

Meeting: Cabinet

Date: 9 July 2019

Wards Affected: All wards

Report Title: Enabling Communities and Delivering Services at a Local Level

Is the decision a key decision? No

When does the decision need to be implemented? 22 July 2019

Cabinet Member Contact Details: Cllr Christine Carter, Cabinet Member for Corporate and Community Services Christine.Carter@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Director of Corporate Services and Operations, 01803 207160, anne-marie.bond@torbay.gov.uk

1. Proposal and introduction

- 1.1 On 14 January 2019 the Council launched a community governance review of the whole area of Torbay, to consider if any changes should be made to existing community governance arrangements including whether new parish/town councils should be created in areas of the authority that are currently unparished.
- 1.2 The Council decided to undertake the review because not only was it considered that the establishment of parish/town councils, which have the ability to raise income through the precept mechanism could allow for the continued provision of local services that Torbay Council will be unable to sustain in the future due to resource and demand pressures, but also that Parish/town councils promote community engagement and effective local government at the most local level.
- 1.3 The terms of reference for the community governance review were published on 14 January 2019 and a first phase of consultation ran from that date until 15 March 2019, during which all local residents, organisations and interested parties were invited to comment on a range of questions related to community governance. The process for the review is that following consideration of the responses to the first phase of consultation the Council needs to publish its draft recommendations for the review which would then be subject to a second phase of consultation prior to final decisions being made on the outcome of the community governance review later in the year.

2. Reason for proposal and associated financial commitments

- 2.1 The draft recommendations are brought forward for approval at this stage in order to enable the second phase of consultation to proceed. By law a community governance review must be concluded within 12 months of its commencement.
 - 2.2 The draft recommendations proposed below are intended to facilitate further consultation on the potential benefits that could flow from the establishment of new parish/town councils whilst addressing some of the concerns raised during the first phase of consultation in relation to costs and precept levels.
 - 2.3 The proposals contained in this report will commit the Council in respect of undertaking the second phase of consultation. It is important that in the second phase of consultation that the public are fully informed as to the likely future of Council Services, and the wider community engagement benefits of Parish/Town Council. Whilst the first phase of consultation was primarily on line, it is believed that this phase will need to be undertaken very differently, with a range of events and communication methods. Council previously allocated monies in respect of undertaking the Community Governance Review, which will also cover this second phase of consultation.
-

3. Cabinet Recommendation to Council

- 3.1 That the following be recommended to Council to be agreed as the draft recommendations of the Community Governance Review of Torbay, to be the subject of a second phase of consultation with local electors, residents, organisations and interested parties to run for a period of 8 weeks, from Monday 2 September to Friday 25 October 2019:
 - (a) That two new parishes be created within Torbay – one entitled Torquay Parish covering the wards of Barton with Watcombe, Cockington with Chelston, Ellacombe, Shiphay, St Marychurch, Tormohun and Wellswood and the other entitled Paignton Parish covering the wards of Clifton with Maidenway, Collaton St Mary, Goodrington with Roselands, Kings Ash, Preston and Roundham with Hyde. For the ward of Churston with Galampton, that further consultation be undertaken to determine whether it should be within the Paignton Parish, or whether it should be included within the boundaries for Brixham Town Council.
 - (b) That councils be established to serve the new parishes of Torquay and Paignton with effect from 1 April 2020 (note that once established a parish council may decide to call itself a town council).
 - (c) That the new parish/town councils for Torquay and Paignton each be divided into wards for the purposes of electing parish councillors – the ward boundaries and number of councillors to be elected for each ward to be the same as the existing arrangements for those wards on Torbay Council.
 - (d) That Torbay Council set a maximum Band D precept of no more than £90.00 per annum for each of the new parish/town councils in their first year of operation.

(e) That no changes be made to the status or electoral arrangements for Brixham Town Council, with further consultation to be undertaken to determine whether the ward of Churston with Galmpton should be within the Paignton Parish, or whether it should be included within the boundaries for Brixham Town Council.

3.2 That the terms of reference for the community governance review be amended by the adoption of the revised timetable attached at Appendix 1 and republished.

Appendices

Appendix 1: Revised timetable for the community governance review

Appendix 2: Current and forecast 2024 electorate figures

Appendix 3: Report on responses to the first phase consultation

Appendix 4: Council tax levels across Devon 2019-20

Background Documents

No unpublished background documents have been relied upon to a material extent in the preparation of this report.

