gambling. The Licensing Authority will therefore consider the local risk assessment and whether specific measures are required at particular premises, with regard to this Licensing objective, which may include the supervision of entrances, the supervision of machines and the appropriate segregation of high-risk areas, the provision of a ‘chill out’ room or area free from gambling and alcohol facilities. For more information regarding Local Area Risk Assessments, please see section 17.

16.6 In discharging its responsibilities with respect to this particular Licensing objective, the Licensing Authority will have regard to the current ‘Gambling Commission Codes of Practice’, insofar as they may apply to specific premises.

16.7 The Act does not offer a definition with regard to the term, ‘*vulnerable persons*’, however the Gambling Commission states the following.

For regulatory purposes the Commission will assume that this group includes:

- People who gamble more than they want to.
- People who gamble beyond their means.
- People who may not be able to make informed or balanced decisions about gambling, due to a mental impairment, alcohol, other relevant disability, or drugs.

16.8 Torbay and South Devon NHS Foundation Trust refers to a vulnerable adult as an Adult at Risk. The Care Act 2014 defines an adult at risk as someone who:

- has care and support needs
- is experiencing, or is at risk of, abuse or neglect
- as a result of their care and support needs is unable to protect himself or herself or the risk of it.

16.9 Torbay Council defines an adult at risk as persons aged over 18 years old who:

- is old and frail due to ill health, physical disability or cognitive impairment
- has a learning disability
- has a physical disability and/or a sensory impairment
- has mental health needs including dementia or a personality disorder
- has a long term illness/condition
- misuses substances or alcohol
- is a carer such as a family member/friend who provides personal assistance and care to adults and is subject to abuse

- is unable to demonstrate the capacity to make a decision and is need of care and support.

16.10 The Licensing Authority also recognises that, despite the above, anyone can be at risk of abuse or exploitation.

16.11 The Licensing Authority will have regard to the definitions of an Adult at Risk as provided by the Gambling Commission, by the Torbay and South Devon NHS Foundation Trust and Torbay Council, in discharging its responsibilities under the Act.

16.12 Problem gambling, particularly with the young, can sometimes be an indication of other issues that are of concern to the Licensing Authority, such as anti-social behaviour problems. When the Licensing Authority is made aware of issues associated with problem gambling and vulnerable people, the Licensing Authority will seek to work closely with the gambling premises operator, the Gambling Commission and other relevant sections of the Council, including the Adult Services Directorate and Children's Services Directorate.

16.13 This Authority places social responsibility as a high priority. As such, it will when exercising its statutory powers have due regard, where relevant to its statutory functions, to the need to:

- Prevent gambling related problems in individuals and groups at risk of gambling addiction.
- Promote informed and balanced attitudes, behaviours and policies towards gambling and gamblers by both individuals and by communities; and
- Protect vulnerable groups from gambling related harm.

16.14 The Licensing Authority will work with operators and other public agencies to encourage a commitment to social responsibility including responsible design, delivery, promotion and use of product. The end goal will be to reduce the incidence of high-risk and problem gambling. The Licensing Authority will consider, in relation to any particular premises whether any special considerations apply to the protection of vulnerable persons. Such considerations need to be balanced by the Authority's objective to aim to permit the use of premises for gambling.

17 Local Area Risk Assessments

17.1 The Gambling Commission's Social Responsibility Code (Licence Conditions and Codes of Practice (LCCP) 10.1.1) requires licence holders to assess the local risks to the Licensing Objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licence holders should take into account any relevant matters identified in this Policy statement.

17.2 Licence holders are required to undertake a Local Area Risk Assessment when applying for a new premises licence. Their risk assessment will also need to be updated:

- When applying for a variation of a premises licence.
- To take account of significant changes in local circumstances, including those identified in this Policy.
- When there are significant changes at a licence holder's premises that may affect the level of risk or the mitigation of those risks. This includes any changes to the interior layout of the premises. Significant changes will require a variation to the premises licence.

- 17.3 The Social Responsibility Code provision is supplemented by the LCCP: Ordinary code 10.1.2 and requires licence holders to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Licensing Authority.
- 17.4 While there are no plans to request that licensed premises share risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licence holder share a copy of their risk assessment. The risk assessment will set out the measures the licence holder has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.
- 17.5 In some circumstances, it may be appropriate for the Licensing Authority to offer a licence holder the opportunity to volunteer specific conditions that could be attached to the premises licence. Where this is appropriate, the Licensing Authority will liaise with the licence holder directly.
- 17.6 The Social Responsibility Code (LCCP 10.1.1) requires an operator to consider the Licensing Authority's Statement of Policy, wherein the Licensing Authority will set out the matters it will expect an operator to take in to account when considering their own risk assessment. The Licensing Authority expects, though it is not a mandatory requirement, that operators consider the following matters:
- Information held by the licence holder regarding self-exclusions and incidences of underage gambling,
 - Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
 - Proximity to schools, commercial environments or other factors affecting footfall
 - Range of facilities in proximity to the licensed premises, such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
 - Potential for money laundering.

17.7 Matters relating to vulnerable adults, including:

- Information held by the licence holder regarding self-exclusions
- Gambling trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people, such as hospitals, residential care homes, medical facilities, doctor's surgeries, Council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.

Other issues that may be considered could include:

- Proximity of premises which may be frequented by large numbers of people including sports stadiums, leisure centres, places of worship.
- Staffing levels at different times of the year (e.g., the peak summer school holidays).
- This list is not exhaustive and other factors not in this list that are identified must be taken into consideration. The Risk Assessment must be kept on the premises to

which it relates and available for inspection by an authorised officer of the Licensing Authority or Gambling Commission.

17.8 Significant changes in local circumstances:

- The following lists set out some examples of what the Licensing Authority considers to be significant changes in local circumstances requiring a review of the Local Area Risk Assessment. The list is not exhaustive, and each premises will be considered on its own merits. Operators must consider whether any change in the locality of their premises is one that may be considered significant.
- The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Local Area Profile.
- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors. For example, where premises are converted to a local supermarket, or a new office building is constructed nearby.
- Any new pay day loan establishment or pawn brokers open in the local area.
- Relevant changes are made to the provision, location and/or timings of public transport in the local area, such as a bus stop which is used by children to attend school is moved to a location in proximity to gambling premises.
- Educational facilities increase in the local area. This may occur because of the construction of a new school/college or where a significant change is made to an existing establishment.
- The local area is identified as a crime hotspot by the police and/or Licensing Authority.
- Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises e.g., additional homeless hostels or gambling or mental health care/support facilities in the local area.
- A new gambling premises opens in the local area.
- Operators must consider what is happening within their premises and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment. A significant change can be temporary, and any temporary changes should be considered, and adjustments made to the risk assessment if necessary.

17.9 Unlicensed Family Entertainment Centres (UFEC) are not required to undertake a Local Area Risk Assessment unless the UFEC is situated adjacent to an Adult Gaming Centre and therefore the Licensing Authority will expect the UFEC activities to be taken into account.

17.10 The Authority will expect applicants to have regard to the Local Area Profile (LAP) which will assist in identification of local gambling risks.

18 Local Area Profile

18.1 The Licensing Authority has produced a profile of the areas within the Authority which will assess the local environment and identify local concerns and risks. This will be available from January 2022.

18.2 The profile will take account of a wide range of factors, data and information held by the Licensing Authority and its partners. Responsible authorities and other relevant organisations will be invited to take part in the preparation of the profile. The profile will enable operators to

clearly identify the risks and concerns in the community when completing their risk assessment.

18.3 The Local Area Profile is a separate document to this Statement of Principles and will be made publicly available. It will be reviewed and amended as and when required taking into account changes in the local area.

19 Licence Conditions

19.1 Any additional conditions attached to licences will only be imposed where there is evidence of a risk to the Licensing Objectives and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility.
- Directly related to the premises (including the locality and any identified local risks) and the type of licence applied for.
- Fair and proportionate, related to the scale and type of premises.
- Reasonable in all other respects.

19.2 Decisions upon individual conditions will be made on a case-by-case basis, although there are a number of control measures that the Licensing Authority can utilise, such as the use of supervisors or the use of appropriate signage for adult only areas. The Licensing Authority will also expect the applicant to identify local risks and control measures ensuring their operations are consistent with the Licensing Objectives. For example, local issues associated with a high crime rate may put a premises at risk of not being consistent with the Licensing Objectives, and specific conditions may be necessary to address the risk.

19.3 The Licensing Authority may require additional control measures in respect of buildings which are the subject of multiple premises licence applications, in order to ensure the operation of the premises in question is consistent with the Licensing Objectives. Such requirements may relate to the supervision of entrances, the segregation of gambling areas from non-gambling areas which may be frequented by children and the supervision of gaming machines in non-adult gambling specific premises.

19.4 The Licensing Authority will have regard to any guidance issued by the Gambling Commission in determining any such additional measures.

19.5 Where there are risks associated with a specific premises or class of premises, the Licensing Authority may consider it necessary to attach specific conditions to the licence to address those risks, taking account of the local circumstances.

19.6 The Licensing Authority will ensure that, where category A to C machines are made available on premises to which children have access that:

- All such machines are located in an area of the premises that is separated from the remainder of the premises by a physical barrier and which is effective to prevent access, other than through a designated entrance.
- Only adults have access to the area where these machines are located.
- Access to the area where the machines are located is adequately supervised.
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder.
- At the entrance to and inside any such areas notices are prominently displayed, indicating that access to the area is prohibited to persons under 18 years of age.

- 19.7 Tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. In discharging its functions in relation to tracks, the Licensing Authority will consider the impact upon the Licensing objective that refers to the 'protection of children'. The Licensing Authority will specifically require that the entrances to each part of a premises are distinct and that children are effectively excluded from gambling areas to which entry is not permitted.
- 19.8 Applicants are encouraged to consult the Licensing Authority prior to submitting an application so that the Authority may offer guidance in respect of the premises' intended operation, premises layout, geographical area to which the premises is located etc.

20 Buildings divided into more than one premises

- 20.1 Part 7, paragraph 7.5 of the Gambling Commissions Guidance states that *"there is no reason in principle why a single building could not be subject to more than one premises licence; provided they are for different parts of the building, and the different parts of the building can be reasonably regarded as being different premises"*. Examples are given of multiple unit premises, such as pleasure parks, tracks, or shopping malls. It is also possible for licensed premises to be located next to each other, as long as there are no restrictions regarding direct access between these premises imposed on that category of gambling premises from its mandatory conditions. The Licensing Authority will follow this guidance.
- 20.2 It will be for the Licensing Authority to determine whether premises are genuinely separate, and not artificially created from that which is readily identifiable as a single premises. Prior to making an application, applicants are encouraged to discuss with the Licensing Authority their premises layout and intended applications.
- 20.3 In considering whether different areas of a building are genuinely separate premises, the Licensing Authority will take into account factors which may include whether there are separate registrations for business rates in place for the premises, whether the premises are owned or operated by the same person, and whether the premises are operated independently of each other.

21 Access to Premises

- 21.1 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions which relate to access between premises.
- 21.2 The Gambling Commission Guidance at paragraph 7.22 states *"There is no definition of 'direct access' in the Act or Regulations, but Licensing authorities may consider that there should be an area separating the premises concerned, for example a street or café, which the public go to for purposes other than gambling, for there to be no direct access."*
- 21.3 In particular, where premises are not accessed from the street, the Licensing Authority has sought to define the nature of the area which must separate licensed premises and through which the premises are accessed, so as to prevent direct access between premises in order to comply with the provisions of the Act and Regulations.
- 21.4 The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the

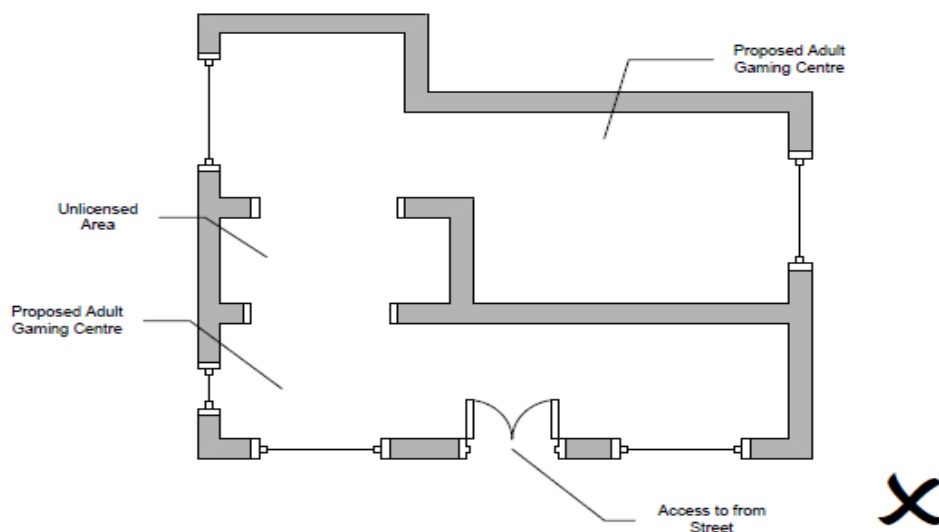
licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or ATMs.

21.5 Where the Licensing Authority is satisfied that a building can be divided into separate premises and properly satisfy the statutory provisions, the Licensing Authority will expect applicants to ensure that:

- Premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part,
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised, and people do not 'drift' into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers must be able to participate in the activity named on the premises licence.
- This is not an exhaustive list, and the Licensing Authority will consider other aspects based on the merits of the application.

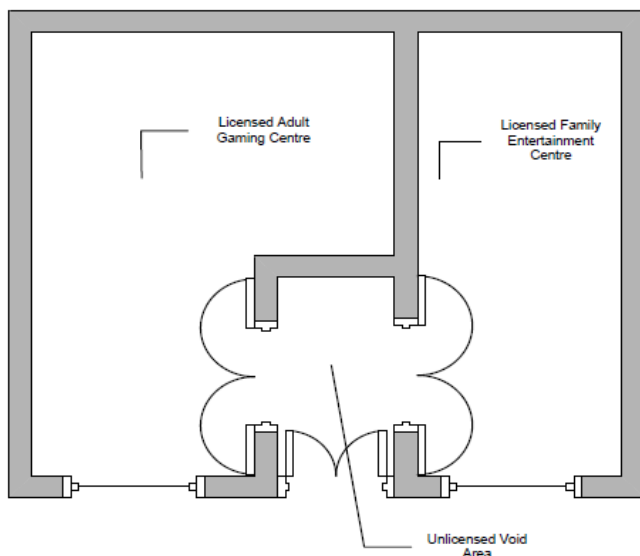
21.6 Applications to place two licensed premises in one premises with an unlicensed area separating them, (see figure 1) will not meet this Policy because of the artificial nature of the premises, access, and likely use issues which will arise.

Figure 1



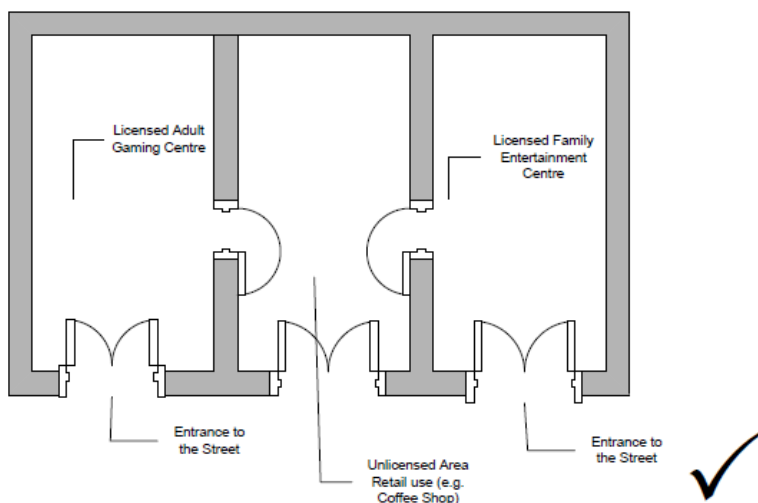
21.7 It is possible to have an unlicensed foyer area which separates one licensed premises from another if the foyer is accessed from the street, see Figure 2. The Licensing Authority would expect as a minimum that the area should be used for non-gaming purposes such as an information point, a coffee shop or similar but must not contain any gambling information or literature promoting gambling activities. The size of the unlicensed area is matter for each application, but the Licensing Authority will not consider this configuration if the foyer is not of sufficient size to be a useable space.

Figure 2



21.8 It may also be acceptable if a premises is separated by another non-licensed premises that has access to both licensed premises from it. An example of this could be in the form of a coffee shop which has a main entrance to the street. The coffee shop may have access to an Adult Gaming Centre on one side and an entrance Family Entertainment Centre on the other side, see figure 3. Where a member of the public not using the gambling premises is likely to use the coffee shop it may be considered that there is no direct access between the two licensed premises.

Figure 3



21.9 The provisions of this Statement of Principles 2022-2025 come into force on 30 January 2022. From this date, any new application for any type of Gambling Premises Licence, will be expected to fully comply with the terms and conditions as set out above. Existing licensed premises may continue to operate under the terms that have been granted by virtue of the licence that they currently hold, provided that the Licensing Objectives continue to be fully promoted at all times. Any application to vary however, will be subject to the full terms as outlined above.

22 Material amendments to the premises

- 22.1 The Authority will have regard to the principles as set out in s.153 of the Act in determining variation applications. However, applications will be carefully scrutinised to ensure the Licensing Objectives are not undermined.
- 22.2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times. For example, the installation of any screening would require a variation application including an updated Local Area Risk Assessment to evidence that any risks presented have been recognised and mitigated.

23 Adult Gaming Centres

- 23.1 In respect of adult gaming centres, the Licensing Authority will have specific regard to the Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the premises.
- 23.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*
- Proof of age schemes.
 - Closed Circuit Television Systems, (CCTV).
 - Supervision of entrances and machine areas.
 - Physical separation of areas.
 - Location of entry.
 - Appropriate notices and signage.
 - Specific opening hours.
 - Self-exclusion schemes and the display of information regarding self-exclusion schemes.
 - Provision of information leaflets and helpline numbers for organisations such as 'Gamcare'
 - Identify local risks, such as proximity to schools or in an area with a high crime rate.

24 (Licensed) Family Entertainment Centres

- 24.1 In respect of (Licensed) Family Entertainment Centres, (FEC's), the Licensing Authority will have specific regard to the Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the 'adult only' gaming machine areas on the premises.

24.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures/training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate.

24.3 In determining an application for a licensed family entertainment centre, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and any mandatory or default conditions deemed to have a positive effect. The Licensing Authority will have particular regard to any guidance or direction on how the separation and/or delineation of the 'adult only' machine areas of the premises should be achieved. Please refer to Sections 20 and 21 of this Statement of Principles for more information regarding separation of premises and/or consult the Licensing Authority for guidance in this regard.

25 Small Casino Premises Licence Overview

25.1 On 15 May 2008, the Categories of Casino Regulations 2008 and the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 were approved. This specified which Licensing Authorities could issue Large and Small Casino Licences. Torbay Council was one of the authorities authorised to issue a Small Casino Premises Licence.

25.2 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue a premises licence. A decision to pass such a resolution will be taken by the Authority as a whole and will not be delegated to the Licensing Committee (a resolution not to issue casino premises licences will only affect new casinos). In passing such a resolution the Authority may take into account any principle or matter, not just the Licensing Objectives. The Authority may revoke the resolution by passing a counter resolution.

25.3 At the time a counter resolution is passed, the principles set out in Appendix 2 will be applied.

26 Bingo Premises Licence

26.1 The Licensing Authority considers that if persons under 18 years of age are allowed to enter premises licensed for bingo, it is important that they do not participate in gambling, other than

on category D machines. Where category C or above machines are available on premises to which persons under 18 years of age have access, the Licensing Authority will require that:

- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier, which is effective to prevent access other than through a designated entrance.
- Only adults are admitted to the area where the machines are located.
- Access to the area where the machines are located is adequately supervised.
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder.
- At the entrance to and inside any such area there are notices prominently displayed, indicating that access to the area is prohibited to persons under 18.
- No under 18s may play bingo on this premises' must be displayed at each entrance to the bingo premises.

26.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures/training for staff on how to deal with suspected truant school children on the premises.
- Provision of information leaflets and helpline numbers for organisations such as Gamcare
- Identify local risks, such as proximity to schools or in an area high crime rate.

26.3 In determining any application for a Bingo Premises Licence, the Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the suitability and general layout of Bingo Premises. In particular, the Licensing Authority will have regard to Social Responsibility Code 9, which requires that gaming machines are only made available in combination with the named non-remote activity of the operating licence. The Code states: *“So, unless a bingo operator offers substantive facilities for non-remote bingo it should not make gaming machines available for use on the premises in question. To contain the unavoidable risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.”*

27 Betting Premises Licence

27.1 The Licensing Authority is responsible for the issue of premises licences for all betting establishments, including casinos, bookmaker's offices and tracks. It is illegal for persons under 18 years of age to enter upon licensed betting premises and bet, but they may gain entry to tracks.

27.2 A betting premises licence gives the holder the entitlement to up to 4 Category B2 machines. The Licensing Authority may only limit the number of permitted gaming machines where it relates to an alcohol-licensed premises which holds a gaming machine permit. In such cases, the Licensing Authority will have regard to the following:

- The size of the premises.
- The number of counter positions available for person-to-person transactions.
- The ability of staff to monitor the use of the machines by persons under 18 years of age or vulnerable persons.

27.3 The Licensing Authority expects applicants to offer their own measures and must be included in the Local Area Risk Assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: (*this list is indicative only and is not exhaustive*)

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures / training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate.

27.4 In determining any application for a Betting Premises Licence, the Licensing Authority will have regard to any guidance or codes of practice issued by the Gambling Commission concerning primary gambling activity, as well as any subsequent case law.

27.5 The Licensing Authority will require a full premises licence variation application when premises are intending to apply screening and/or a booth to any category of gaming machines.

28 Track Premises Licence

General

28.1 Tracks are sites, (including horse racecourses and dog tracks), where races or other sporting events take place. Betting is a primary gambling activity on tracks, both in the form of pool betting, (often known as the 'Totalisator' or 'Tote'), and also general betting, often known as 'Fixed-Odds' betting. In discharging its functions with regard to Track Betting Licences, the Licensing Authority will have regard to any guidance issued by the Gambling Commission in that respect.

28.2 There is no special class of betting premises licence for a track, but the Act does contain rules which apply specifically to a 'Premises Licence' granted in respect of a track.

- 28.3 Applicants for a Premises Licence made in relation to a track will not be required to hold an Operating Licence issued by the Gambling Commission, unless the applicant intends to offer pool betting or general betting facilities himself/herself; in which case an Operating Licence will be required.
- 28.4 The betting that is provided upon the track will not generally be provided by the applicant but will be provided by other operators who attend the track to provide betting facilities. These 'On-Course Operators' will require the necessary operating licences; therefore, the Act allows the track operator to obtain a Premises Licence without the requirement to hold an Operating Licence. This 'Track Premises Licence' then authorises anyone upon the premises to offer betting facilities, provided they already hold a valid Operator's Licence.
- 28.5 The Licensing Authority is aware that tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. The Licensing Authority will especially consider the impact of the Licensing objective of the protection of children and vulnerable persons with regard to this category of licence. specific considerations in this respect may include:
- The need to ensure entrances to each type of premises are distinct.
 - That children are excluded from gambling or betting areas that they are not permitted to enter.
- 28.6 The Licensing Authority will expect the premises licence applicant(s) to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 28.7 Children are legally permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines, (other than category D machines), are provided.
- 28.8 Appropriate measures and / or licence conditions which may be applied to a track premises licence by the Licensing Authority, in order to promote the Licensing Objectives, (particularly the objective with regard to children and vulnerable persons), may include:
- 28.9 (This list is indicative; it is not mandatory or exhaustive)
- Proof of age schemes.
 - CCTV.
 - Door supervisors.
 - Supervision of entrances/machine areas.
 - Physical separation of areas.
 - Location of entry.
 - Notices / signage.
 - Specific opening hours.
 - Self-barring schemes.
 - Provision of information leaflets / helpline numbers for organisations such as Gamcare.
 - Identify local risks, such as proximity to schools or in an area with a high crime rate.

Gaming Machines at Tracks

- 28.10 Applicants for Track Premises Licences will need to demonstrate within their applications, that where the applicant holds a 'Pool Betting Operating Licence' and is going to use his

entitlement to four gaming machines, these machines are located in areas from which children are excluded and that such areas are suitably operated.

Betting Machines at Tracks

28.11 The Licensing Authority has an express power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching licence conditions to a betting premises licence.

28.12 The potential space available for betting machines at a track may be considerable, bringing with it significant problems in relation to:

- The proliferation of such machines.
- The ability of track staff to supervise the machines if they are dispersed around the track.
- The ability of the track operator to comply with the law and prevent children betting on the machines.

28.13 In considering whether or not it is appropriate to restrict the number of betting machines made available at a track, by way of licence condition, the Licensing Authority will have regard to the following:

- The size of the premises.
- The ability of staff to monitor the use of the machines by children or by vulnerable people.
- The number, nature, location and circumstances of the betting machines that an operator intends to make available for use.

Conditions on Rules being Displayed at Tracks

28.14 The Licensing Authority will attach a condition to Track Premises Licence requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas or made available to the public by some other means, such as being included in the race-card or issued as a leaflet.

Applications and Plans for Tracks

28.15 The following information should be submitted with the application:

- Detailed plans for the track and the area that will be used for temporary “on-course” betting facilities (often known as the “Betting Ring”).
- In the case of dog tracks, horse racecourses, fixed and mobile pool betting facilities, (whether operated by the tote or the track operator), and any other proposed gambling facilities; the plans should make clear what is being sought for authorisation under the Track Betting Premises Licence.
- Details of any other areas of the track, which may be the subject of a separate application, for a different type of premises licence.

Self-Contained Premises on Tracks

28.16 The Licensing Authority will generally require that all 'self-contained premises' operated by off-course betting operators on track, be the subject of a separate Premises Licence. This will ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the track premises.

29 Travelling Fairs

29.1 Travelling fairs do not require any permit to provide gaming machines but must comply with the legal requirements as to the way the machines operate. They may provide an unlimited number of Category D gaming machines, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.

29.2 A given area of land may, by statute, only be used on 27 days per calendar year for the purposes of accommodating a fair. The statutory maximum of 27 days calendar use applies to the land on which the fairs are held, and that use is cumulative, regardless of whether it is the same fair or a procession of different travelling fairs.

29.3 The Licensing Authority will monitor fairs, (whether travelling or otherwise), which provide category D gaming machines within Torbay, to ensure that the provision of gambling is ancillary to the amusement provided at the fair and to ensure that the statutory limits upon the annual use of the land, are not exceeded.

29.4 The Licensing Authority will work with its neighbouring Licensing Authorities to ensure that any inter-authority sites which may be used for the provision of fairs, are appropriately monitored to ensure due compliance with statutory requirements.

30 Reviews

30.1 An 'Interested Party' or a 'Responsible Authority' can make an application to the Licensing Authority at any time, requesting that the Licensing Authority review a licence that it has granted; the Licensing Authority may also initiate a review of a licence itself.

