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Date: Tuesday, 22 November 2016

Governance Support
Town Hall
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Torquay
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Dear Member

**POLICY DEVELOPMENT AND DECISION GROUP (JOINT OPERATIONS TEAM) -
WEDNESDAY, 23 NOVEMBER 2016**

I am now able to enclose, for consideration at the Wednesday, 23 November 2016 meeting of the Policy Development and Decision Group (Joint Operations Team), the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
5.	Bylaws homeless people and begging Traffic Regulation Orders preventing motor homes parking in residential areas	(Pages 92 - 98)
7.	Transformation Project - Creation of a Local Lottery	(Pages 99 - 109)

Yours sincerely

Teresa Buckley
Clerk

Agenda Item 5



Meeting: Policy Development Group (Joint Operations Team)

Date: 23 November 2016

Wards Affected: Various

Report Title: Byelaws, Homeless People and Begging

Is the decision a key decision? No

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

Executive Lead Contact Details: Councillor Robert Excell, Executive Lead for Community Services, (01803) 212377, Robert.excell@torbay.gov.uk

Supporting Officer Contact Details: David Parsons, Anti-Social Behaviour and Vulnerability Manager, 01803 208037, david.parsons@torbay.gcsx.gov.uk

1. Proposal and Introduction

- 1.1 Complaints regarding rough sleeping, street drinking and begging have increased throughout the summer period, particularly in relation to the harbourside and seafront location of Torquay. It has been proposed to assess the potential use of byelaws or a Public Spaces Protection Order (PSPO) to address these concerns.
- 1.2 Also to consider if the same legal powers may be applicable to reported issues regarding motor homes parked on the highway.

2. Reason for Proposal

- 2.1 To assess if these are viable options to address increases in street based anti-social behaviour (ASB) and rough sleeping.

3. Recommendation(s) / Proposed Decision

- 3.1 The best outcomes can be achieved by delivering a partnership approach building on the best practice work which has already commenced, which does not require a legislative change.
- 3.2 Regarding motor homes, there are sufficient controls in place to enforce the main area of concern. Further consideration of powers would be disproportionate to the levels of complaints that are handled within existing resources.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Background Documents

None

Agenda Item 5

Appendix 1

Appendix 1

Supporting Information and Impact Assessment

Service / Policy:	Community Safety
Executive Lead:	Robert Excell
Director / Assistant Director:	Fran Hughes

Version:	1	Date:	4/11/2016	Author:	David Parsons
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>The Mayor has asked that the Council consider the use of legal powers to address people rough sleeping and or begging, most specifically in the harbourside / seafront area of Torquay. The powers under consideration are byelaws or a Public Spaces Protection Order (PSPO).</p> <p>There is a secondary issue that shall be mentioned in relation to the parking of motor homes on the highway.</p>
2.	<p>What is the current situation?</p> <ul style="list-style-type: none"> • 102% rise in rough sleeping across England since 2010. In the South West there has been an 89% rise and a 41% increase since 2014/15. These increases appear to be a consequence of austerity and as such must be assumed to continue to rise. • Torbay has seen increase in rough sleeping and begging, mostly notably in Torquay and to a lesser degree in Paignton. The most frequently used areas are the harbourside / seafront area of Torquay. • Numbers of rough sleepers fluctuate at any given time and throughout different times of the year. An official count is soon to be undertaken. • Most beggars and street drinkers in Torbay are not rough sleepers, but give the impression of being homeless. This creates an impression that there are more rough sleepers in Torbay than there are and that rough sleepers behave anti-socially, this is inaccurate and the distinction important. The distinction must be clear when talking about rough sleeping or street based ASB. Some rough sleepers may act anti socially but this is not the norm. • Police and Council ASB Team receive very few complaints about the behaviour of rough sleepers – the majority of issues raised appear to be directly to the Mayoral Office. These often detail how the presence of beggars / rough sleepers / street drinkers is seen as an issue, rather than any specific behaviour. Sometimes specific behaviour is complained about, i.e. having been approached for money or witnessed drunken behaviour. Generally these are incidents of low risk. • There are seasonal trends in both the prevalence of rough sleeping and street based ASB (i.e. street drinking, begging), these trends crudely follow the changes in weather. • At present there is a decrease in street based activity following the summer

