

CABINET

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

Tuesday, 5 April 2011, commencing at **4.30 pm**

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

Cabinet Members	Portfolio
Nick Bye	Mayor
Councillor Aiton	Cabinet Member for Community Safety and Community Engagement
Councillor Bent	Deputy Mayor and Cabinet Member for Health and Wellbeing and Housing
Councillor Butt	Cabinet Member for Community Services
Councillor Tolchard	Cabinet Member for Children's Services

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:

Teresa Buckley, Town Hall, Castle Circus, Torquay, TQ1 3DR 01803 207013

Email: democratic.services@torbay.gov.uk

CABINET AGENDA

1. Apologies

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

2. Minutes

To confirm as a correct record the Minutes of the meeting of the Cabinet held on 22 March 2011.

(1 - 12)

3. Declarations of interests

(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.)

4. Urgent items

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

5. Churston Golf Club Proposals - Call-In

To consider Report 83/2011 setting out the recommendations of the Council regarding the call-in of the Mayor's decision on the Churston Golf Club Proposals.

(To Follow)

6. **Princess Parade, Princess Gardens, Marina Car Park, Pavilion and Theatre, Torquay - Call-In** (To Follow)
To consider Report 84/2011 setting out the recommendations of the Council regarding the call-in of the Mayor's decision on Princess Parade, Princess Gardens, Marina Car Park, Pavilion and Theatre, Torquay.
7. **Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust** (To Follow)
To consider Report 85/2011 setting out the recommendation of the Council regarding the Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust.
8. **Implementation of New Refuse and Recycling Service by TOR2: Lessons Learned** (To Follow)
To consider Report OSB/3/11 setting out the recommendations of the Overview and Scrutiny Board on the lessons learned in respect of the implementation of the new refuse and recycling service by TOR2.
9. **Motion - Swim Torquay**
To consider the following motion, notice of which was given to the Council in accordance with Standing Order A14 by Councillors Darling and Stocks. At its meeting held on 24 March 2011, the Council referred the motion to the Cabinet for consideration.
- This Council resolves to fund the pool for the 2011/12 financial year with a one off £15,000 (on top of the £5,000 already given) from the Comprehensive Spending Review Reserve. During the next 12 months the Council will work with interested parties on a strategy to provide a 21st century swimming facility for local residents and visitors alike.
- This Council asks the Environment Commissioner to bring a report to the meeting of the Full Council on 30th June outlining what action has been taken.
10. **Public Speaking**
Speaking in connection with items on this agenda is at the discretion of the Mayor. Anyone wishing to speak at this meeting should submit their request by 4.00 p.m. on Monday, 4 April 2011 by contacting Teresa Buckley on 207013 or emailing democratic.services@torbay.gov.uk

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Minutes of the Cabinet

22 March 2011

-: Present :-

Mayor of Torbay (Chairman)

Councillors Aiton, Bent, Butt and Tolchard

(Also in attendance: Councillors Baldrey, Darling, Ellery, Excell, Lewis, Mills, Morey, Oliver, Parrott, Pentney and Scouler)

627. Minutes silence.

The Cabinet observed a minute's silence as a mark of respect in memory of the late Councillor Kevin Carroll (Cabinet Member for Regeneration, Finance and Governance) who sadly passed away on 6 March 2011.

628. Minutes.

The Minutes of the meeting of the Cabinet held on 3 March 2011 were confirmed as a correct record and signed by the Mayor.

629. Matters for Consideration.

The Cabinet considered the following matters, full details of which (including the decisions of the Mayor) are set out in the Record of Decisions in Appendix 1 to these Minutes.

- 629.1 Land at Brokenbury Quarry, Churston – Proposed Sports Fields/Community Recreation Project
- 629.2 The Re-Provision of the St Kilda's Residential Care Home and Subsequent Disposal of the St Kilda Site
- 629.3 Review of Primary School Places in Brixham: Chestnut Primary School and St Margaret Clitherow Catholic Primary School
- 629.4 Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust
- 629.5 Corporate Plan 2011+

Mayor

APPENDIX 1

to the Minutes of the meeting of the Cabinet
held on 22 March 2011

Record of Decision

Land at Brokenbury Quarry, Churston – Proposed Sports Fields/Community Recreation Project

Decision Taker

The Mayor at the Cabinet meeting held on 22 March 2011.

