



Monday 1 August 2011

OVERVIEW AND SCRUTINY BOARD

A meeting of **Overview and Scrutiny Board** will be held on

Tuesday, 9 August 2011

commencing at **9.30 am**

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

Members of the Committee

Councillor Thomas (J) (Chairman)

Councillor Barnby

Councillor Bent

Councillor Butt

Councillor Darling

Councillor Kingscote

Councillor Parrott

Councillor Pentney

Councillor Pountney

Co-opted Members of the Board

Leon Butler

Penny Burnside, Diocese of Exeter

Our vision is for a cleaner, safer, prosperous Bay

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

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(i)

OVERVIEW AND SCRUTINY BOARD AGENDA

1. Apologies

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. Declarations of Interest

(a) To receive declarations of personal interests in respect of items on this agenda.

For reference: Having declared their personal interest members and officers may remain in the meeting and speak (and, in the case of Members, vote on the matter in question). If the Member's interest only arises because they have been appointed to an outside body by the Council (or if the interest is as a member of another public body) then the interest need only be declared if the Member wishes to speak and/or vote on the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of personal prejudicial interests in respect of items on this agenda.

For reference: A Member with a personal interest also has a prejudicial interest in that matter if a member of the public (with knowledge of the relevant facts) would reasonably regard the interest as so significant that it is likely to influence their judgement of the public interest. Where a Member has a personal prejudicial 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 Democratic Services or Legal Services prior to the meeting.)

3. Urgent Items

To consider any other items that the Chairman decides are urgent.

4. Call-in – Options for Future Delivery of Tourism, Marketing and Events Support

To consider the call-in notice received in relation to the Mayor's decision on the above item.

(Pages 1 -
14)

The following papers are attached as background information:

- Briefing Note on the Call-in
- Record of Decision, 19 July 2011
- Report to Council, 13 July 2011



Options for Future Delivery of Tourism, Marketing and Events Support

Call-in of Decision by the Mayor

BACKGROUND

The above decision was called-in by Councillors Parrott, Ellery, Cowell, Stockman, Morey, Darling, Faulkner (A), Faulkner (J), Pentney, and Pountney on 25 and 26 July 2011.

The reasons for the call-in are:

- 1) We firmly believe that this call-in will provide the opportunity for business owners and leaders, experts, and interested members of the public to make their case against a further review of the tourism strategy prior to the Mayor making a final decision on whether or not to proceed. And that these arguments will have a major impact on his decision.
- 2) Given that the English Riviera Tourism Company (ERTC) was only set up some nine months ago following a discussion by full Tory led Council (25 March 2010), we now ask to be provided with the reasons for the u-turn on our tourism strategy. In particular we ask why at least eight members of the previous Tory administration that were enthusiastic supporters and promoters of 'Turning the tide for Tourism in Torbay' now feel it is not the best option for the Bay?
- 3) With the Council having to make cuts to services in the order of £9-11 million in 2012/13, how can the Mayor justify asking hard-pressed officers to duplicate a review that was carried out only 18 months ago? That review cost the tax-payers £111,000 in consultancy fees and £100,000 in start up fees for the ERTC, as well as so far undisclosed amounts on legal, HR and council officer time.
- 4) We strongly believe that any review of the ETRC and RICC cannot be thorough and conclusive unless there is a full and detailed analysis of the future shape of the RICC.

The full costs of maintaining and operating the centre must be laid before the council and the ERTC board, as well as the potential for future conference business. There is a changing market place and increased competition with newer facilities. Is the centre still in a position to compete for business on a level playing field?

Added to this, making a long-term financial commitment to what is essentially a private business at a time of major public sector cuts has to be questioned.

The review should make clear that a future business plan should be one that makes the facility self-sufficient.

Until such a root and branch analysis is undertaken, there should be no attempt to merge the two boards.

- 5) We feel that the options identified in the Mayor's decision of 13 July 2011 are particularly weak and do not provide evidence based reasons for yet another review of the Bay's tourism strategy.
- 6) There was a failure to address the risks identified within the report. Below is a copy of this section of the report.

A2. Risk assessment

A2.1 Outline of significant key risks

A2.1.1 The possible restructuring of new ERTC is likely to be highly controversial. Given the costs incurred since October 2009 e.g. in reviewing the structure of the tourism marketing function and the set up of the ERTC, there is likely to be public criticism that such an early review is warranted.

It would also be reasonable to assume that the businesses now involved with the ERTC and paying for its services through its marketing services will be concerned and that this might lead to a reduction in advertising and guide income.