	<p>season. It is anticipated that the colder winter months will see both reductions in rough sleeping and street based ASB.</p> <ul style="list-style-type: none"> • The majority of rough sleepers and those associated with street based ASB are a transient population, often not staying for long in Torbay. There is also a more static cohort across both areas. • It is hard to support or challenge the behaviour of a transient population as they are not around for long. Neighbouring areas have similar issues. • The Council and Police both have significantly less capacity to resource such issues, either by way of providing supportive intervention or enforcement. Both are necessary as part of a robust strategy. • The harm being caused is primarily reputational and in relation to people's feelings of safety. There is little evidence to suggest that the public are in any way at risk of harm from rough sleepers or indeed perpetrators of street based ASB. • The Council currently does not commission any outreach or floating support provision. Leonard Stocks Centre has an outreach worker. The Council has a Town Centres Street Warden and no other means of proactive engagement. Police and Council ASB and Vulnerability Team continue to work together closely through regular liaison and partnership Tasking meetings. Street based ASB is recognised as a priority but resources are limited.
<p>3.</p>	<p>What options have been considered?</p> <p>This report considers the merits of using either byelaws or a PSPO to address rough sleeping and or street based ASB and any other alternative means.</p> <p>Byelaws and PSPOs can be introduced by a Local Authority following due process, to address specific areas of concern. As such they can be tailored to address identified issues and become enforceable. Both options are enforceable by way of financial penalty following prosecution or by issuance of a Fixed Penalty Notice. Both require consultation with the public to take place and necessary publicising of the Local Authority's intentions of introducing an order, but a byelaw must be approved by the Secretary of State. A PSPO is therefore considered a swifter and more flexible process as can be reviewed, amended and extended where necessary. Both offer similar outcomes but both rely on enforcement as the remedy. It is for this reason that this report will focus on the suitability of a PSPO rather than a byelaw as the process is more expedient, cheaper and the power itself allows greater proportionality of use in relation to making any necessary changes over its duration.</p> <p>Public Spaces Protection Order - relevant information:</p> <ul style="list-style-type: none"> • Rough sleeping is not an offence, it is regarded as a housing need. Using a PSPO potentially criminalises persons for a housing need and being vulnerable. • An existing byelaw 'in respect of pleasure grounds' exists prohibiting the erecting of tents in many named parks across Torbay. This is utilised as and when necessary to do so. Penalty for failing to comply is a £20 fine following prosecution. • The majority of areas that have gone to public consultation of rough sleeping related PSPO restrictions have faced strong public reactions against such suggestions (see Hackney, Newport, Chester, Chelmsford, Maidstone, Exeter). Public opinion is therefore generally against prohibiting

rough sleeping. These areas have since retracted or dropped any related conditions from PSPOs instigated.