30.2 The list of Responsible Authorities can be viewed at www.torbay.gov.uk.

30.3 Interested Parties are defined at Section 5 of this 'Statement of Principles'.

30.4 Should the Licensing Authority receive an application requesting the review of a licence, the Licensing Authority will make a determination as to whether or not the review is to be carried out. In making this determination the Licensing Authority will consider whether the request for the review is relevant to the matters listed below:

- In accordance with any relevant Code of Practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Consistent with the Licensing Objectives.
- In accordance with Torbay Council's 'Statement of Principles'.

30.5 The Licensing Authority will also make a determination as to whether or not the application for the licence review is made on relevant grounds; the following are examples of grounds which may be considered by the Licensing Authority, to be irrelevant, (*this list is indicative and is not exhaustive*):

- Representations which do not raise an issue relevant to the principles to be applied in accordance with Section 153 of the Act.

- Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this ‘Statement of Principles’.
- Representations which relate to an objection to gambling activity generally; for instance on moral grounds.
- Representations in relation to the demand or unmet demand for Gambling Premises.
- Representations in relation to planning matters.
- Public Safety Issues.
- Traffic Congestion issues.

30.6 The Licensing Authority will not initiate a licence review if it considers that the grounds upon which the review is being sought are:

- Frivolous
- Vexatious
- Substantially the same as representations made at the time that the application for a premises licence was considered; the Licensing Authority will not normally review a licence to revisit issues which were considered at the time of the grant, unless there is evidence which justifies such reconsideration.
- Substantially the same as the grounds cited in a previous application for review, relating to the same premises, and a sufficient or reasonable period of time has not elapsed since that previous application was made.
- Insignificant; to such an extent, that it would be wholly unreasonable for the Licensing Authority to revoke or suspend the licence; or to remove, amend or attach conditions to the licence, on the basis of such representation.

30.7 Should the Licensing Authority determine that an application for a licence review, (which has been duly submitted by an ‘Interested Party’ or a ‘Responsible Authority’), is valid or should the Licensing Authority decide to initiate a licence review of its own volition; then that licence review will be undertaken and progressed to conclusion, in accordance with the requirements of the Act, any guidance or codes of practice issued by the Gambling Commission and this ‘Statement of Principles’.

Part C – Permits and Temporary and Occasional Use Notices

31 Unlicensed Family Entertainment Centre (UFEC)

31.1 Unlicensed Family Entertainment Centres (*UFEC’s*), are premises commonly located at seaside resorts, on piers, at airports or at motorway service stations. These establishments cater for families, including unaccompanied children and young persons and, subject to the grant of a permit from the Licensing Authority, operators can provide an unlimited number of Category D gaming machines, upon the premises.

31.2 Where a premises does not have the benefit of a premises licence issued under the Act, but the applicant wishes to provide Category D gaming machines; an application may be made to the Licensing Authority for an unlicensed family entertainment centre permit. The applicant must satisfy the Licensing Authority that the premises will, in accordance with

Section 238 of the Act, be 'wholly or mainly' used for making gaming machines available for use.

- 31.3 The Licensing Authority will require as part of the application form, a plan to scale, clearly defining the area covered by the UFEC and including the layout of machines. UFEC permits will only be granted for areas which complies with section 238 of the Gambling Act in that the area specified is wholly or mainly used for making gaming machines available for use. As such it is not permissible for permits to be granted to entire complexes such as leisure centres, shopping centres and motorway service areas or similar.
- 31.4 The Licensing Authority will issue permits for unlicensed family entertainment centres in accordance with the following principles:
- The Licensing Objectives.
 - Any relevant regulations or codes of practice.
 - Any guidance issued by the Gambling Commission.
 - The principles set out in this 'Statement of Principles'.
- 31.5 The Licensing Authority will only grant a permit if satisfied that the premises will be used as a UFEC and that Devon and Cornwall Police has been consulted in relation to the application; applicants will also be required to demonstrate to the Licensing Authority:
- That the applicant has a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre.
 - That staff are suitably trained and have a full understanding of the maximum stakes and prizes permissible in an unlicensed family entertainment centre.
 - That the applicant has no convictions, which may have been identified as 'relevant convictions', for the purposes of the Act.
- 31.6 The Licensing Authority will expect the applicant to show that they have policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 31.7 Such measures may include:
- Enhanced criminal record checks for staff.
 - Appropriate measures/training for staff as regards suspected truant school children on the premises.
 - Appropriate measures/training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on/or around the premises.
- 31.8 The Licensing Authority can grant or refuse an application for an unlicensed family entertainment centre permit; however, it cannot attach conditions to a permit.
- 31.9 The Licensing Authority encourages applicants for UFEC Permits to consider adopting the British Amusement Catering Trade Association (BACTA) voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres, which now includes no access to Category D reel machines for those aged under 18 years. This Code of Practice promotes awareness of social responsibility and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

32 Alcohol Licensed Premises – Gaming Machine Permits

- 32.1 There is an automatic entitlement to provide a maximum of 2 Category C and/or D gaming machines, on premises that are licensed under the Licensing Act 2003, for the sale and consumption of alcohol on the premises. Subject only to the proviso, that the premises licence holder must serve notice of intention upon the Licensing Authority in respect of those machines.
- 32.2 The Licensing Authority can remove the '*Licensing Act 2003 Automatic Entitlement*' in respect of any particular premises if:
- The provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives.
 - The Licence Holder has breached the requirements of the Act.
 - An offence under the Act has been committed on the premises.
 - The premises are mainly used for gaming.
- 32.3 The premises must comply with the Code of Practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission, which may be accessed through the following link: <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/lccp>.
- 32.4 All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.
- 32.5 The provision of gaming machines, on premises licensed for the sale and consumption of alcohol, in excess of the automatic two machine entitlement, can only be authorised by way of a permit issued by the Licensing Authority.
- 32.6 In considering any application for a permit to authorise the provision of more than two machines, on premises licensed under the Licensing Act 2003, for the sale and consumption of alcohol; the Licensing Authority will have regard to the following:
- The requirements of the Act.
 - The Licensing Objectives.
 - Any guidance issued by the Gambling Commission.
 - Any Code of Practice issued by the Gambling Commission.
 - The principles within this 'Statement of Principles'.
 - Any other matters that the Licensing Authority considers relevant.
- 32.7 The matters that the Licensing Authority considers relevant in reference to the last bullet point above, will include but are not exclusive to:
- Any representation it considers relevant by The Police and the Children's Safeguarding Board.
 - Any relevant policies e.g., child protection from the applicant.
 - The percentage of gross turnover the gaming machines contribute to total gross turnover of the premises and this should not be significant.
 - The confidence the Licensing Authority has in the management of the premises.
- 32.8 In granting a permit the Licensing Authority can prescribe a different number of machines to that which was applied for and can prescribe the particular category of machine(s) that may be permitted; however, the Licensing Authority cannot attach conditions to a permit.

32.9 Applications for permits under this section cannot be made in respect of unlicensed non-alcohol areas of, (*Licensing Act 2003*), licensed premises. Such areas would need to be considered under the provisions relating to ‘Family Entertainment Centres’ or ‘Adult Gaming Centres’.

33 Prize Gaming Permits – Statement of Principles on Permits

33.1 In considering any application for a prize gaming permit the Licensing Authority will have regard to the following:

- The type of gaming that the applicant is intending to provide.
- The requirements of the Act.
- The Licensing Objectives.
- Any guidance issued by the Gambling Commission.
- Any statutory and mandatory conditions.
- The principles within this ‘Statement of Principles’.

33.2 The Licensing Authority will expect the applicant to demonstrate that they understand the limits applicable to ‘stakes and prizes’ that are set out in Regulations; and that they are able to understand and ensure that the gaming to be provided is within the law.

33.3 There are statutory and mandatory conditions in the Act which the permit holder must comply with, and the Licensing Authority cannot impose any additional conditions to the grant of a permit. The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with.
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.
- The prize for which the game is played must not exceed the amount set out in regulations (if a monetary prize), or the prescribed value, (if non-monetary prize).
- Participation in the gaming must not entitle the player to take part in any other gambling.

34 Club Gaming Permits and Club Machine Permits

34.1 The Act creates a separate regime for gaming in ‘club’ premises from that in other relevant alcohol licensed premises. It defines two types of clubs for the purposes of gaming:

- Members’ club (including miners’ welfare institutes)
- Commercial club.

34.2 A Members Club may apply for a ‘Club Gaming Permit’ or a ‘Club Machine Permit’. Whereas a Commercial Club, may only apply for a ‘Club Machine Permit’ and may not provide Category B3A machines.

34.3 The grant of a ‘Club Gaming Permit’ by the Licensing Authority will enable the premises to provide gaming machines of the type and number set out on the Gambling Commission’s website (link below) and <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/club-gaming-and-machine-permits>; equal chance gaming and games of chance as set out in regulations.

- 34.4 The grant of a 'Club Machine Permit' by the Licensing Authority will enable the premises to provide gaming machines of the type and number set out on the Gambling Commission's website <https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/club-gaming-and-machine-permits>
- 34.5 NOTE: This maximum entitlement of three machines will include any machines provided by virtue of the Licensing Act 2003 entitlement; it is not in addition to that entitlement.
- 34.6 Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming unless the gaming is permitted by separate regulations. This may cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A 'Members' Club' must be permanent in nature, not established to make commercial profit, and controlled by its members in equal part. Examples would include 'Working Men's Clubs', branches of the 'Royal British Legion' and clubs with political affiliations.
- 34.7 The Licensing Authority may only refuse an application for a 'Club Gaming Permit' or a 'Club Machine Permit' on the grounds that:
- The applicant does not fulfil the statutory requirements for a member's club, a commercial club or a miner's club, welfare institute; and therefore, is not entitled to receive the type of permit for which it has applied.
 - The applicant's premises are used wholly or mainly by children and/or young persons.
 - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities.
 - A permit held by the applicant has been cancelled in the previous ten years.
 - An objection to the grant of a permit has been lodged by the Gambling Commission or the Police.
- 34.8 The Licensing Authority is aware that there is a fast-track procedure for the issue of a permit to premises which hold a club premises certificate granted under the Licensing Act 2003. Under this fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police.
- 34.9 The 'fast track' process afforded to an applicant under the Licensing Act 2003 does not provide any statutory right to the issue of a permit and the Licensing Authority may resolve to refuse the grant of a 'fast track' application on the following grounds:
- That the club is established primarily for gaming, other than gaming prescribed under Schedule 12 of the Act, *that section relating to 'Club Gaming Permits' and 'Club Machine Permits'*.
 - That in addition to the prescribed gaming to be provided under the permit, the applicant provides facilities for other gaming on the same premises.
 - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 34.10 No child shall be permitted to use a Category B or C gaming machines on the premises and that the holder of the Premises Licence must comply with any code of practice relevant to the location and operation of gaming machines.

35 Temporary Use Notices

- 35.1 There are a number of statutory limits as regards temporary use notices. The limits are set out in the Act as:

- A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.
- A set of premises may be the subject of more than one temporary use notice in a period of 12 months; provided that the aggregate of the periods for which the notices have effect does not exceed 21 days.

35.2 The Licensing Authority notes that a Temporary Use Notice can only be used to offer gambling of a form authorised by the operator's Operator Licence and will give consideration to whether the form of gambling offered on the premises will be remote, non-remote, or both.

35.3 The purposes for which a temporary use notice may be used are restricted by regulations, to the provision of facilities for equal chance gaming only, which must be provided by means other than 'machine gaming'.

35.4 'Equal Chance Gaming' is gaming where the participants are taking part in a gambling competition which is intended to produce a single, overall winner. An example of this would be a poker competition.

35.5 In considering whether to object to a temporary use notice the Licensing Authority will have particular regard to this Statement of Principles, and any guidance issued by the Gambling Commission, with regard to the nature and definition of a 'premises' or a 'place'. Should the Licensing Authority consider that 'Temporary Use Notices' are being employed at premises (or for discreet parts of premises), to the extent where 'regular gambling' is thereby being provided within a given building or at a given place; then the Licensing Authority may object to the notice(s).

36 Occasional Use Notices

36.1 With regard to 'Occasional Use Notices' (OUN's), the Licensing Authority will ensure the following:

- That the statutory limit of 8 days in a calendar year is not exceeded.
- That the subject premises can reasonable and effectively be defined as a 'track'
- That the applicant is permitted to avail himself/herself of the notice.
- Further information on OUN's may be found on the Gambling Commission website:

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/page/occasional-use-notices-ouns>

Part D - Appendices

37 Appendix 1 – Consultation

37.1 The Act requires that the following parties are consulted by Torbay Council prior to publication of this 'Statement of Principles':

- The Chief Officer of Police.
- One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Authority's area.
- One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act.

37.2 This Statement of Principles is made following consultation with the following:

- Residents and businesses of Torbay
- Bodies representing existing gambling businesses in Torbay
- The Chief Officer of Devon and Cornwall Police
- The Chief Officer of Devon and Somerset Fire and Rescue Service
- Torbay and South Devon NHS Foundation Trust
- Torbay Safeguarding Children's Partnership
- Torbay Council: Planning, Community Safety and Highways Authorities
- Safer Communities Torbay
- Facilities in Torbay assisting vulnerable persons
- Faith groups; via Torbay Interfaith Forum and the Street Pastors
- Brixham Town Council
- English Riviera BID
- Torbay Economic Development Company trading as the Torbay Development Agency

37.3 In determining this Statement of Principles, the Licensing Authority undertook to give appropriate weight to the views of those it consulted. In determining what weight to give to a particular representation, the factors taken into account included:

- Who made the representation; (what is their expertise or interest?)
- What was the motive for their representation?
- How many other people have expressed the same or similar views?
- How far the representation related to matters that The Licensing Authority should be including in its Statement of Principles.

37.4 Torbay Council has designated the Torbay Safeguarding Children's Partnership, as the 'Competent Body' to advise the Council, with regard to the Licensing objective that protects children from being harmed or exploited by gambling.

38 Appendix 2 - Small Casino Licence

38.1 The Act provided for an increase in the number of casino premises permitted to operate in the United Kingdom and established that two new types of casino should be permitted: eight large and eight small casinos. The Secretary of State for Culture, Media and Sport was given the Authority under the Act to determine which Licensing authorities should be permitted to grant new casino premises licences.

38.2 The Secretary of State established a '*Casino Advisory Panel*' to recommend the most appropriate areas of the UK in which to site the 16 new casino premises and invited interested Local Authorities to submit proposals to the Panel; Torbay Council submitted a proposal to the panel in response to this invitation.

38.3 On 15th May 2008, the 'Categories of Casino Regulation 2008' and the 'Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008' were approved. The Order specified which Licensing Authorities could issue premises licences for both large and small casinos; Torbay Council's Licensing Authority was included in the Order and was authorised to issue one small casino premises licence.

38.4 On 26th February 2008, the Secretary of State for Culture, Media and Sport issued the '*Code of Practice on Determinations Relating to Large and Small Casinos*' (herein referred to as the

Code of Practice). The Licensing Authority must comply with the Code of Practice which states:

- The procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Act.
- Matters to which the Licensing Authority should have regard in making those determinations.

38.5 In summary, the casino licensing process is in two stages. At Stage 1, applications are made for premises licences or provisional statements. Those applications are decided in accordance with section 153 of the Gambling Act 2005, in the same way as any other application and without reference to each other. If more than one applicant is successful at Stage 1, then the process passes to Stage 2.

38.6 As to Stage 2, Schedule 9 paragraph 5 to the Act states the following:

“This paragraph applies if a Licensing Authority determine under Paragraph 4 that they would grant a number of competing applications greater than the number which they can grant as a result of section 175 and the Order under it.

The Authority shall then determine which of those applications to grant under section 163(1)(a).

For that purpose the Authority -

- *shall determine which of the competing applications would, in the Authority’s opinion, be likely if granted to result in the greatest benefit to the Authority’s area,*
- *may enter into a written agreement with an applicant, whether as to the provision of services in respect of the Authority’s area or otherwise,*
- *may determine to attach conditions under section 169 to any licence issued so as to give effect to an agreement entered into under paragraph (b), and*
- *may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a).”*

38.7 Torbay Council, as the Licensing Authority, is aware that there may be a number of operators who may wish to apply for the small casino premises licence from Torbay Council.

38.8 The Licensing Authority will therefore stage a statutory selection process, *(the ‘small casino premises licence process’)*, under Schedule 9 of the Act and will run the selection process in line with *‘The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008’* and the said Code of Practice, issued by the Secretary of State.

38.9 In accordance with the above Regulations, Torbay Council’s Licensing Authority will publish an invitation calling for applications for the ‘small casino premises licence’.

38.10 Should the Licensing Authority receive more than one application for a small casino premises licence at Stage 1 of the ‘small casino premises licence process’ and should the Licensing Authority determine that it would grant more than one small casino premises licence, then subject to any and all appeals which may have been lodged at Stage 1 of the process being concluded, the Licensing Authority will:

- Make a ‘Provisional Decision to Grant’ in respect of those applicants deemed appropriate for the grant of a small casino premises licence.
- Implement Stage 2 of the ‘small casino premises licence process’.

- Invite those applicants issued with a ‘Provisional Decision to Grant’ at Stage 1 of the ‘small casino licence process’, to participate in Stage 2 of the ‘small casino premises licence process’.

38.11 Any ‘Provisional Decision to Grant’ issued to an applicant at Stage 1 of the ‘small casino premises licence process’, shall have no effect and shall not be used for the provision of casino gaming facilities upon the premises to which it relates. The ‘Provisional Decision to Grant’ merely confirms the Licensing Authority’s determination, that the applicant satisfies the statutory requirements for the grant of a small casino premises licence; and afford the applicant the right to participate in Stage 2 of the ‘small casino premises licence process’ for Torbay.

38.12 It may be the case that at Stage 1 of the process, only one application may be submitted to the Licensing Authority for a small casino premises licence, or it may be the case that after due consideration of all the applications at Stage 1, the Licensing Authority considers that only one applicant satisfies the statutory requirements, in respect of a premises licence. In that instance, the Licensing Authority will not implement Stage 2 of the ‘small casino Licensing process’ and will, (subject to any and all appeals being concluded), grant a small casino premises licence to the ‘only suitable applicant’ determined under Stage 1 of the process.

38.13 If the Licensing Authority does not receive any applications for a small casino premises licence at Stage 1 of the ‘small casino premises licence process’, or should the Licensing Authority resolve to refuse the grant of any applications so made under Stage 1, then subject to any and all appeals being concluded:

- Stage 2 of the ‘small casino premises licence process’ will not be implemented, and,
- The Licensing Authority may re-publish an invitation calling for applications for a ‘small casino premises licence’.

38.14 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue a premises licence. A decision to pass such a resolution will be taken by the Authority as a whole and will not be delegated to the Licensing Committee (a resolution not to issue casino premises licences will only affect new casinos). In passing such a resolution the Authority may take into account any principle or matter, not just the Licensing Objectives. The Authority may revoke the resolution by passing a counter resolution. To date, no resolution has been passed by the Licensing Authority.

Small Casino Premises Licence – General Principles

38.15 The Licensing Authority recognises that applicants may either apply for a ‘Casino Premises Licence’ or alternatively a ‘Provisional Statement’ in respect of the small casino premises licence.

38.16 Unless otherwise specified, any reference to the application and procedures for a ‘Small Casino Premises Licence’ in the ‘Small Casino Premises Licence’ sections of this ‘Statement of Principles’ shall also include the application and procedures for a ‘Provisional Statement’ for a small casino premises licence.

38.17 In making any decision under Stage 1 or Stage 2 of the ‘small casino premises licence process’, the Licensing Authority will have due regard to this ‘Statement of Principles’, the Act and to any Codes of Practice, Regulations and Guidance which may be issued by:

- The Secretary of State.

- The Department for Culture, Media and Sport, (*DCMS*).
- The Gambling Commission.

38.18 In making any decision in respect of a small casino premises licence application, made under the 'small casino premises licence process':

- The Licensing Authority shall not take into account whether or not an applicant is likely to be granted planning permission or building regulations approval; and
- Any decision taken in relation to the small casino premises licence application, shall not constrain any later decision by The Council, under the law relating to planning or building control; and
- Any conditions or agreements attached to any planning consents will normally fall outside of the Licensing process and will normally be disregarded by the Licensing Authority, in determining which applicant will bring the greatest benefit to the area of Torbay.

38.19 The Licensing Authority cannot consider unmet demand when considering applications for a small casino premises licence.

38.20 Torbay Council does not have a preferred location for the new small casino. Applicants can submit plans for any site or location within Torbay, each of which will be judged on its own individual merits. Applicants, however, should have regard to the proposed location of the premises, with regard to meeting the licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling.

38.21 Where more than one 'Provisional Decision to Grant' is issued, the Licensing Authority will implement Stage 2 of the 'small casino premises licence process'.

38.22 The Licensing Authority will ensure that any pre-existing contract, arrangements or other relationship it may have with a company or individual, does not affect the procedure so as to make it unfair (or appear unfair) to any applicant.

Small Casino Premises Licence Application - Stage 1

38.23 The 'small casino premises licence process' will be started by the Licensing Authority publishing an invitation calling for applicants to submit an application for a small casino premises licence.

38.24 An application for a small casino premises licence may be made at any time, however the Licensing Authority will not consider any such application, until a formal invitation to apply has been published and the appointed closing date for the submission of applications has passed. The appointed closing date shall be the final day of the three-month period, duly advertised for Stage 1 applications.

38.25 The Licensing Authority will provide an application pack that will include a statement of the procedure and process it proposes to follow, in assessing applications for a small casino premises licence.

38.26 All applications for a small casino premises licence will be received through Stage 1 of the 'small casino premises licence process'. Should the Licensing Authority receive more than one application, then each application will be considered separately and on its own merits, with no reference being made to the other applications received.

38.27 At Stage 1 of the 'small casino premises licence process' any additional information submitted by an applicant, above that required by the statutory process, will be disregarded and returned to the applicant in accordance with Act and its Regulations. Additional

information may be submitted by an applicant participating in Stage 2 of the 'small casino premises licence process'.

- 38.28 The Licensing Authority recognises that, should there be more than one small casino premises licence applicant, then each applicant is an 'Interested Party' in relation to the other, and therefore may make a representation. The term 'Interested Party' is defined in Section 5, of this 'Statement of Principles' and all representations will be considered carefully to ensure they meet the requirements set out therein.
- 38.29 It is recognised that any decision taken by the Licensing Authority under Stage 1 of the 'small casino licence application process' may be the subject of an appeal. The Licensing Authority will not proceed to Stage 2 of the 'small casino premises licence process' until any and all appeals, which may have been lodged at Stage 1 of the process, have been concluded.
- 38.30 Where the application at Stage 1 is for a 'Provisional Statement', the provisional statement is likely to be granted for a fixed period of 12 months, so that applications for premises licences should follow shortly after the provisional statement.
- 38.31 It is unlikely that the Authority will wish to extend the duration of the provisional statement.
- 38.32 If applicants do not believe they can apply for and be granted a premises licence within 12 months of grant of the provisional statement they should say so in their applications. The risk that they will not obtain a premises licence within that timescale will be taken into account in assessing the likely benefits of the proposal.
- 38.33 If a licence is granted, the Authority is likely to consider applying to revoke it after 12 months pursuant to section 202(3) of the Act, unless construction work has commenced or is imminent at the end of that period.

Small Casino Premises Licence Application - Stage 2

- 38.34 Stage 2 of the 'small casino premises licence process' cannot commence until Stage 1 has been completed and all applications have been determined, including the conclusion of any and all appeals.
- 38.35 At Stage 2 of the 'small casino premises licence process', each of the second stage applicants will be required to state and demonstrate the greatest benefit they can bring to the local area of Torbay and how this will contribute to the wellbeing of the area.
- 38.36 Where more than one application is received for a small casino premises licence and where more than one application is the subject of a 'Provisional Decision to Grant', (in accordance with Section 19.8 at Page 18), the Licensing Authority will give due consideration to all applications. It will grant the available licence to the applicant whose application it considers will be likely if granted to result in the greatest benefit to the area of Torbay.
- 38.37 Any determination made under Stage 2 of the 'small casino premises licence process' will be judged on the criteria below, which have been established by the Licensing Authority in consultation with the community of Torbay, under the terms of this Statement of Principle'.
- 38.38 The Licensing Authority may during Stage 2 of the 'small casino premises licence process' engage in discussions with each Stage 2 applicant, with a view to the application being refined, supplemented or otherwise altered so as to maximise the benefits to the area of Torbay.

38.39 The Licensing Authority will expect a Stage 2 applicant to sign a written agreement with Torbay Council relating to the benefits that the proposed development may bring to the area of Torbay. The Licensing Authority will take any such agreement into account, in determining which application would result in the greatest benefit to the area of Torbay. The Licensing Authority may attach conditions to the small casino premises licence to give effect to this agreement.

38.40 The following are the principles which will be used by the Licensing Authority to judge which proposal is likely to result in the greatest benefit to the area of Torbay and therefore, these are the matters to which applicants will be expected to address their Stage 2 application:

- An upfront payment on grant.
- A percentage of the Gross Gambling Yield including from machines
- An annual sum, to be paid whether the casino has been built or is operational or not.
- The likelihood of delivery of such benefits.

38.41 In considering the likelihood that such benefits will be delivered, the matters the Licensing Authority will take into account include but are not limited to:

- Whether the applicant is the intended operator.
- If the applicant does not have an operating licence, the timescale for obtaining one.
- Whether or not the proposal has planning permission.
- Whether or not the applicant has a legal right to occupy the site.
- The committed financing of the proposal.
- The timescale for completion and the risks to the timetable.
- Whether the Stage 1 application is for a 'provisional statement', and whether a premises Licence application will be made with 12 months of the original grant.

38.42 Above, the Licensing Authority has set out matters which it will take into account in judging the competing applications at Stage 2 of the 'small casino premises licence process'. While these matters are likely to receive the greatest weight in the evaluation process, an operator is not debarred from putting forward other benefits which the Licensing Authority will take into consideration and weigh to the extent it considers them relevant.

38.43 The Stage 2 applicant will be expected to additionally submit the following:

- A clear and detailed Business Plan dealing, amongst other things, with the viability of any submitted proposals.
- A signed 'Development Agreement' in a form that is acceptable to the Licensing Authority, committing the applicant, (in the event that they are granted a licence), to the entirety of the scheme they have put forward.
- A timescale for implementation and completion of the proposed development works, (including any ancillary development), setting out the various stages of construction. This is to enable the Licensing Authority to be kept informed of when the project is likely to be completed and that the applicant is on target for final completion.
- Evidence that there will be consultation with Statutory Bodies and Responsible Authorities, to ensure due compliance with any and all Statutory Regulations and Legislation, during the construction of the development; (e.g. health and safety, highway approvals, etc).