The ERTC appears to have considerable industry support and the private sector has had an especially strong role in shaping both the marketing strategy and the running of the ERTC. Consequently there is a risk that a further review might not be supported by the business sector during the consultation or implementation stage.

Potential loss of the financial and moral support and engagement of the sector is a key risk and could lead to an unintended consequence of poorer or reduced marketing efforts and lower visitor numbers.

It follows that there is a risk that a new organisation would not enjoy similar levels of patronage and support from the sector leading to a reduced ability to attract advertisers and earn income through its Guide.

With regard to Human Resources the ERTC employs staff who transferred to it from the Council and it is a requirement to follow statutory consultation process if any change to their employment is proposed. It is also a requirement of their transfer that the relevant HR policies, in this case the same as the Council, are followed. Any failure to follow those processes will present a risk.

There is a risk that changing the governance of the RICC might result in loss of the business rate rebate circa £200,000.

The Directors of both companies may decide that they no longer wish to serve as a consequence of the review. New Directors may be reluctant to put themselves forward.

A2.2 Remaining risks

Inevitably the respective companies and Council teams are likely to be distracted by the review and due to the uncertainty some members of staff and business partners may decide to leave or withdraw support.

ERTC revenues may be at risk pending the outcome of the review.

That the cost of restructuring might be disproportionate to the benefits and outcomes expected.

The envisaged outcomes of the change options might not be delivered.

(Note: A full risk assessment of the proposals is available from the report author.)

KEY DOCUMENTS

Record of Decision, published 19 July 2011

'Options for Future Delivery of Tourism, Marketing and Events' report to Council, 13 July 2011

ORDER OF BUSINESS

- | | |
|--|---|
| Councillor Parrott
Councillor Ellery
Councillor Cowell
Councillor Stockman
Councillor Morey
Councillor Darling
Councillor Faulkner (A)
Councillor Faulkner (J)
Councillor Pentney
Councillor Pountney | <ul style="list-style-type: none">• To explain the reasons for calling-in the decision |
| Any other Councillors
(attending under Standing
Orders) | <ul style="list-style-type: none">• To give their views on any of the issues raised by the Call-in Promoter and Supporters• Members of the Board to ask any questions of the Call-in Promoter and Supporters |
| Witnesses | <ul style="list-style-type: none">• Members of the Board to ask questions of invited witnesses |
| Members of the Public | <ul style="list-style-type: none">• To make any representations about the decision of the Mayor in relation to Options for Future Delivery of Tourism, Marketing and Events Support
(maximum of three speakers against the decision with a maximum of five minutes each and a maximum of three speakers for the decision with a maximum of five minutes each) |
| The Mayor | <ul style="list-style-type: none">• To respond to the points raised in the call-in notice• Members of the Board to ask any questions of the Mayor |
| Councillor Parrott | <ul style="list-style-type: none">• To sum up the reasons for calling-in the decision |
| The Mayor | <ul style="list-style-type: none">• To sum up the response to the call-in notice |

- Members of the Board to debate the call-in notice and reach a decision

OPTIONS

The options open to the Overview and Scrutiny Board are:

- Take no further action
- Refer the decision back to the Mayor for reconsideration, setting out in writing the nature of the Board's concern
- In exceptional circumstances*, refer the matter to the Council for scrutiny, giving reasons for why the matter is being referred to Council

* The Council's Monitoring Officer (or an appropriate representative in his place) will be invited to attend the meeting, to provide the Board with advice on "exceptional circumstances" as outlined in the Constitution.

Record of Decision

Options for Future Delivery of Tourism, Marketing and Events Support

Decision Taker

The Mayor at the Council meeting held on 13 July 2011.

Decision

That Torbay Development Agency be instructed, as part of its strategic economic development function, to identify the strategic delivery options (assuming the retention of the Riviera International Conference Centre) and report back to Full Council within four months.

The high level options identified to date include:

- **Consolidation of English Riviera Tourism Company (ERTC), Riviera International Conference Centre (RICC) Ltd and Residents & Visitor Services (R&VS) Events Team functions into a single entity or a combination thereof.**
- **Establishment of a new Company controlled by Torbay Council, or seek a Private Sector Partnership (PSP) via a formal procurement, or transfer ERTC and certain RICC Ltd operations to direct council ownership and control.**
- **Maintain status quo but establish more stringent processes that promote greater efficiency and co-ordination.**

Reason for Decision

To undertake an options appraisal for reconfiguring the Council's investment in tourism, marketing and events management in order to identify further efficiencies and to ensure that its investment into the tourism economy is providing an appropriate return to Torbay.