- Dawlish have recently implemented a PSPO that restricted sleeping 'after the hours of dark' in a specific location. It has addressed the behaviour of a core few but otherwise raised expectations beyond what is deliverable. Advice from Dawlish experience is against similar use in Torbay.
- PSPOs only have a financial penalty (as a result of either a Fixed Penalty Notice or result of successful prosecution), which raises practical and ethical issues for use against persons with no money, which is the general situation of rough sleepers and those associated with street based ASB. A financial penalty for those with no money is not a deterrent. Taking prosecutions for breaches of a PSPO is a time consuming and resource intensive process for limited chance of effecting behavioural change, particularly against a transient and vulnerable population of individuals. It is also unlikely that the threshold to prosecute be met as per the Enforcement and Prosecution Policy. Courts currently have a 3-4 month listing time during which it could be assumed multiple other breaches are likely.
- Use of a PSPO to deter rough sleeping is a means of using enforcement to tackle the consequences of austerity, whereby support previously available to this vulnerable group has since been cut.
- Begging is an offence and street drinking restricted by an existing Designated Public Place Order (DPPO). Both are currently enforceable by the Police who have significantly reduced capacity to address such issues.
- Using PSPOs to address street based ASB (not rough sleeping) has attracted more support across Local Authority areas in England and Wales. Many have been used for restricting alcohol consumption in public and several have stipulated no begging.
- The current DPPO automatically becomes a PSPO in October 2017, by restricting alcohol consumption. This will mean authorised Council Officers will be able to enforce, not just Police.
- Utilising a PSPO raises expectations of it being a solution, as such must be properly resourced. There are insufficient resources within the Council or Police teams to enforce such an order.
- A PSPO would be at its most effective with compliance, relying on this as a strategy is unrealistic given that begging and street drinking are already prohibited by other means.
- Police report that sentencing for prosecutions for begging are typically a night in the cells, which consequently acts as no deterrent. Adding another means of prosecution is unlikely therefore to provide any further value in challenging behaviour.

Preferred strategy:

- Use reducing resources to best effect and ensure that our response is robust yet compassionate and appropriately considerate of risk and vulnerability.
- Council and Police teams to continue days of operational activity to target persistent offenders and seek to repeat Operation Falkirk.
- Council to utilise other ASB powers and use Community Protection Notices to tackle persistent beggars at and around the harbourside known to have accommodation.
- Utilise CCTV as a means to monitor begging activity and provide evidence for formal action
- Council's Vulnerability and Complex Needs Officer to work with Leonard Stocks Centre outreach worker and Town Centres Street Warden to

	<p>provide targeted intervention with a view to increase access to accommodation and services and reduce risk / vulnerability.</p> <ul style="list-style-type: none"> • Continue to promote 'Killing With Kindness' campaign. • Coordinate supportive efforts with voluntary sector to address vulnerability of client group and provide alternative options of engagement. • This would enable management of fragile resources in consideration of other areas of service delivery and management of expectations. • Work with the Church-lead winter night shelter programmes to assist persons into accommodation or other relevant services. <p>Actions in respect of motorhomes:</p> <ul style="list-style-type: none"> • Across Torbay sporadic complaints are received regarding motorhomes being parked for such durations as to cause a nuisance to others. There is no evidence of areas particularly prone to such instances apart from a specific area in Brixham. • The highways department instigated a Traffic Management Order in response stipulating no motor homes to be parked overnight. This has alleviated the concerns within this area. • All other reports are dealt with as and when they arise within existing resources. Due to the absence of consistent issues within any specific locality there are no evidenced needs for the consideration of utilising any further legislative interventions. Compliance is typically achieved with co-operation, but could potentially be backed up by following the process around unauthorised encampments if necessary.
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect • Reduce demand through prevention and innovation • Integrated and joined up approach <p>Targeted actions:</p> <ul style="list-style-type: none"> • Working towards a more prosperous Torbay • Ensuring Torbay remains an attractive and safe place to live and visit • Protecting and supporting vulnerable adults
<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>N/A</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>N/A</p>

