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Tuesday, 29 January 2013

## Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Ballroom, Oldway Mansion, Torquay Road, Paignton, TQ3 2TE** on **Wednesday, 6 February 2013** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

Caroline Taylor  
Chief Operating Officer

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

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**Working for a healthy, prosperous and happy Bay**

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

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(i)  
**THE MJ**  
2010  
Achievement Awards  
COMMENDED

# Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

To confirm as a correct record the minutes of the meeting of the Council held on 6 December 2012.

(Pages 1 - 12)

4. **Declarations of interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary 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 Governance Support or Legal Services prior to the meeting.)

5. **Communications**

To receive any communications or announcements from the Chairman, the Mayor, the Overview and Scrutiny Co-ordinator or the Chief Operating Officer.

6. **Members' questions**

To respond to the attached questions asked under Standing Order A13.

(Page 13)

7. **Notice of motion - Fuel Poverty**

To consider the attached motion, notice of which has been given in accordance with Standing Order A14 by Councillors Darling and Pentney.

(Page 14)

8. **Future of Chestnut Children's Centre Nursery - Mayoral Decision** (Pages 15 - 40)  
To consider a report on the future of Chestnut Children's Centre Nursery.
9. **Care Home Fees** (Pages 41 - 159)  
To consider the attached report which sets out the approach used to setting the usual cost of care, and the funding necessary to support payment of care home fee rates for 2012/13 and 2013/14.
10. **Clennon Valley Cycling Facilities** (Pages 160 - 211)  
To consider a report on proposed cycling facilities at Clennon Valley.
11. **Disposal of Town Hall Car Park - Mayoral Decision** (Pages 212 - 226)  
To consider a report on the proposed disposal of the Town Hall Car Park for redevelopment.
12. **Inner Harbour Pontoon Berthing Project** (Pages 227 - 247)  
To consider the attached report on the proposed development of pontoon moorings in Torquay's inner harbour.
13. **Revenue Budget Proposals 2013/14** (To Follow)
- (i) To consider the submitted report (to follow) on the Local Government Finance Settlement on the Revenue Budget for 2013/14.
- (i) To consider the recommendations of the Mayor on the Revenue Budget Proposals for 2013/14.
- (**Note:** This item will be deferred for consideration at an adjourned meeting of the Council to be held on Wednesday, 13 February 2013.)
14. **Capital Investment Plan Budget 2013/14 to 2016/17** (To Follow)  
To consider the submitted report (to follow) setting out the Capital Plan Budget for 2013/14 to 2016/17 and the recommendations of the Mayor.
- (**Note:** This item will be deferred for consideration at an adjourned meeting of the Council to be held on Wednesday, 13 February 2013.)
15. **Composition and Scheme of Delegation of Executive Functions** (Pages 248 - 256)  
To receive an amendment to the composition and constitution of the Mayor's Executive, together with a revised record of delegations of Executive functions (in accordance with Standing Order C4.2(a)).



## Minutes of the Council

6 December 2012

-: Present :-

**Chairman of the Council (Councillor Stringer) (In the Chair)**  
**Vice-Chairman of the Council (Councillor Parrott)**

The Mayor of Torbay (Mayor Oliver)

Councillors Addis, Amil, Baldrey, Barnby, Bent, Cowell, Davies, Darling, Doggett, Ellery, Excell, Faulkner (A), Faulkner (J), Hernandez, Hill, Hytche, James, Kingscote, Lewis, McPhail, Morey, Pentney, Pountney, Richards, Stocks, Thomas (D), Thomas (J) and Tyerman

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### 70 Opening of meeting

The meeting was opened with a prayer.

### 71 Apologies for absence

Apologies for absence were received from Councillors Brooksbank, Butt, Mills, Pritchard and Scouler. Councillor Stocks joined the meeting at 3.55 pm during consideration of Minute 80.

### 72 Minutes

The Minutes of the meeting of the Council held on 27 September 2012 were confirmed as a correct record and signed by the Chairman.

### 73 Declarations of interests

Councillor McPhail declared a non pecuniary interest in respect of Minute 76 as her husband was in receipt of NHS treatment.

### 74 Communications

The Chairman:

- (i) advised, that since the last Council meeting he had attended over 100 engagements. This included being presented, along with the Lord Mayor of Exeter and Lord Mayor of Plymouth, to HRH Prince Edward who unveiled a sun dial at Roadford Lake Country Park to commemorate the Queen's Diamond Jubilee;

(ii) invited all members and the public to the Annual Civic Carol concert which was being held on Tuesday 11 December 2012 at the Riviera International Conference Centre starting at 7 pm; and

(iii) informed members that he would be attending both charity Boxing Day dips at Torre Abbey Sands, Torquay and Paignton sea front.

## **75 Order of Business**

In accordance with Standing Order A7.2, the order of business was varied to enable the following agenda items to be considered at the adjourned meeting of the Council at 5.30 pm:

Item 6 – Petitions;

Item 7 – Public question time;

Item 8 – Members' questions;

Item 9 – Notice of motions;

Item 22 – Neighbourhood planning in Torbay: applications for neighbourhood forums and plan areas; and

Item 23 – Localised council tax support scheme

The order of business was further varied to enable Item 13 (Council tax base report) to be considered after Item 23 (Localised council tax support scheme).

## **76 Adult Social Care - Local Account**

Members considered the submitted report setting out the first Local Account for Adult Social Care. It was noted that the Government had asked for Local Accounts to be put in place to enable councils the opportunity to share a common approach to the performance of adult social care. The Local Account highlighted what had been achieved for local people in relation to adult social care, outlined the level of performance for the last financial year and commitment to future service delivery.

It was proposed by Councillor Bent and seconded by Councillor Hytche:

that, subject to any additional recommendations from the Mayor and Group Leaders, the Local Account, as set out in Appendix 1 to the submitted report, be approved.

On being put to the vote, the motion was declared carried (unanimous).

## **77 Revenue Budget Monitoring 2012/13 - Quarter 2**

The Council noted the current projected outturn for the Revenue Budget 2012/2013 based on quarter 2 information, as set out in the submitted report. The Chairman advised that members of the Overview and Scrutiny Board had identified areas which they wished to explore further at a future meeting of the Board.

**78 Capital Investment Plan Update - 12/13 (2nd Quarter)**

The Council considered the submitted report setting out an overview of the Council's approved Capital Investment Plan for the quarter ending September 2012. The report provided details of expenditure and funding of service and community assets within the Council's approved Capital Plan. A revised officer recommendation was tabled at the meeting.

It was proposed by Councillor Tyerman and seconded by Councillor Hill:

- (i) that Council notes the latest position on the Capital Investment Plan; and
- (ii) that Council approve £0.1m for the purchase of 25 beach huts at Broadsands as a prudential borrowing scheme to be funded from additional income from the new beach huts, subject to 60% of the beach huts being pre-let.

On being put to the vote, the motion was declared carried.

**79 Pay Policy and Annual Statement**

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 Policy drew together the Council's overarching policies on pay and conditions which would be published on the Council's website.

It was proposed by Councillor Thomas (D) and seconded by Councillor Hernandez:

that the Torbay Council Annual Pay Policy Statement be approved in order for the Council to be compliant with Section 38 (1) of the Localism Act 2011.

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

subject to the Executive Head of Business Services being requested to develop a policy statement to make it clear Torbay Council's wish not to participate in the introduction of regional pay both for the Council and, where possible, our partner organisations.

On being put to the vote, the amendment was declared carried.

The substantive motion (the original motion with the additional wording) was then before Members for consideration.