Implementation

This decision will come into force and may be implemented on Wednesday 27 July 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

The submitted report set out details for an options appraisal to be undertaken to identify an improved delivery model that generates a sustained increase in visitor numbers and bed nights (both tourism and business related). The options appraisal would also examine the potential to promote higher profile events and ensure that event planning is comprehensive and co-ordinated. The Mayor supported the recommendation of the Council as set out in his decision above.

Alternative options considered and rejected at the time of the decision

The alternative options were set out in the submitted report.

Councillor Darling proposed an amendment which was rejected by the Council – full details are provided in the minutes of the Council meeting held on 13 July 2011.

Is this a Key Decision? (Give reference number if applicable)

No

Does the call-in procedure apply? (If no, please give reason)

Yes

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

Councillors Faulkner (A), Thomas (D) and Tyerman declared personal interests as they were the Council's appointed Directors on Torbay Economic Development Company Ltd.

Councillors Richards and Stringer declared personal interests as they were the Council's nominated members on the English Riviera Tourism Company.

Councillor Excell declared a personal interest as he was the Council's nominee on the Riviera International Conference Centre Board of Directors.

Published

Tuesday 19 July 2011



Title: **Options for Future Delivery of Tourism, Marketing and Events Support**

Public Agenda Item: **Yes**

Wards **All**

Affected:

To: **Council**

On: **13 July 2011**

Key Decision: **No - not at this time**

Change to Budget: **No - not at this time**

Change to Policy Framework: **No**

Contact Officer: **Alan Denby**

☎ Telephone: **01803 208671**

✉ E.mail: **Alan.denby@tedcltd.com**

1. What we are trying to achieve and the impact on our customers

- 1.1 To identify an improved delivery model that generates a sustained increase in visitor numbers and bed nights (both tourism and business related).
- 1.2 To promote higher profile events and ensure that event planning is comprehensive and co-ordinated.

2. Recommendation(s) for decision

- 2.1 That the Mayor be recommended to instruct Torbay Development Agency, as part of its strategic economic development function, to identify the strategic delivery options (assuming the retention of the Rivera International Conference Centre) and report back to Full Council within four months.

The high level options identified to date include:

- Consolidation of English Rivera Tourism Company (ERTC), RICC Ltd and Residents & Visitor Services (R&VS) Events Team functions into a single entity or a combination thereof.
- Establishment of a new Company controlled by Torbay Council, or seek a Private Sector Partnership (PSP) via a formal procurement, or transfer ERTC and certain RICC Ltd operations to direct council ownership and control.
- Maintain status quo but establish more stringent processes that promote greater efficiency and co-ordination.

3. Key points and reasons for recommendations

- 3.1 The Mayor and Leader of the Council has requested an options appraisal for reconfiguring the Council's investment in tourism marketing and events management in order to identify further efficiencies and to ensure that its investment into the tourism economy is providing an appropriate return to Torbay.
- 3.2 It has been suggested that there needs to be far greater integration and co-ordination of tourism marketing and events activity.
- 3.3 The author has been asked to assume that the Council will continue to support the functions of tourism marketing and a major conference centre. This report does not therefore consider the necessity to retain a major conference centre or identify alternative use options for the Riviera International Conference Centre.
- 3.4 This report does not make any specific recommendations relating to the options identified to date and sets them out at a high level for information only.
- 3.5 It should be noted that the delivery structures for dealing with tourism marketing were reviewed ahead of the creation of the ERTC in 2010.
- 3.6 Solely owned by Torbay Council, the ERTC has now been commissioned by Torbay Council to:
- act as an unified destination marketing organisation (DMO)
 - manage and deliver the official 'in resort' Visitor Information Service
 - support the development and implementation of the adopted tourism strategy
- 3.7 A formal commissioning agreement has been put in place for these services up to March 2016 based on a reduced level of subsidy. The Company is however effectively controlled by the Council, which could trigger a hand back of services if it so wished.
- 3.8 With regard to the Riviera International Conference Centre, the asset is owned by Torbay Council and is leased to the RICC Ltd. The RICC Ltd is a separate entity and the Council does not have any share of the company although it does have the right to appoint a director to its board of directors. It is thought that a withdrawal of Council funding from the RICC Ltd. is likely to result in the winding up of the Company. The lease would ultimately revert to the Council.
- 3.9 The options for consideration are broadly summarised below and set out in more detail in Section A3 that follows.
- Consolidation of ERTC, RICC Ltd and R&VS Events Team
 - Outsource and seek a delivery partner via the market
 - Maintain Status Quo
 - In-house provision of services by Torbay Council
- 3.10 It is anticipated that a more detailed report setting out indicative costs and savings of the options will be presented to Full Council in the autumn.