Section 1: Background Information

1. What is the proposal / issue?

'Community governance' refers to the way in which communities are represented and governed at the local level including by parish councils, which form the most local tier of government in England. They are directly elected, independent of other layers of government and can play an important role in representing their communities, delivering services to meet local needs and promoting wellbeing. A parish council that serves a town area may choose to call itself a town council.

Parish/town councils do not have statutory responsibility for services such as social care, education or housing but they may decide to provide some local services for their residents and/or take over responsibility for services previously delivered by the principal council. They are a statutory consultee on planning applications.

Parish/town councils are funded by an annual precept – an additional amount added to the council tax in their area. The parish/town council itself decides what funding it needs to meet its running costs and therefore what level of precept to charge. In the case of any new parish/town council(s), Torbay Council would set the precept for their first year of operation based on the estimated cost of the level of activity expected and any services anticipated to be transferred.

Torbay Council, as a 'principal council', is responsible for making any changes to community governance within its area. Under the provisions of the Local Government and Public Involvement in Health Act 2007 ('the 2007 Act') if the Council wishes to make any such change – for example creating new parishes, setting up or abolishing parish/town councils, changing their boundaries or electoral arrangements - it must first carry out a community governance review, a formal process involving consultation with local electors and other interested parties.

Community Governance Review of Torbay

On 14 January 2019 the Council launched a community governance review of the whole area of Torbay, to consider if any changes should be made to existing community governance arrangements including whether new parish/town councils should be created in areas of the authority that are currently unparished and if so, the electoral arrangements that should apply to those councils.

The terms of reference for the community governance review were published on 14 January 2019 and a first phase of consultation ran from that date until 15 March 2019, during which local residents, organisations and other interested parties were asked to comment on a range of questions related to community governance, including:

- the relative benefits of new parish/town councils compared with other potential measures such as developing the way the Council works with existing local agencies;
- whether any new parish/town councils should deliver some local services that are current provided by Torbay Council with the costs met from the parish/town council precept and if so, which services;
- what areas any new parish/town councils should cover and what they should be called;
- whether any changes should be made to Brixham Town Council; and
- the Council's initial suggestion that two new parish/town councils should be set up, representing Torquay and Paignton respectively and between them, together with the existing Brixham Town Council, covering the whole of the Torbay area.

Consultees were also invited to submit any other comments and suggestions in relation to community governance of the area.

Electorate forecasts

In considering the electoral arrangements for any existing and/or potential parish/town councils in its area, a principal council must consider the number of local government electors in the area under review, and any change in that number or the distribution of the electors which is likely to occur in the period of five years beginning with the day when the review starts.

Current electorate figures and forecast figures for January 2024 in each of the wards in both the parished and unparished parts of Torbay are attached at Appendix 2.

2. What is the current situation?

Consultation

The first phase of consultation on the community governance review closed on 15 March 2019. The report on the responses received during the consultation is attached at Appendix 3.

The Council must now consider its draft recommendations for the review to form the basis of the second phase of consultation.

Considerations

In accordance with the 2007 Act the Council must have regard to the need to secure community governance within the area under review which:

- is reflective of the identities and interests of the community in that area;
- provides for effective and convenient local government; and
- takes into account any other arrangements for the purposes of community representation or community engagement in the area.

Government guidance requires that when considering the above criteria the Council will take into account the impact of community governance arrangements

on community cohesion and the size, population and boundaries of a local community or parish; and will seek to make recommendations that bring about improved community engagement, better local democracy and result in more effective and convenient delivery of local services.

Parish areas and parish/town councils

Torbay currently has just one parished area – that is served by Brixham Town Council. In relation to whether a parish or parishes should be created in some or all of the rest of Torbay, the terms of reference for the review noted the Government's continued commitment to parish and town councils and its guidance that it 'expects to see a trend in the creation, rather than the abolition, of parishes'.

The 2007 Act provides that where a new parish is created which has 1,000 or more electors, the principal council must recommend that the parish has a council. Where a new parish is created that has between 151 and 999 electors the principal council may decide whether or not it should have a council.

As set out in the report at Appendix 3, in the first phase of consultation a significant majority of those responding to the consultation did not support the establishment of parish/town councils to serve those areas of Torbay that do not currently have them.

It is therefore necessary for the Council to consider the findings of the first phase of consultation in the context of its belief as set out in the terms of reference that 'town councils can play an important role in empowering and representing communities and that they can enable the continued resourcing and provision of services that residents value at the local level'. In this regard the Cabinet has a strong commitment to community engagement and empowerment, recognising that the Council needs to facilitate people to do more for themselves and their communities, and a belief that town councils have the potential to assist in establishing better communities and all of the benefits that can flow from that.

