



Minutes of the Council
(Council decisions shown in bold text)

21 February 2019

-: Present :-

Chairman of the Council (Councillor Doggett) (In the Chair)
Vice-Chairwoman of the Council (Councillor Barnby)

The Elected Mayor of Torbay (Mayor Oliver)

Councillors Amil, Bent, Brooks, Bye, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Pentney, Robson, Stockman, Stocks, Stubbley, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman

173 Opening of meeting

The meeting was opened with a minutes silence to allow for personal reflection.

174 Apologies for absence

Apologies for absence were received from: Councillors Pentney and Winfield for the first part of the meeting until the adjournment; and Councillors Carter, King, Morris, Parrott and Sanders for the whole meeting.

Councillor Kingscote arrived late to the meeting and during consideration of Minute 178.

175 Minutes

The Minutes of the meeting of the Council held on 31 January 2019 and the adjourned meeting of the Council held on 7 February 2019, plus the Minutes of the extraordinary meeting of the Council held on 13 February 2019, were confirmed as a correct record and signed by the Chairman.

176 Declarations of interests

The following non-pecuniary interests were declared:

Councillor	Minute Number	Nature of interest
Councillor Bent	191 and 192	Director of Tor2

Councillor Tyerman 193 Trustee of Torbay Coast and Countryside Trust

177 **Communications**

No communications or announcements were made at the meeting.

178 **Members' questions**

Members received a paper detailing questions, notice of which had been given in accordance with Standing Order A13. The paper also contained the answers to the questions which had been prepared by Elected Mayor Oliver and Councillors Ellery, Excell and Mills and was circulated prior to the meeting.

Supplementary questions were put and answered by Councillors Ellery, Excell and Mills, arising from their responses to the questions in respect of questions 3, 4, 5, 6, 8, 9, 10 and 13. Councillor Darling (S) asked supplementary questions in the absence of Councillor Pentney in respect of questions 4 and 8. Councillor Ellery advised he would provide a written response to the supplementary question in respect of question 1.

179 **Notice of Motion - Clear Streets (Mayoral Decision)**

Members considered a motion in relation to the development of a Clear Street Charter for Torbay, notice of which was given in accordance with Standing Order A14.

Councillor Darling (M) proposed and Councillor Darling (S) (in the absence of Councillor Pentney) seconded the motion, as set out below:

Getting around a busy area such as Torbay can prove to be a real challenge for anyone affected by sight loss or mobility problems. All pavement clutter has an adverse effect on confidence and mobility and the more difficult it is for people to get around, the less freedom and opportunity people have to participate in their local community which can lead to feelings of isolation. By working together with Highway Authority we can seek to ensure that our City Centre, shopping precincts and residential streets are as clear and free from obstacles as possible.

Torbay's open spaces and town centres have become increasingly cluttered posing an ever increasing challenge for those with sight impairments or mobility problems. This Council therefore requests the Interim Director of Place to develop a Clear Streets Charter which sets out a list of actions and commitments, which everyone involved agrees to abide by. That the list of actions and commitments should include but not be limited to:

- Advertising boards, street and café furniture
- Wheeled bins and refuse/recycling containers
- Overhanging shrubbery and branches

- Parking on pavements
- Pedestrian crossings
- New Council developments: shared space
- Multi-Use paths
- Streetworks

That an update on the development of a Clear Streets Charter be presented to the Policy Development and Decision Group (Joint Operations Team) on 1 April 2019.

In accordance with Standing Order A14.3(a), the motion stood referred to the Elected Mayor. The Elected Mayor referred the motion to the Assistant Director of Planning and Transportation to review in consultation with the Transport Working Party and Chambers of Commerce.

180 Notice of Motion - Brixham Harbour (Council Decision)

Members considered a motion in relation to capital investment in infrastructure at Brixham Harbour, notice of which was given in accordance with Standing Order A14. In accordance with Standing Order A14.3(b), the motion was dealt with by this meeting.

Councillor Ellery proposed and Elected Mayor Oliver seconded a motion, which was agreed (unanimously) by the Council as set out below:

that Council note the report that was presented to Harbour Committee on 5 February 2019 in respect of investment in infrastructure at Brixham Harbour, including the Northern Arm, and further note that Harbour Committee unanimously supported the proposal.

Council is therefore asked to support the principle of capital investment in infrastructure at Brixham Harbour, including the Northern Arm, and instruct the Interim Director of Place to prepare a detailed business case including all available grant funding opportunities.

181 Notice of Motion - Overview and Scrutiny Co-ordinator - Vote of No Confidence (Council Decision)

Members received the following motion, notice of which was given in accordance with Standing Order A14:

That this Council has no confidence in Councillor Chris Lewis as Overview and Scrutiny Co-ordinator.