For more detailed information on this proposal please refer to the supporting information

attached.

**Charles Uzzell
Environment Commissioner**

**Steve Parrock
Chief Executive, Torbay Development Agency**

Supporting information

A1. Introduction and history

A1.1 The Mayor and Leader of the Council is concerned that too many organisations are engaged in tourism marketing and event management. These include:

- Riviera International Conference Centre Ltd (RICC)
- English Riviera Tourism Company (ERTC)
- Torbay Coast & Countryside Trust (TCCT)
- Torbay Council – Residents & Visitors (R&Vs)
- Torbay Town Centres Company (TTCCo)

The structures dealing with tourism marketing underwent significant restructuring ahead of the creation of the English Riviera Tourism Company.

Solely owned by Torbay Council, the ERTC has been commissioned by Torbay Council to:

- act as an unified destination marketing organisation
- manage and deliver the official 'in resort' Visitor Information Service
- support the implementation of the adopted tourism strategy

A commissioning agreement has been put in place for these services till March 2016 based on a reduced level of subsidy. Closing down the Company is possible through withdrawal of funding to the ERTC, this is a Mayoral decision.

With regard to the RICC Ltd, it is a long standing separate entity from the council and the council does not have any share of the company, although the council has the right to appoint a director to its board of directors.

The relationship between RICC Ltd and the council is governed by a lease of the Riviera Centre and a related 'management agreement', which are co terminus, expiring on 31 March 2019. The lease does benefit from statutory protection pursuant to the Landlord and Tenant Act 1954, therefore RICC Ltd does have a right to renew the lease at the end of the term unless the council requires the property back to use itself or for redevelopment. There is no rent payable under the lease however the council does have the right to serve notice to require that a market rent is paid.

The management agreement and lease put various obligations on RICC Ltd to manage the centre and the management agreement places an obligation on the council to keep RICC Ltd informed of its medium term financial plan to assist the board of directors in its forward planning. Members should note that proposals within the medium term financial plan are not binding on the council; they are only indicative. There is no legal obligation on the council to fund RICC Ltd through the term of the lease and management agreement. RICC Ltd has the right to unilaterally terminate the lease: on 16 June 2016; if the council serves notice for market rent to become payable; or if it is not satisfied that the council has budgeted sufficient funds in its medium term financial plan'.

It should be noted that the RICC faces repairs and maintenance costs estimated by the TDA to be in the region of £6M over the next 15 years. These are not included currently in the Council's Capital Strategy or within RICC Ltd business plan projections.

Any change to the delivery options would therefore need to be considered against the short and medium term financial position for the Council. The 2012/13 budget will be especially challenging.

The affirmation that the Mayor is minded to support the principle of a major conference centre within Torbay should be helpful to marketing and managing the RICC Ltd. after a period of uncertainty.

A2. Risk assessment

A2.1 Outline of significant key risks

A2.1.1 The possible restructuring of new ERTC is likely to be highly controversial. Given the costs incurred since October 2009 e.g. in reviewing the structure of the tourism marketing function and the set up of the ERTC, there is likely to be public criticism that such an early review is warranted.

It would also be reasonable to assume that the businesses now involved with the ERTC and paying for its services through its marketing services will be concerned and that this might lead to a reduction in advertising and guide income.

The ERTC appears to have considerable industry support and the private sector has had an especially strong role in shaping both the marketing strategy and the running of the ERTC. Consequently there is a risk that a further review might not be supported by the business sector during the consultation or implementation stage..

Potential loss of the financial and moral support and engagement of the sector is a key risk and could lead to an unintended consequence of poorer or reduced marketing efforts and lower visitor numbers.

It follows that there is a risk that a new organisation would not enjoy similar levels of patronage and support from the sector leading to a reduced ability to attract advertisers and earn income through its Guide.

With regard to Human Resources the ERTC employs staff who transferred to it from the Council and it is a requirement to follow statutory consultation process if any change to their employment is proposed. It is also a requirement of their transfer that the relevant HR policies, in this case the same as the Council, are followed. Any failure to follow those processes will present a risk.

There is a risk that changing the governance of the RICC might result in loss of the business rate rebate circa £200,000.

The Directors of both companies may decide that they no longer wish to serve as a consequence of the review. New Directors may be reluctant to put themselves forward.