Section 2: Implications and Impact Assessment

7.	What are the financial and legal implications? <ul style="list-style-type: none">• Cost of running consultation• Resource implications for Council officers enforcing Order, inclusive of frontline staff, managerial overview and legal support.• FPNs unlikely to be paid, no revenue from enforcement• A PSPO may be challenged in the High Court
8.	What are the risks? <p>The main risk of the continued ‘anti-social behaviour’ is of reputation to Torbay and potential impact on tourism. These are however, issues that are not unique to Torbay.</p> <p>The risks of implementing a PSPO in respect of rough sleeping is significant concerning reputation of the Council given the experiences of the majority of other areas that have proposed the same. There can be little doubt that such an act would generate negative publicity and mobilise significant support for rough sleepers amongst the many residents we know who care about them.</p> <p>A PSPO with regard to street based ASB is more likely to be agreeable to the general public but risks further reputational damage to the Council given the lack of resource available to enforce one. The same could be assumed for the use of byelaws.</p>
9.	Public Services Value (Social Value) Act 2012 <p>No procurement or provision of services associated.</p>
10.	What evidence / data / research have you gathered in relation to this proposal? <p>The information contained in this report is based upon consideration of the use of PSPOs in other areas of England and Wales for similar behaviours, knowledge of our local profile of rough sleepers, beggars and street based ASB perpetrators, discussions with the Police, reviewing complaints received by the Council, understanding our available resources and what other powers exist to potentially consider.</p>
11.	What are key findings from the consultation you have carried out? <p>No formal consultation has been undertaken, that is a legal requirement when proposing the use of a PSPO or byelaw.</p>



Meeting: Policy Development and Decision Group (Joint Operations Team)

Date: 23 November 2016

Wards Affected: All Wards

Report Title: Transformation Project – Creation of a Local Lottery

Is the decision a key decision? Yes

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

Executive Lead Contact Details: Councillor Derek Mills, Deputy Mayor and Executive Lead for Health and Wellbeing and Corporate Services, Derek.Mills@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Assistant Director, Corporate and Business Services, Tel: 01803 207160, Anne-Marie.Bond@torbay.gov.uk

1. Proposal and Introduction

- 1.1 This report is to consider setting up a local lottery to benefit local community groups and charities that are able to contribute towards the Council's ambitions and likely to be impacted by further reductions in local authority funding.
- 1.2 Faced with central government austerity cuts, the Council is estimating £21.5million budget gap over the next 3 years (to 2019) and is looking at innovative ways to achieve its ambitions.
- 1.3 In this respect, the development of a local authority lottery has recently been proven in a number of other councils and would be suited to the Torbay area.

2. Reason for Proposal

- 2.1 Following a recent decision of the Transformation Board, the associated Business Plan (set out in Exempt Appendix 2 to this report) has been produced and sets out the extent of the opportunity that a local lottery could bring.

This decision will enable the establishment of the lottery to proceed with a view to launching it in April 2017.

3. Recommendation(s) / Proposed Decision

- 3.1 That the establishment of a local lottery as outlined in Exempt Appendix 2 to the submitted report be approved.
- 3.2 That the preferred option to appoint an External Lottery Management (ELM) be approved and the appointment of Gatherwell Ltd be progressed by the Assistant Director of Corporate and Business Services.
- 3.3. That the Assistant Director of Corporate and Business Services and Assistant Director of Community and Customer Services be appointed to hold the licence for the local lottery and submit the necessary application to the Gambling Commission.
- 3.3 That the Assistant Director of Corporate and Business Services and Assistant Director of Community and Customer Services, in consultation with the Deputy Mayor and Executive Lead for Health and Wellbeing and Corporate Services, be authorised to make any necessary changes to the proposed local lottery to meet the requirements of the Gambling Commission and Gatherwell Ltd.

Appendices

Appendix 1: Supporting Information and Impact Assessment

Appendix 2: Torbay Lottery Business Plan (Exempt)

Background Documents

To see how the lottery could work please visit

www.valelottery.co.uk

Supporting Information and Impact Assessment

Service / Policy:	Local Lottery
Executive Lead:	Deputy Mayor and Executive Lead for Health and Wellbeing and Corporate Services – Cllr Mills
Director / Assistant Director:	Assistant Director of Corporate and Business Services

Version:	1	Date:	22/11/16	Author:	Anne-Marie Bond
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Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>Transformation Project - Creation of a Local Lottery</p> <p>To consider setting up a local lottery to benefit local community groups and charities that are able to contribute towards the Council's ambitions and likely to be impacted by further reductions in local authority funding.</p>
2.	<p>What is the current situation?</p> <p>The Council is facing significant budget cuts to meet a budget gap of £21.5 million over the next 3 years (to 2019).</p> <p>This is a new initiative not currently provided by the Council.</p> <p>The development of a local lottery brings opportunity for local groups to continue to be supported in the face of austerity measures the Council may need to take.</p> <p>The costs and benefits are set out in the associated business plan.</p>

3. What options have been considered?

The business case explores three options for delivery.