Analysis of the responses to the first phase consultation indicates that many respondents who did not support the establishment of new parish/town councils were opposed on the grounds of the potential cost of such a development and the higher levels of council tax that this might mean for local residents.

It is therefore suggested that if the Council is persuaded of the potential benefits in relation to community identity/engagement and retention of services that may otherwise need to be ceased, any proposal for the second phase of consultation that involves the establishment of new parish/town councils must provide significant information not merely on these benefits but also reassurance regarding the extent of any additional costs entailed.

Residents of the unparished areas of Torbay currently pay the lowest council tax in Devon. Analysis of the relative levels of council tax across the county for 2019/20 shows that the addition of a parish council precept would still mean that residents of Torbay paid lower levels of Council tax than many areas within Devon.

Alternative arrangements

The 2007 Act requires a principal council in undertaking a community governance review to give consideration to other (non-parish) forms of community governance that have been made, or could be made, for the purpose of community representation or engagement in the area under review. Government guidance states that these should be considered as alternatives to, or stages towards, the establishment of parish councils. However, the guidance also states that 'what sets parish councils apart from other kinds of governance is the fact they are a democratically elected tier of local government, independent of other council tiers and budgets, and possess specific powers' and that 'their directly elected parish councillors represent local communities in a way that other bodies, however worthy, cannot since such organisations do not have representatives directly elected to those bodies'.

No substantial evidence has been submitted to the review to suggest that any specific alternative arrangements would give rise to benefits equivalent to those of parish/town councils and it is not recommended that this approach should be pursued, for the reasons set out in the guidance.

Draft recommendations

In light of the above it is proposed that the second phase of consultation should seek views on draft recommendations for the creation of parishes in the unparished areas of Torbay and parish /town councils to serve those parishes, subject to any precept to be set by Torbay Council for the first year of operation of those councils being restricted to no more than £90.00 per annum at Council Tax Band D.

As part of any Reorganisation Order agreed at the conclusion of the review Torbay Council may transfer assets or liabilities to any new councils in order to facilitate them in carrying out their functions.

As at 21 June 2019, there were 45,700 properties assessed as being in the tax base. Of these, 6,188 were in Brixham, approximately 16,321 were in Paignton and approximately 23,191 in Torquay (NOTE : the tax base figures are currently being re-run which may impact upon the split between areas, but will not impact upon the overall number/amount raised as a consequence – this will have been completed and the report updated prior to this paper being presented to Full Council). Considering these numbers of properties, and working on the basis of £90.00, based on a Council Band D property, this would raise precept in the region of;

- Paignton £1.47m
- Torquay £2.09m

From these figures, administration costs would be incurred. Brixham Town Council currently spend approximately £180,000 per year on general administration. If this were taken as an average administration charge for parish/town councils, this would result in the remaining sums being able to be used to support services in these areas;

- Paignton £1.29m
- Torquay £1.91m

If the Council also explored with Brixham Town Council transferring services to them, recognising that a precept is already in existence as are the general administration charges, an increase of £40.00 in their precept (based on a Council Band D property), would result in approximately an additional £250,000 being available to support the delivery of local services in Brixham.

This level of precept would enable the new councils to take on the delivery of services for their local areas to the value of £3.45m. Such a value would see the following services continue to be delivered at existing levels;

- Recreation and Landscape,
- Museums, theatres, public entertainment and events
- Public toilets,
- Seafront illuminations.

Proposed parish boundaries and names

As set out in the terms of reference the Council considers that parishes should reflect distinctive and recognisable communities of interest, with their own sense of identity and that electors should be able to identify clearly with the parish in which they are resident. The boundaries between parishes should reflect the distinct community identities of the respective areas. In addition parishes should be viable as an administrative unit and should possess a precept that enables them effectively to promote the well-being of their residents and contribute to the provision of services in their area in an economic and efficient manner.

Torbay Council was in 2018 subject to an electoral review by the Local Government Boundary Commission for England (LGBCE) as a result of which it is considered that the current ward boundaries represent a satisfactory reflection of community identities within the authority.

With regard to the geographical names of any parishes, the Council believes that these should reflect existing local or historic place names that people identify with.