Therefore, this Council resolves that the decision of the Council to appoint Councillor Chris Lewis as the Overview and Scrutiny Co-ordinator for the 2018/19 municipal year be rescinded (Minute 17(i) refers); and Councillor Steve Darling be appointed as Overview and Scrutiny Co-ordinator for the remainder of the Municipal Year 2018/19.

In accordance with Standing Order A16.9 Councillor Long requested that his motion be withdrawn. In the absence of Councillor Pentney as seconder, the Chairman gave his consent for the motion to be withdrawn.

182 0-19 Contract

Further to the Council's decision on 19 October 2017, members received a revised proposal (as set out in the submitted report) for the 0-19 years Integrated Commissioning Project following changes to the scope of the services involved and financial elements of the Council's original decision.

Councillor Stocks proposed and Councillor Stockman seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the decision of the Council on 19 October 2017 (Minute 107/10/17 refers) in relation to 0-19yrs Integrated Commissioning Project recommissioning programme be rescinded;**
- (ii) that delegated authority be given to the Director of Children's Services and the Director of Public Health, in consultation with the Chief Finance Officer and the Executive Leads responsible for Children's Services and Public Health, to award the contract on a prime provider basis to the chosen provider (as identified in Exempt Appendix 1 to the submitted report); and**
- (iii) that the budget allocation of £17,421,843 identified within the submitted report for the period of 5 years be approved to enable contract mobilisation and delivery from 2019- 2024.**

(Note: During consideration of this item, Councillor Kingscote left the meeting.)

183 Review of Political Balance

The Council considered a report on a review of political balance on committees and working parties following Councillor Haddock becoming an independent member.

Elected Mayor Oliver proposed and Councillor Darling (S) seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved; and**
- (ii) that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved.**

184 Annual Pay Policy Statement including Gender Pay Gap

The Council considered the submitted report setting out the Council's Annual Pay Policy Statement, as required under Section 38(1) of the Localism Act 2011. It was noted that the Pay Policy Statement drew together the Council's overarching policies on pay and conditions which would be published on the Council's website. The report also set out the annual review of pensions discretions as required by the Local Government Pension Scheme Regulations. In addition, the report set out details of the Council's gender pay gap data as required by the Equality Act 2010 (Specific Duties and Public Authorities) Regulations.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the Torbay Council Annual Pay Policy Statement 2019/20 as set out in Appendix 1 to the submitted report be approved for publication;**
- (ii) that the Torbay Council Gender Pay Gap Report, contained within the Annual Pay Policy Statement 2019/20 in Appendix 1 be approved for publication; and**
- (iii) that the Employers Pensions Discretion set out in Appendix 2 to the submitted report be approved.**

185 Order of Business

At this juncture and in accordance with Standing Order A7.2 in relation to Council meetings, the Chairman varied the order of business to enable the following agenda items to be considered before item 11 (Adjournment):

- 12. Public Question Time;
- 15. Future of Oldway Mansion;
- 22. Five Year Risk Share Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust for delivery of adult social care; and
- 24. Investment and Regeneration Committee Recommendation – Investment Opportunity.

186 Public question time

In accordance with Standing Order A24, the Council heard from Mr Nigel Penny who had submitted a statement and question in relation to violent crime in Paignton Town Centre. Councillor Excell, as the Council's representative on the Devon and Cornwall Police and Crime Panel, responded to the statement and question that

had been put forward, plus a supplementary question asked by Mr Penny. Councillor Excell also agreed to provide his response in writing to Mr Penny.

187 Future of Oldway Mansion

The Council noted the submitted report on the direction of travel for Oldway Mansion and the Oldway Mansion Indicative Programme attached to the report.

188 Five Year Risk Share Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust for delivery of adult social care

The Chairman advised that this item had been deferred and would be considered by the Council in due course.

189 Investment and Regeneration Committee Recommendation - Investment Opportunity

The Chairman advised that there were no recommendations from the Investment and Regeneration Committee and therefore this item was withdrawn from the agenda.

190 Adjournment

At this juncture the meeting was adjourned until 5.30pm on Thursday, 21 February 2019.

191 Transformation Project - Future of TOR2 Services (Strategic Delivery Model)

The Council received the submitted report on proposals for the future delivery options for the services currently provided by TOR2. It was noted the current contract with TOR2 (a joint venture company between Kier Group and Torbay Council) was due to end in July 2020 and the Council was required to notify TOR2 of its intentions for the contract renewal by July 2019.

Councillor Mills proposed and Councillor Darling (S) seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that Council approves the strategic intention to deliver services currently delivered by TOR2 through a Local Authority wholly owned company, at the end of the current contract with TOR2, or earlier should this be agreed; and**
- (ii) that Council delegates to the Chief Executive the authority to establish a new wholly owned company, should this be required, for this purpose.**

(Note: Prior to consideration of this item, Councillor Stublely left the meeting and Councillor Kingscote re-joined the meeting.)