On being put to the vote, the substantive motion was declared carried.

**80 Draft Annual Report 2011/12**

The Council received the draft Annual Report for 2011/12 which set out the Council's performance, financial information and achievements over the past year.

It was proposed by Mayor Oliver and seconded by Councillor Thomas (D):

that, subject to any additional recommendations from the Mayor and Group Leaders, the Annual Report 2011/2012 as set out in Appendix 1 to the report be approved.

On being put to the vote, the motion was declared carried.

**81 Corporate Plan 2012 - 2015**

The Chairman advised that, due to the report being circulated late, consideration of the report had been deferred to allow the public and members sufficient time to consider the report.

**82 Gambling Statement of Principles 2013**

The Council considered a report on the revised draft Gambling Policy which set out the principles by which Torbay Council would exercise their functions under the Gambling Act.

It was proposed by Councillor Addis and seconded by Councillor Ellery:

that the Gambling Policy Statement of Principles 2013, as set out in Appendix 1 to this report be approved.

On being put to the vote, the motion was declared carried (unanimous).

**83 Torquay Inner Harbour Pontoon Berthing Project**

The Chairman advised that, due to the report being circulated late, consideration of the report had been deferred to allow the public and members sufficient time to consider the report.

**84 Allocations Policy and Local Tenancy Strategy**

Members considered a report on a review of the processes used by the Council to make social housing allocations, to manage its waiting lists and the use of tenancies for social housing as a result of new powers available under the Localism Act 2011.

It was proposed by Councillor Thomas (D) and seconded by Councillor Lewis:

- (i) that the Council continue with the Devon Home Choice partnership agreement and allocations policy and review the future policy approach when the next review of Devon Home Choice is completed; and
- (ii) that the Local Tenancy Strategy be published in January 2013 and local registered housing providers be encouraged to have due regard to Torbay's Local Tenancy Strategy.

On being put to the vote, the motion was declared carried.

### **85 Third Party Planning Contributions towards the South Devon Link Road**

The Council considered the submitted report on proposals to collect contributions from third parties to help meet the funding commitments for the South Devon Link Road on a temporary basis until the Community Infrastructure Levy was put in place.

It was proposed by Councillor Thomas (D) and seconded by Councillor McPhail that:

- (i) where new development impacts on, or contributes to the need for the South Devon Link Road, a S106 Contribution would be sought towards funding it; and
- (ii) in order to meet the Council's financial commitments, contributions to the South Devon Link Road should be given a high priority when negotiating S106 Obligations, where lawful.

On being put to the vote, the motion was declared carried (unanimous).

### **86 Adjournment**

At this juncture, the meeting was adjourned until 5:30 pm on Thursday 6 December 2012.

### **87 Petitions**

In accordance with Standing Order A12, the Council received the following petitions:

- (i) petition requesting the addition of a small piece of play equipment suitable for children under four years old/toddlers in Armada Park (approximately 152 signatures); and
- (ii) petition submitted as follows:

"It is National Enterprise Week at Combe Pafford School. The upper school will be raising awareness of homeless young people in Torbay. In the UK there are 75,000 homeless young people (Shelter). In the South West there will be 2,000 homeless young people on Christmas Day (Crisis). We would like to

highlight the issue to the Mayor of Torquay and seek agreement that more action is needed to beat homelessness.” (approximately 229 signatures).

At the invitation of the Chairman, Amy, Reece and Georgina, pupils of Combe Pafford School, addressed the Council in relation to the petition in (ii) above. The Chairman advised that the petition would be referred to the Director of Children’s Services for consideration in consultation with the Mayor and Executive Lead for Strategic Planning, Housing and Energy.

It was noted that the petition in (i) above had been referred direct to the Group Service Manager (Streetscene and Place) for consideration in consultation with the Executive Lead for Tourism and Environment, Councillor Richards, at the request of the petitioners.

#### **88 Public question time**

In accordance with Standing Order A24, the Council heard from Mr Barfoot, Mr Pearman-Brooks, Mr Colville, Mr Fields and Mr Snow (on behalf of Ms Pickles) who had submitted statements and questions in relation to flooding in Torre. The Council also received a question on the same subject from Mr Selley who did not wish speak at the meeting. Councillor Excell responded to the statements and questions that had been put forward, plus supplementary questions asked by Mr Pearman-Brooks, Mr Fields and Mr Barfoot (on behalf of Mr Colville). Councillor Excell advised that he would provide a written answer in respect of the supplementary question asked by Mr Pearman-Brooks.

#### **89 Members' questions**

Members received questions, as attached to the agenda, notice of which had been given in accordance with Standing Order A13.

Verbal responses were provided at the meeting. Supplementary questions were then asked and answered by the Mayor (questions 1, 3, 6, 10 and 12 and the urgent question), Councillor Addis (question 5), Councillor Thomas (D) (question 8), Councillor Tyerman (questions 9 and 13) and Councillor Lewis (question 11). In the absence of Councillor Pritchard, question 2 was deferred to the next Council meeting.

#### **90 Notice of Motion - A Fair Deal for Social Care Clients**

Members considered a motion in relation to social care clients receiving ‘a fair deal’, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Baldrey and seconded by Councillor Darling:

this Council notes that according to the latest census figures Torbay has 9,500 residents of 80 years of age or greater and that this represents almost twice the national average figure for this age group. This is without doubt the age group most likely to be in need of long term social care.

This Council notes that the report of the Commission on Funding of Care and Support chaired by Andrew Dilnot was sent to the Chancellor of the Exchequer and the then Secretary of State for Health on 4th July 2010. The report recommended, inter alia:

- a) that a cap should be set on an individual's contributions, and
- b) that the upper threshold for means-testing should be raise.

This Council calls upon Her Majesty's Government to:

- i. bring forward legislation to implement these two proposals without any further delay; and
- ii. ensure that the necessary funding provided to all local authorities is based upon the demographics of the eligible population rather than an arbitrary formula.

The Council calls on the Chief Operating Officer to write to the Secretary of State for Health outlining these concerns.

In accordance with Standing Order A14.4(a), the Monitoring Officer advised that the motion stood referred to the Mayor. The Mayor advised he would refer the motion to the People (Adults) Policy Development Group to allow the matter to be examined further.

## **91 Notice of Motion - Ethical Consumer and Use of Tax Havens by Companies Operating Public Services**

Members considered a motion in relation to Ethical Consumer and use of tax havens by companies operating public services, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Darling and seconded by Councillor Pentney:

this Council:

congratulates Ethical Consumer for its work exposing the poor ethical record of the companies being awarded contracts to run our public services;

is deeply concerned that 13 of the 20 companies surveyed avoid tax through the use of tax havens;

believes that the Council's procurement, at around £50 million a year, has the potential to have a major positive impact on the market for ethical goods and services;

notes that whilst the Council has some ethical guidance regarding ethical procurement this policy could be significantly strengthened; and

calls on the Council to bring forward a set of legally binding procurement rules that subject companies delivering and bidding for the delivery of public

service contracts to high ethical, environmental and anti-tax avoidance standards as measured against the criteria developed by Ethical Consumer.

The Council requests the Chief Operating Officer to write to the Chancellor of the Exchequer to highlight the Council's support for the work and the concerns raised by the Ethical Consumer.

The Council's representatives on the appropriate bodies within the Local Government Association be requested to also highlight the Council's support for the work undertaken by the Ethical Consumer and through this encourage other Local Authorities to adopt a similar approach to tax avoidance.

In accordance with Standing Order A14.3(b), the Monitoring Officer advised that the motion would be dealt with by this meeting.