A2.2 Remaining risks

Inevitably the respective companies and Council teams are likely to be distracted by the review and due to the uncertainty some members of staff and business partners may decide to leave or withdraw support.

ERTC revenues may be at risk pending the outcome of the review.

That the cost of restructuring might be disproportionate to the benefits and outcomes expected.

The envisaged outcomes of the change options might not be delivered.

(Note: A full risk assessment of the proposals is available from the report author.)

A3. Options identified to date include:

Amalgamation of ERTC, RICC and Residents & Visitor Services events team

The Council is unlikely to be allowed to transfer the functions of the ERTC to RICC without a formal tendering process given the nature of those activities.

The companies might be able to share certain operations but continue with separate boards and accountabilities. This may lead to some savings but the respective board decisions may be inconsistent with the expected outcomes.

There could be a TUPE arrangement whereby staff transfer from the Council to the ERTC. This would allow existing Council services to be included.

The establishment of a new company, which can combine the functions currently being provided by all the different organisations, is most likely to require a formal procurement process.

The Council will therefore need to consider the scope and cost of the procurement exercise prior to reaching a decision.

If the Council wishes to subsidise a new company incorporating commercial trading functions such as restaurants and gyms it will need to assess the possible state aid issues. When the Council originally set up the RICC, the procurement rules were very different and less stringent. Subsequent case law and precedent now requires careful consideration and early advice.

Outsource and seek a delivery partner via the market

This option assumes conceptually that the Council would seek via an 'open tender' suitably qualified and competent operators to provide the specified services. The existing operators could submit a tender.

Status Quo

This option would result in the ERTC and RICC Ltd continuing to provide the services which they currently provide under the commissioning agreement for the ERTC and the management agreement for RICC Ltd. It is envisaged that various improvements would be possible through shared working and better communication.

In-house Option by Torbay Council

This option would see the ERTC staff transfer back into the Council. The Council would then resume direct control of the tourism function.

The possible transfer of the RICC business to Torbay Council as an on-going concern is more complicated and further advice is required relating to a number of procurement and employment issues.

Alternative options (not within the scope of the review)

An alternative option not considered as part of the review would be to close the RICC. The administration has indicated that it is minded to support the RICC with a capital sum to pay for essential repairs and an ongoing revenue grant to extend its life.

It is understood that a report seeking Council approval is likely to follow in September. This is intended to provide reassurance to the RICC Board and its customers about its longevity and ability to fulfil its orders.

Cessation or significant withdrawal of Council funding for the RICC Ltd would result in the RICC Board having to close down the centre. This would have a direct impact in the loss of 93 jobs from the centre and create a negative perception of the resort. It might also lead to an increasingly dilapidated site in a key location for Torquay.

Torbay Town Centres Company –The Town Centres Company is not directly funded by Torbay Council and the Council has no ownership of the organisation. The Town Centres Company is legally responsible for management of the business improvement districts in Torquay and Paignton and as such has specific obligations to the BID levy payers.

A4. Summary of resource implications

A4.1 Current Council subsidy to RICC is circa £560,000 per annum.

Current Council grant to ERTC is £600,200 falling to £536,700 over the lifetime of agreement

There are likely to be significant one off costs of implementing any change including legal and tax advice relating to redundancy & dismissal, TUPE, winding up and starting a new company, VAT implications and other costs.

Potential redundancy costs and pension liabilities have not been assessed but may be incurred.

The direct and opportunity cost of officer time in managing this process has not been fully evaluated to date but based on previous restructuring it is anticipated that a middle manager with administrative support would need to be redeployed for up to 12 months should a change option be recommended and accepted in due course. This is based on Council experience of having established the Tourism Company, the Economic Development Company and Tor2 within the last 24 months.

Although some revenue efficiency saving for the consolidation option are also likely e.g. through the amalgamation of leadership and back office functions, the saving cannot be calculated at this time.

Without modelling the structural options it is difficult to present possible savings within this report. The savings are not however likely to be significant and overall it is probably that

significant additional capital and revenue support is required to sustain the RICC Ltd operations.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 None

A6. Consultation and Customer Focus

A6.1 It is proposed that the respective business sectors and the wider community should be consulted through direct engagement.

A7. Are there any implications for other Business Units?

A7.1 Yes, the identification of options will require input from multiple support services and especially those within Torbay Council which support the ERTC and R&VS functions. The TDA will also need to redeploy management resource to conduct the initial options appraisal.

Appendices

None

Background Papers:

The following documents/files were used to compile this report:

- 'Turning The Tide' Tourism Strategy
- Report to Council recommending the set up of the ERTC.
- RICC Management Agreement