For the purpose of the second phase of consultation it is therefore proposed that two new parishes be created within Torbay: one entitled Torquay Parish covering the wards of Barton with Watcombe, Cockington with Chelston, Ellacombe, Shiphay, St Marychurch, Tormohun and Wellswood and the other entitled Paignton Parish covering the wards of Churston with Galmpton (subject to consideration if this Ward should be within Paignton Parish or the current Brixham Town Council), Clifton with Maidenway, Collaton St Mary, Goodrington with Roselands, Kings Ash, Preston and Roundham with Hyde and that parish councils be established to serve each of the new parishes.

Electoral arrangements

A community governance review must consider what electoral arrangements should apply to any new council that is created. 'Electoral arrangements' are defined as:

- the ordinary year in which elections are held;

- the number of councillors to be elected to the council;
- the division (or not) of the parish into wards for the purpose of electing councillors;
- the number and boundaries of any such wards;
- the number of councillors to be elected for any such ward; and
- the name of any such ward.

In relation to the year of election, the ordinary election of parish councillors takes place in 2019 and at four-yearly intervals thereafter. If the review results in the establishment of a new town council or councils to which it is appropriate to hold an election for councillors at an earlier date than the next scheduled ordinary elections, the Council may resolve to modify or exclude the application of sections 16(3) and 90 of the Local Government Act 1972 to provide for the first election to be held in an earlier year and the terms of office of any newly elected town councillors will be so reduced as to allow the electoral cycle to revert to the normal cycle in Torbay at the next ordinary elections. Accordingly it is proposed that the first elections to the new parish councils would be held in May 2020 and the councillors elected would serve a reduced term of office until May 2023.

In relation to the number of councillors, legislation provides that the number of councillors for each parish/town council shall not be fewer than five. There is no maximum number. Government guidance is that 'each area should be considered on its own merits, having regard to its population, geography and the pattern of communities'. Additionally, the terms of reference for the review stated that 'when considering the number of councillors to be elected for any town council ... the Council will have regard to the recommended guidance issued by the National Association of Local Councils (NALC) and indicative national data on representation published by the former Aston Business School; existing levels of representation, the pattern of existing council sizes which have stood the test of time and the take-up of seats at elections; and the desirability of a broadly equitable allocation of councillors to town councils across Torbay, whilst acknowledging that local circumstances may on occasion merit variation'.

In relation to warding of a parish, the 2007 Act requires that in considering whether a parish should be divided into wards the Council should consider (i) whether the number, or distribution, of the local government electors for the parish would make a single election of councillors impracticable or inconvenient; and (ii) whether it is desirable that any area or areas of the parish should be separately represented on the council. Government guidance states that 'there is likely to be a stronger case for the warding of urban parishes ... [where] ... community identity tends to focus on a locality ... [and] ... each locality is likely to have its own sense of identity'.

Taking into account the above, as well as the electorate projections set out in Appendix 2; the view of the LGBCE that it is not in the interests of effective and convenient local government, either for voters or councillors, to have significant differences in levels of representation; and the fact that the electoral arrangements of Torbay Council itself have very recently been the subject of an electoral review, it is proposed that the new parish councils for Torquay and Paignton be divided into wards for the purposes of electing parish councillors – the ward boundaries and number of councillors to be elected for each ward to be the same as the existing arrangements for those wards on Torbay Council.

	<p>Brixham Town Council</p> <p>Brixham Town Council was established in 2007 and covers the wards of Furzeham with Summercombe and St Peter's with St Mary's.</p> <p>The first phase of consultation elicited a range of responses in relation to possible changes to the status and/or electoral arrangements of Brixham Town Council. However no single response achieved a substantial majority and the total numbers of respondents to these elements of the consultation were relatively low. It is not proposed that the draft recommendations of the review should include any changes to the current arrangements for Brixham Town Council's status, boundaries, warding or electoral arrangements.</p> <p>Timetable for the remainder of the review</p> <p>The 2007 Act requires that a community governance review must be completed within 12 months of its commencement. The terms of reference proposed that any new parish/town councils set up as a result of the review should be established no later than April 2020 and set out an indicative timetable to enable the review to be completed in time for any necessary preparatory work to be completed before this date. The terms of reference recognised that the indicative dates, particularly in the latter part of the timetable, may be subject to change.</p> <p>The timetable does need to be updated, and a revised timetable for the remainder of the review is now proposed as set out in Appendix 1. This will require the revised terms of reference to be formally adopted and published.</p>
<p>3.</p>	<p>What options have been considered?</p> <p>Two main alternative options have been considered:</p> <ul style="list-style-type: none"> (i) to recommend that no new parishes or town councils be established in Torbay. This option is not proposed because of the potential benefits of establishing parish/town councils in terms of community identity/ engagement and retention of services that may otherwise need to be ceased, as set out in the report. (ii) to recommend the establishment of parishes and town councils as in the council's initial proposal, with no provision as to the limitation of the initial level of precept. This option is not proposed in recognition of the many concerns raised by respondents to the first phase consultation regarding potential increases in the level of council tax.
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The proposals support the ambition of a prosperous and healthy Torbay as they represent an innovative approach to building community empowerment and engagement as well as safeguarding certain services that are valued by local communities in a time of reducing resources.</p>