During the debate, the Mayor suggested the motion be amended to include the Chief Operating Officer also writing to local MP's and the Local Government Association. In accordance with Standing Order A16.8, Councillor Darling accepted the Mayor's proposed additions.

On being put to the vote, the motion (with the additions outlined above) was declared carried (unanimous).

## **92 Notice of Motion - Loan Sharks**

Members considered a motion in relation to loan sharks, notice of which was given in accordance with Standing Order A14.

It was proposed by Councillor Cowell and seconded by Councillor Morey:

this Council notes and welcomes the UK-wide campaign to end 'legal loan sharking'.

Believes that the lack of access to affordable credit is socially and economically damaging. Unaffordable credit is causing a myriad of unwanted effects such as poorer diets, colder homes, rent, council tax and utility arrears, depression (which impacts on job seeking behaviour), stress leading to family relationship issues, child poverty and poor health.

Further notes that unaffordable credit is extracting wealth from the most deprived communities.

Believes it is the responsibility of all levels of government to try to ensure affordable credit for all, and therefore pledges to use best practice to promote financial literacy and affordable lending. This will help to ensure that wealth stays in the local economy. We also pledge to promote credit unions in Torbay, community based organisations offering access to affordable credit and promoting saving.

Calls on the government to introduce caps on the total lending rates that can be charged for providing credit.

Calls on the government to give local authorities the power to veto licences for high street credit agencies where they could have negative economic or social impacts on communities.

Torbay Council will:

- Encourage and promote, through payroll giving, contributions to credit unions by council staff and partner organisations.
- Write to the Government to request a review of planning legislation to discourage the proliferation of high street loan providers.
- Support local credit unions in raising their identity and if possible create a high street presence.

In accordance with Standing Order A14.4(a), the motion stood referred to the Mayor. The Mayor advised he would refer the motion to the People (Communities) Policy Development Group to allow the matter to be examined further.

### **93 Neighbourhood Planning in Torbay: Applications for Neighbourhood Forums and Plan Areas**

The Council considered the submitted report outlining applications for neighbourhood planning areas for Torquay, Paignton and Brixham and constitutions submitted by their respective Forums. It was noted the Localism Act 2011 introduced neighbourhood plans as a tool for shaping the development and growth of a local area and would be part of the development plan and local plan. A revised officer recommendation was tabled at the meeting.

It was proposed by Councillor Thomas (D) and seconded by Councillor Morey:

- (i) that the Neighbourhood Plan areas and forums of Torquay, Paignton and Brixham, and their constitutions, be approved subject to the Executive Head for Spatial Planning (in consultation with the Group Leaders and Executive Lead for Strategic Planning, Housing and Energy) being able to withdraw this approval with immediate effect in respect of any Forum in the event of any of the following applying to that Forum;
  - (a) the Forum is not able to demonstrate that they have at least 21 members who live or work in the area, or are elected councillors;
  - (b) the Forum is not acting in accordance with its constitution; and
  - (c) the Forum has failed to comply with a reasonable direction of the Executive Head, Spatial Planning within a reasonable period from such direction being made;

- (ii) that all Neighbourhood Forums be instructed that the Council may choose not to advertise a submitted plan or put it forward for examination, if the matters referred to in paragraph 3.9 of the submitted report and (i) above are not addressed to the satisfaction of the Executive Head for Spatial Planning in consultation with the Group Leaders and Executive Lead for Strategic Planning Housing and Energy; and
- (iii) that Local Councillors should take a lead role in ensuring each Neighbourhood Forum meets the terms of its constitution, the requirements of the Localism Act and National Planning Policy Framework and meets or exceeds the requirements of the new Local Plan.

On being put to the vote, the motion was declared carried (unanimous).

#### **94 Localised Council Tax Support Scheme**

Members considered the submitted report on proposed responses to the measures set out in the Local Government Finance Bill. It was noted that the Bill required all council tax billing authorities to devise a local Council Tax Support Scheme to replace the current national Council Tax Benefit Scheme. The report also sought appropriate delegations that would allow implementation of the proposals in accordance with the required timescales.

It was proposed by Councillor Tyerman and seconded by Councillor Thomas (D):

- (i) that the proposed local Council Tax Support scheme as set out in Section 2 of the submitted report be approved;
- (ii) that the proposed Vulnerable policy, as set out at Appendix C to the submitted report, be approved;
- (iii) that the proposed Exceptional Hardship Fund policy, as set out at Appendix A to the submitted report, be noted;
- (vi) that delegated authority be granted to the Executive Head of Finance, in consultation with the Executive Lead for Finance and Audit, to make any further adjustments (including those required by any changes to the regulations as approved by Parliament) to implement the proposed Council Tax Support scheme, the proposed Exceptional Hardship Policy and Fund and the proposed Vulnerable policy.

An amendment was proposed by Councillor Darling and seconded by Councillor Pentney:

- (i) the proposed local Council Tax Support Scheme as set out in Section 2 of the submitted report be approved, subject to working age households in receipt of Council Tax Benefit having to pay a reduced amount of Council Tax bill of 12.5% instead of the recommended 25% in the submitted report. The Executive Head of Finance be requested to amend the Council Tax Base Report to reflect the impact of the changes to the Council Tax Support Scheme and the resulting shortfall will be considered as part of the final budget decisions in February 2013. This report to be presented at an extraordinary Council meeting to be arranged in January 2013.

In accordance with Standing Order A19.4 and at the request of Councillor Darling, a recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: The Chairman, Councillors Baldrey, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), James, Morey, Parrott, Pentney, Pountney, Stocks and Stockman (16); Against: The Mayor, Councillors Addis, Amil, Barnby, Bent, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Richards, Thomas (D), Thomas (J) and Tyerman (16); and Absent: Councillors Brooksbank, Butt, Mills, Pritchard and Scouler (5). Therefore, in accordance with Standing Order A19.2, the Chairman used his casting vote, voted against the amendment and declared the amendment lost.

The original motion was then put to the vote and in accordance with Standing Order A19.4, a recorded vote was taken. The voting was taken by roll call as follows: For: The Mayor, Councillors Addis, Amil, Barnby, Bent, Excell, Hernandez, Hill, Hytche, Kingscote, Lewis, McPhail, Parrott, Richards, Thomas (D), Thomas (J) and Tyerman (17); Against: Councillors Baldrey, Cowell, Darling, Davies, Doggett, Ellery, Faulkner (A), Faulkner (J), James, Morey, Pentney, Pountney, Stocks and Stockman (14); Abstain: The Chairman (1) and Absent: Councillors Brooksbank, Butt, Mills, Pritchard and Scouler (5). Therefore, the original motion was declared carried.

## **95 Council Tax Base Report**

Members considered the submitted report which set out the Council's tax base for council tax purposes for 2013/14.