1. Do nothing
2. Deliver in house
3. Deliver through external partner

These are discussed below.

A. DO NOTHING:

Under this option, the status quo remains, with no lottery in place. Over time this will see discretionary funding come under increasing pressure with no viable alternatives.

Strengths:

- The status quo is maintained.

Weaknesses:

- The Council is unlikely to have the finances to keep offering discretionary funding.
- There is no planned alternative to assist with the delivery of these types of activities in the medium to long term.

B. DELIVER IN HOUSE

This option would see the setting up of the necessary posts and systems to run a lottery in house. This has not been demonstrated as cost effective in any other local authority and thus is not costed, but it is believed that this would cost in the region of a £80-100k for set-up costs alone, which would include a lottery manager and the necessary development of software systems to enable the lottery to run.

Strengths:

- Torbay Council could be seen as pioneering, a leader in the field.
- The Council could keep supporting community causes thus continuing to meet the Council ambitions
- Maintain positive PR for the council brand.
- This could be a comfortable fit with the commercial approach of going into new territory and looking for alternative ways of working.

Weaknesses:

- The Council does not have the internal expertise to set up the software for an online lottery. This would have to be brought in at commercial rates.
- The Council may have to develop a completely new area of operation for the lottery. This would involve at the very least a lottery manager and assistant as well as having to source software to run the lottery itself.
- No experience at all in this field and so no knowledge of how to deal with potential difficulties.
- There could be a negative perception from the public and charities that the

	<p>Council is potentially trying to take business from good causes.</p> <ul style="list-style-type: none"> <input type="checkbox"/> There could be a negative perception from the public that they already pay their council tax and the Council is trying to take more of their money. <input type="checkbox"/> The Council could be seen to encourage gambling. <p>C. DELIVER THROUGH EXTERNAL PROVIDER</p> <p>This option would see a partnership with an existing deliverer of lotteries in the market place (an External Lottery Manager – ELM). This in effect means ‘buying into’ an existing lottery manager’s products.</p> <p>Strengths:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The Council would be commissioning experts in the field to run our lottery which would be much lower risk – less chance of malfunctioning, legal errors etc. <input type="checkbox"/> An ELM would take care of complexities such as lottery licences etc. <input type="checkbox"/> The Council could keep supporting community causes thus continuing to deliver the Councils ambition through others. <input type="checkbox"/> Positive PR for the Council brand. <input type="checkbox"/> This would be less costly and very low risk and could also be a strong example of partnership working. <p>Weaknesses:</p> <ul style="list-style-type: none"> <input type="checkbox"/> The Council could be seen to indirectly encourage gambling. <input type="checkbox"/> The ELM take a percentage of the ticket price – the Council’s potential revenue stream, and we will have to fit with one of the existing models supplied. <input type="checkbox"/> There could be a negative perception from the public and charities that the Council is potentially trying to take business from good causes – although in part this is mitigated by using an ELM. <input type="checkbox"/> There could be a negative perception from the public that they already pay their council tax and the Council is trying to take more of their money.
<p>4.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan 2015-19?</p> <p>It is envisaged that the Torbay Lottery will assist towards delivering the ambition and the targeted action areas of the Council by enabling a new and simple way for criteria matched good causes in the area to gain access to a new funding stream.</p>