- 38.44 In assessing applications made under the 'small casino premises licence process' the Licensing Authority will give consideration to the likelihood of a casino actually being developed and additional weight shall be given to its deliverability.
- 38.45 The 'small casino premises licence process' will follow the DCMS Code of Practice; however, the Code of Practice leaves individual authorities to determine the detail of their own procedure.
- 38.46 Therefore, (because it is recognised that the Licensing Authority does not necessarily have all the relevant expertise), the Licensing Authority might need to seek advice on an applicant's proposal from Officers in other relevant Council departments, for example Planning, Highways, Finance, Regeneration and Legal. The Licensing Authority may also need to solicit independent expertise and advice from sources outside of the Council.
- 38.47 For this purpose, the Licensing Authority intends to constitute a non-statutory panel to assist in the evaluation of the Stage 2 application process. This panel shall be called the 'Advisory Panel'.
- 38.48 It is accepted that only the Licensing Authority will make the final decision on the successful applicant. The function of the Advisory Panel will be to evaluate the applications for the benefit of the Licensing Committee or Sub-Committee. The Advisory Panel will not be a decision-making body and while the Licensing Committee or Sub-Committee will take the Advisory Panel's evaluations into account, with regard to the 'small casino premises licence process', it is not bound to follow them.
- 38.49 Members of the Advisory Panel will comprise of carefully selected, competent and suitably qualified individuals, who are not biased and whose personal interests would not compromise their independence. It will be for the Local Authority to determine the membership of the Advisory Panel.
- 38.50 A schedule detailing the Advisory Panel members and the Panel's terms of reference will be included in the application pack. The terms of reference will include further details of the functions of the Advisory Panel and the procedures of the evaluation process, in order to ensure fairness and transparency to all applicants.
- 38.51 To ensure that there is fairness and transparency; applicants will be asked if they wish to object to any Member of the Advisory Panel. Should an applicant wish to raise any objection to a Member of the Advisory Panel; then:
- A formal objection must be served upon the Local Authority within 10 working days of the applicant requesting an application pack.
 - The objection must clearly indicate the grounds upon which the objection is being made.
 - It will be for the Local Authority to determine the validity of any objection and to determine if any member of the Advisory Panel should be replaced on the basis of the objection(s) raised.
 - The formal procedure to be followed in the event of any objection being raised will be detailed within the 'application pack'
- 38.52 The strict time constraints detailed above, are to ensure that in the event of an Advisory Panel Member being replaced as a result of an applicants' objection, all applicants can be given due notice and opportunity to object to any 'Replacement' Advisory Panel Member(s); and to prevent the potential frustration of the procedure in the latter stages of the 'small casino premises licence' determination process. Objections raised 'out of time' will only be

considered if the applicant can satisfy the Local Authority, that the objection could not reasonably have been made within the stipulated period for objections).

38.53 It is important that the small casino premises licence application includes all documents and paperwork in support of the proposals, (hereinafter referred to as the 'bid documentation'). Once all the bid documentation has been submitted, the Advisory Panel will carry out a preliminary evaluation of each application. Following the preliminary evaluation, Officers of Torbay Council may liaise with applicants with a view to the application being refined, supplemented or altered so as to maximise the greatest benefit to the Torbay area.

38.54 Once the bid documentation is finalised, the Advisory Panel will evaluate each bid. Once assessed, the Advisory Panel's draft evaluation report on each application will be sent to the applicant, in order to enable the relevant applicant to identify and address any factual errors that may have occurred. Thereafter no additional information may be submitted by the applicant, but any agreed factual errors will be amended.

38.55 The unsuccessful applicant(s) will be informed of the result and reasons for rejection as soon as is reasonably practicable.

Statement of Principles under the Gambling Act 2005: consultation feedback analysis

Respondent	Response Received	Detail of Response	Proposed Amendment to Draft Statement of Principles
Brixham Town Council	31/08/2021	<p>Q1: In respect of the draft Statement of Principles, do you believe it contains sufficient detail and information for you to have a good understanding of the Council's policy aims and the decision-making process?</p> <p>A1: Yes.</p> <p>Q2: Do you consider the draft Statement of Principles to be fair to both residents, businesses, and licensed gambling premises?</p> <p>A2: Yes.</p>	None.
Porbay Council' Licensing Committee	02/09/2021	That the Licensing Committee recommends the approval of the Gambling Act 2003 – Draft Licensing Statement of Principles 2022 to 2025.	None.
Betting and Gaming Council (submitted by Gosschalks LLP)	09/09/2021	The statement of principles makes a number of references to the promotion of, or requirement to promote the licensing objectives (paragraphs 9.1, 15.1, 15.2, 16.3, 19.2 and 19.3). These references should be amended. As the statement of principles identifies elsewhere, the requirement is that applications and operations must be consistent with the licensing objectives. The only body upon whom the Gambling Act confers a duty to promote the licensing objectives is the Gambling Commission.	<p>Propose to amend references at 9.2 (was 9.1 in the consultation draft), 15.1, 16.3, 19.2 and 19.3 so that the Policy makes clear that applications and operations must be consistent with the licensing objectives under the Gambling Act 2005 – as set out at Part 8, Para 153.</p> <p>Propose that Paragraph 15.2 remains the same as feel the amendment to Paragraph 15.1 sufficiently qualifies the scope and intent of Paragraph 15.2.</p>

The final sentence of paragraph 14.1 should be deleted. This refers to the authority potentially considering matters which may have an adverse impact on gambling activities when considering location in the context of an application. These are not relevant considerations under s153 Gambling Act 2005 and should not be taken into account as is clearly stated in paragraph 15.2.

Paragraphs 17.6 to 17.8 inclusive should be redrafted and significantly abridged. Paragraph 17.6 refers to SR Code Provision 10.1.1 but then implies that the code mandates an applicant to take certain matters into account as there then follows a list of bullet points that an operator “shall” take into account. These supposedly mandatory considerations are listed in both paragraphs 17.6 and 17.7. This section should be clear that the SR Code Provision requires that, *“Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority’s statement of licensing policy”* and the list of bullet points could then be introduced

Do not propose to remove the wording as below from paragraph 14.1, which has since been amended following consultation with an external Legal Advisor and now reads:

“In considering location, the Authority may consider the general characteristics of the area. For example, if the premises is in a Cumulative Impact Area for the purposes of the Licensing Act 2003, the Authority will consider whether this may negatively impact on the gambling licensing objectives and how the applicant proposes to mitigate such an impact.”

Propose redrafting of paragraph 17.6 to make clear that the SR Code Provision 10.1.1 requires licence holders must assess the risks to the licensing objectives posed by the provision of gambling facilities at each of their premises and that the list of matters provided in paragraphs 17.7 and 17.8 are ones the Council expects Applicants to take into account (although they are not mandatory considerations).

Suggested revised paragraph 17.6 below:

“The Social Responsibility Code (LCCP 10.1.1) requires an operator to consider the Licensing Authority’s Statement of Policy, wherein the Licensing Authority will set out the matters it will expect an operator to take

as examples of matters that the authority would expect to be taken into account.

The list of bullet points should, however, be deleted. The bullet points highlight matters that will be a feature of every urban and suburban landscape. The fact is that gambling premises have existed in areas of dense population or high footfall ever since they have been permitted. Operators will identify risks and ensure that they have policies, procedures and mitigation measures in place to mitigate any identified risk. In the circumstances, these paragraphs should be cut back to highlight only the requirement of SR Code Provision 10.1.1.

If the list of bullet points is to remain, it should be amended to take into account only matters that may be relevant to an assessment of risk to the licensing objectives. It is impossible to see how issues such as “youths participating in anti-social behaviour” could in itself pose a risk to the licensing objectives. Similarly, “gaming trends that may mirror days for financial payments such as pay days or benefit payments” can only be relevant to an assessment of risk to the licensing objectives if the authority’s view is that anyone in receipt of benefits or indeed paid employment is deemed vulnerable or likely to commit crime as a result of gambling. This cannot be correct.

in to account when considering their own risk assessment. The Licensing Authority expects, though it is not a mandatory requirement, that operators consider the following matters. ~~As such, an operator shall take the following matters in to account:~~

- Information held by the Licence Holder licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- ~~Gaming trends that may mirror days for financial payments, such as pay days or benefit payments~~
- Proximity to schools, commercial environment or other factors affecting footfall
- Range of facilities in proximity to the licensed premises, such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- ~~Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.~~
- Potential for money laundering.”

Do not propose, as suggested in the consultation response, to remove the bulleted list at paragraph 17.7 as consider it important to leave in the requirement that operators should think about matters set out therein, including gaming trends that mirror days for financial payments (such as pay days or benefit payments), as feel this may have particular impact on vulnerable adults.

Paragraph 27.2 should be redrafted so that it is clear that the entitlement to make up to four gaming machines of categories B, C or D is not something that can be limited by condition whereas the authority does have the ability to limit the number of betting machines in certain circumstances.

Do not propose, as suggested in the consultation response, to remove the bulleted list at paragraph 17.8 as consider it important to flag at the outset that the Licensing Authority expects operators to have these matters in mind when planning or managing their operations.

Propose rewording of paragraph 27.2 to acknowledge that conditions may not be attached to a premises licence by the Licensing Authority under s.172(10) of the Gambling act 2005.

Reworded Paragraph 27.2 to read:

“A betting premises licence gives the holder the entitlement to make up to four Category B2 machines. The Licensing Authority may only limit the number of permitted gaming machines where it relates to an alcohol-licensed premises which holds a gaming machine permit. In such cases, the Licensing Authority will have regard to the following:

- The size of the premises.
- The number of counter positions available for person-to-person transactions.
- The ability of staff to monitor the use of the machines by persons under 18 years of age or vulnerable persons.”

Meeting: Cabinet
Council

Date: 16 November 2021
9 December 2021

Wards Affected: All Wards

Report Title: Proposed Council Tax Support Scheme 2022/23

Cabinet Member Contact Details: Councillor Christine Carter – Cabinet Member for Corporate and Community Services, Telephone: 07848 829159

email: christine.carter@torbay.gov.uk

Director/Assistant Director Contact Details: Tara Harris, Assistant Director of Community & Customer Service. Email: Tara.harris@torbay.gov.uk

1. Purpose of Report

- 1.1 This report provides members with the background of the current scheme and recommendations for the 2022/23 local Council Tax Support scheme.
- 1.2 Schedule 1A of the Local Government Finance Act 2012 requires local authorities to annually review their local scheme.

NB: Pension Age households are not affected. The DWP retain control of the regulations applied for local authorities to pay Council Tax Support to pension age customers. As pension age claims are protected by legislation, these proposed changes will only affect claims from those of working age:

2. Reason for Proposal and its benefits

We want Torbay and its residents to thrive.

We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.

We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

- 2.1 The Council has a statutory duty to provide a local Council Tax Support Scheme for working-age households within its area. Pension age households are subject to statutory provisions determined on a national basis that must be incorporated within each authority's local scheme

The Council must approve the final scheme by 11 March 2022 for operation by 1 April 2022. The scheme cannot be changed after the end of the financial year.

- 2.2 It is proposed that Personal Allowances and Premiums are uprated from 1 April 2022 in line with the prescribed Pensioner scheme and national working-age benefits, which are both set by the Government.

Failure to make this change would result in a cut in entitlement should there be an increase in household income.

3. Recommendation(s) / Proposed Decision

That Cabinet recommends to Council:

- 3.1 That the Council Tax Support Scheme for 2022/23 be approved.
- 3.2 That Council notes the scheme for 2022/2023 includes the standard annual uprating of the personal allowances and premiums. These values take into account the statutory inflationary increase in personal allowances used to calculate entitlement to Council Tax Support. These allowances represent a households basic living needs.
- 3.3 That Personal Allowances and Premiums, used to calculate Council Tax Support, are uprated from 1 April 2022 in line with the prescribed Pensioner scheme and national working-age benefits, which are both set by the Government.
- 3.4 That the Chief Finance Officer be given delegated authority, in consultation with the Cabinet and the Executive Lead for Customer Services, to make any further adjustments required to the Exceptional Hardship Policy and fund.

Appendices

Appendix 1: Current 2021/2022 scheme - <https://www.torbay.gov.uk/media/16034/torbay-s13a-202122-scheme-final.pdf>

Background Documents

[Discretionary Housing Payments \(DHP\) and Council Tax Discretionary awards - Torbay Council](#)

Supporting Information

1. Introduction

- 1.1 The current Council Tax Support scheme was approved by members at Full Council in December 2016.
- 1.2 For each financial year, the Council must consider whether to revise its scheme or to replace it with a replacement scheme. Any proposed revisions to the format of the scheme requires a 6-to-12-week public consultation process. It must make any revision to its scheme, or apply any replacement scheme, no later than 11 March for the subsequent financial year commencing 1 April.
- 1.3 Entitlement to Council Tax Support is based on a means test, by taking into consideration a person's income and comparing this with any personal allowances, premiums and disregards to which they may be entitled.
- 1.4 The current scheme needs to be updated each year to take into account the inflationary increase in the personal allowances used to calculate entitlement to Council Tax Support. These allowances represent a households basic living needs.
- 1.5 This will ensure the scheme is compliant with the Prescribed Requirements for all local schemes, determined by the Department for Communities and Local Government and also aligned to national working-age benefits, determined by the Department for Work and Pensions.
- 1.6 For people of working age, the current scheme has the following key elements:
 - All awards are based on 70% of the Council Tax charge for the property. This means that the maximum a working age household can receive is 70% of the Council Tax due. These households have to pay a minimum of 30% of the Council Tax due;
 - No entitlement if working age households have savings over £6,000;
 - Restrict working age households to the equivalent of a Band D property charge and apply the 70% restriction detailed above;
 - A hardship fund is provided for additional financial assistance within the scheme. This is available to households should they be experiencing hardship as a result of their Council Tax Support award.
- 1.7 Under the current scheme pensioners are protected and the level of entitlement for them must remain. Protection will be achieved by keeping in place the existing national rules, with eligibility and rates defined in the Prescribed Pensioners Scheme.
- 1.8 The components used to calculate Council Tax Support consist of the following:
 - **Personal Allowances** - the basic amounts of money the government says a claimant needs to live on. The level depends on the claimant's age and whether they are part of a couple. There are additional allowances for dependent children.
 - **Premiums** - additional amounts added to the personal allowance because of claimant's personal circumstances. The government recognises that it is more

expensive to live with a family or if someone has a disability or caring responsibilities. Extra amounts are added to income based benefits to account for this.

- **Disregards** - the amount of earnings not taken into account when calculating entitlement to benefits. There are standard earnings disregards for singles, couples and lone parents. People in certain groups, such as carers and people with disabilities are eligible for a higher disregard.
- **Non Dependant Deductions** - the amount that is deducted for other people who are 18 or over and live in the household. The deduction rates for non-dependants are set according to their income, as it is assumed that they can make a financial contribution to the household.

2. Options under consideration

- 2.1 It was the intention to introduce an income banded Council Tax Support scheme from April 2021. This was after the proposed implementation from April 2020 was unfortunately paused due to delays in receiving software and the absence of the required reassurances that all system integration work and testing would be completed prior to our deadline for annual Council Tax billing.
- 2.2 Unfortunately, with the onset of COVID 19 in early March 2020 and the fundamental impacts this had on the local economy, it was decided to not progress with plans to introduce a banded Council Tax support scheme for 2021/2022. This has been further paused due to the need to accurately model and forecast the impacts of introducing a new format of scheme, we should only use data taken from a normal 'trading' year – i.e one that has not been adversely affected by the pandemic. This will be reviewed for the 2023/2024 Council Tax Support Scheme.

3. Financial Opportunities and Implications

- 3.1 The Council's requirement to review its Council Tax Support scheme annually must consider both the application of the scheme itself and to take into account the financial implications of its administration.
- 3.2 This report is integral to the revenue budget and Council Tax setting process for 2022-23. The financial and resource implications as well as underlying assumptions are dealt with in that report.

4. Legal Implications

- 4.1 Schedule 1A of the Local Government Finance Act 2012 requires local authorities to consider whether to revise or to replace its scheme each year.

5. Engagement and Consultation

5.1 There are no requirements to undertake a public consultation. The scheme does not include any revisions to the format and remains unchanged within its replacement.

6. Purchasing or Hiring of Goods and/or Services

6.1 The purchasing or hiring of good and/or services is not relevant for this report.

7. Tackling Climate Change

7.1 Tackling climate change is not relevant for this report.

8. Associated Risks

8.1 The scheme that will be adopted for 2022/23 is the same as the scheme that was adopted for 2021/22. The reasons for this are it:

- is based on the previous scheme and involves no additional new risk;
- does not disproportionately affect any particular group – disabled persons, single parents, etc;
- presents a very low risk of legal challenge.
- Torbay’s most vulnerable groups will continue to be protected as the scheme will retain the current scheme characteristics
- the continuation of the hardship scheme will also help cushion the effect of the changes and should mitigate any adverse impacts where possible.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	If Personal Allowances and Premiums were not uprated in line with the prescribed pensioner scheme and national working-age benefits		

	residents would effectively have a cut in their entitlement should their income increase.		
People with caring Responsibilities			Protection for those receiving a carers allowance is in line with the old Council Tax Benefit scheme.
People with a disability			Protection for disabled people is in line with the old Council Tax Benefit scheme. Disability benefits, such as Disability Living Allowance, will continue to be fully disregarded as well as the associated personal allowances and premiums that are currently awarded to people with disabilities
Women or men			Although this information is recorded, there is no adverse impact on the grounds of gender. Torbay's scheme is open to applications from persons of any gender and there are no aspects of the scheme which impact in any way on the availability of support to claimants based solely on gender.
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			There is no differential impact
Religion or belief (including lack of belief)			This information is not collected as part of the administration of the Council Tax Support

			<p>Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.</p>
<p>People who are lesbian, gay or bisexual</p>			<p>This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme. This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.</p>
<p>People who are transgendered</p>			<p>This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or</p>

			complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
People who are in a marriage or civil partnership			This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
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)			There is no differential impact

10. Cumulative Council Impact

10.1 Not applicable for this proposal.

11. Cumulative Community Impacts

11.1 Not applicable for this proposal.

Meeting: Cabinet **Date:** 16th November 2021

Wards affected: All Wards

Report Title: Temporary Accommodation – Procurement and Strategy

When does the decision need to be implemented? 25th February 2022

Cabinet Member Contact Details: Councillor Swithin Long, Cabinet Member for Economic Regeneration, Tourism and Housing and Councillor Christine Carter, Cabinet Member for Community and Corporate Support.

Director/Assistant Director Contact Details: Tara Harris, Divisional Director Community and Customer Services, 07771631521

1. Purpose of Report

- 1.1 To outline the planned procurement for Temporary Accommodation (TA) services for Torbay Council and seek delegated authority to award the contracts for this service, at the end of the procurement process. The report additionally provide an update on implementation and wider work to manage the need for temporary accommodation.
- 1.2 The procurement plans to secure a range of contracted and leased accommodation units through which we can provide good standard, appropriate temporary housing for those in need. It will also provide a framework for us to spot purchase additional units if required.
- 1.3 We currently have no long term contracts for Temporary Accommodation Services and have been operating in the main on a spot purchase model.
- 1.4 The impact of not having significant contracts in place for these services have been:
 - A decrease in availability of temporary accommodation - especially in the tourism sector due to increased demand (Covid Impact)
 - Reduced control over associated spend due to significant fluctuations in market prices
 - Lack of access to suitable temporary accommodation – particularly for larger families
 - Poor contract compliance and management.
- 1.5 To address some of these issues on a temporary basis, we have secured several short-term leases and block purchased hotel accommodation to gain limited security on

availability and pricing, whilst the procurement process is being undertaken. We need to ensure a longer-term solution is in place before these temporary measures come to an end.

- 1.6 Wider work is also required to prevent homelessness and facilitate move on from temporary accommodation to reduce the volume of properties required and improve outcomes for residents.

2. Reason for Proposal and its benefits

We want Torbay and its residents to thrive.

We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.

We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

- 2.1 The proposals in this report help us to deliver this ambition by ensuring we have access to a range of suitable accommodation for those in need of temporary accommodation. Having access to appropriate and adequate accommodation is essential in enabling our citizens to thrive and turn the tide on poverty.
- 2.2 The proposed procurement will enable the Council to gain stability on the sufficiency and costs associated with this statutory function.
- 2.3 The reasons for the decision are to ensure that any properties secured through the procurement process can be secured and brought online and available for use within the shortest timeframe possible.

3. Recommendation(s) / Proposed Decision

- 3.1 That authority be delegated authority to the Divisional Director of Community & Customer Services in consultation with the Head of Finance, Cabinet Member for Economic Regeneration, Tourism and Housing and Cabinet Member for Community and Corporate Support, to award contracts to successful bidders on the Temporary Accommodation Framework Procurement; and
- 3.2 that the Temporary Accommodation Action Plan be noted

Appendices

Appendix 1: Temporary Accommodation Action Plan

Background Documents

Supporting Information

1. Introduction

- 1.1 **Current Provision** - Our temporary accommodation (TA) is currently sourced from a range of providers, including those on a spot purchase basis. Previous arrangements with Mears Plexus as a registered provider, also ended this summer as they have exited the market. As a result, there is a significant reliance on tourist-based accommodation (B&B's, Hotels) which is not a suitable option for families with children, clients with complex and multiple needs or 16-17yr olds.
- 1.2 **Market Factors** - The reliance on this sector of the market for temporary accommodation also means that we are subject to significant seasonal fluctuations in cost and availability. This year has been exceptionally challenging due to the increased demand for holiday accommodation and Mears Plexus leaving the market.
- 1.3 The consequences of this increase in cost, lack of availability and increase in demand, have impacted on budgets, but also on the operational running of the Housing Options Team. The team have had to allocate increased resources to identify and book suitable accommodation.
- 1.4 **Affordability** - The increase in local private market rent levels in Torbay contributes to the financial pressures on providing this service. This impact has been felt both in securing sufficient affordable units for TA but also in the affordability for households in accessing long term accommodation in the private rented sector – meaning households stay for longer in TA as illustrated in table 1.

Property Size	Local average rent pcm	Torbay LHA Apr 2021 pcm	Differential shortfall pcm
1 Bed	£450 - £550	£414.24 (£103.56 pw)	- £36 - £136
2 Bed	£550 - £675	£552 (£138.08 pw)	- £0 - £123
3 Bed	£800 - £1000	£672 (£168.00 pw)	- £128 - £328
4 Bed	£900 - £1500	£ 828.48 (£207.12 pw)	- £72 - £672

Table1: Average cost of rental accommodation in Torbay against the local level of LHA and hence the shortfall

- 1.5 **Demand** - A broad analysis of households seeking assistance between 2017 and 2020 and those accommodated in TA has been undertaken. The year 2020 - 2021 has been an unusual year due to the pandemic, with changing patterns of need and demand. The Council had an influx of single homeless people between March and June 2020 (Figure 1). This was due to central government policy of Everyone In. This was also accompanied with

a drop in family sized applications, due partly to the suspension on evictions and other policies put in place, to manage the pandemic. As a result, future demand has not been predicted on 2020 data alone, due to the high level of uncertainty.

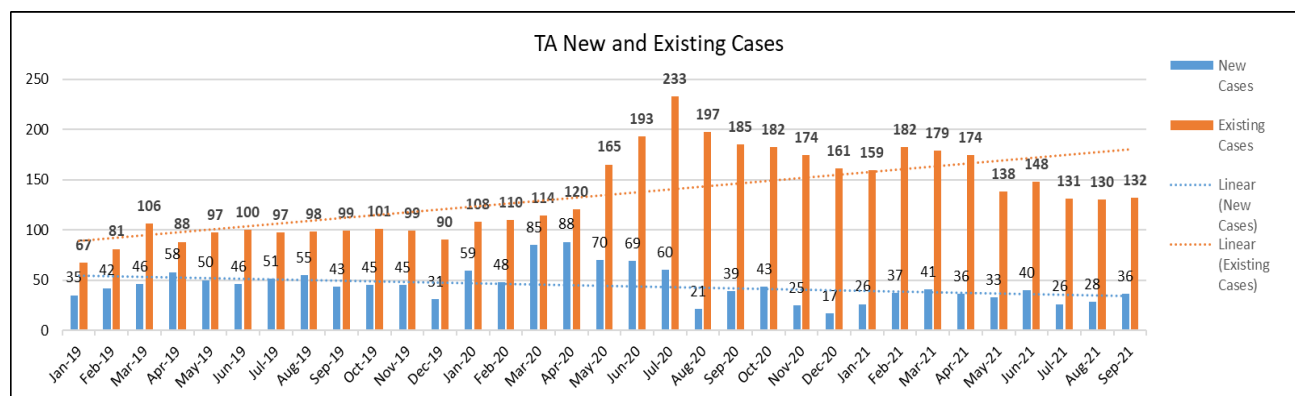


Figure 1: New & Existing TA placements from August 2017 – September 2021

1.7 Predictions have been undertaken on the future demand of TA. The number of cases presenting as homeless is relatively consistent over the year, with limited seasonal fluctuation. As such this assumption has been used to estimate the number of units required at any one time, based on the average length of stay (Table 2).

Bed Need	Total demand 2019	Estimated number units based on average length stay 2019	Total Demand 2020	Estimated number units based on average length stay 2020	Projected Number units (Reduction 50% average length of time in TA)
1	316	79	483	136	40 (47 days)
2	151	43	110	34	22 (53 days)
3	17	7	3	1	4 (75 days)
4	60	19	24	9	10 (60 days)
5 +	3	1	4	1	1 (30 days)
Total		149		181	80

Table 2: Estimated number of units of accommodation required by size

- 1.8 Due to the additional needs of 16-17yr old requiring access to TA, we are running a separate process alongside this procurement to find a suitable, cost-effective model of providing support for these young people. Whilst the numbers of 16-17year olds requiring TA are very low, when the need does present, we have a duty to never use B&B accommodation. We also want to be able to provide additional support to quickly find them longer term stable accommodation – this is essential to reduce the long-term impacts homelessness can have on young people.
- 1.9 Work is also being concluded to secure an addition 7 properties to meet our requirement for those fleeing domestic abuse and will be accessible from November 2021. This will also include support to enable people to feel secure and assistance in finding a permanent home.
- 1.10 To reduce the demand and associated costs of providing a TA, work is being undertaken to reduce the average length of stay. The model of delivery needs to shift from the current

emphasis on emergency response to one of prevention and accommodation support, as illustrated in Figure 2. Work has focused on stabilising the supply of TA through leased accommodation and the OYO contract, to enable resource to be diverted to prevention and move on.



Figure 2: Representing the change in emphasis from emergency response to one of support and prevention.

1.11 A summary of the work being undertaken within Housing Options to facilitate this step change, is provided below. The attached action plan details other work to facilitate the above model, hence reducing the volume of TA required (Appendix 1):

Prevention:

- Creation of Prevention Officer to work across all agencies, especially the voluntary sector to develop and implement a homeless prevention network.
- Partnership Link Co-Ordinator – To act as a single point of contact for partners to facilitate access to Housing Options and therefore joint working and assistance for people.
- Housing Options Officer embed in Children’s Services dedicated to working with families that cut across services.
- Work undertaken to reduce staff caseloads, allowing for meaningful prevention work to be undertaken by Housing Options Officers and maintain staffing levels and resilience.
- Specialised Independent Domestic Abuse Advocates (IDVA) to be embedded in Housing Options to assess applications and assist with accommodation, support, and move on.
- Kick Start Placements – Additional capacity to assist with Devon Home Choice and act as development opportunity for housing apprentice.
- Use of Welfare Support, Discretionary Housing Support and Housing Options Fund to prevent loss of tenancy.
- Operational groups inc - Youth Homeless Prevention Panel, Neglect Group etc

- Funding of debt advice service contracted with CAB and Advice Network including DWP contract on employability.

Emergency Response:

- Two resettlement workers to work with households in TA to ensure they have registered on Devon Home Choice, carry out searches and arrange viewings for private rented properties, income maximisation and ensuring support needs are identified and met.
- Increased resource in the team to ensure performance monitoring and timely decisions are made. This ends the Council's duty and therefore any accommodation being provided.
- Pilot project to provide support to assist complex clients in maintaining their TA to reduce demands on the wider system and assist with managing risk to increase accessibility to accommodation options.