It was proposed by Councillor Tyerman and seconded by Councillor Richards:

- (i) that Council (as described in paragraph A3 of the submitted report) approve the following technical adjustments to Council tax discounts:
  - a) Set discount for prescribed class D dwellings (formally exempt class A) to nil (paragraph A3.8 of the submitted report);

- b) Set discount to 100% for a period of one month for prescribed class C dwellings, (formerly exempt class C “unoccupied and substantially unfurnished for less than six months”), and after that initial one month period the discount is nil (paragraph A3.9 of the submitted report);
  - c) Reduce discount for all other prescribed class C dwellings – “unoccupied and substantially unfurnished” to nil (paragraph A3.5 of the submitted report);
  - d) reduce the discount for prescribed class A and B (“second homes”) to nil (paragraph A3.4 of the submitted report);
- (ii) that the calculation of the Council Tax Base for the year 2013/14 be approved as shown in Appendix 1 to the submitted report;
  - (iii) that the calculation of the Brixham Town Council Tax Base for the year 2013/14 be approved as shown in Appendix 2 to the submitted report;
  - (iv) that, in accordance with the Local Authorities (Calculation of Tax base) (England) Regulations 2012, the amount calculated by Torbay Council as its Council Tax base for the year 2013/14 should be 41,586.58;
  - (v) that, in accordance with the Local Authorities (Calculation of Tax base) (England) Regulations 2012, the amount calculated by Torbay Council as the Council Tax base for Brixham Town Council for the year 2013/14 should be 5,597.39;
  - (vi) that the estimated distribution on the Collection Fund as shown in paragraph A4.4 to the submitted report be approved;
  - (vii) that, subject to agreement with Brixham Town Council, the Council transfers the Department for Communities and Local Government allocation of Council Tax Support grant for 2013/14 identified for Brixham Town Council direct to the Town Council; and
  - (viii) that the approval of the Council’s estimate of Business Rate Income (NNDR1) for the next financial year and following years be delegated to the Chief Finance Officer and subsequently distributed to all Members.

On being put to the vote, the motion was declared carried.

Chairman

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# Agenda Item 6

## Meeting of the Council

Wednesday, 6 February 2013

### Questions Under Standing Order A13

<b>Question (1) by Councillor Faulkner (J) to the Mayor – Mayor Oliver</b>	How have the Council taken Account of Child poverty during the budget setting process for 2013/14?
<b>Question (2) by Councillor Darling to the Mayor</b>	The Council have a duty to conduct access audits for Council buildings. Can you please advise when these were last reviewed and when any monies were last spent to improve access, on a plan by plan basis?
<b>Question (3) by Councillor Darling to the Fire Authority Representatives – Councillors Brooksbank and Mills</b>	Do you plan to oppose the loss of a Full time fire engine from Torquay fire station?
<b>Question (4) by Councillor Cowell to Mayor – Mayor Oliver</b>	Can the Mayor explain the rationale behind spending £40,000 on the path at Torre Abbey Meadows?
<b>Question (5) by Parrott to the Executive Lead for Business Planning and Governance – Councillor Pritchard</b>	<p>In view of the troubling allegations regarding the 'political charity' Common Purpose - in the national press (including both the Daily Mail and the Sunday Times) during the week Monday, 12 November to Sunday, 18 November - please could you advise Council as to the numbers of employees of Torbay Council that have received training from Common Purpose over the past municipal 10 years, and within which employment groups and at what levels those employees work (eg) social workers, teachers, communications, human resources?</p> <p>Could you also confirm to the Council that no employees are due to attend such training in the future, and that in view of the seriousness of the allegations, that the Council will put in place a policy precluding any employee training by Common Purpose in the future?</p>

## Council Meeting

6 February 2013

### Council Motion – Fuel Poverty

This Council notes:

1. Already 1 in 4 households in the UK are in fuel poverty, meaning they need to spend more than 10% of their income on keeping their homes warm. The problem is likely to get worse, with 1 in 3 households projected to be in fuel poverty by 2016.
2. The main reasons for this crisis are that gas, oil and coal prices are high, and the UK's homes are some of the most energy inefficient in Europe – leaking heat from their doors, walls and windows.
3. Cold homes are damaging the health of vulnerable members of society, including children, older people and people with disabilities. Diseases such as asthma are made worse, and people are more likely to have strokes and heart attacks. Illnesses caused by cold homes cost the NHS nearly one billion pounds each year.
4. Over the next 15 years the Government will raise an average of £4 billion every year in carbon taxes through the European Emissions Trading Scheme and the Carbon Floor Price. Recycling this revenue back into households could bring 9 out of 10 homes out of fuel poverty, lower people's bills, cut carbon emissions and create jobs.

This Council therefore resolves to:

1. Support the Energy Bill Revolution campaign calling for the Government to recycle revenues from carbon taxes into improving the energy efficiency of UK homes.
2. Notify local Members of Parliament of its support for the campaign and urge them to sign Early Day Motion 47 – “Reducing Fuel Bills through Energy Efficiency.

Proposer Cllr Steve Darling

Seconded Cllr Ruth Pentney

# Agenda Item 8



**Meeting:** Council Meeting

**Date:** 6 February 2013

**Wards Affected:** St Mary's with Summercombe

**Report Title:** Future of Chestnut Children's Centre Nursery

**Executive Lead Contact Details:** Cllr Chris Lewis [chris.lewis@torbay.gov.uk](mailto:chris.lewis@torbay.gov.uk)

**Supporting Officer Contact Details:** Rachael Williams [rachael.williams@torbay.gov.uk](mailto:rachael.williams@torbay.gov.uk)  
Suzie Franklin [suzie.franklin@torbay.gov.uk](mailto:suzie.franklin@torbay.gov.uk)

## 1. Purpose

- 1.1 As an integral statutory requirement of the Children's Centre duty, Torbay Council established, delivered and financially subsidised the running of Chestnut Children's Centre Nursery through the funding provided to deliver Children's Centres. In 2010 the statutory duty to provide childcare from 8am until 6pm on the Chestnut Children's Centre site was removed and the amount of funding provided to Torbay Council to provide Children's Centre services was reduced. The removal of the duty and the advice within the 2006 Childcare Act for Local Authorities to act as the provider of childcare "only as a last resort" has resulted in the need to review what this reduced level of funding is used for.
- 1.2 Torbay Council recognises that the sufficiency duty to provide childcare is best achieved through working with partners including the private, voluntary and independent sector. In 2009 and 2011 Torbay Council completed two separate procurement processes to offer Chestnut Nursery to an alternative provider. On both occasions there has been little interest expressed in the Nursery and no providers were able to be selected to enable the outsourcing of the Nursery.
- 1.3 The demand for nursery placements at Chestnut Nursery has declined. There are now over 170 vacant sessions at Chestnut Nursery per week. In 2010 Torbay Council invested an additional £66,000 rising to £80,000 in 2011 to maintain the provision. In 2012 -2013 the anticipated investment needed is expected to reach £44,000. Without Chestnut Nursery there remains a sufficient number of alternative childcare placements (see Equalities Impact Assessment) to accommodate children.

## 2. Proposed Decision

- 2.1 That Chestnut Nursery be closed with effect from the 31<sup>st</sup> August 2013 subject to the decision being reconsidered should a viable alternative become available by no later than 2 April 2013.

### **3. Reasons for Recommendation**

- 3.1 Currently Torbay Council is in receipt of no evidence to demonstrate that an alternative viable option is available. The officers remain available to support the development of alternative solutions and would recommend that if a viable option does become available by the 2<sup>nd</sup> April 2013, the option is considered at this time.
- 3.2 The consultation process, although demonstrating public support for the nursery it did not generate substantial alternative options for the council to consider. The most credible alternative to closure remains the outsourcing of the nursery to an alternative provider. Under the proposed decision this option can still be supported and explored until 2<sup>nd</sup> April 2013 allowing the interested parties time to consider alternative models of delivery
- 3.3 The reason for the 2 April 2013 being the date by which a viable alternative to closure must be proposed is due to the notice period that staff and parents must be given for the nursery to close on 31 August 2013.

### **Summary**

Torbay Council's priority remains to ensure that children get the best possible start in life and one way to ensure this is to create strong early year's providers that are not faced with the worries that are associated with falling numbers and the financial pressures this creates. It is recommended that Chestnut Nursery provision is closed on the 31<sup>st</sup> August 2013.