192 Replacement Vehicles

The Council considered the submitted report on proposals for the replacement of kerbside sorting vehicles and refuse collection vehicles to ensure the Council meets its statutory waste and recycling duties, along with providing a reliable collection service for residents.

Councillor Mills proposed and Councillor Long seconded a motion, which was agreed (unanimously) by the Council as set out below:

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

193 Revenue Budget 2019/2020

The Council received the final Revenue Budget proposals of the Elected Mayor (as set out in the Elected Mayor's Record of Decision dated 13 February 2019), which he had put forward following his consideration of the objections that were made by

the Council at its adjourned meeting on 7 February 2019. The Elected Mayor agreed to and accepted the objections put forward by the Council and submitted revised Revenue Budget proposals accordingly.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, as set out below:

- (i) that the Elected Mayor agrees and accepts the objection in relation to the Revenue Budget;**
- (ii) that, subject to the inclusion of an additional £150,000 for additional wrap around support for Foster Carers to increase the support offered to Foster Carers looking after adolescents with complex needs, to prevent placement breakdowns which will be sustainable through less use of Independent Fostering Agency (IFA) or residential placements when placements break down, and an improved strategy for the retention and recruitment of social workers to be funded from a one off allocation from the Comprehensive Spending Review (CSR) Reserve, the proposals identified for 2019/2020, as set out in the Elected Mayor's Response to Consultation and the Draft Revenue Budget Digest, be approved;**
- (iii) that the net revenue expenditure of £111.367m resulting in a Council Tax requirement of £68.688m for 2019/2020 (a 2.99% increase in Council Tax) be approved;**
- (iv) that the Dedicated Schools Grant be used in accordance with the Schools Financial Regulations and that the Chief Finance Officer be authorised to make amendments as required when the final figures are confirmed;**
- (v) that the proposed Fees and Charges for 2019/2020 be approved;**
- (vi) that, in accordance with the requirement of the Local Government Act 2003, the advice given by the Chief Finance Officer with respect to the robustness of the budget estimates and the adequacy of the Council's reserves (as set out in the report) be considered and noted; and**
- (vii) that it be noted that Brixham Town Council has set its budget for 2019/2020, the resulting precept will be included as part of the Torbay Council budget for Council Tax setting purposes.**

Budget speeches were made by the Elected Mayor, the Leader of the Conservative Group, the Leader of the Liberal Democrat Group, the Leader of the Independent Group and the Leader of the Torbay Community Independents Group.

In the absence of an amendment and in accordance with the Council's Standing Orders in relation to the Budget and Policy Framework, the Chairman declared that the Elected Mayor's proposals in (i) to (vii) above would be adopted.

194 Council Tax 2019/2020

The Council received the submitted report in relation to the setting of Council Tax for 2019/20.

In accordance with legislation, the Chairman advised recorded votes would be taken on the motion.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed (by recorded vote) as set out below:

That the Council is recommended to note:

- (i) that in December 2018 the Council calculated the Council Tax Base for 2019/20:**
 - a) For the whole Council area as 45,699.55, [Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the "Act")]; and**
 - b) For dwellings in the Brixham Town Council area as 6,187.87 to which a Parish precept relates;**
- (ii) that the Police and Crime Commissioner for Devon and Cornwall, and the Devon and Somerset Fire and Rescue Authority have issued precepts to the Council in accordance with Section 40 of the Local Government Finance Act 1992 for each category of dwellings in the Council's area as indicated in the table in (v) below.**

That the Council is recommended to approve:

- (iii) the Council Tax requirement for the Council's own purposes for 2019/20 (excluding Brixham Town Council) of £68,688,200;**
- (iv) that the following amounts be calculated for the year 2019/20 in accordance with Chapter Three of the Act:**
 - a) £291,490,572 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account the precept issued to it by Brixham Town Council;**
 - b) (£222,485,000) being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act;**

- c) £69,005,572 being the amount by which the aggregate at (iv)(a) above exceeds the aggregate at (iv)(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax Requirement for the year (item R in the formula in Section 31B of the Act);
- d) £1,509.98 being the amount at (iv)(c) above (Item R), all divided by Item T ((i)(a) above), calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year (including Parish precepts);
- e) £317,372 being the aggregate amount of all special items (Brixham Town Council) referred to in Section 34(1) of the Act;
- f) £1,503.04 being the amount at (iv)(d) above less the result given by dividing the amount at (iv)(e) above by Item T ((i)(a) above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates;
- (v) that the Council, in accordance with Chapter Three of the Local Government Finance Act 1992, hereby sets the aggregate amounts shown in the table below as the amounts of Council Tax for 2019/20 for each part of its area and for each of the categories of dwellings; and