Decision

- (i) that the Chief Executive of the Torbay Development Agency (TDA), be authorised to agree that the land set out in Appendix 5 to Report 73/2011 be leased for 40 years to a properly constituted sports and community based organisation, rather than one group in particular at a nominal rent, provided that;
- the Torbay Sports Council, the sports clubs and the Community Partnership, are given adequate opportunity to reach mutual agreement for the development of a suitable scheme on the land that is predominantly sports pitch based but that will include other appropriate community based facilities;
 - the lease arrangements will ensure that the long term sports pitch use of the land is adequately protected;
 - the sports clubs will if necessary be granted adequate tenure (possibly by way of under leases of up to 40 years) to secure funding for the development of the sports facilities;
 - the land be used exclusively for sport with ancillary community uses of circa 3 to 4 acres; and
 - the lease to preclude residential use or any other use that is for private or corporate profit (excluding fund raising for sports clubs or community based not for profit organisations);
- (ii) that if conditional agreement is not reached to implement lease arrangements consistent with the recommendation at 2.1 within 6 months of the date of this decision, the Chief Executive of the TDA, in consultation with the relevant Cabinet Member, be authorised to agree the terms with a properly constituted and representative sports organisation for a long lease (up to 40 years) at a nominal rent, to enable external funding opportunities to be pursued from one or more national governing bodies (as set out at Appendix 5), be approved. The lease shall be for outdoor pitches and ancillary club house / changing room accommodation only, unless agreement is reached with the local Community Partnership to incorporate other community based uses and facilities;
- (iii) that the Chief Executive of the TDA, in consultation with the Executive Head of Residents and Visitor Services and Head of Legal Services be authorised to conclude the lease subject to:

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- a) **confirmation from the Facilities and Operations Manager that the proposed use adequately meets the needs of the Sports Pitch Strategy;**
- b) **confirmation that the final proposal is commercially viable and adequately funded in terms of delivery;**
- c) **that the governance arrangements regarding the tenancy agreement are transparent and robust;**
- d) **the Facilities and Operations Manager accepting the inclusion of any community based recreation areas;**
- e) **the Head of Legal Services' satisfaction that the Community Partnership and Torbay Sports Council negotiations have been conducted and concluded to an acceptable standard; and**
- f) **that no development shall commence, nor leases come into effect, until all necessary approvals (including planning permission) are obtained.**

Reason for Decision

To enable further negotiations to be held with the Torbay Sports Council, the sports clubs and Community Partnerships regarding a suitable scheme for a predominantly sports pitch based facility which would include other community facilities to be developed on the Council owned land at Brockenbury Quarry, Churston.

Implementation

This decision will come into force and may be implemented on Monday, 4 April 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

Report 73/2011 set out two proposals regarding the proposed lease of Council owned land at Bridge Road, Brockenbury, Churston, which was included in the Council's Torbay Sports Facilities Strategy, the Council's Sports Pitches Strategy and the approved Local Plan for use as playing fields and related facilities. The first proposal was from Torbay Sports Council which would enable, subject to planning approval, the development of outdoor sports pitches and ancillary changing room accommodation. The second proposal from the Rural Community Recreation Project (RCRP) was for a new modern village green with an animal farm visitor attraction, retention of most of the agricultural land for cultivation, new bridleway network and new bus pull-in and turning circle. The RCRP business case offered no alternative for the pitch proposals identified in the Council's Strategies and Local Plan.

A revised recommendation was circulated at the meeting.

Michael Brown spoke on behalf of the Rural Community Recreation Project proposals and suggested that the decision be deferred to enable further negotiations and consultation. Ken Pritchard, Chairman of the Broadsands, Churston and Galampton Community Partnership spoke on behalf of the Community Partnership and local community against the original proposal to enter into a lease with one party; he acknowledged the intention of the revised

APPENDIX 1 (continued)

recommendation but also sought deferment of the decision. Richard Haddock, farmer and landowner of the adjacent land spoke against the proposal and raised concerns over access to the site. Councillor Morey, Vice-Chairman of Brixham Town Council, spoke on behalf of the Brixham Town Council and advised that the Town Council had not been given the opportunity to comment on the proposals and would welcome time to consider the proposals.