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### **4. Supporting Information**

#### **Position**

After a consultation period exploring the three options listed below, Torbay Council has not received information that would alter the above recommendation. The Council has made an adjustment to the timescale for the proposed closure from February 2013 to 31<sup>st</sup> August 2013 to alleviate the impact on children of a transition during the academic year and providing parents with the largest choice of childcare options at a time when 4 year old children are transitioning to school.

#### **Possibilities and Options**

The consultation explored the options outlined below

##### **Option One: No Change/Status Quo**

Under this option, we would make no changes and Chestnut Nursery would remain open to see if the Nursery can continue to operate as a small nursery and to see if the demand for places increases. Fees will however have to be reviewed to help to redress the overspend.

Some arguments in favour of Option One:

- Parents in Brixham will still be able to choose between 5 Early Years providers and a number of childminders
- There will still be a nursery provision in higher Brixham
- Children will not need to change childcare provider
- It reduces the risk that future growth will leave us with too few places.

Some arguments against Option One:

- Chestnut may become so small that it has to close suddenly without plans in place for the children who need to move childcare providers
- The nursery would find it less easy to cope with events such as staff changes, sickness and price increases
- Budgets to sustain the provision might be reduced impacting on the quality of the service that is offered

There would still be in addition of 170 empty vacancies at the nursery per week, with so many empty places the nursery would continue to face an uncertain future

Parents would experience increased nursery fees. (Based on the current number of paid hours being used per week budget indications would predict a 100% price increase per hour would be needed to reach a breakeven point).

Option Two: Close Chestnut Nursery Under this option, there is a carefully planned closure of the provision at the end on 31<sup>st</sup> August 2013.

Some arguments in favour of Option Two:

- It is a decisive way forward and ends uncertainty for Chestnut Nursery
- There are places at alternative Early Years provisions for Chestnut Nursery children and further opportunities for alternative child are within Brixham.
- It reduces empty places making alternative providers more sustainable
- Torbay council no longer has an £80,000 overspend to maintain the nursery.

Some arguments against Option Two:

- It is disruptive to the children at Chestnut Nursery
- It means that there would be no early years provision in higher Brixham
- Other early years providers may need to reorganise to accommodate children from Chestnut Nursery
- It may remove too many nursery places and leave too little room for future growth

Option Three: Any other options that may emerge during consultation. We are consulting with an open mind, and whilst we think the first two options are the main ones, there might be an option that no-one has thought about until it is suggested during consultation.

## **5. Preferred Solution/Option**

Torbay Council recognises that no alternative option has become available within the consultation period. However it remains open to information regarding the development of a viable alternative until 2<sup>nd</sup> April 2013 and will continue to support and provide information to any parties that express an interest in continuing the provision.

Without receipt of information by the specified date it remains the recommended decision that Chestnut Nursery would close on the 31<sup>st</sup> August 2013.

**Consultation:** The recommendation has been informed by an extended consultation period which was held from the 13<sup>th</sup> November 2012 to 7<sup>th</sup> January 2013.

The consultation developed as a result of two unsuccessful procurement processes and following meetings with stakeholders to review the options available. These meetings were prompted by the Council's concern over the significant level of surplus placements and how this was impacting on financial stability.

The response to the public consultation revealed that there was significant public support for retaining Chestnut Nursery provision. The key findings of the consultation are detailed in the Equalities Impact Assessment and resulting amendments are reflected both within the proposed decision and future actions.

The most credible alternative to closure would be the outsourcing of provision to an alternative provider. An option presented through the consultation is to establish a social enterprise company to continue the nursery. This option has been supported through the providing of information and a meeting between interested parties and key officers. The recommendation (at the time of the report) is based on the lack of an alternative viable option being presented and the knowledge that Chestnut Nursery provision cannot continue in its current form with the high level of vacancies and financial implications.

## **Risks**

There are risks surrounding both the continuation and closure of Chestnut Nursery. The numbers of children accessing the nursery remain low and there is no indication that this is due to rise from the current number registering an interest in the nursery. The nursery funding is reliant upon a Council subsidy and where appropriate parental fees, austerity measures for both funding streams result in this difficult decision.

Alternative early years providers will need to reorganise to accommodate children from Chestnut Nursery. The recommendation for closure on 31<sup>st</sup> August 2013 will support providers to consider the organisation of vacancies at a time when their existing 4 year old children will transition to a school placement. In turn this will result in parents having the largest amount of choice when selecting an alternative provider.

The local authority will need to work closely with providers in Brixham and the local community to ensure a sustainable future for the remaining Nursery provision.

## **Appendices**

Appendix 1	Equalities Impact Assessment
Appendix 2	Consultation Paper

## Equality Impact Assessment (EIA):

<b>Name of Report/Proposal/Strategy:</b>	Closure of Chestnut Children's Centre Nursery	<b>Business Unit:</b>	Children's Services
<b>Name (Key Officer/Author):</b>	Suzie Franklin	<b>Tel:</b>	01803 208943
<b>Position:</b>	Head of Schools	<b>Email:</b>	Suzie.franklin@torbay.gov.uk
<b>Date:</b>	3 <sup>rd</sup> October 2012		

Since the Equality Act 2010 came into force the Council has continued to be committed to ensuring we provide services that meet the diverse needs of our community as well as ensure we are an organisation that is sensitive to the needs of individuals within our workforce. This Equality Impact Assessment (EIA) has been developed as a tool to enable business units to fully consider the impact of proposed decisions on the community.

This EIA will evidence that you have fully considered the impact of your proposal / strategy and carried out appropriate consultation with key stakeholders. The EIA will allow Councillors and Senior Officers to make informed decisions as part of the Council's decision-making process.

### Relevance Test – ‘A Proportionate Approach’

Not all of the proposals or strategies we put forward will be ‘relevant’ in terms of the actual or potential impact on the community in relation to equality and vulnerable groups. For instance, a report on changing a supplier of copier paper may not require an EIA to be completed whereas a report outlining a proposal for a new community swimming pool or a report proposing a closure of a service would.

Therefore before completing the EIA please answer the following questions. If you answer ‘yes’ to any of the questions below you must complete a full EIA.

1)	<b>Does this report relate to a key decision?</b>	Y	
2)	<b>Will the decision have an impact (i.e. a positive or negative effect/change) on any of the following:</b> <ul style="list-style-type: none"> <li>• The Community (including specific impacts upon the vulnerable or equality groups)</li> <li>• Our Partners</li> <li>• The Council (including our structure, ‘knock-on’ effects for other business units, our reputation, finances, legal obligations or service provision)</li> </ul>	Y	Y