Accommodation and Support:

- Private Rented Sector Accommodation Officer – seeking accommodation in PRS and building relationships with landlords.
- Flexible Housing Support Grant to assist with prevention and move on for DA placements.
- Improved co-ordination around boundary decision related to DA cases
- Formation of DA operational partnership – comprising of housing, legal and financial assistance to navigate pathways and complex issues.
- Operational groups inc - Youth Homeless Prevention Panel, Neglect Group etc
- Use of Welfare Support, Discretionary Housing Support and Housing Options Fund to assist with move on.

1.12 **Move On Accommodation** – We have insufficient move on accommodation to be able to resettle all the people we have a duty to assist. There is clear evidence that there is simply not enough social housing to meet demand and we face uncertain times due to the buoyancy of the private sector. This means our households are trapped in TA for unnecessary periods of time whilst they wait for a suitable homes to become available. This has a negative impact on clients who find themselves unable to lay down the roots that make them feel part of a community and feel invested in their living environment as a home rather than a place to be.

1.13 Quality move on accommodation is essential if we are to continue to meet the needs of new approaches whilst also driving down the length of time and numbers of people in TA. Urgent action is therefore required to improve accessibility and affordability of accommodation. Options are currently being explored around joining an existing Private Sector Leasing Scheme, but this will not address the issues alone. Wider work is being undertaken within the Strategic Housing Board to identify alternative options to address this challenge.

1.9 **Best value & compliance of Temporary Accommodation** - The process of continuous spot purchasing is not an effective long-term model for the Local Authority in securing 'Best Value' in the delivery of this service. It presents challenges in ensuring our spend is

compliant with contract regulations; reduces the opportunities for maximising efficiencies; reduces the opportunities for good contract management; and reduces the opportunities for building strong working relationships with the market that would contribute to longer term creative solutions.

1.10 We require a longer-term solution to providing this service to:

- Provide suitable quality temporary accommodation to individuals and families we have a duty to support.
- Ensure there is sufficient access to a range of suitable temporary accommodation to meet demand.
- Provide a period of stabilisation in the costs of providing this service to allow longer term budgetary planning and security for the Local Authority in operating within its budgetary constraints.
- Ensure that the resource of the team is focused on assisting individuals especially around prevention activity rather than sourcing accommodation to meet an emergency need.
- Ensure that our spend associated with delivering this service is contract compliant and securing 'Best Value'

2. Options under consideration

2.1 The option being proposed is to undertake an open market procurement to secure the required number of units required for the delivery of our temporary accommodation service. We also want to have a list of approved providers from which we can purchase additional units from on an 'as required' basis. This will also support any accommodation requirements as part of a response to an emergency incident.

2.2 Through the pre-engagement work we have undertaken we have been able to confirm the need to progress with a 'hybrid' model of service delivery for TA. This need is underpinned by findings that we are unlikely to secure sufficient units of accommodation for our preferred service model (that being one where the provider is responsible for providing the accommodation and management of it e.g., providing household essentials, cleaning, change overs, maintenance) at a reasonable market rate. Our work also identified that with only this model of delivery we will struggle to access larger family-based accommodation (3-5 beds). We will therefore also need to lease several units of accommodation and provide the additional management services alongside this. This may also require the purchase of accommodation but is a longer term strategy past April 2022.

2.3 This procurement will be structured as a Framework Agreement with three lots within it:

- Lot 1 – Temporary Accommodation Units with associated management services (from which we will draw down block bookings)
- Lot 2 – Leased Accommodation (from which we will draw down block bookings)
- Lot 3 – Spot Purchasing (to manage accessing accommodation to meet fluctuating demand)

These lots will provide the following accommodation:

	Single Person Accommodation				Family Accommodation			
Number of units required	40				22	4	10	1
	Single bed shared	Single bed self-contained	Single bed (adapted)	Single bed (Additional needs/risks)	2 beds	3 beds	4 beds	5 beds

2.4 Through the procurement we will also be looking for providers who are able to provide adapted accommodation to meet the needs of citizens with physical disabilities, accommodation that will provide placements for those with additional needs and/or risks.

2.5 The current proposed timeline for this procurement is:

Supplier consultation period (Completed)	5 th July – 30 th September 2021
Invitations to tender issued	6 th December 2021
Tender Return Deadline	14 th January 2022
Evaluation of tenders completed	18 th February 2022
Standstill Period	7 th March – 18 th March 2022
Contract awarded	21 st March 2022
Contracts commence	5 th April 2022 onwards

2.6 As a non-stock holding Local Authority, we do not have any options to consider in relation to bringing this service ‘in-house’ and therefore must pursue looking for options within the open market.

2.7 We have explored options with Tor Vista Homes to provide this service. Whilst this does remain a longer-term option, they do not yet have sufficient properties (or the capacity to look at taking these on within the time frame required) to provide the services required at present. We are continuing to work with Tor Vista and TDA in exploring models for move-on accommodation as part of the overall Housing Strategy as well as providing building management services for any leased properties we take on for temporary accommodation.

3. Financial Opportunities and Implications

3.1 Our market engagement work has been used to inform a predictive costing model for 2022/23. This is based upon a number of market assumptions and that the contract length offered will provide security to suppliers and therefore reduce costs.

3.2 So as not to influence the market and procurement process, the financial assessment undertaken is separate to this report.

- 3.2 Our financial planning has also included the appropriate level of resourcing within the Housing Options team to enable us to manage demand, undertake prevention activity with partners and facilitate accommodation.
- 3.3 The provision of TA is part funded through the claiming of Housing Benefit paid directly to the local authority. The rate at which this can be claimed is dependent on the type of accommodation, the level of support and who provides the accommodation.

4. Legal Implications

- 4.1 The Housing Act 1996 as amended, sets out the responsibilities of the Council to persons threatened with homelessness. There are various sections of the act which trigger a temporary accommodation duty. The Homelessness Code of Guidance sets out how these responsibilities should be met:
- S188 – the duty to provide temporary accommodation to anyone we have reason to believe may be homeless and believe may be in priority need.
 - S190 – in the event of an adverse decision, we have a duty to provide temporary accommodation for a reasonable period of time in order to give clients the opportunity to make their own arrangements.
 - S193 – following acceptance of what we call the main housing duty, we are required to continue to provide temporary accommodation until suitable, affordable alternative accommodation can be found.
- 4.2 Temporary accommodation is exempt from the Protection from Eviction Act and has no security of tenure; households only having basic protection afforded to them by means of an excluded licence. This means that we retain the power of entry without notice on units of accommodation, the right to move people at short notice and the accommodation can be brought to end by the serving of a notice to quit. This is crucial to ensure we can safeguard against risk and ensure the prompt turnaround of properties.
- 4.2 If sufficient and appropriate accommodation is not provided the local authority will be open to legal challenge and scrutiny from central government.

5. Engagement and Consultation

- 5.1 Stakeholder engagement has been undertaken with market providers to inform our approach to this procurement and inform the design and content of the specification.
- 5.2 The progression of the TA procurement is being overseen by a steering group with Council representatives from Housing Options, Commissioning, Community Safety, Planning, Children's Services, Commissioning and Procurement to ensure broad internal engagement and consultation.
- 5.2 In July 2021 we undertook a survey with accommodation providers (current providers, letting agents & private landlords, land

available on social media). All 19 respondents had never provided TA services in Torbay before. 63% were interested or may be interested in providing TA in the future. Of priority to providers were good financial packages with regular, on time payments, having a named contact and access to support when things went wrong. It also identified that we needed to provide more detailed information on what was expected in providing TA as the process progressed.

5.3 This survey was followed up with a formal Expression of Interest published on Supplyingthesouthwest.org.uk open over Aug-Sept 2021. In total 13 organisations expressed an informal interest in the proposed procurement opportunity with 7 submitting detailed written responses. Overall, the responses provided a positive indication that proceeding with a procurement exercise was likely to be successful.

5.4 Key points:

- All responses were from organisations with experience of providing temporary accommodation – either in Torbay or other areas.
- The submissions received indicate that there is interest in providing the traditional TA model of service delivery (Accommodation & Management.) However from the number of units indicated available, it is not likely there would be sufficient availability at reasonable market rates to meet the full sufficiency required (therefore indicating the need for a leasing model to run alongside this).
- We know from the initial survey and regular communication with private landlords there is sufficient interest in leasing only models, to ensure we can meet sufficiency across both proposed lots.
- Proposed pricing submissions varied widely but indicated that value for money submissions were likely to be submitted by providers.
- All but one response indicated the need for a longer contract term than originally proposed (2yrs + 2yrs) to make the model financially viable – this has led to a change in the proposed contract duration to 4yrs, providing security and financial viability for both providers and the Local Authority.
- Many providers enquired as to the provision of additional support for residents. This is currently being explored both in the form of floating support and through the form of specialist accommodation working within the bounds of Housing Benefit framework.
- In the final specification we need to provide greater clarity on how properties will be allocated by the Housing Options team, how risk information will be shared, how intentional and deliberate damages to property will be rectified and how block bookings will operate within the framework agreement.

5.5 We feel it is essential to keep providers engaged in this process and informed of our intentions. We will publish a Prior Information Notice at the end of October 2021 to feedback to the market on how their engagement has shaped the service specification and inform them of how and when we plan to proceed with the tender process.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 In line with current Council Policy, 10% of the scoring evaluation will be attributed to Social Value.
- 6.2 Bidders will be invited to submit offers of Social Value from the draft Social Value Framework for Torbay Council and evaluated and scored on their responses.
- 6.3 Any bidders awarded contracts from the frameworks will have their Social Value offers incorporated into their contracts and included as part of routine contract monitoring and reporting on KPI's.
- 6.4 Due to the significant challenges within this market (availability and affordability being the most significant influencing factors) we will not be prioritising any particular themes, outcomes or measures within the scoring evaluation.
- 6.5 As part of the tender launch process additional information and guidance on Social Value will be provided to bidders to encourage them to understand our priority areas for Social Value in Torbay and how this will operate within both the procurement and contract management process.

7. Tackling Climate Change

- 7.1 There will be a requirement within the procurement process for all providers to supply EPC information and efficiency of properties in line with Housing legislation. We will work with providers to increase the overall energy efficiency and EPC rating to that which is in excess of the legal minimum requirements.

8. Associated Risks

- 8.1 Continued use of our current spot purchasing model exposes the Authority to several significant risks including:
 - Lack of financial control and increasing costs
 - Lack of assurance on quality and contract management
 - Lack of access to suitable accommodation
 - Unable to meet our statutory duties
 - Increased workload for Housing Options Team
 - Legal challenge through lack of contract regulation compliance
 - Lack of engagement & relationship building with the market, which will diminish market growth and creative solution development.
- 8.2 If delegated authority is not passed to the Divisional Director for Community & Customer Services to award the required contracts, we will need to return to Cabinet for final award approval in March 2022 – the governance timeline will defer the start of contracts until mid-May 2022 (assuming a minimum 6-week timescale for report progression and approval).

8.3 A wider risk around the supply of TA not meeting demand, may result if the following are not addressed or circumstance outside of our control occur:

- Lack of preventive measures to save tenancy's
- Continuing increase in the rental costs in PRS resulting in lack of move on accommodation.
- Wider economic impact for residents through increased expenditure and inability to meet accommodation cost.
- Additional lockdown measures due to the pandemic, resulting in restrictions in the housing market or additional statutory duties to accommodate.

Mitigation measures for some of the risks within our control have been addressed in appendix A.

9. Equality Impacts - 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	Intention ensure we have adequate access to adapted accommodation to improve provision of TA to those with a physical disability.		
Women or men			No differential impact
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			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	Access to sufficient TA should ensure that we do not need to temporarily house pregnant women or families with children in B&B accommodation.		
Socio-economic impacts (Including impact on child poverty issues and deprivation)	Access to a good standard of family-based accommodation with cooking and laundry facilities will reduce the negative socio-economic impacts on families.		
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Access to secure, quality temporary accommodation will improve the mental wellbeing of residents.		

10. Cumulative Council Impact

- 10.1 Homelessness affects everyone, but severely affects families and children. Having access to stable TA for as short a period as possible enables all support services from Universal to Safeguarding services to provide the appropriate support required for children and families. We need to ensure that we provide TA services that enable families to prioritise the health & wellbeing of their children without the stress and complications of repeated moves and uncertainty as to living arrangements. This will reduce the need for higher level interventions being required from Children's services to protect and safeguard children.
- 10.2 The lack of access to secure, stable, quality temporary accommodation can have wider cost implications within the Health & Social Care System. For example, it can lead to the need for higher cost placements within Children's services for 16–25-year-olds and children and families in instances where having stable accommodation is crucial in them implementing and prioritising interventions aimed at safeguarding them and keeping family units together. The same cost pressures can be found in delayed hospital discharges and in Adult Social Care.

11. Cumulative Community Impacts

- 11.1 It is recognised that there may be community tension around the placement of temporary accommodation. Most accommodation provided within our community has minimal if no impact. Well managed and contracted accommodation will reduce the risk of any impact further and therefore forms part of the procurement process.
- 11.2 Any accommodation provided through this process will need to comply with the relevant legislation including any planning requirements.

Temporary Accommodation Action Plan

Action Plan 2021-2022

Our temporary accommodation (TA) is currently sourced from a range of providers, including those on a spot purchase basis. Previous arrangements with Mears Plexus as a registered provider, also ended this summer as they have exited the market. As a result, there is a significant reliance on tourist-based accommodation (B&B's, Hotels) which is not a suitable option for families with children, clients with complex and multiple needs or 16-17yr olds. The reliance on this sector of the market for temporary accommodation also means that we are subject to significant seasonal fluctuations in cost and availability. This year has been exceptionally challenging due to the increased demand for holiday accommodation.

The consequences of this increase in cost, lack of availability and increase in demand, have impacted on budgets, but also on the operational running of the Housing Options Team and welfare of those that we aim to assist. A full review of TA has therefore been undertaken resulting in this action plan.

Aim

To ensure that there is sufficient and suitable temporary accommodation provision in Torbay, that is cost effective and meets the needs of all. To achieve this, there needs to be a model of delivery that has a change in emphasis away from an emergency response to one of support and homelessness prevention. The following plan outlines the actions specifically related to ensuring the model of temporary accommodation is sufficient. It does not replace the Homelessness and Rough Sleeping Strategy. A review of this documents action plan will be completed by March 2022 so that it meets the current needs of Torbay and reflects the prevention activity that is codesigned with our partners.

Priority One – Developing a service that is focussed on preventing homelessness

Headline Action	Detailed Actions	Responsible Officer	Update/ Target Date
Maximise and improve access to Housing Options Service. Shifting emphasis for early prevention.	Review operational panels to ensure that membership and inter agency functionality is achieving the best outcome for clients.	Tara Harris Sharon O'Reilly	April 2022
	Recruit Partnership link Co-Ordinator – To act as a single point of contact for partners to facilitate access to Housing Options and therefore joint working and assistance for people.	Lianne Hancock	Post currently out to advert.
Page 94	Kick Start Placements – Additional capacity to assist with Devon Home Choice (DHC) and act as development opportunity for housing apprentice. Enabling better access allowing informed decision to be made by clients.	Nick Holland	Applications currently being submitted - Start December 2021
	Introduction of a 24/7 digital service improving the way in which Members of the Public can access the Housing Option Service.	Lianne Hancock	Locata portal being developed April 2022
	Introduction of a 24/7 digital service improving the way in which Professionals can access the Housing Option Service and make referrals for people who are homeless or at risk of homelessness.	Lianne Hancock	April 2022
Establish an active and co-ordinated Homelessness Prevention Network	Creation of Prevention Officer to work across all agencies, especially the voluntary sector to develop and implement a homeless prevention network.	Lianne Hancock	Post currently out to advert. Start date Nov 2021

<p>across Torbay that has easy access to Housing Options</p>			
	<p>Codesign prevention network and utilise funding steam to assist voluntary sector in establishing the infrastructure required.</p>	<p>Prevention Officer</p>	<p>Nov 20 – April 21</p>
<p>Specialist support to assist those fleeing domestic abuse</p>	<p>Specialised Independent Domestic Abuse Advocates (IDVA) to be embedded in Housing Options to assess applications and assist with accommodation, support, and move on.</p>	<p>Shirley Beauchamp</p>	<p>November 2021</p>
<p>Focused support across Housing Options and Children’s Service’s to ensure that families and 16/17yrs are supported in an integrated way.</p>	<p>Housing Options Officer embed in Children’s Services dedicated to working with families that cut across services to enable a holistic approach to be undertaken and a coordinated action plan for delivery.</p>	<p>Lianne Hancock Sean Evans</p>	<p>Completed</p>
<p>96 95</p>	<p>Develop a robust system to collect, share and monitor your local data on homeless 16/17s and care leavers together across both Housing and Children Services, to ensure accurate recording and understanding of volume to inform service provision and planning.</p>	<p>Sean Evans Lianne Hancock</p>	<p>February 2022</p>
	<p>Ensure the website references homelessness information across Housing, Children, Early Help and Leaving Care Services including easily accessible information and practical ways for young people and families to access information on homelessness support.</p>	<p>Sean Evans Lianne Hancock</p>	<p>February 2022</p>

	Consult with young people who have experienced homelessness, including those who have slept rough, or have been supported during Covid-19, to identify service gaps and future earlier intervention opportunities.	Sean Evans	March 2022
	Build upon our approach to develop a pathway for young people leaving custody and map the service against a good practice framework. St Basils have developed a Youth Justice Pathway which specifically focuses on innovation re: prevention, accommodation, and support for young people.	John Ralph	March 2022
Financial assistance to enable people to self-help and prevent homelessness	Use of Welfare Support, Discretionary Housing Support and Housing Options Fund to prevent loss of tenancy. Ensuring services are promoted and accessible. Review of provision to ensure accurate recording and understanding of volume to inform service provision and planning.	Alison Whittaker Lianne Hancock	Completed – Review ongoing.

Priority 2: Access to appropriate temporary accommodation that meets the needs of residents

Headline Action	Detailed Actions	Responsible Officer	Update/ Target Date
Access to suitable TA meets the needs of clients	Undertake TA needs assessments including understanding of specialist accommodation.	Tara Harris	Completed
Page 97	That sufficient stable interim TA is in place to meet demand. That is cost effective and allows the service to stabilise and reduce the impact on individuals wellbeing reducing the need for out of area placements.	Tara Harris Lianne Hancock	Completed
	Undertake a review of benefit subsidies to inform procurement process enabling the most cost effective model of delivery to be undertaken.	Tara Harris Alison Whittaker	December 2020
	Develop and implement procurement strategy.	Tara Harris Jude Pinder Lianne Hancock	Timetable in place and on track for implementation April 2022
	Review of TA provided for 16-17yrs and implement sufficient accommodation so that B&B accommodation is never used.	Sean Evans Tina Tozer	April 2022
	Develop supported accommodation model for specialist TA placements.	Tara Harris Adam Russel	April 2022

	Review of hostel provision and level of complexity that is being managed by the service.	Tara Harris	January 2022
	7 additional properties in place to support those feeling domestic abuse.	Shirley Beauchamp	Completed – go live Nov 21
	Consult with those that access TA to identify service gaps and future earlier intervention opportunities.	Lisa Russel	April 2022
	Implement Night Stop model in Torbay to provide short term emergency accommodation options for 16-25yrs	Tina Tozer Sean Evans	Host families currently being sought
86 page 98	Reduce the time that is spent in TA Resettlement workers to work with households in TA to ensure they have registered on DHC, carry out searches and arrange viewings for properties, income maximisation and ensuring support needs are identified and met.	Lisa Russel	In place and funding secured for 22/23
	Increase resources in Housing Options to enable effective case management and that timely and appropriate decisions are made.	Lianne Hancock	In place and funding secured for 22/23

Priority 3: Affordable homes and support is in place to enable move on from temporary accommodation

Headline Action	Detailed Actions	Responsible Officer	Target Date
Improve the access to affordable accommodation	Research HRA rates against local rents to establish evidence base to influence payments. Lobby VOA and Government to increase LHA to address affordability of accommodation.	Tara Harris	January 2022
	Work with RP's in Torbay to undertake an underoccupancy assessment to improve access to family homes through Devon Home Choice and develop a strategy to release this capacity.	Tara Harris Strategic Housing Board Partners	April 2022
	Review Housing First sustainability	Tara Harris	February 2022
	Consider Housing + model (Accommodation and support that bridges the gap between those in in need of social due to vulnerability but are assessed as not having a care act requirement but may require some level of social support to maintain independent living). Undertake a cost benefit assessment of where low level housing plus type of intervention may result in higher systemic cost saving compared to if we do not intervene.	Tara Harris Adam Russel	TBC
	Develop a strategic action with the Housing Board to improve the amount of affordable Housing in Torbay.	Kevin Mowat Joanne Williams	TBC
	Improve relationship with the private rented sector (PRS) to increase accessibility to accommodation. Facilitated through PRS officer.	Lianne Hancock	Ongoing

	Maximise all funding opportunities to build upon Next Steps Accommodation model for those that are or are at risk of rough sleeping. Increase number of units of accommodation from 14 to 24 by September 2022.	Tara Harris	Funding obtained for additional 2 units. September 2022
	Produce an Empty Homes Strategy and action plan	Tara Harris David Edmondson	April 2022
Problem Solving to improve accessibility to accommodation options for those feeling DA	Formation of DA operational partnership – comprising of housing, legal and financial assistance to navigate pathways and complex issues.	Shirley Beauchamp	April 2022

Agenda Item 10

TORBAY COUNCIL

Meeting: Overview & Scrutiny Board

Date: 10 November 2021

Cabinet

16 November 2021

Council

N/A

Wards Affected: All Wards

Report Title: Budget Monitoring 2021/22 – Quarter 2 (April – September) Revenue Outturn Forecast & Capital Outturn Forecast

Is the decision a key decision? No

When does the decision need to be implemented? N/A

Cabinet Lead Contact Details: Darren Cowell, Cabinet Member for Finance
Darren.cowell@torbay.gov.uk

Supporting Officer Contact Details: Sean Cremer, Deputy Head of Finance
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1. Purpose and Introduction

- 1.1. This report provides a high-level budget summary of the Council's revenue and capital position for the financial year 2021/22 which commenced on 1st April 2021. This report is based on the budget and forecast spend as at 30th September 2021.
- 1.2. Whilst the majority of the Covid-19 restrictions have now been lifted, the financial impact of the health pandemic remains a significant risk to the Council's finances. So far 2021/22 continues to see continued high demand for frontline services as well as advocacy and support.
- 1.3. As at Quarter 2 the Revenue budget shows a slight overspend of £0.84m which represents a variance of 0.73% against the 2021/22 budget. This shows essentially a static position since Period 4 with a minor improvement of £0.02m
- 1.4. The Capital Plan budget totals £284m for the 4 year programme, with £63m currently scheduled to be spent in 2021/22, including £35m on a number of Regeneration projects, and £5m on major Transport schemes. At this point (30 Sept 2021) the Capital Plan now requires £6.6m from new capital receipts and capital contributions over the life of the Plan in order to be able to deliver all that is planned.

2. Recommendation (s) / Proposed Decision

Recommendations for Overview & Scrutiny Board

- 2.1. That the Overview & Scrutiny Board notes the latest position for the Council's revenue outturn position and mitigating action identified and make any comments and/or recommendations to the Cabinet.
- 2.2. That the Overview & Scrutiny Board notes the latest position for the Council's Capital outturn position and make any comments and/or recommendations to the Cabinet.

Recommendation for Cabinet

- 2.3. That Cabinet notes the report.

3. 2021/22 Budget Summary Position

- 3.1. Overall Torbay is still seeing the continued impact of Covid-19. The impact is both directly and indirectly on the Council's income and expenditure in the year.
- 3.2. Despite the possible uncertainty of the Covid-19 impact the changes to the approved budget set by the Council in February appears to have effectively reallocated resources to meet the cost pressures faced. As a result, there is a forecast variance 0.73%. This demonstrates that, based on current levels of activity, additional funding for pressures such as the provision of Temporary Accommodation and the impact on Collection fund are sufficient to effectively meet the pressures and challenges anticipated for 2021/22.
- 3.3. However, officers remain focussed and closely monitoring:
 - 3.3.1. The continued costs of Covid-19 response including local test, track and trace work alongside the work to support communities and businesses in response to outbreaks.
 - 3.3.2. Income losses including car parking and collection fund where the changes to the behaviour of individuals and households affects key funding for local service delivery.
 - 3.3.3. The improvement journey within Children's Services which is crucial to the Council's medium term financial stability.
 - 3.3.4. The effective deployment of carried forward or one-off funds which are being deployed as part of the Council's recovery. In a number of areas such as Housing, the use of these funds is imperative to ensure to reduce long term costs. Effective use of the funds is crucial to providing a pathway to balance the 2022/23 budget.

Collection Fund

- 3.2. The establishment of a Collection Fund reserve formed part of the Budget 2021/22 was required in order to meet the future impact of carrying forward the shortfall from 2020/21. This reserve funds the 2020/21 impact of the shortfall for the period 2020/21 – 2023/24.

3.3. So far 2021/22 monitoring seems to be in line with forecast collection levels, a 2% reduction on pre Covid-19 collection rates. Revised NNDR bills incorporating the new 2021/22 reliefs were issued.

3.4. Currently the in-year Council Tax Collection rate is forecast to be 93.7% which is 2% down on pre-covid-19 as for 2019/20 the collection rate was 95.65%.

4. Grant Support

4.1. During 2021/22 there are two key schemes which continue to provide funding to offset increased expenditure and income losses. This support has been received through un-ring-fenced grants as well as the income reimbursement scheme.

4.2. The un-ringfenced funding of £4.1m was included in the approved 2021/22 budget.

4.3. The Sales Fees & Charges reimbursement scheme which ran until the end of June 2021 will provide £0.2m of funding.

4.4. In addition to the un-ring fenced grants and the Income reimbursement Grant, Central Government have issued a number of other grants related to Covid-19.

5. Wholly owned companies

5.1. This section contains an overview of the financial position for the Council's wholly owned companies. More detailed financial reporting about the Council's Wholly owned Companies will be presented to Audit Committee on a regular basis.

5.2. SWISCo which has now been trading for just over a year, remains under pressure. There have been significant impacts on the ability to effectively recruit and retain suitable staff for waste collection to deliver services. This is in part due to changes to the labour market & availability of staff, most significantly impacted by the withdrawal from the EU. Day-to-day staffing levels have also been significantly impacted by the need for staff to self-isolate as a result of being "pinged" or close-contacts of someone who has tested positive for Covid-19.

5.3. As part of the 2021/22 budget additional financial support was approved for SWISCo totalling £1.2m. The Council has received a request for additional support of £0.6m which will be required in-year during 2021/22.

5.4. TDA group are expected to report a surplus for 2021/22, although within that position Torvista will continue to incur losses until it increases its number of properties and its rental income

6. Statement of Accounts – 2020/21

6.1. The Council's auditors, Grant Thornton, due to their ongoing resource issues have delayed the start of the Audit of the Councils Statement of Accounts. Grant Thornton have failed to meet the statutory deadline of the 30th September 2021 to provide an opinion on the Accounts. The final reports will be presented to the Audit Committee in due course, probably now to a December meeting of the Committee.

7. Service Budgets

- 7.1. The table below contains the forecast spend for the financial year 2021/22. The reporting hierarchy reflects the current Senior Leadership Team (SLT) Structure.