Iain Masters, Senior Development Officer, Torbay Development Agency provided an update in respect of the public consultation on the scheme, responded to questions and circulated a document setting out the preliminary results from Brockenbury section of the Developing Sports Facilities in Torbay and further petition pages/letters of support for the Torbay All Sports Hub. The survey results showed the following results in support of the idea of using the land for sports pitches and a small area of associated changing rooms and a clubhouse:

	Churston with Galmpton	All Respondents
Strongly agree or agree	33.3%	50.6%
Strongly disagree or disagree	54.6%	31.9%
Neither agree or disagree or don't know	12.1%	17.5%

Alternative options considered and rejected at the time of the decision

The alternative options were set out in Report 73/2011 and not discussed at the meeting.

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

Yes – Reference Number X4/2011

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)

Councillor Ellery declared a personal interest as he works for the adjacent business.

Councillor Excell declared a personal interest as the Council's representative on Torbay Sports Council.

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Friday, 25 March 2011

APPENDIX 1 (continued)

Record of Decision

The Re-Provision of the St Kilda's Residential Care Home and Subsequent Disposal of the St Kilda Site

Decision Taker

The Mayor at the Cabinet meeting held on 22 March 2011.

Decision

That the Head of Legal Services, in consultation with the Chief Executive of the Torbay Development Agency, be authorised to accept a surrender of the lease from the Torbay Care Trust and then transfer the freehold of the St Kilda site (outlined in red on plan EM932a) to the Torbay Care Trust or its chosen service provider on acceptable terms for no capital receipt under the Local Government Act 1972: General Disposal Consent 2003.

Reason for Decision

To enable the relocation of St Kilda's Residential Care Home to Brixham Hospital and the subsequent disposal of the site to help facilitate the move.

Implementation

This decision will come into force and may be implemented on Monday, 4 April 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

Report 74/2011 set out a proposal by the Torbay Care Trust to relocate the St Kilda's Residential Care Home within the grounds of Brixham Hospital, which would lead to the construction of a purpose built facility to replace the home at St Kilda.

Alternative options considered and rejected at the time of the decision

The alternative options were set out in Report 74/2011 and not discussed at the meeting.

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

Yes – Reference Number X2/2011

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)

None

APPENDIX 1 (continued)

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APPENDIX 1 (continued)

Record of Decision

Review of Primary School Places in Brixham: Chestnut Primary School and St Margaret Clitherow Catholic Primary School

Decision Taker

The Mayor at the Cabinet meeting held on 22 March 2011.

Decision

- (i) that the Mayor, on behalf of the Council, concludes the consultation into future options for Primary education in Brixham by closing Chestnut Primary School at the end of the summer 2011 term;
- (ii) that all primary schools in Brixham work together and with the Council to secure excellent alternative education provision for those pupils affected by the closure of Chestnut Primary School; and
- (iii) that the People Commissioner carry out a study in the potential future uses for the site of Chestnut Primary School and report back at the end of September 2011.

Reason for Decision

To respond to the consultation into future options for Primary education in Brixham.

Implementation

This decision will come into force and may be implemented on Monday, 4 April 2011 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

Information

Further to Minute 574.3/3/11, Report 74/2011 provided an update in respect of the review of primary school places in Brixham. The report highlighted the risks of retaining Chestnut Primary School and the recommendations in the report were based on professional advice that the School could not continue in its current form due to the high number of surplus places.

Mrs Slade spoke on behalf of the Brixham Family Group and parents at Chestnut Primary School against the proposed closure of the School. Margaret Bickley, Chair of Governors of Chestnut Primary School spoke on behalf of School in support of the closure.

Alternative options considered and rejected at the time of the decision

The alternative options were set out in Report 74/2011 and not discussed at the meeting.