## Section 1: Purpose of the proposal/strategy/decision

No	Question	Details
1.	Clearly set out the purpose of the proposal	<p>The proposal is to close the Chestnut Children's Centre Nursery in Brixham. There are currently 170 vacant sessions at Chestnut Nursery per week. The demand for placements from the number of families and children has declined following the closure of Chestnut Primary School. (See data section) As a result the cost to the Authority of maintaining this provision has reached £80,000 per year (2011 – 2012) and is anticipated a further investment of £44,000 will be needed in 2012 – 2013.</p> <p>Torbay Council ran two separate procurement processes in 2009 and 2011 to offer the provision to the private, voluntary and independent sector. On both occasions there was little interest expressed in Chestnut Nursery and no providers were able to be selected to enable the outsourcing of the nursery.</p> <p>Attendance figures for Chestnut Children's Centre demonstrate that less families are attending sessions at Chestnut Children's Centre and the number of families signed up to this children's centre are declining.</p>
2.	Who is intended to benefit / who will be affected?	<p>The children and families attending the nursery will be affected by this proposal as it will result in them having to find alternative childcare arrangements, however sufficiency information on the availability of childcare places in the Brixham area demonstrates that there are enough places available with other providers including local childminders.</p> <p>Chestnut Nursery currently has 8.8 x FTE and it is likely that these individuals will be placed at risk of redundancy. There may be the possibility of redeploying some members of staff into other provisions based on parental demand.</p> <p>There is the potential for alternative childcare provisions to become more sustainable and profitable from the proposal as the numbers of children attending alternative provision will increase.</p>
3.	What is the intended outcome?	<ul style="list-style-type: none"> <li>• The children and families of Chestnut Nursery are fully supported to find alternative childcare to meet their needs.</li> <li>• The local authority reduces the financial subsidy being provided to the childcare market in Brixham.</li> <li>• The childcare market in Brixham becomes more sustainable for the future.</li> </ul>

## Section 2: Equalities, Consultation and Engagement

Torbay Council has a moral obligation as well as a duty under the Equality Act 2010 to eliminate discrimination, promote good relations and advance equality of opportunity between people who share a protected characteristic and people who do not.

The **Equalities, Consultation and Engagement** section ensures that, as a council, we take into account the Public Sector Equality Duty at an early stage and provide evidence to ensure that we fully consider the impact of our decisions / proposals on the Torbay community.

### Evidence, Consultation and Engagement

No	Question	Details
4.	Have you considered the available evidence?	<p>According to the 2001 Census (ONS) there were 360 children aged 0 to 5 who were living in St Mary's with Summercombe (the ward in which Chestnut Nursery is based) and 390 children aged 0 to 5 who were living in the neighbouring ward of Berry Head with Furzeham. <i>(Data from the 2011 Census at ward level is due to be released between November 2012 and March 2013, so is not yet available to provide an update on the number of children living in Brixham)</i></p> <p><u>Deprivation Statistics</u> The area in which Chestnut Nursery is located ranks in between the 20% and 30% (rank 8,544<sup>th</sup> out of 32,482) most deprived areas nationally. As do four of the surrounding lower super output areas (LSOAs). None of the LSOAs in Brixham rank in the top 10% most deprived nationally.</p> <p><u>Attendees of the nursery</u> The nursery occupancy in September to December 2012 dropped to 36.5% compared to 48.8% during the same period of time in 2010.</p> <p>Currently the only parents on the waiting list for places at the nursery are staff who are on maternity leave.</p> <p><u>Current attendees of the nursery</u> The table below shows the active children at Chestnut Nursery by ward and rank of deprivation.</p> <ul style="list-style-type: none"> <li>• In total 24 of the children at Chestnut Nursery live in the same ward as the nursery and 11 of those live within an area which ranks in the top 30% most deprived areas nationally, however they fall in the 20% to 30% most deprived.</li> <li>• 15 of the children live in the neighbouring ward of Berryhead with Furzeham and 2 live in Churston with</li> </ul>

No	Question	Details																																																																																						
		<p>Galmpton.</p> <ul style="list-style-type: none"> <li>Three of the 44 children live in others across the bay, including one from Torquay (Shiphay with the Willows).</li> </ul> <table border="1" data-bbox="263 107 619 1675"> <thead> <tr> <th rowspan="2"></th> <th colspan="6">Number of children</th> </tr> <tr> <th>Total</th> <th>20-30%</th> <th>30-40%</th> <th>40-50%</th> <th>50-60%</th> <th>60-70%</th> </tr> </thead> <tbody> <tr> <td>Berry Head-with-Furzeham</td> <td>15</td> <td>2</td> <td>1</td> <td>9</td> <td>1</td> <td>2</td> </tr> <tr> <td>Blatchcombe</td> <td>1</td> <td>1</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Churston-with-Galmpton</td> <td>2</td> <td></td> <td></td> <td></td> <td></td> <td>2</td> </tr> <tr> <td>Goodrington-with-Roselands</td> <td>1</td> <td></td> <td></td> <td></td> <td></td> <td>1</td> </tr> <tr> <td>Shiphay-with-the-Willows</td> <td>1</td> <td></td> <td></td> <td>1</td> <td></td> <td></td> </tr> <tr> <td>St Mary's-with-Summercombe</td> <td>24</td> <td>11</td> <td></td> <td>8</td> <td>5</td> <td></td> </tr> <tr> <td><b>Total</b></td> <td><b>44</b></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p><u>Sufficiency data</u></p> <p>OFSTED registered providers by distance from Chestnut Nursery</p> <table border="1" data-bbox="845 107 1109 1675"> <thead> <tr> <th>Distance from Chestnut Nursery</th> <th>Child-minder</th> <th>Day Nursery</th> <th>Pre-school</th> <th>School Nursery</th> <th>Total</th> </tr> </thead> <tbody> <tr> <td>Within 1 mile</td> <td>6</td> <td>-</td> <td>1</td> <td>1</td> <td>8</td> </tr> <tr> <td>Between 1 &amp; 2 miles</td> <td>7</td> <td>1</td> <td>1</td> <td>2</td> <td>11</td> </tr> <tr> <td><b>Total</b></td> <td>13</td> <td>1</td> <td>2</td> <td>3</td> <td>19</td> </tr> </tbody> </table>		Number of children						Total	20-30%	30-40%	40-50%	50-60%	60-70%	Berry Head-with-Furzeham	15	2	1	9	1	2	Blatchcombe	1	1					Churston-with-Galmpton	2					2	Goodrington-with-Roselands	1					1	Shiphay-with-the-Willows	1			1			St Mary's-with-Summercombe	24	11		8	5		<b>Total</b>	<b>44</b>						Distance from Chestnut Nursery	Child-minder	Day Nursery	Pre-school	School Nursery	Total	Within 1 mile	6	-	1	1	8	Between 1 & 2 miles	7	1	1	2	11	<b>Total</b>	13	1	2	3	19
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No	Question	Details
5.	How have you consulted on the proposal?	<p>The consultation period ran from the 13<sup>th</sup> November 2012 and was extended to the 7<sup>th</sup> January 2013.</p> <p>The consultation process followed the process outlined below:</p> <ul style="list-style-type: none"> <li>• Stage 1 – Unions formally informed of the proposal through information papers and an invitation to a meeting on the 13<sup>th</sup> November 2012.</li> <li>• Stage 2 – Staff informed of the proposal via a meeting on the 13<sup>th</sup> November 2012.</li> <li>• Stage 3 – Stakeholders (including parents and Brixham Town Council) provided with the consultation paper on the 13<sup>th</sup> November 2012.</li> <li>• Stage 4 – Public meeting held on the 21<sup>st</sup> November 2012.</li> <li>• Stage 5 – Officers ensured that stakeholders had the opportunity to make representations via letters, e-mails, telephone and face to face contacts.</li> </ul> <p>No formal staff consultations will begin until a decision is made. If a decision was made to accept the proposal the consultation with staff would begin in line with the Council's Human Resources (HR) policy.</p> <p>If the decision was to accept the proposal the 12 weeks' notice period for parents would sit outside any consultation process.</p>
6.	Outline the key findings	<p>The range of stakeholders engaging in the consultation activities included parents, staff, childcare providers, Headteachers and Town Councillors.</p> <p>The Council has received 179 responses from an independent petition against the closure.</p> <p>The key findings from the consultation was as follows:</p> <ul style="list-style-type: none"> <li>• There was insufficient alternative childcare to accommodate the needs of all parents currently attending Chestnut Nursery</li> <li>• The Council should consider amalgamating The Nest Nursery and Chestnut Nursery within the Chestnut Nursery building. This has been considered, but this proposal would result in a greater number of children being displaced.</li> <li>• The community should be allowed an opportunity to develop an appropriate Social Enterprise to run Chestnut Nursery.</li> <li>• The decision to close Chestnut Nursery would have a negative impact on the growth of Brixham.</li> </ul>