	Valuation Band							
	A	B	C	D	E	F	G	H
Ratio of each band to Band D	6/9	7/9	8/9	9/9	11/9	13/9	15/9	18/9
	£	£	£	£	£	£	£	£
Torbay Council	1,002.03	1,169.03	1,336.04	1,503.04	1,837.05	2,171.05	2,505.07	3,006.08
Police and Crime Commissioner	141.52	165.11	188.69	212.28	259.45	306.63	353.80	424.56
Devon and Somerset Fire and Rescue Authority	57.68	67.29	76.91	86.52	105.75	124.97	144.20	173.04
Aggregate of Council Tax Requirements ex. Town Council	1,201.23	1,401.43	1,601.64	1,801.84	2,202.25	2,602.65	3,003.07	3,603.68
Brixham Town Council	34.19	39.89	45.59	51.29	62.69	74.09	85.48	102.58

Aggregate of Council Tax Requirements including Brixham Town Council	1,235.42	1,441.32	1,647.23	1,853.13	2,264.94	2,676.74	3,088.55	3,706.26
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Note: Torbay Council's precept includes the Adult Social Care "precept" set in 2016/17 to 2018/19.

- (vi) **that the Council's basic amount of Council Tax for 2019/20 is not excessive in accordance with principles approved under Section 52ZB Local Government Finance Act 1992. (see paragraph 5.9 of the submitted report).**

A recorded vote was taken on the motion. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Manning, Mills, Morey, O'Dwyer, Robson, Stockman, Stocks, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman (25); Against: Councillors Darling (M), Darling (S) and Long (3); Abstain: Councillor Doggett (1); and Absent: Councillors Carter, King, Morris, Parrott, Pentney, Sanders, Stubley and Winfield (8).

195 Review of Reserves 2019 20

Further to the motion presented to the Council on 7 February 2019 to approve the Review of Reserves 2019/20 report being lost, the proposals were re-presented to Council for consideration. The submitted report set out the legislative and constitutional reasons, along with a recommendation by the Chief Finance and S151 Officer that the report should be approved.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:

Council approve that:

- (i) **up to £1.0m is earmarked from the Comprehensive Spending Review Reserve to fund the balance of the predicted 2018/19 Council overspend; and**
- (ii) **£2.1m of reserves identified in paragraph 4.2 of the submitted report are transferred to both the Comprehensive Spending Review Reserve (£1.1m) and the IT reserve (£1.0m) to support future IT replacement and IT investment for all services including a replacement Children's Services care management system.**

(Note: Councillor Pentney joined the meeting at the start of this item.)

196 Capital Strategy 2019 20

Further to the motion presented to the Council on 7 February 2019 to adopt the Capital Strategy 2019/20 being lost, the Strategy was re-presented to Council for consideration. The submitted report set out the advice of the Chief Finance and S151 Officer, along with the statutory and the constitutional requirements for the Strategy to be approved on an annual basis.

Elected Mayor Oliver proposed and Councillor Mills seconded a motion, which was agreed by the Council as set out below:

that the Capital Strategy as set out in the submitted report be approved.

197 Adult Social Care Home Fees - New Model and Fees for 2019/20

The Council considered a new Adult Care Home fees (for over 65's) model for introduction from 1 April 2019 and fees payable for 2019/20 (as set out in the submitted report). It was noted that the model would be used to inform the fees paid by Torbay and South Devon Foundation Trust (Torbay's Integrated Care Organisation (ICO)) for adults in residential and nursing home care and would better reflect the market conditions with the fees being more readily accepted by the market.

Councillor Stockman proposed and Councillor Stocks seconded a motion, which was agreed by the Council as set out below:

- (i) that the Adult Social Care Home Fees – New Model and Fees for 2019/20 set out at Appendix 1 to the submitted report be approved for the calculation of Adult Social Care (over 65) fees for the financial year 2019/20 and future years; and**
- (ii) that the Adult Social Care Home fees set out in Appendix 2 to the submitted report be approved as the fees payable in 2019/20, for the services covered in the table.**

198 Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust and Better Care Fund

The Council received the submitted report on the Annual Strategic Agreement (ASA) setting out the way in which Torbay Council and South Devon and Torbay Clinical Commissioning Group (CCG) commission services from the Torbay and South Devon NHS Foundation Trust (the Trust). It was noted the ASA was designed to maximise choice and independence for those requiring adult and social care support. The submitted report outlined the annual update to the current agreement which covered the period to March 2020.

Councillor Stockman proposed and Councillor Stocks seconded a motion, which was agreed (unanimously) by the Council as set out below:

that the Annual Strategic Agreement between Torbay Council, South Devon and Torbay Clinical Commissioning Group and Torbay and South Devon NHS Foundation Trust set out at Appendix 1 to the submitted report be approved.

Chairman