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000	Movement since P4 £'000
Adult Services	44,460	44,592	132	3
Executive	3,154	3,399	245	(9)
Children's Services	45,493	45,493	0	150
Corporate Services	5,834	6,721	888	153
Finance	(9,215)	(10,263)	(1,048)	(668)
Investment Portfolio	(4,639)	(4,639)	(0)	(0)
Place	20,738	21,362	623	349
Public Health	9,825	9,825	0	0
Total	115,650	116,490	840	(22)

- 7.2. The Overall council position shows a slight improvement of £0.02m resulting in an overspend of £0.84m (0.73%). More information on the service variances is contained below.

7.3. Adult Services

- 7.4. The Director for Adults Services, now covers the three service areas shown below.

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000	Movement since P4
Adult Social Care	41,519	41,442	(76)	0
Community Services	2,493	2,628	135	15
Customer Services	449	522	73	(12)
Total	44,460	44,592	132	3

- 7.5. Overall Adults Services directorate shows a slight overspend representing 0.46% of the budget.
- 7.6. Within Adult Social Care the majority of spend is against a fixed price financial arrangement (contract) for the delivery of services provided by the Integrated Care Organisation (ICO). There is a slight underspend in Local Authority contracted activities.
- 7.7. The current financial arrangement with the ICO is due for renewal on 1st April 2023. Collaborative work is underway between Council & NHS colleagues on the Adult Social Care Improvement Plan (ASCIP). This includes attendance at a fortnightly budget oversight meetings.

- 7.8. There are challenges to the operational delivery of the ASCIP activities, which is impacting on the ability to deliver the savings put forward against each activity which means overall Adult Social Care is projecting a overspend against the budgets they hold – note this is external to the Council but being mentioned here to ensure Members are aware of the financial position of a key partner.
- 7.9. The Joint Community Equipment Store (JCES) is forecasting an overspend of £863k which is split equally between each of the three partners, CCG, ICO and Torbay Council. There is no impact to the Council's General Fund position due the share of overspend and increases usage and cost was expected due to the significantly increased volume of equipment being procured through the JCES.
- 7.10. Community Services has a shortfall on income. This represents the continued impact of Covid-19 on income generating activity within the service including Licensing and the Environmental crime team.
- 7.11. Following the investment of an additional £1m to meet additional demand for Temporary Accommodation, this service is forecast to be on budget. This position is monitoring fortnightly by officers to ensure progress in the provision of suitable and stable temporary accommodation options whilst individuals and family groups find permanent accommodation.
- 7.12. There remains considerable pressure in the local housing market which is affecting this service significantly. This scenario is almost a “perfect storm” of staycationers, and landlords opting to sell-up and exit the market as a result of local property prices increasing in the wake of the Stamp duty tax-relief. All of which culminates in the low availability of temporary options for individuals and family groups in need of temporary accommodation. With the end of Furlough and reductions to Universal Credit the team are expecting to see further increases in demand for support.
- 7.13. There are also anecdotal reports of the impact the local housing market is also impacting on the ability for local businesses to attract staff to come and live and work in Torbay due to the lack of available housing.
- 7.14. Customer services continues to see increased costs from staffing, including agency staff and print & postage costs as a result of the increased demand for support throughout Covid-19. Upon implementation of the Councils “CRM” system in future years more self-service options will be available for customers which will help to streamline straight-forward contact.

7.15. Children's Services

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000	Movement since P4
Schools Services	3,650	3,498	(152)	(146)
Children's Safeguarding	41,843	41,995	152	296
Total	45,493	45,493	0	150

- 7.16. Within **Schools Services** Local Authority funded activities are expected to be on budget.
- 7.17. There remains pressure with the provision of Home to School transport as a result of rising costs as transport providers have to adapt their operating models in light of Covid-19 and as children and young people adjust & readjust to the changes to schooling and as a result, may need a different level of support to get to and from school.
- 7.18. Outside of Local Authority funded activities, the schools' higher needs block in the Dedicated Schools Grant (DSG) remains under financial pressure because of an increasing level of referrals from schools for higher needs support for children. The pace of demand is far outstripping increases in dedicated funding and has been for several years.
- 7.19. For 2021/22 the Schools Forum set a deficit budget of £2.6m for 2021/22. Based on the latest monitoring, the forecast in-year deficit is now £3m.
- 7.20. As a result, the DSG cumulative deficit is now forecast to exceed £9.0m by the end of 2021/22.
- 7.21. The Council does not receive any funding for schools therefore the overspend will remain in the DSG to be funded from DSG in future years. The School and Early Year Finance (England) Regulations 2020 confirm that this is not a cost that the Council must fund. However, for how long this position is sustainable is not certain. At some point the deficit will need to be funded therefore it is essential that officers and members continue to focus on this key issue.
- 7.22. In 2020/21 and the following two financial years additional legislation has been passed that, for accounting purposes, reclassifies the deficit on the Council's balance sheet. There is currently uncertainty as to what will happen after the end of the three year period.
- 7.23. Representatives from the Council and the School Forum continue to work with the Education & Skills Funding Agency (ESFA) to discuss the proposed financial recovery plan that was submitted to the ESFA. So far, the external scrutiny and review carried out has not identified any new initiatives that are over and above the

work already progressed by Torbay Council and the Schools Forum to address this position.

- 7.24. Most recently, engagements with the Education and Skills Funding Agency (ESFA) have indicated that a central government funding solution is unlikely.
- 7.25. Within **Children’s Safeguarding** there is a slight overspend forecast of £0.1m (0.36%).
- 7.26. This change in position serves as a reminder of the significance of the need for continued and rigorous whole Council support for this service given the financial impact if the number and cost of care rises.
- 7.27. In previous years reports the increased spend was perceived to be “within the control” of the Council and the improvements seen in the last 18 – 24 months has been as a result of robust measures put in place to increase the accountability for how resources were deployed in order to meet the needs of Children.
- 7.28. The current picture is one of National level issues having a local impact. There are significant shortages of placements meaning Children & Young people are unable to step down from Residential to family-based settings such as fostering placements. The local housing market means that a number of the accommodation options for 16+ have now converted their larger properties to self-catering holiday units in order to take advantage of the increased demand from holiday makers. This has seen the cost of 16+ Accommodation is increasing from £600 per week to £2,400 in some cases. Other Councils are also reporting placing children as young as 3 years old in Residential Placements as a result of the inability to find suitable family-based alternatives.
- 7.29. All of this means that despite the continued oversight, challenge and support from colleagues, external factors are significantly influencing spend.
- 7.30. Key measures;

Placement types	Aug'20	Dec'20	Apr'21	Sep'21
Residential Placement	26	23	21	21
IFA Fostering Placement	92	89	81	81
Total Children Looked After (CLA)	330	322	321	306

- 7.31. Overall placement numbers remain stable and the number of Children Looked After (CLA) continues to reduce gradually. Since the start of the year CLA has reduced from 315 to 306 and Residential Placements has remained at 21.
- 7.32. Agency costs are forecast of £5m. This is in part as a result of successful internal recruitment where Social Workers or Team Managers have secured a promotion within the Council, but in the interim, Agency cover has been required whilst permanent recruitment is undertaken.

7.33. Within Agency costs £1m of this is associated with the improvement journey of Children's Services and is therefore only expected to be required for a fixed period of time. Similarly there are a number of agency posts which are supporting through managing the excess of the newly qualified Social Workers caseload. Again, these posts are time-limited and scheduled to cease as new staff progress through the Learning Academy and increase their caseloads.

7.34. Based on the volatility within recent years at this stage in the year this forecast represents a balance of prudence and realism for 2021/22. If current placement numbers remain stable & the new staff due to start in the Autumn of 2021 as part of the Learning Academy remains on track savings are expected in 2022/23 as there will be significantly reduced Agency Costs.

7.35. Corporate Services & Executive

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000	Movement since P4
Executive	3,154	3,399	245	(9)
Corporate Service's	5,834	6,721	888	153

7.36. Within Corporate Services there are significant, continued pressures within Legal Services as a result of challenges to recruit. This results in forecast Agency costs of £0.4m forecast. Reduced fee-earning work provides a further cost pressure of £0.2m on income. The Divisional Director for Corporate Services is working closely with the Head of Legal to address both of these pressures.

7.37. Elsewhere in Corporate Services a result of reduced income for the Printing & Post Service, there is a further pressure of £0.4m. Again, the Divisional Director for Corporate Services is working with the team to address this shortfall.

7.38. Within the Executive unit there are cost pressures related to previously agreed Council wide savings targets (£0.2m) which have as yet been unachieved due to the significant resources re-directed to the Covid-19.

7.39. Finance

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000	Movement since P4
Finance	(9,215)	(10,263)	(1,048)	(668)

7.40. Within Finance, which is where a number of Central Government Grants are shown, there is a underspend forecast as a result of applying a number of contingencies & Government Grants.

- 7.40.1. Sales Fees & Charges grant £0.2m
- 7.40.2. Release of specific earmarked contingencies £0.7m
- 7.40.3. Gainshare from Devon-wide Business Rates Pool £0.1m

7.41. Investment Portfolio

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000
Investment Portfolio	(4,639)	(4,639)	0

7.42. The Council's Investment Portfolio is forecast to be on budget after the use of the Investment Fund reserve to meet any in year shortfall. Within the portfolio there are some pressures as a result of the Covid-19 impact on Commercial tenants.

7.43. Any tenants with arrears are actively engaging with colleagues in TDA and repayment plans have been agreed. Based on the level of arrears outstanding at the end of the Financial Year there may be an accounting adjustment to release some of the bad debt provision made at the end of 2021/22.

Place

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000	Movement since P4
Place Operations	11,978	12,636	658	384
Place Commissioned	3,969	3,969	0	0
Planning & Transport	4,792	4,757	(35)	(35)
Total	20,738	21,362	623	349

- 7.44. Within Place there is a £0.6m overspend which represents 1.3% of the budget.
- 7.45. Place Operations has a cost pressure of £0.7m.
- 7.46. There are pressures of £0.2m as a result of increased tonnages linked to reduced recycling rates. This may be offset by the end of the financial year when the Waste Annual Partnership Reconciliation exercise which will be undertaken later in the year.
- 7.47. The movement within Place Operations is due to the additional financial support requested by SWISCo of £0.6m is also shown here.
- 7.48. The pressure is partially offset by the declaration of a £200k underspend forecast within Parking Services. This is in part due to the service having a number of vacancies across the service. The Head of Parking Services is currently co-ordinating an enhanced Recruitment and Retention offer for staff to boost staffing levels which is vital to ensure safe and compliant parking across the bay.
- 7.49. Despite starting the Financial year in a lockdown, and Summer weather that could have been better, car parking income over the summer has remained on budget. There remains uncertainty over how the Autumn/Winter season will impact parking income, so at this stage the service is forecast to be on budget. A seasonal promotion has been announced which seeks to improve footfall in the Town Centres to support retailers in the run up to the Festive Season.
- 7.50. Planning, Housing and Climate Emergency**
- 7.51. Last year there were a number of income pressures within Planning, however this year a slight overachievement of the income budget is forecast as a result of continued high demand in the wake of the stamp duty relief.
- 7.52. Within Strategy & Project Management there may be an underspend based on the level of Concessionary Fares payments required for 2021/22 as it is expected that there will be continued reduced levels of travel.

7.53. Public Health

Service	Budget £'000	Projected Outturn £'000	Outturn Variance £'000
Public Health	9,825	9,825	0

- 7.54. Public Health colleagues continue to lead on the Council's response to Covid-19 and co-ordinate and deliver a number of key and continuing strands of the response and recovery work.
- 7.55. This includes the spend of the Contain Outbreak Management Fund Grant, the delivery a number of Testing Programmes as well as the management of the Local Contract tracing work.
- 7.56. As the majority of this work is directly grant funded, there is no forecast variance on Local Authority funded activity within Public Health. There is a slight underspend forecast within the ringfenced grant, which will be carried forward to continue to fund vital local Covid-19 response work once the current Government funded grants end on the 31st March 2022.

8. Future mitigating actions

- 8.1. Service pressures continue in a number of services;
- 8.1.1. Council Tax & Business Rates Collection
 - 8.1.2. Demand for Council Tax Support Scheme
 - 8.1.3. Support for individuals and families requiring Temporary Accommodation
 - 8.1.4. Income pressures across Car Parking, Investment Properties
 - 8.1.5. Support for the Leisure Centres & SWISCo
 - 8.1.6. Growing pressure within Children's Safeguarding due to National issues
 - 8.1.7. Increasing spend on the Higher Needs Block within the DSG.
- 8.2. Officer groups continue to work in "Incident Management Teams" focussing on each of these issues to identify and deploy interventions to manage these pressures.
- 8.3. During 2021/22 budget focussed senior Officer groups continue to meet monthly for each Directorate. This allows the Chief Executive, Chief Finance Officer & the service Director & support staff
- 8.4. Looking ahead, the financial impact for the Council remains contingent on the level of recovery in Torbay. This recovery is in terms of both the local economic recovery and collection of Council Tax and NNDR which is vital to fund the delivery of local public

services. The summer was a very busy visitor season which gave encouragement in terms of the economic recovery, albeit present pressures on other services due to the influx of visitors.

- 8.5. The Chief Financial Officer and his team are closely monitoring the Council's cash flow, although at this stage there remains no concern about cash flow. As in 2020/21 central government have advanced a number of grants.

9. Risks & Sensitivity

- 9.1. There are a number of financial risks facing the Council as shown below:

Risk	Impact	Mitigation
Future funding of DSG Deficit	High	Recovery meetings have been convened by the Chief Finance Officer to review any and all opportunities to locally influence this area of spend.
Continued loss of income	High	Recovery meetings have been convened by the Chief Finance Officer for all the Council's main areas of income. Each group is tasked with developing an action plan to influence income where possible
Collection Fund shortfall	High	Additional resources allocated to support the Revenues & Benefits team and a review of debt recovery will be undertaken.
Fair Funding Formula	Medium	Development of a robust MTRP to address the expected impact on Torbay's funding. Timing of this funding change is now 2022/23 at the earliest.
Identification, and delivery, of savings for 2022/23 to 2024/25 per Medium Term Resource Plan	High	Star Chambers for the 2022/23 Budget setting process commenced in June. Options will be reviewed by Senior Leadership Team in collaboration with Cabinet to consider options for future years.
Delivery of Children's Services cost reduction plan	Medium	Meetings continue to monitor the current rate of delivery against the identified actions from the Sufficiency Strategy.

Unable to recruit staff and need to use agency staff.	High	<p>Recruitment & retention of Social Work staff, particularly in safeguarding is still one of the core priorities for the Senior management team within Children's Services.</p> <p>This pressure is also being seen across a number of front line services which are integral to the Council's "Summer Response Team" Work continues to identify solutions to these challenges which seem to be on a national scale.</p>
Additional demand and cost pressures for services, particularly in children's social care	Low	2021/22 Budget monitoring, use of service performance data and recovery plan.
Delivery of approved savings for 2021/22	Medium	Further to regular budget monitoring for all budget holders, the Council's Senior Leadership Team receive monthly updates on the 2021/22 position.
Investment Property Income changes	High	There are ongoing discussions with tenants about recovery plans

9. Capital Plan Update

- 9.1. The overall funding position of the 4-year Capital Plan Budget of £284 million, covering the period 2021/22–2024/25, is primarily fully funded, but includes a requirement to generate £6.6m of Capital income from capital receipts and capital contributions over the life of the Capital Plan.
- 9.2. The movements in the estimate of expenditure in 2021/22 on the Capital Plan between the last monitoring report at September 2021 of £57.1m and the current approved budget for 2021/22 of £63.2m are shown below.
- 9.3. **Updates to Capital Plan**

Scheme	Variation in 2021/22	Change £m	Reason
Estimate as at Q1 2021/22		57.1	Capital Plan Update – 2021/22 Quarter 1 (Report Cabinet 21 Sep 2021)
	Total	57.1	
Budget changes since last report (Q1 2021/22)			
Thriving People and Communities			
Housing Rental Company - Affordable Housing Developments	Removed from Capital Plan	(0.1)	Pre TorVista budget of £90k for Totnes Rd/St Kilda - no longer required.
Next Steps Accommodation Programme	Transferred funding	(0.4)	Loan of £373.5k transferred from Next Steps Accommodation Programme to Tor Vista Loan. See below (Council Approvals awaiting proposals).
	Balance removed from Capital Plan	(1.4)	Tor Vista now have registered status - budget of £1,424k no longer required. Replaced by TorVista £25m loan.
Extra Care Housing (Torre Marine)	Additional Budget	0.4	New funding from Brownfield Land Release Fund - £415k.
Brixham Town Centre Car Park - Housing	Additional Budget	0.7	New funding from Brownfield Land Release Fund - £675k.
Tor Vista Homes re Preston Down Road	Rephased budget	0.2	£190k moved from future years to 2021/22 for feasibility. Will be a revenue cost if scheme does not go ahead.
Disabled Facilities Grants	Rephased budget	(0.6)	Budget of £580k moved to 22/23 (budget of £1m left in 21/22).
	Transferred funding	(0.3)	Budget of £253k moved to Crossways Redevelopment. Funding is additional Disabled

			Facilities Grant received in 20/21 with spend deadline of 31/3/21.
Crossways Redevelopment	Transferred funding	0.3	Budget of £253k moved from Disabled Facilities Grant. Funding is additional Disabled Facilities Grant received in 20/21 with spend deadline of 31/3/21.
	Transferred funding	2.1	Budget of £2,074k moved from Paignton Future High Streets Fund, Crossways Project. Further £691k in 22/23.
	Total	0.9	
Thriving Economy			
Transport Integrated Transport Schemes	Transferred funding	(0.7)	Transfer of £0.653m (21/22 budget) to Edginswell Station. Total funding of £1.5m transferred to Edginswell Station (including future years' budgets).
Edginswell Station	Additional budget	0.7	Additional funds of £0.653m from Transport Integrated Transport budget. Total funding of £1.5m transferred from Integrated Transport (including future years' budgets).
	Rephased budget	(0.7)	Budget of £0.653m moved to 23/24 (total funding of £1.5m moved to 23/24).
Torre Valley North Enhancements	Transfer of budget	0.1	Previously unused budget of £57k returned from contingency for spend on Torre Valley North Enhancements.
Torquay Town Dock - Infrastructure Improvements	New project	1.2	Borrowing of up to £1.2m agreed at Council 30/9/21 to carry out urgent and essential pontoon replacement and repair works to the Torquay Town Dock.
Edginswell Business Park (purchase & develop land)	Rephased budget	(1.3)	Projected spend of £1m in 21/22. £1.3m rephased to 22/23.
RICC Improvements - Backlog Repairs	Transferred funding	(1.4)	Project divided into 2 elements - backlog repairs and landlord repairs. £1.449m funding transferred to landlord repairs (see below).
	Rephased budget	(0.5)	Remaining budget of £518k for backlog repairs rephased to 22/23.

RICC Improvements - Landlord Repairs (Parkwood)	Transferred funding	1.4	Project divided into 2 elements - backlog repairs and landlord repairs. £1.449m funding transferred from backlog repairs (see above).
Torquay Towns Fund (Main)	Rephased budget & allocation to individual projects	0.1	Reallocation of budget to individual Torquay Towns Fund projects. Programme Management costs now shown here. £52.5k rephased to 21/22 from future years (spend of £52.5k profiled for 22/23 and 23/24).
Torquay Town Deal - Union Square Ph 1	Rephased budget & allocation of budget from main project	3.2	Reallocation of budget to individual Torquay Towns Fund projects. £3,200k for Union Square Phase 1 rephased to 21/22 from future years (£1,850k profiled for 22/23).
Torquay Town Deal - Strand Land Assembly & Demolition	Rephased budget & allocation of budget from main project	2.0	Reallocation of budget to individual Torquay Towns Fund projects. £2,000k for Strand Land Assembly & Demolition rephased to 21/22 from future years.
Torquay Town Deal - Harbour Public Realm	Rephased budget & allocation of budget from main project	1.0	Reallocation of budget to individual Torquay Towns Fund projects. £1,035k for Harbour Public Realm rephased to 21/22 from future years (£1,215k profiled for 22/23).
Torquay Town Deal - Pavilion	Rephased budget & allocation of budget from main project	0	Reallocation of budget to individual Torquay Towns Fund projects. £1,750k for Harbour Public Realm allocated in 22/23.
Torquay Town Deal - Stronger Future Revenue	Rephased budget & allocation of budget from main project Transferred funding	0.6 (0.6)	Reallocation of budget to individual Torquay Towns Fund projects. £600k for Stronger Future Revenue rephased to 21/22 from future years. Revenue project - funding to be transferred to revenue.
Torquay Town Deal - Union Square Ph 2	Rephased budget & allocation of budget from main project	0	Reallocation of budget to individual Torquay Towns Fund projects. £5,993k for Harbour Public Realm allocated in 22/23 and 23/24.
Torquay Town Deal - Core Area Public Realm	Rephased budget & allocation of budget from main project	0	Reallocation of budget to individual Torquay Towns Fund projects. £25k for Core Area Public Realm rephased to 21/22 from future years (£225k profiled for 22/23).

Torquay Town Deal - Tqy Coastal Corridor Pinch Point	Rephased budget & allocation of budget from main project	0	Reallocation of budget to individual Torquay Towns Fund projects. £850k for Coastal Corridor Pinch Points allocated in 22/23.
Paignton Future High Streets Fund	Rephased budget & allocation to individual projects	(1.0)	Reallocation of budget to individual Paignton Future High Streets Fund projects.
Pgn FHSF - Torbay Road	Rephased budget & allocation of budget from main project	0	Reallocation of budget to individual Paignton High Streets Fund projects. £668k for Torbay Road allocated in 22/23.
Pgn FHSF - Station Square	Rephased budget & allocation of budget from main project	1.4	Reallocation of budget to individual Paignton High Streets Fund projects. £1,379k for Station Square rephased to 21/22 from future years (£880k profiled for 22/23).
Pgn FHSF - Victoria Centre Phase 1	Rephased budget & allocation of budget from main project	0.2	Reallocation of budget to individual Paignton High Streets Fund projects. £234k for Victoria Centre Phase 1 rephased to 21/22 from future years (£418k profiled for 22/23).
Pgn FHSF - Picture House	Rephased budget & allocation of budget from main project	0.2	Reallocation of budget to individual Paignton High Streets Fund projects. £184k for Picture House rephased to 21/22 from future years (£1,102k profiled for 22/23 and 23/24).
Pgn FHSF - Diversification	Rephased budget & allocation of budget from main project	0	Reallocation of budget to individual Paignton High Streets Fund projects. £1,300k for Diversification allocated in 23/24.
Pgn FHSF - Crossways	Rephased budget & allocation of budget from main project Transferred funding	2.1 (2.1)	Reallocation of budget to individual Paignton High Streets Fund projects. £2,074k for Crossways rephased to 21/22 from future years (£691k profiled for 22/23). Budget of £2,074k moved to Crossways Redevelopment Project (see Thriving People and Communities). Further £691k in 22/23.
Pgn FHSF - Flood Defence	Rephased budget & allocation of budget from main project	0.5	Reallocation of budget to individual Paignton High Streets Fund projects. £457k for Flood Defence rephased to 21/22 from future years (£114k profiled for 22/23).

Pgn FHSF - Victoria Centre Phase 2	Rephased budget & allocation of budget from main project	3.9	Reallocation of budget to individual Paignton High Streets Fund projects. £3,862k for Victoria Centre Phase 2 rephased to 21/22 from future years.
	Total	10.3	
Tackling Climate Change			
Nightingale Park Solar Farm	Transfer of budget	0.9	Budget of £900k allocated from Economic Growth Point funds, bringing total project budget to £3.1m as agreed at Cabinet, 24/08/21.
	Rephased budget	(1.8)	£1,772k rephased to 22/23 (leaving budget of £219k in 21/22). Potential delay pending resolution of legal structure.
	Total	(0.9)	
Council Fit for the Future			
General Capital Contingency	Transfer of budget	(0.1)	Previously unused budget of £57k returned to Torre Valley North Enhancements.
Enhancement of Development sites	Rephased budget	(0.2)	£160k rephased to 22/23 (leaving budget of £40k in 21/22).
	Total	(0.3)	
Council Approvals with No Plans			
Regeneration Programme and Economic Growth Fund	Transfer of budget	(0.9)	Budget of £900k allocated to Nightingale Park Solar Farm to bring total project budget up to £3.1m as agreed at Cabinet, 24/08/21.
	Rephased budget	0.9	Budget of £900k rephased from future years to enable allocation to Nightingale Solar Farm.
Tor Vista - Loan	Rephased budget	(4.3)	£4.29m rephased to 22/23 (leaving budget of £1m in 21/22 - drawdowns for Totnes Road and St Kildas).
	Transferred funding	0.4	Loan of £373.5k transferred from Next Steps Accommodation Programme to Tor Vista Loan (see above 'Thriving People and Communities').
	Total	(3.9)	
Revised forecast capital spend for 2021/22		63.2	

Thriving People and Communities

- 9.4. Next Steps Accommodation Programme – replaced by TorVista £25m loan. Budget of £373.5k re Next Steps loan has been transferred to Tor Vista Loan. The remaining £1,424k has been removed from the capital plan as TorVista obtained registered provider status in March and therefore progressed the project.
- 9.5. Disabled Facilities Grant – additional Disabled Facilities Grant of £253k was received in 20/21 and has a spend deadline of 31/3/21. In order to meet this deadline and the criteria of spend, this budget has been transferred to Crossways Redevelopment. In addition, budget of £580k has been rephased to 22/23 (leaving £1m budget in 21/22).
- 9.6. Crossways Redevelopment – budget has been increased by £253k Disabled Facilities Grant funding as mentioned above. In addition to this, funding of £2,074k has been provided for 21/22 by the Paignton Future High Streets Fund (with a further £691k for 22/23). When delivered by Tor Vista, the profile of the Council's spend will change.

Thriving Economy

- 9.7. Transport Integrated Transport Schemes – a total of £1.5m has been transferred to the Edginswell Station project. This includes £653k re 21/22 and future years' budgets. New allocation announcement for Integrated Transport expected soon.
- 9.8. Edginswell Station – budget of £1.5m has been transferred to the Edginswell Station project from Integrated Transport projects. This budget is reflected in future years.
- 9.9. Torquay Town Deal – this scheme has been divided into the individual projects to enable clarity in monitoring. Budgets have been reallocated accordingly in 21/22 and in future years. See full breakdown on 'Appendix 2 - Capital Plan summary – Quarter 2 2021/22.'

The project 'Stronger Future Revenue' for £600k has been removed from the Capital Plan as it is a revenue project.

- 9.10. Paignton Future High Streets Fund - this scheme has been divided into the individual projects to enable clarity in monitoring. Budgets have been reallocated accordingly in 21/22 and in future years. See full breakdown on 'Appendix 2 - Capital Plan summary – Quarter 2 2021/22.'

The funding allocated for Crossways has been transferred to the main 'Crossways Redevelopment' scheme.

10. Receipts & Funding

10.1. The funding identified for the latest Capital Plan budget is shown in Appendix 1. This is based on the latest prediction of capital resources available to fund the budgeted expenditure over the next 4 years. A summary of the funding of the Capital Plan is shown in the Table below:

Funding	2021/22 £m	2022/23 £m	2023/24 £m	2024/25 £m	Total @ Q2 21/22 £m
Unsupported Borrowing	22	108	60	0	190
Grants	36	25	21	0	82
Contributions	2	1	0	0	3
Revenue	0	0	0	0	0
Reserves	1	0	0	0	1
Capital Receipts	2	2	4	0	8
Total	63	136	85	0	284

11. Grants

11.1 Since the last Capital Plan update (Quarter 1 2021/22) reported to Cabinet in September 2021, the Council has been notified of the following capital grant allocations:

11.2 MLUHC – Brownfield Land Release Funding of £1.090m. Torbay Council made a successful bid for capital funding - £0.415m for Torre Marine and £0.675m for Brixham Town Centre Car Park.