No	Question	Details
		<ul style="list-style-type: none"> <li>• The original consultation process was inadequate and did not provide sufficient time to enable representations to be made.</li> <li>• The proposed closure date of February 2013 would disrupt children during an academic year.</li> <li>• Chestnut Nursery had not been allowed to advertise leading to a fall in occupancy rates.</li> </ul>
7.	<p><b>What amendments may be required as a result of the consultation?</b></p>	<p>Following consultation the Council made the following amendments to the proposal:</p> <ul style="list-style-type: none"> <li>• The closing date for the consultation was extended from the 26<sup>th</sup> November 2012 to the 7<sup>th</sup> January 2013 to enable full representation to be made.</li> <li>• The proposed closure date of February 2013 was amended to the 31<sup>st</sup> August 2013 to minimise the impact on children during an academic year.</li> <li>• The proposed closure date of 31<sup>st</sup> August 2013 will enable parents to have the largest selection of alternative childcare options as children will be leaving early years providers to start school.</li> <li>• Significant potential growth in the future of the childcare market in Brixham has not been identified; any future growth would be an attractive aspect to potential providers in the private, voluntary and independent sector and may result in market forces opening new provision.</li> <li>• The Council has worked with an identified group to explore the option of a social enterprise model. Key officers continue to provide information to this group and are seeking expertise to work with parents/stakeholders on developing this option. The Council remains open to receive a viable business proposal from any interested parties until 2<sup>nd</sup> April 2013.</li> </ul>

## Positive and Negative Equality Impacts

No	Question	Details		
8.	Identify the potential positive and negative impacts on specific groups	<p><i>It is not enough to state that a proposal will affect everyone equally. There should be more in-depth consideration of available evidence to see if particular groups are more likely to be affected than others – use the table below. You should also consider workforce issues. If you consider there to be no positive or negative impacts use the ‘neutral’ column to explain why.</i></p>		
		Positive Impact	Negative Impact	Neutral Impact
	All groups in society generally			The proposal impacts on children aged 0 to 5 and their parents/carers. The proposal could have a potential impact on employment of staff.
	Older or younger people		Children 0 to 5 attending Chestnut Nursery Children may experience an unsettling time impacting on their emotional well-being and academic achievement for a short period of time whilst transitioning into a new environment.	
	People with caring responsibilities	There is a potential that the cost of alternative childcare might be less than existing fees.	Parents of children attending will need to find alternative childcare arrangements as their preferred choice may not be available. Parents might be inconvenienced due to the location of other childcare and they may not be able to get the hours and days they require within alternative provision. There is a potential that the cost of alternative childcare might be higher than existing fees.	
	People with a disability		Currently there are a small number of children attending Chestnut	

No	Question	Details
		<p>Nursery with Special Educational Needs (SEN). Some children are being put forward for a statement of educational need and are currently in receipt of speech and language support. These children may experience an unsettling time impacting on their emotional wellbeing and academic achievement while transitioning to a new environment.</p> <p>Some parents have a disability and have selected Chestnut Nursery as the most accessible provision to support their needs. These parents may not be able to find suitable accessible provision.</p>
	Women or men	Both men and women will be affected by the decision as parents/guardians of the children that attend Chestnut Nursery, however from the number of women dropping off and collecting children from nurseries it is envisaged that women will be greater affected by the decision.
	People who are black or from a minority ethnic background (BME)	No differential impact on this group.
	Religion or belief (including lack of belief)	No differential impact on this group.
	People who are lesbian, gay	No differential impact on this group.

Details	
No	Question
	or bisexual
	People who are transgendered
	People who are in a marriage or civil partnership
	Women who are pregnant / on maternity leave
	There are currently a small number of pregnant families on the waiting list for Chestnut Nursery who are members of staff on maternity leave. Future parents that plan to use the centre (but have not registered their interest) maybe affected by this proposal.
9.	<p>Is there scope for your proposal to eliminate discrimination, promote equality of opportunity and / or foster good relations?</p> <p>Children and their families affected by this proposal will be fully supported in finding and settling into alternative arrangements, details of this are outlined under No.11 below. Through the Family Information Service (FIS) and the Early Years and Childcare Advisory Service families will be supported throughout the transition to find alternative arrangements which meet their needs.</p> <p>The moving of the proposed closure date to 31<sup>st</sup> August 2013 will enable alternative providers to consider and plan for the needs / ages of children seeking alternative provision. The parents affected by this proposal will be considering new provision at a time when there is the lowest occupancy within alternative nursery provision.</p>

**Section 3: Steps required to manage the potential impacts identified**

Details	
No	Action
10.	Summarise any positive impacts and how they will
	Parents and carers will be fully supported in finding alternative arrangements which meet their needs, in some cases this may result in parents finding an alternative provider which is cheaper than the current provision. This

	<p>be realised most effectively?</p>	<p>will be identified as part of the support the Family Information Service will offer to parents needing to find alternative provision.</p>
<p>11.</p>	<p><b>Summarise any negative impacts and how these will be managed?</b></p>	<p><i>Negative impact –finding alternative childcare</i>  The Family Information Service (FIS) will offer a bespoke package of support to each family, assessing their childcare needs and matching current vacancies to family’s patterns of childcare. The Council will act as a broker for parents in arranging and finding vacancy information.</p> <p><i>Negative Impact - Children may experience an unsettling time impacting on their emotional well-being and academic achievement for a short period of time whilst transitioning into a new environment.</i>  The Early Years and Childcare Advisory Service will offer a transition package for each child to ensure that their educational assessment and emotional needs are supported effectively into the new provision. The local authority can facilitate the joining of practitioners / key person from the childcare providers to discuss child / family needs prior to the transition to a new setting. THRIVE provision (a developmental assessment and specific approach to supporting children’s emotional well being) can be planned for all children at the transitional point to ensure minimal impact on their academic achievement and emotional well-being.</p> <p>The Early Years Inclusion Teacher will offer bespoke support to all children with SEN. A carefully planned transition will be put in place for these children and the qualified teacher will continue to monitor the provision offered within the alternative childcare in association with the settings Special Education Needs Co-ordinator.</p> <p>The quality of childcare across Torbay is significantly high (93% rated as good or outstanding by Ofsted). It is highly likely that children will transition to a setting that has the necessary skills and expertise to support each child/family.</p> <p><i>Negative Impact – Increased cost of childcare</i>  Some parents may be affected by increased childcare costs if paying for additional childcare above the 15 hour free educational entitlement for over 3’s or privately funded childcare for under 3’s. Parents eligible for Free School Meals (FSM) will be able to take advantage of 15 hours of free nursery education for children 2 and over from 1<sup>st</sup> September 2013. The cost of wraparound childcare provided by Childminders is brokered on an individual basis. The Family Information Service would work with alternative providers to match provision to financial needs where possible.</p> <p><i>Negative Impact – Accessibility of the provision</i></p>