<p>5.</p>	<p>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</p> <p>The Council decided to undertake the review at this time because it considers that the establishment of town or parish councils, which have the ability to raise income through the precept mechanism that is not currently subject to capping rules, could allow for the provision of local services that Torbay Council may be unable to sustain in the future due to resource and demand pressures particularly in the statutory services of Children’s and Adult Services.</p>
<p>6.</p>	<p>How does this proposal tackle deprivation?</p> <p>The establishment of town/parish councils can promote community empowerment and engagement as well as safeguarding certain services that are valued by local communities in a time of reducing resources.</p>
<p>7.</p>	<p>How does this proposal tackle inequalities?</p> <p>The establishment of town/parish councils can promote empowerment and engagement of all sections of the local community as well as safeguarding local services that are particularly important to disadvantaged groups within the community.</p>
<p>8.</p>	<p>How does the proposal impact on people with learning disabilities?</p> <p>The establishment of town/parish councils can promote empowerment and engagement of all sections of the local community as well as safeguarding local services that are particularly important to disadvantaged groups within the community.</p>
<p>9.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>Legislation requires the Council to consult the local government electors for the area under review and any other person or body who appears to have an interest in the review, and to take the representations that are received into account by judging them against the criteria in the 2007 Act.</p> <p>In coming to its final recommendations in the review, the Council will take account of the views of local people and stakeholders including residents, business organisations, community groups, other local organisations, political parties and elected representatives for the areas under review and Brixham Town Council.</p>
<p>10.</p>	<p>How will you propose to consult?</p>

The Council wishes to promote community engagement and transparency in decision-making. In order to promote awareness and encourage responses to the review, the Council will:

- publish the revised terms of reference for the review;
- publicise the review as widely as possible and seek to engage the local media in reporting the issues under review;
- consult through a variety of mediums, residents, business organisations, community groups, other local organisations, political parties and elected representatives for the areas under review and Brixham Town Council;
- make key documents available at the Council offices and at other venues in the areas under review;
- accept submissions by post or via e-mail or the Council's website;
- take into account representations received in connection with the review; and
- publicise the final recommendations and the outcome of the review.

The Community Governance Working Party received the outcome of the results of the consultation at its meeting on 1 July 2019.

Section 2: Implications and Impact Assessment

11.

What are the financial and legal implications?

The 2007 Act provides that if a principal authority wishes to make changes to the community governance arrangements in its area, it must first undertake a community governance review. In undertaking such a review the Council must have regard to the Guidance on Community Governance Reviews issued in March 2010 by the Secretary of State for Communities and Local Government and must comply with Part 4 of the 2007 Act, the relevant parts of the Local Government Act 1972 and regulations issued under those acts.

The proposals contained in this report will commit the Council in respect of undertaking the second phase of consultation. It is important that in the second phase of consultation that the public are fully informed as to the likely future of Council Services, and the wider community engagement benefits of Parish/Town Council. Whilst the first phase of consultation was primarily on line, it is believed that this phase will need to be undertaken very differently, with a range of events and communication methods. Council previously allocated monies in respect of undertaking the Community Governance Review, which will also cover this second phase of consultation.

12.

What are the risks?

If the proposal is not implemented there is a risk that the Council will not fully explore the opportunities available to safeguard the future the provision of

	<p>local services that it may be unable to sustain in the future due to resource and demand pressures.</p>
13.	<p>Public Services Value (Social Value) Act 2012</p> <p>The proposal does not require the procurement or provision of services together with the purchase or hire of goods or the carrying out of works.</p>
14.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The relevant evidence, data and research is included in the body of the report and the appendices.</p>
15.	<p>What are key findings from the consultation you have carried out?</p> <p>The key findings of the first phase consultation on the community governance review are set out in Appendix 3.</p>
16.	<p>Amendments to Proposal / Mitigating Actions</p> <p>See 'what options have been considered?' above.</p>