11.3 The Chancellor announced the Spending Review on 27 October which included a number of capital funding announcements but the council will not expect to see detail of these until early 2022.

12. Capital Receipts

12.1. The approved Plan relies on the use of £8.4m capital receipts. The Council has received £1.8m from asset disposals as at the end of September 2021 including prior years.

12.2. Consequently the remaining Capital Receipts target to fund the Capital Plan stands at £6.6m still to be achieved. This target is expected to be achieved provided that:

- expected disposals of land and/or assets are completed
- the Council continues with its disposal policy for surplus and underused assets and,
- no further new (or amended) schemes are brought forward that rely on the use of capital receipts for funding.

13. Capital Contributions – S106 & Community Infrastructure Levy

- 13.1. The Council's Capital Strategy states that capital contributions are applied to support schemes already approved as part of Capital Plan and are not allocated to new schemes unless the agreement with the developer is specific to a particular scheme outside the Capital plan.
- 13.2. Income from Section106 capital contributions so far in 2021/22 amount to £1.5k, which is already earmarked for use on existing schemes.
- 13.3. The Council's Community Infrastructure Levy (CIL) scheme came into effect from 1 June 2017. The main capital project identified for funding from CIL receipts is the South Devon Highway. Some CIL funds are now being received and a percentage of these receipts have to be given to local neighbourhood planning areas as the "neighbourhood proportion". CIL contributions so far in 2021/22 amount to £0.2m.

14. Borrowing and Prudential Indicators

- 14.1. As at 30 September 2021, the Council's total borrowing was £391m. No new borrowing has been taken in this financial year to date. The Operational Boundary is set at £590m in the approved Treasury Management Strategy. This limit is set based on the expected maximum borrowing the Council would undertake in order to meet its Capital Financing Requirement.
- 14.2. The Treasury Management mid-year review is planned to be presented to Council on the 9th December 2021 and contains more information on the Council's current and future borrowing requirements.

15. Updated Guidance from HM Treasury on PWLB borrowing

- 15.1. HM Treasury published further guidance on PWLB borrowing in August 2021 providing additional detail and clarifications predominantly around the definition of an 'investment asset primarily for yield'. The principal aspects of the new guidance are:
- 15.2. Capital plans should be submitted by local authorities via a return. These open for the new financial year on 1st March and remain open all year. Returns must be updated if there is a change of more than 10%.
- 15.3. An asset held primarily to generate yield that serves no direct policy purpose should not be categorised as service delivery.
- 15.4. Further detail on how local authorities purchasing investment assets primarily for yield can access the PWLB for the purposes of refinancing existing loans or externalising internal borrowing.
- 15.5. Additional detail on the sanctions which can be imposed for inappropriate use of the PWLB loan. These can include a request to cancel projects, restrictions to accessing the PLWB and requests for information on further plans.

- 15.6. The settlement time for a PWLB loan has been extended from two working days (T+2) to five working days (T+5). In a move to protect the PWLB against negative interest rates, the minimum interest rate for PWLB loans has also been set at 0.01% and the interest charged on late repayments will be the higher of Bank of England Base Rate or 0.1%.

16. CIPFA consultation

- 16.1. CIPFA are currently consulting on changes to its Prudential and Treasury Management Code of Practices. The consultation closes on 16th November 2021.

17. Financial Risk

- 17.1. Members need to be fully aware of the financial risks and ongoing revenue impact of significantly increased levels of borrowing. A balanced view needs to be taken between the increased ongoing revenue borrowing cost, the ongoing value of the underlying assets and the robustness of any income stream associated with those assets. The key criteria is not so much the level of quantum of debt but the ability of the council to afford the higher levels of interest and principal repayments. The Council borrows at fixed rates over a range of maturity profiles, so the risk is with fluctuations in both revenue income streams and asset values. Therefore due diligence, diversification and robust business cases supported by external advice as required is vital.

18. Appendices:

- 18.1. Appendix 1 - Capital Plan summary – Quarter 2 2021/22

CAPITAL PLAN - QUARTER 2 2021/22 - EXPENDITURE

Appendix 1

							Revised 4-year Plan					
		Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2021/22 @ 13 Sep 21	Previous 2021/22 (@ Q1 2021/22)	2021/22 Qtr 2 Adjustments	New Schemes 2021/22	Total 2021/22 Revised	2022/23	2023/24	2024/25	Total for Plan Period
PB	= <i>Approved Prudential Borrowing schemes</i>	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Thriving People and Communities												
	Barton Academy - Nursery provision	527	422	106	105			105				105
	Brunel Academy Ph 2 Vocational Classrooms	1,134	917	24	217			217				217
	Capital Repairs & Maintenance 2019/20	269	255	14	14			14				14
	Capital Repairs & Maintenance 2020/21 & 2021/22	1,010	129	315	881			881				881
	Devolved Formula Capital			4	260			260				260
	Education Review Projects			40	1,885			1,885	1,829			3,714
	High Needs Capital Provision	530	0	0	530			530				530
	Mayfield Expansion	1,500	53	1,230	947			947	500			1,447
	Medical Tuition Service - relocation	601	533	10	68			68				68
	New Paignton Primary school sites (St Michaels & Windmill)	1,208	621	6	587			587				587
	Pgn CS Academy Expansion	1,924	1,734	29	190			190				190
	Roselands Primary - additional classroom	599	468	18	131			131				131
	Sixth Day Provision	250	133	25	117			117				117
	Special Provision Fund (SEND)	848	484	55	364			364				364
	St Cuthbert Mayne Expansion	3,790	249	3,091	3,041			3,041	500			3,541
	Torbay School Relocation (Expansion Burton Acad Hillside site)	1,238	1,202	92	36			36				36
	Foster Homes Adaptations	300	0	0	100			100	100	100		300
	IT replacement - Childrens Case Management System	1,000	808	132	192			192				192
	Adult Social Care			0	520			520				520
PB	Crossways, Paignton - Regen and Extra Care Hsg	25,379	111	219	0	2,327		2,327	14,219	8,722		25,268
	Extra Care Housing (Torre Marine)	4,115	1,315	100	0	415		415	2,385			2,800
	Brixham Town Centre Car Park - Housing	675					675	675				675
	Disabled Facilities Grants			211	1,833	(833)		1,000	580			1,580
	Affordable Housing	900	1	150	899			899				899

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Agenda Item 10

CAPITAL PLAN - QUARTER 2 2021/22 - EXPENDITURE

Appendix 1

							Revised 4-year Plan					
		Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2021/22 @ 13 Sep 21	Previous 2021/22 (@ Q1 2021/22)	2021/22 Qtr 2 Adjustments	New Schemes 2021/22	Total 2021/22 Revised	2022/23	2023/24	2024/25	Total for Plan Period
		£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
PB	= Approved Prudential Borrowing schemes											
	Housing Rental Company - Aff Hsg Developments	10	10	0	90	(90)		0				0
PB	Tor Vista Homes re Preston Down Road	23,000	0		0	190		190	12,810	10,000		23,000
PB	Next Steps Accommodation Programme	373	373	0	1,798	(1,798)		0				0
		71,180	9,818	5,870	14,805	211	675	15,691	32,923	18,822		67,436

CAPITAL PLAN - QUARTER 2 2021/22 - EXPENDITURE

Appendix 1

							Revised 4-year Plan					
		Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2021/22 @ 13 Sep 21	Previous 2021/22 (@ Q1 2021/22)	2021/22 Qtr 2 Adjustments	New Schemes 2021/22	Total 2021/22 Revised	2022/23	2023/24	2024/25	Total for Plan Period
PB = Approved Prudential Borrowing schemes		£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Thriving Economy												
PB	Claylands Redevelopment	11,150	8,538	2,388	2,365			2,365	247			2,612
	DfT Better Bus Areas	1,197	1,095	102	102			102				102
PB	Edginswell Business Park	6,620	3,094	219	2,300	(1,300)		1,000	2,526			3,526
	Edginswell Station	13,017	518	80	500			500	4,000	7,999		12,499
PB	Innovation Centre Ph 3 (EPIC)	7,649	7,558	99	91			91				91
PB	South Devon Highway - Council contribution	20,227	18,764	0	1,463			1,463				1,463
PB	TEDC Capital Loans/Grant	4,040	3,465	0	575			575				575
Page 125	Transport Highways Structural Maintenance			521	2,241			2,241	100			2,341
	Transport Integrated Transport Schemes			65	725	(654)		71	0	0		71
	Transport - Torquay Gateway Road Improvements	2,969	2,259	1,011	630			630	80			710
	Transport - Western Corridor	12,293	11,662	71	181			181	225	225		631
												0
	Babbacombe Beach Road	530	280	221	250			250				250
	Brixham Harbour - CCTV upgrade	86	79	0	7			7				7
	Brixham Harbour - Infrastructure Repairs	214	159	14	55			55				55
PB	CCTV equipment	518	518	0	0			0				0
	Torre Valley North Enhancements	93	36	0		57		57				57
	Clennon Valley Sport Improvements	70	33	0	37			37				37
	Flood Alleviation - Cockington	328	87	99	241			241				241
	Flood Alleviation - Monksbridge	412	56	2	356			356				356
	Paignton Coastal Defence Scheme	3,142	135	82	200			200	1,705	1,102		3,007
PB	Paignton Harbour Light Redevelopment	799	718	49	81			81				81
	Princess Pier - Structural repair (with Env Agency)	1,665	819	68	80			80	766			846
PB	Torquay Town Dock - Infrastructure Improvements	1,200	0	0			1,200	1,200				1,200
PB	Public Toilets Modernisation Programme	1,780	1,672	223	108			108				108
	Recreation Ground Drainage Network	33	24	13	9			9				9
PB	RICC Improvements - Backlog Repairs	1,250	157	1,827	1,967	(1,967)		0	1,093	0		1,093
PB	RICC Improvements - Landlord Repairs (Parkwood)	1,449				1,449		1,449				1,449

CAPITAL PLAN - QUARTER 2 2021/22 - EXPENDITURE

Appendix 1

							Revised 4-year Plan					
		Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2021/22 @ 13 Sep 21	Previous 2021/22 (@ Q1 2021/22)	2021/22 Qtr 2 Adjustments	New Schemes 2021/22	Total 2021/22 Revised	2022/23	2023/24	2024/25	Total for Plan Period
		£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
PB	= Approved Prudential Borrowing schemes											
PB	Torbay Leisure Centre (Parkwood Loan)	1,700	1,700	0	0			0				0
	Pgn Velopark Cyclocross & Pump Tracks	60	0	0	60			60				60
PB	Regeneration Programme-Harbour View Hotel Developmt	14,017	3,502	11,083	9,750			9,750	765			10,515
PB	Old Toll House (Econ Growth Fund)	1,200	128	125	244			244	800			1,044
PB	TCCT Ocombe Farm Development (EGF)	1,285	108	1,276	1,177			1,177				1,177
	Torquay Towns Fund - Accelerated Funds	761	529	209	232			232				232
	Torquay Towns Fund (General)	157	0	50	0	53		53	52	52		157
	Torquay Town Deal - Union Square Ph.1	5,050				3,200		3,200	1,850			5,050
	Torquay Town Deal - Strand Land Assembly & Demo	2,000				2,000		2,000				2,000
	Torquay Town Deal - Harbour Public Realm	2,250		35		1,035		1,035	1,215			2,250
	Torquay Town Deal - Pavilion	1,750						0	1,750			1,750
	Torquay Town Deal - Stronger Future Revenue	0				0		0				0
	Torquay Town Deal - Union Square Ph.2	5,993						0	750	5,243		5,993
	Torquay Town Deal - Core Area Public Realm	250				25		25	225			250
	Torquay Town Deal - Torquay Coastal Corridor Pinch Point	850						0	850			850
	Paignton Future High Streets Fund (General)	0	0	167	1,000	(1,000)		0	0	0		0
	Paignton Future High Streets Fund - Torbay Road	668		1				0	668			668
	Paignton Future High Streets Fund - Station Square	2,259		6		1,379		1,379	880			2,259
	Paignton Future High Streets Fund - Victoria Centre Phase 1	652		5		234		234	418			652
	Paignton Future High Streets Fund - Picture House	1,285				184		184	734	367		1,285
	Paignton Future High Streets Fund - Diversification	1,300						0		1,300		1,300
	Paignton Future High Streets Fund - Crosssways	0				0		0	0			0
	Paignton Future High Streets Fund - Flood Defence	571				457		457	114			571
	Paignton Future High Streets Fund - Victoria Centre Phase 2	3,862				3,862		3,862				3,862
PB	Lymington Rd Business Centre (LEP GBF/EGF)	2,810	16	47	1,335			1,335	1,459			2,794
	Edginswell Enabling Works (LEP GBF)	1,960	73	120	1,887			1,887				1,887
	EPIC and SD College (LEP GBF)	1,180	412	90	768			768				768

CAPITAL PLAN - QUARTER 2 2021/22 - EXPENDITURE

Appendix 1

							Revised 4-year Plan					
		Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2021/22 @ 13 Sep 21	Previous 2021/22 (@ Q1 2021/22)	2021/22 Qtr 2 Adjustments	New Schemes 2021/22	Total 2021/22 Revised	2022/23	2023/24	2024/25	Total for Plan Period
PB = Approved Prudential Borrowing schemes		£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
		146,601	68,194	20,368	31,017	9,014	1,200	41,231	23,272	16,288		80,791
Tackling Climate Change												
PB	Council Fleet Vehicles	4,771	4,441	416	330			330				330
PB	Solar Farm, Brokenbury (EGF)	1,724	33	93	1,075			1,075	616			1,691
PB	Solar Farm, Nightingale Park (EGF)	3,100	18	91	1,091	(872)		219	2,863			3,082
	Torbay Leisure Centre - Decarbonisation Scheme	1,850	0	1,816	1,850			1,850				1,850
		11,445	4,492	2,415	4,346	(872)	0	3,474	3,479	0		6,953
A Council fit for the future												
PB	Corporate IT Developments	1,883	1,876	228	7			7				7
	IT Equipment - TOR2	150	103	32	47			47				47
PB	Essential Capital repair works	875	196	8	679			679				679
	Enhancement of Development sites	329	129	3	200	(160)		40	160			200
	General Capital Contingency	632	0	0	689	(57)		632				632
		3,869	2,304	271	1,622	(217)	0	1,405	160	0	0	1,565

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CAPITAL PLAN - QUARTER 2 2021/22 - EXPENDITURE

Appendix 1

							Revised 4-year Plan					
		Latest Est Scheme Cost	Expend in Prev Years (active schemes only)	Actuals & Commitments 2021/22 @ 13 Sep 21	Previous 2021/22 (@ Q1 2021/22)	2021/22 Qtr 2 Adjustments	New Schemes 2021/22	Total 2021/22 Revised	2022/23	2023/24	2024/25	Total for Plan Period
PB = Approved Prudential Borrowing schemes		£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Council Borrowing Approvals awaiting proposals												
PB	Torre Abbey Renovation - Phase 3 (TC contrib)	1,700	0	0	0			0	1,700			1,700
PB	Regeneration Programme and Economic Growth Fund	101,815		150	0	0		0	51,815	50,000		101,815
PB	Housing Rental Company - Loan	24,442	778	0	5,290	(3,916)		1,374	22,290			23,664
		127,957	778	150	5,290	(3,916)	0	1,374	75,805	50,000	0	127,179
TOTALS			85,586	29,073	57,080	4,220	1,875	63,175	135,639	85,110	0	283,924
CAPITAL PLAN - QUARTER 2 2021/22 - FUNDING												
	Unsupported Borrowing				28,644	(7,722)	1,200	22,122	108,293	60,000		190,415
	Grants				23,436	12,201	675	36,312	24,573	20,428		81,312
	Contributions				1,658	(88)		1,570	673	116		2,359
	Revenue				120			120	100	100		320
	Reserves				930			930	206	22		1,158
	Capital Receipts				2,293	(171)		2,122	1,795	4,444		8,360
Total					57,080	4,220	1,875	63,175	135,639	85,110	0	283,924

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Meeting: Cabinet **Date:** 16 November 2021

Wards affected: Preston/Roundham with Hyde

Report Title: Renewed listing of Parkfield as an Asset of Community Value

When does the decision need to be implemented? 24 November 2021

Cabinet Member Contact Details: Cabinet Member for Corporate and Community Services
(Councillor Carter)

Director/Assistant Director Contact Details: Assistant Director for Corporate Services
(Matthew Fairclough-Kay)

1. Purpose of Report

- 1.1 Parkfield was listed as an Asset of Community Value ('ACV') on 30 September 2016. That listing expired on the 29 September 2021. An application to relist has been received from the Paignton Town Centre and Preston Community Partnership and must be determined by the Cabinet in accordance with the requirements of the Localism Act 2011 and the Assets of Community Value (England) Regulations 2012.
- 1.2 The application has been considered by Officers who recommend approval of the above application and the re-listing of Parkfield as an ACV.

2. Reason for Proposal and its benefits

- 2.2 Following receipt of a community nomination for land to be listed as an ACV, a local authority must reach a decision whether or not to list nominated land within eight weeks of receiving the nomination.
- 2.2 The proposals contained in this report will potentially commit the Council financially in respect of: Potential Compensation payments; if an owner or former owner of land listed or previously listed as an ACV incurs loss or expense that it is likely they would not have incurred had the land not been listed as an ACV, they may be able to claim compensation under regulation 14 of the ACV Regulations 2012.

3. Recommendation(s) / Proposed Decision

That the application to re-list Parkfield, 38 Esplanade Road, Paignton in the Council's list of assets of community value be approved.

Appendices

Appendix 1: Application to include Parkfield submitted by the Paignton Town Centre and Preston Community Partnership.

Background Documents

Torbay Council Assets of Community Value Policy:

<https://www.torbay.gov.uk/planning-and-building/land-charges/assets-of-community-value/>

Supporting Information

1. Introduction

1.1 What is the proposal / issue?

To relist Parkfield as an Asset of Community Value.

1.2 What is the current situation?

Parkfield was listed as an Asset of Community Value. That listing expired on the 29 September 2021.

A community interest group, the Paignton Town Centre and Preston Community Partnership, have made an application for a new listing to protect the asset for a further 5 years.

A community asset is a local building or piece of land which the community considers to be of particular value to the local community. Section 88 of the Localism Act 2011 sets out the definition of a community asset. Land or a building will be considered of community value if in the opinion of the Council if:

- a) an actual current use of the building or other land that is not an ancillary use furthers the social wellbeing or social interests of the local community, and
- b) it is realistic to think that now or in the next 5 years there could continue to be a primary use of the building/land which will further (whether or not in the same way) the social, well-being or social interests of the local community.

Members' attention is particularly drawn to pages 8, 9 and 10 of the application appended to this report with regard to the merits of the Application and the established community use and value of the property. From the information contained in the application to list the property as an ACV, it is clear that the above test has been satisfied and that the property should be included in the Council's list of ACVs.

2. Options under consideration

2.1 What options have been considered?

2.1 Having received a valid application, the only other option would be to refuse to list the asset as an Asset of Community Value. However, given the previous listing of the property and the continued uses it is recommended that the property be relisted.

3. Financial Opportunities and Implications

3.1 What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?

The protection of Assets of Community Value supports the Partnership's priority of 'Thriving People and Communities'.

4. Legal Implications

4.1 The proposals contained in this report will potentially commit the Council financially in respect of: Potential Compensation payments; if an owner or former owner of land listed or previously listed as an ACV incurs loss or expense that it is likely they would not have

incurred had the land not been listed as an ACV, they may be able to claim compensation under regulation 14 of the ACV Regulations 2012. However, in order to claim such compensation, the claimant will need to prove and demonstrate their actual loss, so the likelihood of such claims is low.

- 4.2 The legal effect of listing the property as an ACV is set out in the Torbay Council Assets of Community Value Policy:

<https://www.torbay.gov.uk/planning-and-building/land-charges/assets-of-community-value/>

5. Engagement and Consultation

- 5.1 Torbay Council is the freehold owner of the property is the only party directly affected by the proposals. The application has been made by the local community partnership.

6. Purchasing or Hiring of Goods and/or Services

N/A

7. Tackling Climate Change

N/A

8. Associated Risks

- 8.1 If the Council does not determine the application before 24 November 2021, it will be in breach of its statutory duty to do so. This would leave the Council vulnerable to a potential ombudsman complaint.
- 8.2 If the Council register the property as an ACV in circumstances where it should not have done so, then the owner is entitled to appeal and may potentially recover the costs incurred in a successful appeal.
- 8.3 If the Council decides not to list the property as an ACV in circumstances where it should have done so, there is no right of appeal. The only remedy available to an aggrieved applicant would be by way of judicial review.

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	Parkfield was built as a youth centre to improve the lives of young people in the Bay and there are a number of youth & sport activities on site.		
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) (Please note Gypsies / Roma are within this community)			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)	Parkfield was built as a youth centre to improve the lives of young people in the Bay and there are a number of youth & sport activities on site.		

Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Parkfield was built as a youth centre to improve the lives of young people in the Bay and there are a number of youth & sport activities on site.		
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10. Cumulative Council Impact

10.1 None.

11. Cumulative Community Impacts

11.1 None.

Document is Restricted

Meeting: Cabinet

Date: 08 November 2021

Wards Affected: All Torquay wards

Report Title: Torquay Town Deal – Business Case Assurance

Cabinet Member Contact Details: Cllr Swithin Long, Cabinet member for Regeneration, Housing and Tourism, swithin.long@torbay.gov.uk

Director/Assistant Director Contact Details: Alan Denby, Director of Economic Strategy, alan.denby@tda.uk.net

1. Purpose of Report

- 1.1 In July 2020 the Council submitted a Town Investment Plan seeking funding to support the economic regeneration of Torquay from the Government's Town Deal programme administered by the then Ministry of Housing, Communities and Local Government (MHCLG).
- 1.2 The Council was advised in the autumn of last year that the Investment Plan would be supported by £21.9M of Town Deal grant subject to business cases. The first three business cases were submitted in July for Edginswell Rail Station, Harbour Public Realm and Stronger Futures projects.
- 1.3 The remaining five business cases for projects which include;
 - Strand (Debenhams)
 - Pavilion
 - Coastal Corridor Pinch Point
 - Core area public realm
 - Torquay Town Centre regeneration
- 1.4 Submitting these business cases to the renamed Department for Levelling Up, Housing and Communities (DLUHC) and their anticipated approval will allow for these projects to proceed through the next stage of their development which is expected to result in planning applications being submitted in the first quarter of 2022 for one of the schemes and delivery over the period to the second quarter of 2024.
- 1.5 The projects will all contribute towards the objectives of Torquay's investment plan namely;
 - A high quality, vibrant town centre

- A better connected and more accessible place
- A high-quality economy

- 1.6 The projects will deliver a range of benefits which are expected to include increased footfall and visitors in the town centre, improved journey times and access into and around Torbay, an improved cultural and tourism offer, higher skill levels and more jobs.
- 1.7 Delivery of the Investment Plan will, alongside the Future High Street Programme in Paignton, signify another step towards improving the economic outlook for Torbay's communities with recent investment confirmed for Brixham also allowing a town centre scheme to be taken forward in the town.
- 1.8 Torquay's Town Board is meeting on 12th November, assurance process requires that the Town Board confirms that these projects fall in line with the anticipated benefits set out in the Investment Plan. The Town Board will be recommended to support the submission of these business cases and confirmation of their decision will be made by the portfolio holder.

2. Reason for Proposal and its benefits

We want Torbay and its residents to thrive.

We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay, and affordable housing for our residents.

We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

- 2.1 The proposals in this report help deliver this ambition by supporting town centre renewal and delivery of the thriving economy theme of the community plan. In doing so the projects will also help address the challenges of poverty and deprivation in Torquay by using the Council's commitment to local procurement to increase the social value benefits from delivery. This will see contractors required to sign up to Employment and Skills plans to increase employment and training opportunities from these projects alongside work to widen access for Torbay businesses to provide services to these projects.
- 2.2 The projects provide a once in a generation opportunity to help the town make a step change. Building on the momentum that has been created in part by the announcement of this funding submission of the business cases will result in additional investment into Torquay. This investment, principally into the town centre, will help address the changing nature of town centres which continue to see high levels of challenge for traditional retail led town centres. The projects will help improve the way in which the town centre works for the benefit of residents, businesses and visitors.

- 2.3 The projects which will be enabled by these business case will support a consolidation of retail activity and introduce new uses to increase vitality and footfall. Specifically, the projects will
- regenerate the Strand site formerly occupied by Debenhams introducing new appropriate commercial uses and residential into the Harbour area,
 - restore Torquay's Pavilion which will in turn enable the future return of the site to a productive economic use. This project, also in the Harbour area, will improve the quality of the area and increase footfall.
 - Improve the public realm at the physical heart of the town at the "GPO roundabout" helping connect the retail heart of the town with the Harbour area
 - deliver a town centre regeneration scheme that will introduce other uses back into the town centre. Negotiations are underway with prospective occupiers that will introduce new non retail uses to the town centre that will increase footfall and diversify uses in the town centre.
 - improve infrastructure from the harbour area to enable and encourage safe walking and cycling along this route.
- 2.4 The reasons for the decision are to allow delivery of Town Investment Plan projects from autumn of this year which will demonstrate to the local community, investors and government the progress of the Town Deal. Submission of the business cases and the subsequent funding through the Town Deal provides investment which will create employment, attract additional investment and support residents in accessing support to help them gain work and deepen their skills in key sectors thereby in time contributing to a more resilient local economy.
-

3. Recommendation(s) / Proposed Decision

- (i) That Cabinet notes the endorsement of the Torquay Town Board in respect of the business cases for the projects set out at Paragraph 1.2 projects: and
- (ii) that the business cases as set out in Appendix 1 to the published report be submitted to the Department for Levelling Up, Housing and Communities with any required amendments delegated to the Chief Executive in consultation with the Portfolio holder for Regeneration, Tourism and Housing and the Chief Accountant.

Appendices

Appendix 1: Towns Fund Business Cases

Background Documents

Torquay Town Investment Plan approved July 2020 and summarised here

<https://www.torbay.gov.uk/leisure-sports-and-community/regeneration/torquay-towns-fund/>

Report Clearance

Supporting Information

1. Introduction

- 1.1 In July 2020 the Council submitted a Town Investment Plan in respect of Torquay seeking funding from the Government's Town Deal programme administered by the Department of Levelling Up, Housing and Communities (DLUHC). The Council was advised in the autumn of last year that the Investment Plan would be supported by £21.9M of Town Deal grant subject to business cases.
- 1.2 Submitting these business cases to DLUHC and their anticipated approval will conclude the first phase of works for the Town Deal and allow for the development of the detail of the projects leading to planning applications and delivery and builds on the submission earlier in the year of businesses cases for Edginswell Rail Station and for the Harbour Public Realm and Stronger Futures projects.
- 1.3 The projects will all contribute towards the objectives of Torquay's investment plan namely;
 - A high quality, vibrant town centre
 - A better connected and more accessible place
 - A high-quality economy
- 1.4 The projects will deliver a range of benefits which are expected to include increased footfall and visitors in the town centre, improved journey times and access into and around Torbay, an improved cultural and tourism offer, higher skill levels and more jobs.
- 1.5 The proposals in this report help us to deliver this ambition by supporting delivery of the thriving economy theme of the community plan and in doing so address the challenges of poverty and deprivation in Torquay.
- 1.6 The stage 2 guidance requires that Green Book compliant business cases be developed, in a proportionate manner, for each project to allocate government funds. DLUHC may only require sight of the Summary Document, although DLUHC also reserves the right to call in any business case to be assured centrally and expect business cases to include the evidence for the intervention and an assessment of value for money. Typically, this would include the following considerations at a level proportionate to the scale of funding required for the proposal:
 - a clear economic rationale that justifies the use of public funds in addition to how a proposed project is expected to contribute to strategic objectives
 - clearly defined inputs, activities, outputs and anticipated outcomes, ensuring that factors such as displacement and deadweight have been considered
 - benefits that exceed the costs of intervention using appropriate value for money metrics
 - appropriate consideration of deliverability and risk along with appropriate mitigating action (the costs of which must be clearly understood).