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

Yes – Reference Number X42/2010

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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)

Councillor Morey declared a personal interest as Chair of Governors at Brixham College.

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APPENDIX 1 (continued)

Record of Decision

Annual Strategic Agreement 2011/12 with Torbay NHS Care Trust

Decision Taker

The Mayor at the Cabinet meeting held on 22 March 2011.

Decision

- (i) **That, subject to the additional information to be circulated prior to the Council meeting, the Council be recommended to approve the Annual Strategic Agreement for 2011/12 as set out in Appendix 1 to Report 76/2011; and**
- (ii) **that the remaining risk related to the delivery of the required performance outlined and the ability to deliver a balanced budget, given the level of resources allocated for the delivery of Adult Social Care, be deemed acceptable.**

Reason for Decision

By virtue of the Partnership Agreement between the Council and Torbay NHS Care Trust the Council was required to agree an Annual Strategic Agreement at the beginning of each financial year.

Implementation

The recommendations of the Mayor will be considered at the meeting of Council to be held on 24 March 2011.

Information

Report 76/2011 sought approval of the Annual Strategic Agreement (ASA) for 2011/2012, as required by the legally binding Partnership Agreement, for the areas of development and performance targets required of the Torbay NHS Care Trust for the delivery of adult social care services provided on behalf of the Council.

The Chief Executive of the Torbay NHS Care Trust gave a brief overview of the Annual Strategic Agreement and highlighted the likely reduction in some of the service areas in order to produce a balanced budget for 2011/12. Members also noted the forthcoming changes in the National Health Service and the impact on the Care Trust. The Chief Executive of Torbay Council explained that benchmarking information was not publicly available from all other authorities but that recent agreement had been made to share benchmarking information. It was noted that in the past the Council had been able to share the risk with the NHS element of the Care Trust Budget but ultimately the Council was responsible for the delivery of adult social care and any subsequent overspends. The Chief Executive of Torbay advised that the Council was looking at how it would commission adult social care with the new GP Consortium arrangements and gave assurance that the Council would be monitoring spending more closely than before so that any potential overspends can be addressed.

The Mayor also considered and noted the views of the Overview and Scrutiny Board as set out in Report OSB/5/11. In response to the comments made by the Board the Chief

APPENDIX 1 (continued)

Executive of the Torbay NHS Care Trust advised that there had been further updates to the Annual Strategic Agreement which he would arrange to be circulated to Members prior to the Council meeting. The Mayor felt that the issues raised by Overview and Scrutiny were covered by the responses given at the meeting and included within the additional information to be circulated prior to the Council meeting, which would be added to the final Annual Strategic Agreement and that this was a robust document which clearly set out the targets (where available) and ambitions of the Torbay NHS Care Trust.

Alternative options considered and rejected at the time of the decision

The alternative options were set out in Report 76/2011 and not discussed at the meeting.

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

Yes – Reference Number X35/2010

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

No, as the Council will make the final decision.

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

None

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APPENDIX 1 (continued)

Record of Decision

Corporate Plan 2011+

Decision Taker

The Mayor at the Cabinet meeting held on 22 March 2011.

Decision

That the Council be recommended to:

- (i) approve the format and general content of the Corporate Plan 2011+ as set out in Appendix 1 to Report 77/2011; and**
- (ii) authorise the Mayor and Chief Executive (or Deputy Chief Executive) to agree the final version of the Plan should it be appropriate to make any minor amendments to the current version.**

Reason for Decision

To set out the future direction of the Council for the coming year and to deliver improved outcomes for the community.

Implementation

The recommendations of the Mayor will be considered at the meeting of Council to be held on 24 March 2011.

Information

Report 77/2011 advised that the Council had in place a Corporate Plan which was annually refreshed and identified both the achievements in the previous year and the priorities for the year ahead. The revised sections of the Plan were incorporated in the Report.

Alternative options considered and rejected at the time of the decision

The alternative options were set out in Report 77/2011 and not discussed at the meeting.

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

Yes – Reference Number 3/2011

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

No, as the Council will make the final decision.

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

None

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