<p>5.</p>	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>Good causes and their beneficiaries will be effected in a positive manner through delivering new income to support their costs.</p> <p>The area will benefit by the efforts of good causes towards the ambitions and targeted actions of the Corporate Plan.</p> <p>Lotteries are a common activity in society with the precedent of the National Lottery where less that 30% of the funds go directly to good causes.</p> <p>This local lottery is considered to be a much lower gambling risk as it is totally online through direct debit or payment cards and so ticket purchase is a longer considered activity.</p>
<p>6.</p>	<p>How will you propose to consult?</p> <p>This project will engage with local community groups who could benefit form the income stream, many of whom already apply for National Lottery grants where eligible.</p> <p>Evidence in other local authorities that have started a local lottery confirms that residents / supporters do buy tickets.</p>

Section 2: Implications and Impact Assessment

7.	<p>What are the financial and legal implications?</p> <p>The local authority can operate this scheme under its general powers of competence as provided by the Localism Act 2011. The scheme would be licensed by the Gambling Commission who would regulate the scheme under the Gambling Act 2002. The Council will have two responsible officers.</p> <p>The Gambling Commission also ensure the scheme is compliant to licensing code of practice for gambling responsibly. And the licence application will look at the Councils policies for Children and Vulnerable Person Protection, Fair and Open Gambling, Implementation Procedures, Social responsibility on Gambling and Protection from Sources of Crime and Disorder. The ELM will assist with the development of these If necessary.</p> <p>Start up costs of circa £14,000 are a one off investment, which can be identified within existing budgets.</p> <p>All ongoing costs are thereafter contained within the business model as set out in the associated exempt business plan.</p> <p>There will be a contract with the ELM to set out the income arrangements and operating relationship between them and the customers.</p>
8.	<p>What are the risks?</p> <p>The main risk would be that nobody buys tickets for this lottery. If this were the case the Council could abandon the scheme and not reapply for the gambling licence.</p>
9.	<p>Public Services Value (Social Value) Act 2012</p> <p>The set up of the scheme is based on the consultancy support from Vale Commercial Solutions and the implementation of the ELM operating platform.</p> <p>This falls within the Councils financial regulations for a single quote.</p> <p>The ongoing delivery of the scheme is predicated on a service between the ELM and the customer, thus the ELM pay VAT as the service provider and the Council receives a resulting income stream through negotiation.</p>

<p>10.</p>	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>This proposal looks to replicate the successful scheme delivered in Aylesbury Vale District which has now been operating for one year with the following results;</p> <p>Annualised gross revenue - £120,016</p> <p>60% to good causes - £72,009</p> <p>131 good causes selling tickets and generating direct income.</p>
<p>11.</p>	<p>What are key findings from the consultation you have carried out?</p> <p>There are a number of other local authorities now in the process of establishing this scheme including Portsmouth City Council who have already launched their scheme, Corby District Council, Gloucester City Council, Mendip Council and Merton Council.</p>
<p>12.</p>	<p>Amendments to Proposal / Mitigating Actions</p> <p>Torbay Council Officers are recommending that the funds generated are centrally pooled and then distributed to groups who meet the Council ambitions. This is not how the Aylesbury Vale model works as 50% there goes to the good causes that are registered and thus perpetuating ticket sales within their networks.</p>

Equality Impacts

13	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	Both younger people and older people may benefit through groups securing income to provide services and activities for their needs.		Younger people will not be eligible to play the lottery
	People with caring Responsibilities			There is no differential impact
	People with a disability			There is no differential impact
	Women or men			There is no differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact

Religion or belief (including lack of belief)			Religious groups may not agree with gambling as a method of raising income.
People who are lesbian, gay or bisexual			There is no differential impact
People who are transgendered			There is no differential impact
People who are in a marriage or civil partnership			There is no differential impact
Women who are pregnant / on maternity leave			There is no differential impact
Socio-economic impacts (Including impact on child poverty issues and deprivation)		People on low incomes or without bank accounts/payment cards or access to the internet may feel excluded.	

	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			There is no differential impact
14	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None		
15	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None		