1.7 This paragraph notes the projects and provides a high level of summary of how the projects align to the 5 business case model typically used by DLUHC;

Strand (Debenhams)	
Case	
Strategic	<ul style="list-style-type: none"> • Torquay has an over-supply of retail space which is very spread-out, diluting the retail core. • It has a high vacancy rate, and this is detracting from the quality of its town centre offer. • At the same time, there is a need to improve the quality of the environment in the harbour area to enhance its attractiveness to visitors, and increase the delivery of residential accommodation in the town. • The acquisition & redevelopment of the former Debenhams store on the Strand will enable its development for smaller commercial units on the ground-floor with apartments above. • This complements the adjacent investment in the Harbour Public Realm project.
Economic	<ul style="list-style-type: none"> • The direct benefit will be the land value uplift on the site. • The present value of the land value uplift is £4.2 million. • Indirect benefits will be a better quality and more vibrant built environment and more footfall in the harbour area. • The Net Present Value of this project is £2.2 million and the Benefit to Cost Ratio is 2
Financial	<ul style="list-style-type: none"> • The cost of the project is £2 million. This project will be wholly funded by a £2 million Town Fund allocation. There is no match funding from other sources. • The next phase of the development will be financed with prudential borrowing
Commercial	<ul style="list-style-type: none"> • The purchase of the property has been completed by Torbay Council, through direct negotiation with the landowner. • Demolition and construction work will be procured through the South West Construction Framework
Management	<ul style="list-style-type: none"> • Torbay Council & TDA

Pavilion	
Case	
Strategic	<ul style="list-style-type: none"> • The Pavilion is a Grade II listed building of historic and cultural significance to Torquay.

	<ul style="list-style-type: none"> • Its restoration and return to productive use is a long-standing objective for Torquay. • The Pavilion is in the Harbour area of the town, which is a focus for improvement, to attract more visitors and tourists to Torquay. • The restoration and use of the Pavilion as a venue is one of several projects in the Harbour area which will collectively improve the quality of the area and increase footfall
Economic	<ul style="list-style-type: none"> • The high cost of restoration means that the renovation of the Pavilion is not commercially viable. • Its subsequent role as a visitor destination which increases footfall in the Harbour area and town centre means there are significant external benefits from public investment in this project. • The cost of restoring the Pavilion is £7.2 million excluding optimism bias, and £10.3 million including optimism bias. A total of £1.75 million is sought from the Towns Fund towards this cost. The present value of the public sector cost is £1.69 million. • The economic benefits of the project at a UK-level will be seen in land value uplift. The present value of these benefits is £1.4 million. The place-based benefits will include the construction impact, and employment in the food & drink and leisure activities that will take place in the Pavilion once the restoration is completed. The present value of these benefits is £11.1 million. • The place-based net present value is £9.4 million with a Benefit to Cost Ratio of 6.6. Sensitivity analysis shows that the Benefit to Cost ratio of the UK-level impacts declines to a minimum of 0.2
Financial	<ul style="list-style-type: none"> • Restoration project cost is £7.5M • These costs shared 50% each by Torbay Council and MDL • £1.75 million is allocated from the Towns Fund. • Match funding will be provided by Torbay Council and current leaseholder MDL. • The funding from MDL is likely dependent on the delivery of a mixed-use leisure and residential development on an adjacent site
Commercial	<ul style="list-style-type: none"> • Torbay Council will lead and manage the restoration of the Pavilion. An intrusive building survey is needed, and listed building consent is required before the regeneration of the building can start. A specialist restoration contractor will then be procured through open competition, following the Council's procurement procedures. Following restoration, the Council will find suitable tenants for the building
Management	<ul style="list-style-type: none"> • Torbay Council & TDA

Core area public realm	
Case	
Strategic	<ul style="list-style-type: none"> • Complements other Investment Plan projects and improves the quality of the public realm • The Core Area is currently a roundabout and taxi waiting area between Union Street and Fleet Street. • Investing in the public realm would make this a more attractive town square area and increase footfall in the town centre. • This will improve pedestrian flows throughout the town centre, promote activity and health benefits, and encourage investment in the properties around the Core Area.
Economic	<ul style="list-style-type: none"> • Public realm improvements are public goods and will not be provided by the market. • The present value public sector cost of delivering this scheme is £245,000. The main UK-level benefits of the scheme are active travel and health benefits, and land value uplift in adjacent properties. The place-based benefits will also include the impact of construction spend and employment. • The present value of benefits at a UK-level over 20 years is £5.79 million. The Net Present Value of the scheme is £5.54 million and the Benefit to Cost Ratio is 23.6. Place-based analysis over the same period has a Net Present Value £5.57 million and a Benefit to Cost Ratio of 23.8. • Sensitivity testing on the UK-level analysis shows the BCR dropping to a minimum of 9.
Financial	<ul style="list-style-type: none"> • The financial cost of the project is £258,600. Funding of £250,000 is sought from the Towns Fund. • Match funding opportunities to allow the scope and impact of the work are being developed for the project.
Commercial	<ul style="list-style-type: none"> • A main contractor will be appointed using Torbay Council's highways contractors' framework. Given the size of the project this could be made by a direct award
Management	<ul style="list-style-type: none"> • Torbay Council & TDA

Town Centre regeneration	
Case	
Strategic	<ul style="list-style-type: none"> • Torquay has a declining retail offer and a high level of vacancies. Consolidating retail activity into a core area would increase vitality and footfall.

	<ul style="list-style-type: none"> This project is intended to diversify the uses of the town centre with potential occupiers bringing non retail uses into the town centre.
Economic	<ul style="list-style-type: none"> Provides benefits with a present value of £107 million at a UK-level. The place-based benefits in present value terms are £121 million if the project is delivered without accommodation, or £123 million if the project includes accommodation. Benefit to Cost Ratio is 10.3. Sensitivity analysis shows this declines to a minimum of 4.3
Financial	<ul style="list-style-type: none"> Indicative costs of £40M. £11M of the Town Deal investment is identified in support of this scheme Co investment required from private and public sector
Commercial	<ul style="list-style-type: none"> To be delivered through a joint venture LLP
Management	<ul style="list-style-type: none"> Torbay Council & TDA

Coastal Corridor Active Travel	
Case	
Strategic	<ul style="list-style-type: none"> Aligns to local and national active travel policies Benefits expected to include reduced congestion, improved air and environment quality and activity levels Increase active travel infrastructure
Economic	<ul style="list-style-type: none"> Delivers a public good otherwise not likely to be provided BCR minimum of 7.7:1
Financial	<ul style="list-style-type: none"> Costs £1.05M with optimism bias
Commercial	<ul style="list-style-type: none"> Main contractor will be appointed via Torbay Council's existing highways contractor framework
Management	<ul style="list-style-type: none"> Torbay Council, TDA

1.8 The reasons for the decision are to allow delivery of Town Investment Plan projects from autumn of this year which will demonstrate to the local community, investors and government the progress of the Town Deal. Submission of the business cases and the subsequent funding through the Town Deal provides investment which will create employment, attract additional investment and support residents in

accessing support to help them gain work and deepen their skills in key sectors thereby, in time, contributing to a more resilient local economy.

- 1.9 The Town Board has now considered, reviewed and endorsed the business cases for submission, the Cabinet is now required to sign off the business cases so that they can be presented to DLUHC for their consideration.

2. Options under consideration

- 2.1 Do nothing – Where the Cabinet not to agree to submit the business cases then the Towns Fund grant will not be released and the anticipated benefits from the schemes will not accrue. There would be significant disadvantages with this option which could include the loss of grant, lack of achievement of economic benefits and reputational harm with Government and local partners.
- 2.2 To agree the recommendation – delivery of the projects. There are no anticipated disadvantages from this option.

3. Financial Opportunities and Implications

- 3.1 Accepting the recommendations here will allow the Council to continue the delivery of the £21.9M of Towns Fund investment offered by Government unlocking other investment. In time it is expected that the projects will support an improved economy in Torquay with a more vibrant town centre, increased footfall and spend which should have a positive impact on town centre voids, business rates, car parking and ultimately on the prosperity of the town.
- 3.2 It is clear from the experience of other projects both on site and in their planning stages that the construction sector is now beginning to experience some acute challenges relating to the supply chain and workforce. These challenges are contributing to building cost inflation and Cabinet should recognise that as the projects progress through their development that this cost inflation will have an impact on the Town Deal programme. This is likely to result in either a requirement for additional funding, value engineering of schemes once they are designed or scope reductions or a combination of the three.
- 3.3 This is not intended to water down any of the ambitions that the Town Investment Plan has for Torquay nor the Council's wider ambition for effective town centre and wider regeneration delivery but given that some of these schemes won't be put to the market until the final quarter of 2022 the costs are likely to increase further. The programme team will continue to explore how these cost pressures can be mitigated but they will remain a risk.
- 3.4 In respect of the workforce pressures the Build Torbay project is now underway and progress has been made with regional tier one contractors to make them aware of Torbay's commitment in this area. Scoping of the action plan for the project is nearing completion but there will be a focus on encouraging people, at all ages, to train/retrain for careers in the construction sector.

4. Legal Implications

- 4.1 There are no implications of the decision.

5. Engagement and Consultation

- 5.1 The Town Investment Plan draws heavily on the work of the Torquay Neighbourhood Plan and the community partners who led that work. There has also been project specific consultation over a period of more than three years in respect of the capital projects. Project specific communication and engagement plans will be developed in support of each scheme.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 The business cases will apply appropriate procurement strategies considering the Council and Town Board's objectives. Wherever possible opportunities for local supply and maximising local benefits will be sought including for instance using employment and skills plans in line with community wealth building and social value principles.

7. Tackling Climate Change

- 7.1 The projects will contribute towards the Council's Carbon Neutral targets supporting modal shift through the rail scheme and the public realm scheme will improve air quality and support healthier lifestyles through more walking and cycling.

8. Associated Risks

- 8.1 The key risk of not implementing the decision relates to the foregone economic and financial benefits of the projects. Torquay, and Torbay, requires investment to achieve the community's expectations and ensure that each town can deliver more of its potential.
- 8.2 There are project related delivery risks summarised in the business cases and which will be managed through the project board(s), Town Deal & Future High Street Fund Steering Group with progress reported to Cabinet and Overview & Scrutiny Committee.

Equality Impacts

9.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			
	People with caring Responsibilities			
	People with a disability			
	Women or men			
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			
	Religion or belief (including lack of belief)			
	People who are lesbian, gay or bisexual			
	People who are transgendered			
	People who are in a marriage or civil partnership			

	Women who are pregnant / on maternity leave			
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	Delivery of the Town Investment Plan is expected to increase the level of investment into Torquay, to reinvigorate the town centre and support the creation of new opportunities for employment, education and training. The Council's adoption of wealth building and social value principles will see the procurement of works contracts used to get the maximum local benefit.		
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	Economic wellbeing is a key determinant of health and delivery of the Town Investment Plan is one of a suite of activities being delivered to support a higher performing economy in Torbay.		
10..	Cumulative Council Impact (proposed changes elsewhere which might worsen the impacts identified above)			
11.	Cumulative Community Impacts (proposed changes within the wider community (inc the public sector) which might worsen the impacts identified above)			

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Meeting: Cabinet **Date:** 16th November 2021

Wards affected: Barton and Watcombe and Shiphay

Report Title: Growth Fund allocation - Edginswell Development

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Swithin Long, Cabinet Member for Housing, Regeneration and Tourism

Director/Assistant Director Contact Details: Liam Montgomery, Director of Asset Management Investment and Housing liam.montgomery@tda.uk.net

1. Purpose of Report

- 1.1 This proposal is for Torbay Council acting as landowner and developer to progress and enter into contracts to develop and lease new production, research and design facility, with external parking and servicing on land at Edginswell Business Park, Orchard Way Torquay.
- 1.2 This report sets out the terms and basis to provide a new circa 2,100 sq m facility, with the potential to bring 100 new jobs to Torbay, for an innovative, expanding and award winning company in the sector of research, training and production of energy based surgical systems.
- 1.3 The report seeks the authority to secure funding for the project and to agree the contract terms.

2. Reason for Proposal and its benefits

2.1 In June 2017 Council made the decision to purchase 6 acres of land at Edginswell Torquay with the intention of unlocking a prime employment site at the strategic Torquay Gateway, adjacent to the South Devon Highway. The acquisition was completed in 2018.

2.2 This project will, deliver economic growth through, targeted infrastructure investment and meet the original objectives set out when acquiring the land in 2018. Bringing forward

development opportunities on this site has taken slightly longer than envisaged due to the market slowdown during the pandemic.

2.3 Further benefits and complementary policy items are contained within the Supporting Information section of the report.

3. Recommendation(s) / Proposed Decision

- 3.1. That subject to due diligence on legal and financial issues and the rent being in excess of the Councils loan repayments, the Chief Executive in consultation with the Chief Finance Officer and Cabinet Member for Housing, Regeneration and Tourism be authorised to negotiate and conclude lease and development terms with the incoming tenant and that the Council approve funding from the Growth Fund to fund the development at a sum not exceeding £6.5m, of which £1.5m is for the anticipated fit out costs that may or may not be required.
- 3.2. That subject to due diligence on legal and financial issues the Chief Executive be authorised to finalise lease terms and enter into a lease that includes an option to purchase with the incoming tenant.

Appendices

Appendix 1: **Part 2** - Financial Summary – Confidential

Appendix 2: **Part 2** - Indicative Project Timeline and Next Steps

Appendix 3: **Part 2** - Indicative design

Appendix 4: **Part 2** - Current Edginswell Marketing Masterplan

Background Documents

[Click here to add your list of documents.](#)

Supporting Information

1. Introduction

1.1 In June 2017 Council made the decision to purchase 6 acres of land at Edginswell Torquay with the purchase completing in 2018. Following a comprehensive marketing campaign the Council entered into an agreement for lease with Wickes for part of the site (site 1) with works expected to commence in the spring of 2022.

At the end of 2020 the Council secured a £2m grant from the Getting Building Fund (GBF) to support essential infrastructure works to take place on the site and essentially ensure the site was serviced and ready for development. Planning permission has been obtained for these works and they are due to commence in November 2021.

It is now proposed that the Council enter into a new contract that will see the development and construction of site 3 where a new 2,100 production, research & design facility would be built with expansion land.

1.2 The proposed incoming tenant is currently based outside of Torbay and operate in the medical sector developing tools to assist with keyhole and open surgery. 1.3 The proposed tenant is currently based in a rural location which creates challenges for delivery/collection access and for the 57 employees (October 2021) that are based there. The site is also comprised of varying separate buildings which is very inefficient and they have been looking for a new location to address these issues for some time. The move to a new site is anticipated to bring an additional 15/20 new jobs in addition to the current employees including R & D growth engineers, product assembly, engineering apprentices through South Devon College and business support roles in HR, finance, customer sales support, exporting and marketing. The additional future growth space that has been allowed for would also provide the necessary space for the company to grow and create additional new jobs.

1.4 The company has been in discussions to explore opportunities across the Torbay Authority for some time whilst also looking at other opportunities in the region. The result of those discussions and searches is that they have decided to advance the opportunity to be located at Site 3 of the emerging Council's Edginswell Business Park. The proposal will create a new Production, Research & Design facility, with external parking and servicing. In addition the site will have an expansion area for future growth (target 1,000 m²).

1.5 Site 3 at Edginswell will provide the tenant with the opportunity to bring all of their current functions under one roof. This will include; training suite for surgeons/doctors/nurses, cleanroom class 7, machine tooling and engineering workshop (this is the future growth element of the company so they can increase their own manufacturing volumes and undertake functions for other parts of the wider group), offices and meeting rooms (including HR, accounts, marketing, customer services, sales/product management support), electronics build, assembly and test; warehousing and goods in/out.

1.6 An indicative timeline for the delivery of the project is contained within Appendix 4 with a targeted practical completion in the summer of 2023.

2. Options under consideration

- 2.1 Members (through the Cabinet and Overview & Scrutiny) have considered options for the site (including Leisure, Builders merchants, speculative business units). Having now progressed with the Wickes store proposal the Council will have the benefit of approximately 2 new development plateaus that will be created by the enabling works.
- 2.2 In all respects this proposal provides an excellent opportunity for the land to deliver on desired objectives identified when the site was purchased in 2018.

3. Financial Opportunities and Implications

3.1 The tenant's financial status has been assessed through appropriate credit ratings and consider them to be at least Very Good. In addition to these checks further due diligence will take place as part of the contract negotiations and a parent company guarantee is being offered.

3.2 There is a detailed confidential financial summary/breakdown available at Appendix 1 although it should be noted that the rent payable by the tenant will be equal to or above the Councils loan repayments. It should also be noted that the lease will contain a tenant purchase option which in any event will not be less than the Councils outstanding debt at the time of purchase.

3.3 Within the financial summary there are two potential scenarios, both of which are clearly set out. The first of which is that the Council funds and develops the shell and core of the property and then hands this over to the tenant to fit out at their own cost. The second option sees the Council fund these fit out works and the rent is increased proportionally to reflect this increased investment. As already mentioned in either scenario the rent will never be lower than the Councils loan repayments and thus meet the terms set out as part of the Growth Fund criteria.

Financial Assumptions

- The estimated build costs have been assessed by an independent Quantity Surveyor
- There is a proposed rent review every 5th year (Indexed linked and compounded, with reference to RPI, subject to a cap and collar of 2% and 4%). This ensures that there is a guaranteed rental uplift.
- The tenant has an option to purchase from year 5. The price will be determined at that time and will cover the Council's full remaining debt.

Financial Opportunities

The TDA Economy Team has estimated further benefits and Policy alignment as follows;

- Economic modelling for this enquiry assumes a GVA per FTE of £40,965.90 based on scientific and technical profession and an example of just a 10 year period would contribute over £18.4M of GVA to Torbay's economy, this would give a net present value (removing inflation from the impact) of £15.9M. This excludes indirect job impacts which would be in addition. This is an excellent return against the borrowing and construction costs and for the Torbay economy.
- The team further concludes that the project will strengthen opportunities with South Devon College regarding engineering apprenticeships.
- Estimated Business rate uplift over £100,000 p.a
- Estimated additional leisure and tourism economy benefit from the 450/600 visitors on training programmes
- This would also provide a complementary addition to Torbay's growing med tech cluster whom have felt less impact due to the effects of c19, therefore adding additional economic resilience to the Torbay economy.
- Due to issues of viability, employment space has been slow to come forward in the Torbay market. The GBF funding has improved the viability for the site and brought forward the enabling works creating new employment space opportunities and attracted opportunities such as this.
- This opportunity to support business growth and inward investment is in line with the Economic Repositioning Plan. Furthermore, as the gateway site it presents an opportunity to accommodate high value jobs signifying Torbay's economic intent in such a high profile location. Torbay suffers structural weaknesses due to the makeup of the economy. Supporting inward investment and local job growth enables Torbay to create new jobs that will increase skills, wages and money into the economy.
- The case for developing employment space on this gateway site flows through all local strategic documents. Torbay Council's Corporate Plan which sets 4 visions to achieve its wider objectives, one of which is for a thriving economy through creating an environment in which businesses and jobs can grow and where the local economy is successful and sustainable. There is further ambition to strengthen medical/healthcare/life sciences sector which, through enabling the inward investment enquiry, will support the growth of this sector. Torquay Gateway Master Plan sets out the importance of this site for provision of employment space to support the growth of employment sectors. Torbay Economic Strategy (2017-22) recognises the importance of bringing forward employment space as one of its 4 key objectives to support local growth in order to create more full time and sustainable employment. Torbay's Covid19 Economic Reposition Strategy which looks to accelerate local economic recovery. As part of the Torquay Town Deal Town Investment Plan, Torquay Gateway will support town centre regeneration through unlocking employment space to help businesses expand, support inward investment and through embedding community wealth building

principles will aim to tackle inequality, exclusion and poverty leading to a more sustainable economy.

4. Legal Implications

4.1 Lease terms have been broadly agreed with the detail still to conclude. Therefore, whilst subject to minor alteration, the terms are currently:

- 25 year lease
- Rent please see financial appendix
- Tenant full repairing and insuring terms
- Indexed linked upward only rent reviews every 5th year
- Tenant option to purchase at the 5th year and beyond
- Tenant option to break at year 10

4.2 Torbay Council Legal team have reviewed the terms and advised that a specialist external law firm should be appointed to act on behalf of the Developer and land owner (Torbay Council).

4.3 The tenant has a requirement for an option to purchase from year 5. The Option Price will be the Council's remaining debt in respect of the pro rata share of cost in respect of Land, Project / Build costs including any PWLB (Public Works Loan Board) early redemption penalties, interest, less any Tenant's rental payments. In addition, should the option be exercised the transaction will progress only in accordance with the legal requirements of the GBF funding.

5. Engagement and Consultation

5.1 The Council's Edginswell land has been the subject of the September 2021 approved Full Planning approval (ref P/2021/0123 Enabling works for future development. Extension of Orchard Way with associated retaining walls and landscaping). This built on a 2007 Outline Planning Approval that outlined commercial development on the wider land at Edginswell Park including the Council's land. The 2021 application received a substantial programme of consultation including Members and the Torquay Neighbourhood Planning Forum. The application received full scrutiny in terms of ecology, highways, transport, heritage, arboriculture, landscape proposals, drainage. As a result of that consultation landscaping proposals and archaeological proposals were enhanced.

5.2 The proposals for this project will include the engagement requirements as part of the planning process.

5.3 These proposals will be the subject of a further pre application planning enquiry and the emerging full planning application will receive full consultation. The proposals fully align with the Local Plan with this area being in the Edginswell Future Growth Area (Local Plan Policy SS2) which supports high quality business uses.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 The procurement of the main contractor to deliver the construction and the design team will be undertaken in accordance with public procurement regulations and working in partnership with the Torbay Council Procurement team.
- 6.2 The appointment of the main contractor will be made in accordance with public procurement regulations.

7. Tackling Climate Change

- 7.1 The incoming tenant has stated that along with Torbay Council they are committed to achieve high standards and commitments to reducing carbon emissions in the project and to achieving robust standards of sustainability. On behalf of Torbay Council TDA will work with the design team to achieve this, initially producing an outline Energy & Sustainability Statement at the planning submission stage.
- 7.2 This will include details building on the existing approvals for Edginswell around Transport & Accessibility (targeting sustainable modes of transport), Sustainable Design, Critical Drainage design (surface water attenuation) and an Energy Assessment (outlining renewable energy options and low carbon technologies).

8. Associated Risks

- 8.1 There are currently significant cost and supply risks in the construction industry causing high levels of build cost inflation. Torbay Council will commission a quantity surveyor to assess and monitor costs and the levels of contingency within the development appraisals has been increased accordingly.
- 8.2 The indicative timeline in the Appendix 2 identifies gateways to monitor costs and assess the business plan ahead of the Council signing the development agreement.
- 8.3 If the Council does not proceed with this proposal at Edginswell there is significant risk that this opportunity would be lost to Torbay and the potential for approaching 100 jobs over three years taking into account future growth plans.
- 8.4 The proposal will require a new Full Planning approval and therefore there are risks associated with this, notably in terms of design. However, the use is supported by the Local Plan, the 2007 Outline Planning approval (expired) and the 2021 enabling works approval. The project will submit a planning pre application enquiry to review all the issues and the risk is considered low.
- 8.5 Matters relating to the lease terms and the option to purchase have been considered by the Legal, Finance and Economy teams of the Council (and TDA) notably with regard to the terms of the GBF. The risks can be managed and are considered low.

8.6 There are risks in progressing a transaction with the tenant, notably in the event of company failure. However the transaction will involve contracts to protect the Council's interests (drafted by appropriate solicitors), the Company has been reviewed by the Finance Team. It should also be noted that the Council and TDA will look to ensure the design will be of interest to other occupiers if required.

9. Equality Impacts - 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) (Please note Gypsies / Roma are within this community)			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			No differential impact

health of the population of Torbay)			
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10. Cumulative Council Impact

10.1 The Council are already carrying debt on the land purchase and therefore not proceeding with this proposal means that the holding costs will continue to create a revenue pressure on the Council.

11. Cumulative Community Impacts

11.1 None

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Meeting: Cabinet

Date: 16 November 2021

Wards affected: Tormohun

Report Title: Growth Fund investment to deliver five new business units at Lymington Rd coach station.

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Councillor Swithin Long, Cabinet Member for Economic Regeneration, Tourism & Housing, Swithin.Long@torbay.gov.uk

Director/Assistant Director Contact Details: Liam Montgomery, Director of Asset Management, Investment & Housing, liam.montgomery@tda.uk.net

1. Purpose of Report

- 1.1 **To seek authorisation to** increase Torbay Council's prudential borrowing to £1,367,369 from the Growth Fund to contribute towards the costs of building five new business units on the site of the former CCTV building and café, and to implement improvements to the public realm within the vicinity of the coach station and car park.
- 1.2 A budget increase is required in light of current market conditions, specifically build cost inflation, the results of detailed site investigations, and to address feedback received from the Environment Agency, service departments, Torbay Council's planning department and engagement with Members and the community regarding improvements to the public realm.

2. Reason for Proposal and its benefits

We want Torbay and its residents to thrive.

We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.

We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

- 2.1 The proposals in this report help us to deliver this ambition by investing in a Council property to redevelop a site that currently contains a derelict building. This proposal will see the construction of five new business units to be let on the open market and the provision of a new public toilet, improved coach arrival layout including the new provision of an international bay, new coach shelters, a new wayfaring signage board, improved lighting within the public car park, and the remarking of the remainder of the car park. Drawings illustrating these proposals are available at Appendix 2.
- 2.2 The reasons for the decision are:
 - 2.2.1 The buildings are currently vacant and prone to vandalism with poor customer facilities for arriving visitors. Without investment the coach station environment will further decline generating void management costs and an increase in anti-social behaviour.
 - 2.2.2 There is a shortage of small business units in Torbay and the rental stream from the new units will service the loan required to support the Council's contribution.
 - 2.2.3 Torbay Council has been awarded £1,960,000 by Heart of the South West's Getting Building Fund (GBF) to assist with the delivery of this project. This proposal seeks a contribution from Torbay Councils Growth Fund to meet the development shortfall and fund the additional items and increased costs that have been identified since Members made the original decision
 - 2.2.4 Since the original Cabinet paper in December 2020 a significant level of surveys, planning and community engagement has taken place and the scope of the project is now larger than originally planned. This, coupled with the high levels of build cost inflation is why additional funding is now required to bring the development forward.

3. Recommendation(s) / Proposed Decision

1. To increase Torbay Council's prudential borrowing up to £1,367,369 from the Growth Fund to fund the development shortfall over and above the Getting Building Fund grant.
2. To delegate authority to Director of Place in consultation with the Cabinet Member for Regeneration, Tourism and Housing to approve the final project brief/specification for the public realm works and to allocate funds from existing revenue sources.

Appendices

Appendix 1: Cabinet Report, dated 15 December 2020

Appendix 2: Site Plan

Appendix 3: Financial summary – Confidential Item – Part 2

Report Clearance

	This report has been reviewed and approved by:	Date:
Interim Chief Executive	Anne-Marie Bond	
Monitoring Officer		
Chief Finance Officer	Martin Phillips	
Relevant Director/Assistant Director	Liam Montgomery	22.10.21

1. Introduction

- 1.1 The site comprises the main gateway into Torbay for visitors arriving by coach. The buildings are currently vacant and prone to vandalism. Concerns have been raised by Members, Council Officers, and local residents relating to anti-social behaviour, poor lighting levels, poor customer facilities for arriving visitors, and perceived safety concerns.
- 1.2 There is a shortage of small business units in Torbay. The proposed scheme will redevelop the site to provide c. 5,015 sq ft of new business space through the creation of five new business units, to be let on the open market. The rental stream from these units will be used to service the loan required to support the Council's contribution.
- 1.3 Should the site not be developed it is likely that the building will remain vacant with ongoing management costs and deteriorating building fabric thereby presenting a long term liability for the Council. The facilities for arriving visitors are poor. Visitors are currently greeted by boarded up units and there are no coach shelters and limited facilities for waiting passengers.
- 1.4 The proposed redevelopment of the site provides a vision for improving the coach station facilities and the public realm through the provision of a new international coach bay, three new coach shelters providing weather protection for waiting passengers, a new wayfinding board with bus timetables and location plans, an improved disabled WC and improvements to the public domain all of which will be important for the future growth of Torbay as a premier tourist destination.
- 1.5 It is envisaged that this proposal will:
 - Create 29.6 full time equivalent (FTE) construction jobs
 - Create 38 new direct FTE jobs
 - Create 7.6 new indirect FTE jobs
 - Generate £2.5m of GVA per year in the local economy

2. Options under consideration

- 2.1 As detailed in the previous Cabinet Paper provided at Appendix 1, the proposed development will see the demolition of some existing derelict buildings which have historically been hard to let and are beyond their economic life. An alternative option to the proposal is to enhance the existing structure and then continue to try and find a potential tenant.

3. Financial Opportunities and Implications

- 3.1 The financial summary at Appendix 3 sets out the funding model and how the projected rental stream will support the loan financing required to meet the Councils contribution. Without the additional grant funding this project would not have been financially viable.

To ensure the projections are prudent the model assumes that the scheme is only 90% let to deal with tenant churn and potential void periods. Furthermore it also assumes a market level of tenant incentives.

- 3.2 The proposal looks to invest part of the Growth Fund by providing additional employment space. Using this money on this project means that the same money cannot be used elsewhere. However, there is uncommitted money within this fund and currently investing in this project is not preventing investment elsewhere.

4. Legal Implications

- 4.1 The property will be developed by the Council with the individual units being leased to interested tenants at market value. The leases will be full repairing and insuring leases and will clearly set out all tenant and landlord obligations.

5. Engagement and Consultation

- 5.1 Other than briefings with the Ward Councillors and Portfolio Holder, no engagement or consultation is planned on the principle of the Council providing a contribution towards these works.

- 5.2 Torbay Council applied for planning consent for the proposed scheme on 11 June 2021 and normal engagement and consultation associated with planning applications has taken place in the usual way.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 All services necessary to bring forward the development will be procured in line with the Councils financial regulations and standing orders.

7. Tackling Climate Change

- 7.1 The Council will need to obtain planning consent and building control approval for the works, which will involve meeting environmental standards required under policy.

8. Associated Risks

- 8.1 There will development risk associated with a speculative project of this nature. This risk is mitigated by the fact that £2m of the funding required has been from grants which reduces this financial exposure.
- 8.2 Market research tells us there are good levels of demand for business units of this nature. However, if there is insufficient interest from tenants and projected rental levels are not achieved the Council would need to fund the repayments from the revenue budget as loan repayments will still need to be made. The cashflow and development appraisals assume prudent timeframes to have the units let.
- 8.3 The site sits within flood zone 2 and 3 and sewer diversions will be necessary. Development risk has been identified as medium by consultants. Detailed site investigations have been undertaken with further intrusive ground investigations currently in progress. This will ensure that site constraints are reflected in the detailed design and construction methodology.
- 8.4 The works contract will be let on a fixed price design and build, helping to mitigate the risk of any cost overrun.
- 8.5 Like all speculative developments the units will need to be let to service the Councils loan. The appraisal makes prudent assumptions on voids and tenant churn.

9. Equality Impacts - 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	The provision of a new public toilet suitable for persons with disabilities is being provided.		
People with a disability	The provision of a new public toilet suitable for persons with disabilities is being provided.		
Women or men	Bus shelters are being provided at the Coach station.		

People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)	Bus shelters are being provided at the Coach station.		
Religion or belief (including lack of belief)	Bus shelters are being provided at the Coach station.		
People who are lesbian, gay or bisexual	Bus shelters are being provided at the Coach station.		
People who are transgendered	Bus shelters are being provided at the Coach station.		
People who are in a marriage or civil partnership	Bus shelters are being provided at the Coach station.		
Women who are pregnant / on maternity leave	Bus shelters are being provided at the Coach station. The new public toilet will have baby changing facilities.		
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

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

Meeting: Cabinet

Date: 15th December 2020

Wards Affected: Tormohun

Report Title: Economic Growth Fund investment to deliver 5 x light industrial units at Lymington Rd coach station.

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

Cabinet Member Contact Details: Councillor Swithin Long, Cabinet Member for Economic Regeneration, Tourism & Housing, 07419 111618, Swithin.Long@torbay.gov.uk

Supporting Director Contact Details: Liam Montgomery, Director of Asset Management, Investment & Housing, 01803 208720, Liam.montgomery@tda.uk.net

1. Purpose of Report

- 1.1 **To seek authorisation for** Torbay Council to commit £850,000 from the Economic Growth Fund to contribute towards the costs of building 5x light industrial units on the site of the former CCTV building and café.

2. Reason for Proposal and its benefits

- 2.1 We want Torbay and its residents to thrive.

We want Torbay to be the premier resort in the UK, with a vibrant arts and cultural offer for our residents and visitors to enjoy; where our built and natural environment is celebrated and where we play our part in addressing the climate change emergency.

We want Torbay to be a place where we have turned the tide on poverty and tackled inequalities; where our children and older people will have high aspirations and where there are quality jobs, good pay and affordable housing for our residents.

- 2.2 The proposals in this report help us to deliver this ambition

- 2.3 At the end of August 2020 Torbay Council submitted a funding proposal as part of the Getting Building Fund (the full proposal is available at Appendix A). This proposal was to seek a funding contribution of £2m to develop 11,367sqft of speculative new modern high quality small business studios and industrial units.

- 2.4 It is envisaged that this proposal will:

- Create 29.6 full time equivalent (FTE) construction jobs
- Create 38 new direct FTE jobs
- Create 7.6 new indirect FTE jobs
- Generate £2.5m of GVA per year in the local economy

2.5 The Getting Building Fund application was successful and the Council has been awarded £1,960,000 (£2m bid minus the LEP administration deduction). This proposal seeks a contribution from Torbay Councils Economic Growth Fund to meet the development shortfall and allow the project to go ahead.

2.6 The loan necessary to fund the Councils contribution will be repaid in full from the rental stream of the let units.

3. Recommendation(s) / Proposed Decision

That the Chief Executive in consultation with the Portfolio Holder for Economic Regeneration, Tourism and Housing be authorised to:

- i) Obtain prudential borrowing of £850,000 from the Economic Growth Fund to be meet the funding shortfall required to construct five light industrial units at Lymington Rd.

Appendices

Appendix A – Getting Building Fund application – Confidential item – Part 2

Appendix B – Feasibility Study

Appendix C – Financial summary – Confidential Item – Part 2

Background Documents

Report clearance:	This report has been reviewed and approved by:	Date:
Interim Chief Executive	Anne-Marie Bond	
Monitoring Officer		
Chief Finance Officer	Martin Phillips	
Relevant Director/Assistant Director	Liam Montgomery	

Supporting Information

1. Introduction

- 1.1 The proposal is seek a £850,000 contribution from Torbay Council to supplement the circa £2m of funding that has already been secured from the Getting Building Fund.
- 1.2 The project will create 11,367sqft of new modern business/light industrial units on the former Torquay coach station building on Lymington Road. These units once constructed will be let on the open market which, in turn will generate a rental stream which will be used to service the loan required to support the Councils contribution.
- 1.3 As part of this proposal it is the intention to also provide a new public toilet and layout for coach arrivals. Diagrams illustrating these proposals are available at Appendix B
- 1.4 Further information on the potential outputs this proposal will generate are contained within the Getting Building Fund application at Appendix A.

2. Options under consideration

- 2.1 The proposed development will see the demolition of some existing derelict buildings which have historically been hard to let and are beyond their economic life. An alternative option to the proposal is to enhance the existing structure and then continue to try and find a potential tenant.

3. Financial Opportunities and Implications

- 3.1 The financial summary at Appendix C sets out the funding model and how the projected rental stream will support the loan financing required to meet the Councils contribution. Without the additional grant funding this project would not have been financially viable.
- 3.2 The proposal looks to invest part of the Economic Growth Fund by providing additional employment space. Using this money on this project means that the same money cannot be used elsewhere. However, there is significant money within this fund and currently investing in this project is not preventing investment elsewhere.

4. Legal Implications

- 4.1 The property will remain in the Councils ownership with the individual units being leased to interested tenants at market value. The leases will be full repairing and insuring leases and will clearly set out all tenant and landlord obligations.

5. Engagement and Consultation

- 5.1 Other than briefings with the Ward Councillors and Portfolio Holder, no engagement or consultation is planned on the principle of the Council providing a contribution towards these works.
- 5.2 Torbay Council will need to obtain planning consent in the event a decision is made to proceed and therefore the normal engagement associated with planning applications will take place as part of this process.

6. Purchasing or Hiring of Goods and/or Services

- 6.1 All services necessary to bring forward the development will be procured in line with the Council's financial regulations and standing orders.

7. Tackling Climate Change

- 7.1 The Council will need to obtain planning consent and building control approval for the works, which will involve meeting environmental standards required under policy.

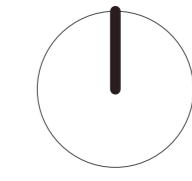
8. Associated Risks

- 8.1 There will be development risk associated with a speculative project of this nature. This risk is mitigated by the fact that £2m of the funding required has been from grants which reduces this financial exposure.
- 8.2 Market research tells us there is good levels of demand for a product of this nature and it is envisaged that the units will be in demand. It is important to note however that the loan repayments have to be made and therefore if there was insufficient interest from tenants and the rents were not achieved then the Council would need to fund the repayments from the revenue budget. The cashflow and development appraisals assume prudent timeframes to have the units let.
- 8.3 The site does sit within flood zone 2 and 3 which does present development risk. This risk has been identified as medium by consultants. Work is underway to ensure that any proposal takes account of these risks and is designed in a way to make it acceptable.
- 8.4 The works contract will be let on a fixed price design and build, helping to mitigate the risk of any cost overrun.
- 8.5 Like all speculative developments the units will need to be let to service the Council's loan. The appraisal makes prudent assumptions on voids and tenant churn.

Equality Impacts

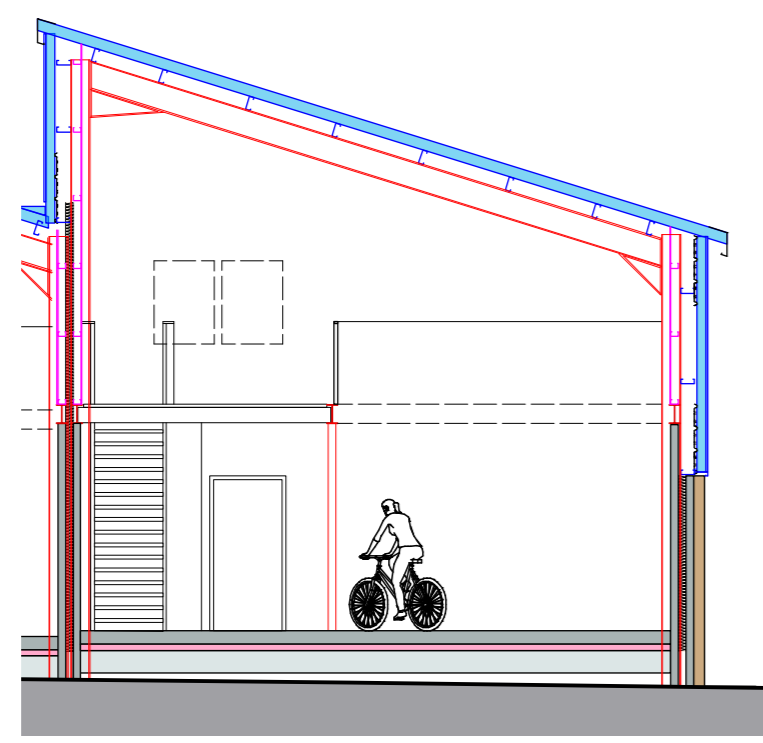
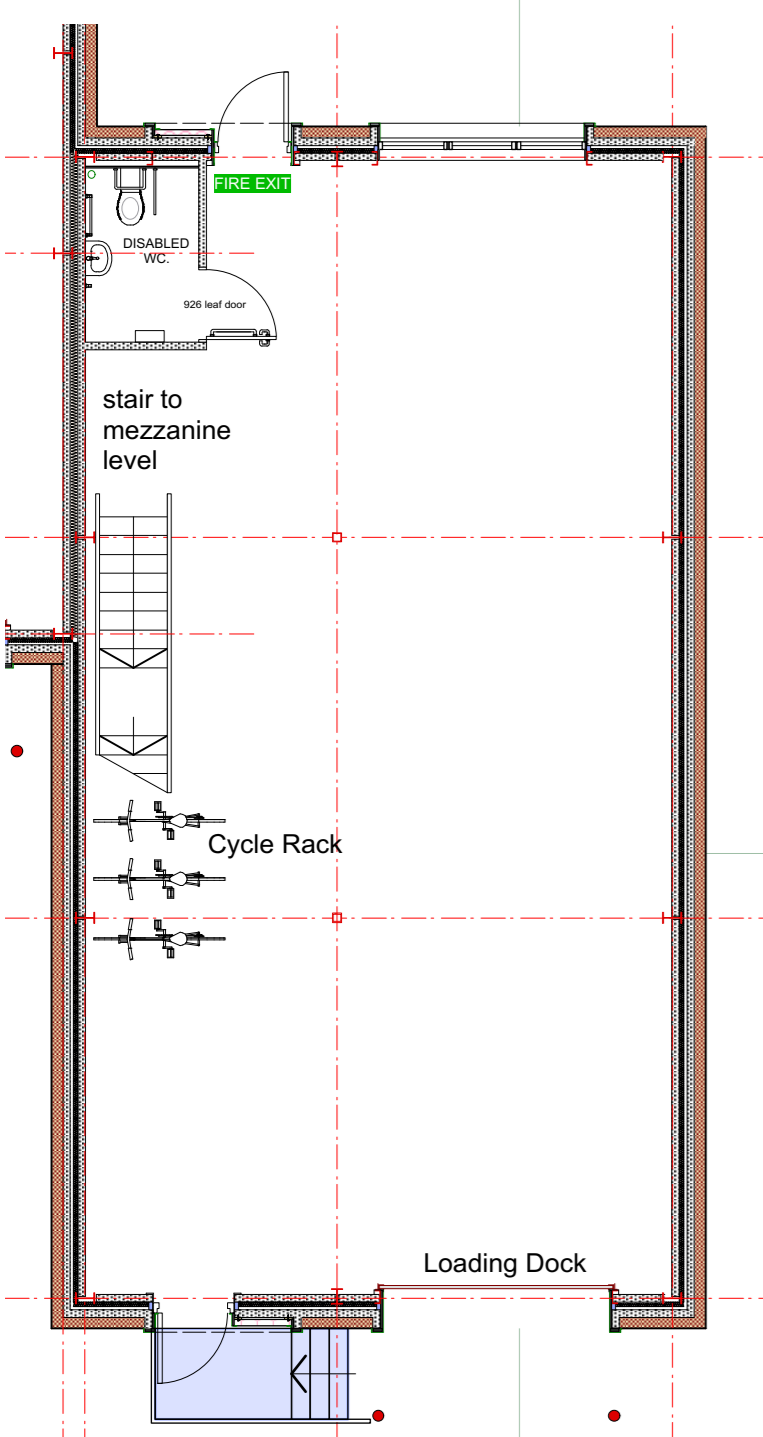
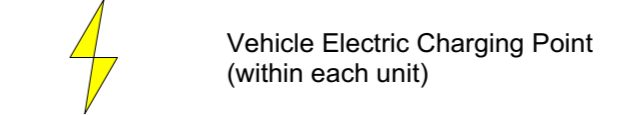
9.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			
	People with caring Responsibilities			
	People with a disability			
	Women or men			
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			
	Religion or belief (including lack of belief)			
	People who are lesbian, gay or bisexual			
	People who are transgendered			
	People who are in a marriage or civil partnership			

	Women who are pregnant / on maternity leave			
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			
10..	Cumulative Council Impact (proposed changes elsewhere which might worsen the impacts identified above)	N/A		
11.	Cumulative Community Impacts (proposed changes within the wider community (inc the public sector) which might worsen the impacts identified above)	N/A		



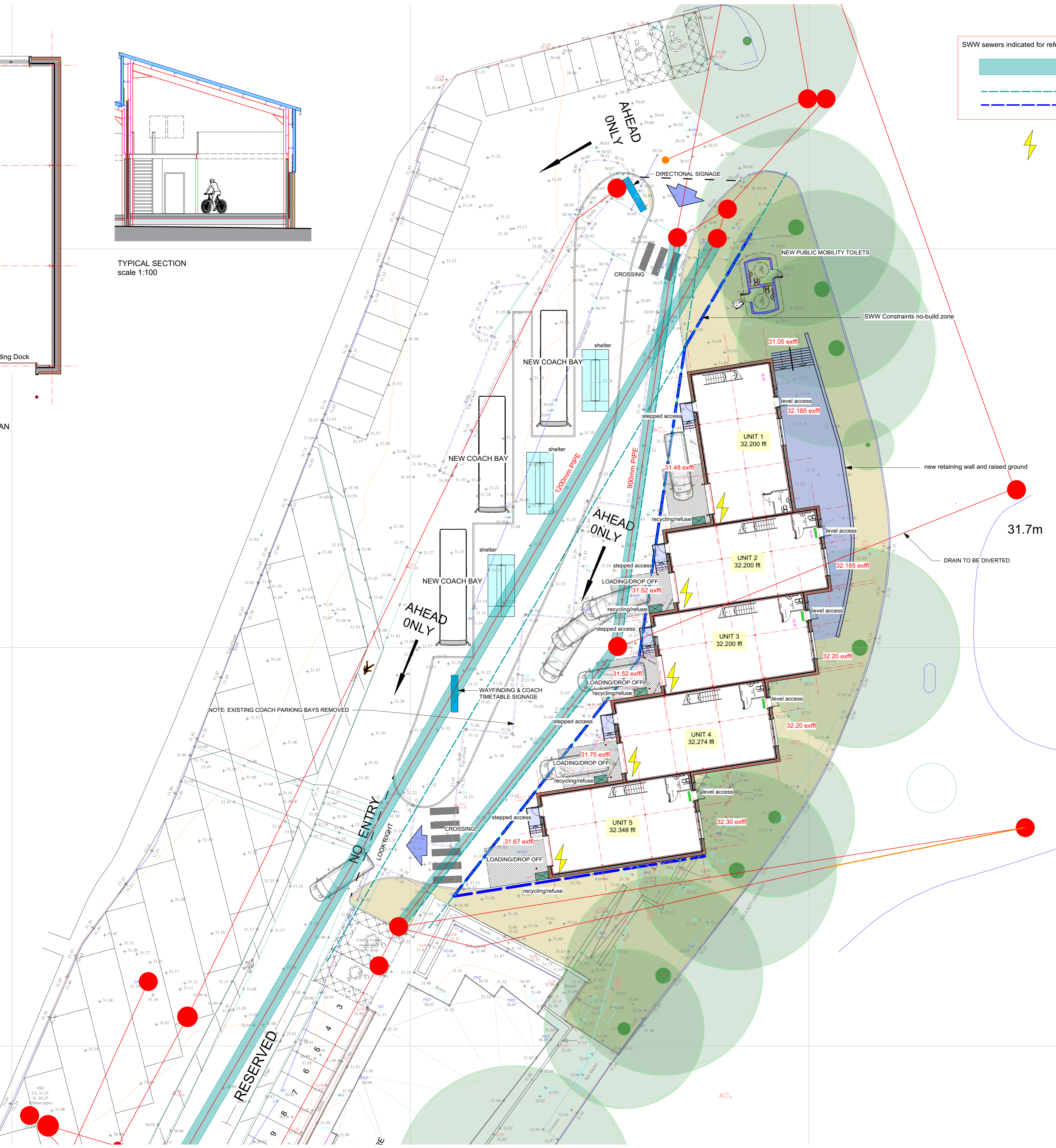
SWW sewers indicated for reference.

- Actual pipe width and wall thickness
- 2m agreed distance from pipe
- SWW Constraints Zone



TYPICAL GROUND FLOOR PLAN
scale 1:100

TYPICAL SECTION
scale 1:100



Torbay Council.			
New Commercial Development, Lymington Road Coach Station, Torquay			
PROPOSED SITE PLAN			
PLANNING DRAWING			
3844.P.AL.02	A	A	
1:200	June 2021	JLC	
MTA chartered architects			
<small>MTA Chartered Architects Ltd. 52 Fore Street, Exmouth, Devon, TQ6 8DZ e-mail: enquiries@mtaarchitects.co.uk tel: 01803 851010 fax: 01803 854807 www: www.mtaarchitects.co.uk</small>			

Document is Restricted

Impact on the Council of the increase in the Higher Needs Block of the Dedicated Schools Grant

Report to Cabinet – 16 November 2021

Background

1. The Overview and Scrutiny Board met on 13 October 2021 to consider the impact of the Council of the increase in the higher needs block of the dedicated schools grant in order to support the number of children with an Education and Health Care Plan (EHCP). Members were advised that there was a long overdue national review of the Special Educational Needs Code due to be released in 2019 with the new Government Minister now wanting to start the review from scratch, it was anticipated that the review would result in a positive decision around future funding but it was not known when this would be published for consultation.
2. The Board asked questions in respect of the following:
 - where did the money come from – the Council cash funds the gap between the funding from the Government and the funding required for the higher needs block, whilst the Council was not responsible for this funding a Statutory Override allows a deficit to be built up and the Council was waiting for the Government to make a decision on who would pay for the deficit from 2023, once the Statutory Override ends;
 - how much money was the Council losing from funding this from our cash holdings – the Council was not losing much income as the investment of its cash was on a rolling basis ensuring that sufficient cash was available each month to make payments such as wages;
 - if we paid for EHCP for children out of Torbay or their transport costs – no this would be paid for by their local authority but we would pay the costs for any of our children placed outside of Torbay;
 - why we have higher numbers of EHCPs than nationally – there was a link to poor historical children’s social care performance, this was currently the subject of a review and part of the recovery plan was to explore how we use early help and other services to support children to avoid the need for an EHCP;
 - was there a maximum cost for an EHCP – schools receive a notional £6,000 to help deliver support for special educational needs with additional funding per EHCP depending on the needs of the individual child; and
 - exclusions and the impact on those with an EHCP – this links to the Council trying to understand what was driving demand and the Council was looking at Plymouth City Council who had completed positive work

around exclusions and Lincolnshire Council who had taken action to reduce the number of EHCPs.

3. The Board requested the outcome of the Review of the EHCP Plan that would be submitted to the Education, Skills and Funding Agency to be reported to a future meeting of the Board prior to submission.

4. The Board recommends that:

the Cabinet be recommended to lobby the Government:

1. to seek the national consultation on the Special Educational Needs (SEN) Code be released together with details on entitlement to funding for SEN provision to ensure best outcomes for children as soon as possible; and
2. to release information on the future of the statutory override to ensure clarity for local authorities to be able to know how they will be funded in the future.

Cabinet Response to the recommendations of the Overview and Scrutiny Board – Impact on the Council of the increase in the Higher Needs Block of the Dedicated Schools Grant

No.	Recommendation:	Cabinet Response:
1.	<p>the Cabinet be recommended to lobby the Government:</p> <ol style="list-style-type: none"> 1. to seek the national consultation on the Special Educational Needs (SEN) Code be released together with details on entitlement to funding for SEN provision to ensure best outcomes for children as soon as possible; and 2. to release information on the future of the statutory override to ensure clarity for local authorities to be able to know how they will be funded in the future. 	<p>A copy of the letter sent to the Secretary of State for Education, The Rt Hon Nadhim Zahawi MP.</p>

Please reply to: Cllr Cordelia Law

Torbay Council
Town Hall, Castle Circus
Torquay
TQ1 3DR

My ref:

Your ref:

Telephone: 07733 550133

E-mail: cordelia.law@torbay.gov.uk

Website: www.torbay.gov.uk

Date: 1 November 2021

The Rt Hon Nadhim Zahawi MP

Letter sent via email to:

nadhim.zahawi.mp@parliament.uk

Dear Secretary of State for Education

High Needs Funding for Special Educational Needs

Torbay Council's ambition and commitment to children with Special Educational Needs and Disabilities (SEND) is to provide support to enable every child to achieve well in school and college, find employment and go on to live happy and fulfilled lives. To ensure that we are able to adequately support and achieve these outcomes, High Needs Funding at a sufficient level is required to meet the increased demands arising from the SEND reforms introduced in 2014.

Working in partnership with our School Forum we are discharging our duties to provide for the range of children and young people that require support. Despite the additional funding received within the higher needs block and the comprehensive work conducted at a local level to reduce costs, we continue to face an in-year deficit budget position and a growing cumulative deficit position. The current cumulative deficit held within the Dedicated Schools Grant is £5.825 million.

The position of a growing deficit is of significant concern to the Local Authority and its Schools Forum, we are taking action to work with the Education Skills and Funding Agency and looking for best practice to implement locally. However, actions we are taking are against a situation of uncertainty with no announcements on future funding settlements, delayed consultation on SEND reforms and no clarity on the future of the statutory override that exists to enable local authorities to account for deficits.

To provide certainty and an ability to forward plan with our Schools Forum we would ask that

- You complete and publish the SEND review which began in 2019 and is yet to conclude.
- Local Authorities are provided with clarity on the future of the statutory override instrument that is in place up until 31st March 2023

Local Authorities, Schools and Health Commissioners continue to face unprecedented demands and expectations when meeting the needs of children and young people with SEND. The impact of the pandemic and national lockdowns is starting to and will inevitably create additional pressures on an already vulnerable cohort. To help us to best meet the needs of our young people, both today and into the future we ask you to prioritise providing us with certainty on the future reform within SEND.

Yours sincerely

Cordelia Law

Cabinet Member for Children's Service