	<p>Parents selecting Chestnut Nursery due to the accessibility of the provision will be supported to find the most appropriate alternative on an individual basis. The new provision will be supported / assessed to ensure that as many adaptations can be instigated prior to September 2013.</p>
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**Section 4: Course of Action**

<b>No</b>	<b>Action</b>	<b>Details</b>
<p><b>12.</b> [please refer to action after section 5]</p>	<p><b>Clearly identify an option and justify reasons for this decision. The following four outcomes are possible from an assessment (and more than one may apply to a single proposal). Please select from the 4 outcomes below and justify reasons for your decision - If '3' please provide full justification :</b></p> <p><b>Where: -</b></p> <p><b>Outcome 1: No major change required - EIA has not identified any potential for adverse impact in relation to equalities and all opportunities to promote equality have been taken.</b></p> <p><b>Outcome 2: Adjustments to remove barriers – Action to remove the barriers identified in relation to equalities have been taken or actions identified to better promote equality.</b></p> <p><b>Outcome 3: Continue with proposal - Despite having identified some potential for adverse impact / missed opportunities in relation to equalities or to promote equality. Full justification required, especially in relation to equalities, in line with the duty to have 'due regard'.</b></p> <p><b>Outcome 4: Stop and rethink – EIA has identified actual or potential unlawful discrimination in relation to equalities or adverse impact has been identified.</b></p> <p><b>Outcome 3: Continue with proposal.</b> The recommendation is to close Chestnut Nursery, however officers will continue to work with and supply additional information to interested parties to enable them to consider the viability of running Chestnut Nursery under a social enterprise model. If information was presented by the 2<sup>nd</sup> April 2013 that indicates the social enterprise could run the nursery the recommendation to the Mayor would be to recall the decision and allow this to be developed.</p> <p>The decision to close Chestnut Nursery on the 31<sup>st</sup> August 2013 rather than February 2013 will enable further time and an increased amount of options for parents to find alternative childcare.</p>	

### Section 5: Monitoring and Action Plan

No	Action	Details
13.	<p><b>Outline plans to monitor the actual impact of your proposals</b></p>	<p><i>The full impact of decisions will only be known once it is introduced. Identify arrangements for reviewing the actual impact of proposals once they have been implemented. Please also use the action plan below.</i></p> <p>The impact on individual children and families will be monitored through the planning of individual transition plans. The settling of children into alternative childcare will continue beyond the role of finding a placement and where a negative impact is identified additional personal will be provided to ensure children are fully supported and there needs are appropriately catered for.</p>

***Please use the action plan below to summarise all of the key actions, responsible officers and timescales as a result of this impact assessment***

#### Action plan

Please detail below any actions you need to take:

No.	Action	Reason for action / contingency	Resources	Responsibility	Deadline date
1	Consultation with Trade Unions regarding decision and impact on staff	In line with HR change policy	HR time, Unions	HR, Early Years Manager	April 2013
2	Consultation with staff regarding decision and impact on employments	In line with HR change policy	HR time, Unions, Staff time	HR, Early Years Manager	April 2013
3	Notice provided to parents	Allowing parents to have the longest period of time to find alternative childcare	Family Information Service	Early Years Manager	April 2013
4	Establish a brokerage service for families on an individual basis	Providing parents with the best advice and solutions available to meet their needs.	Family Information Service, Nursery Staff, Parents, Information from	Family Information Service	May 2013

5	Establishment of transition plans for children (in particular children/families with identified additional needs or circumstances)		To ensure a smooth transition for all children/families, limiting the impact on both academic and social needs.	Alternative Providers	Early Years Advisory Teachers time, Early Years Inclusion Consultant time Nursery Staff time	Early Years Manager	May/June/ 2013	July
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## Appendix 1

### Sufficiency Information

- Number of providers by distance from Chestnut

Distance from Chestnut Nursery	Child-minder	Day Nursery	Pre-school	School Nursery	Total
Within 1 mile	5	1	0	1	7
Between 1 & 2 miles	6	1	1	1	9
<b>Total</b>	11	2	1	2	16

- Ofsted registered places within 1 mile of Chestnut

Type of childcare	No. of places	Age range	Vacancies
Childminder	25	0-14 years	Yes
Day Nursery	16	2-5 years	No
Pre-school	0	-	-
School Nursery	26	3-5 years	12.2 spaces 15 hours per week

- Ofsted registered places between 1 and 2 miles from Chestnut

Type of childcare	No. of places	Age range	Vacancies
Childminder	31	0-16 years	Yes
Day Nursery	55	0-5 years	Yes
Pre-school	26	2-5 years	Yes
School Nursery	26	3-5 years	9.63 spaces at 15 hours per week 17.8 spaces at 15 hours per week

**Please reply to:**

Early Years and Childcare Advisory Service

Tor Hill House 2<sup>nd</sup> Floor North  
c/o Town Hall, Castle Circus, Torquay, TQ1 3DR

**My ref:**

**Your ref:**

**Telephone:** 01803 208328

**Fax:** 01803 208226

**E-mail:** [earlyyears@torbay.gov.uk](mailto:earlyyears@torbay.gov.uk)

**Website:** [www.torbay.gov.uk](http://www.torbay.gov.uk)

**Date:** 13<sup>th</sup> November 2012

Dear

**Consultation on the future of Chestnut Nursery**

I am writing to inform you that Torbay Council is beginning a consultation process over the future of Chestnut Nursery. Attached to this letter is a copy of the consultation document that explains the background and the options available.

This consultation has come about as a result of a decline in the uptake of places at the nursery and the increasing financial pressures being placed upon the council budget.

I would like to reassure you that no decisions have been taken and the decision makers have an open mind about whether any changes will be made. They wish to consider the options after hearing the views of those who might be affected.

The council is consulting on the following options

- No closure of Chestnut Nursery
- Closure of Chestnut Nursery
- Options that emerge as a result of consultation

After reading the consultation document we would encourage you to share your thoughts. One way to make your views heard is to attend an open meeting on the 21<sup>st</sup> November 2012 from 6pm onwards at Chestnut Children's Centre. The meeting will provide you with an opportunity to ask questions and express your views. These will be noted and fed back to the decision makers in the Council.

Alternatively you may wish to respond using the form attached to the consultation document. In addition to completing a response form, or instead of completing a response form, you can send your views by letter or email to the following address.

Early Years and Childcare Advisory Service  
Tor Hill House 2<sup>nd</sup> Floor North  
c/o Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

[earlyyears@torbay.gov.uk](mailto:earlyyears@torbay.gov.uk)

I am looking forward to hearing your views on the options set out in the consultation document.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'R Williams', with a horizontal line extending to the right.

Richard Williams  
Director of Children's Services

**The future of Chestnut Nursery**  
**A Consultation on Possible Changes**

The demand for nursery places at Chestnut Nursery has been falling in the past few years. There are now over 170 vacant sessions at Chestnut Nursery per week.

We are concerned that there are no longer enough children to keep the nursery open and we are consulting over whether to close the provision.

Our priority is to ensure that children get the best possible start in life and one way to do this is to create strong early years providers that are not faced with the worries that are associated with falling numbers and the financial pressures this creates.

This paper sets out the background and explains the options for change.

The consultation involves the parents and staff and also seeks the views of other interested parties including other Early Years Providers in Brixham, Brixham Town Council and Brixham Schools.

No decisions have been made and we are holding this consultation to gather your views.

## **Background Information**

### **Why is the demand for places falling?**

The fall in the demand for places is caused by a decline in the birth rate. For several years when children have left the nursery provision they have been replaced by smaller groups of children.

In many places the demand for early years provision has risen due to the birth rate in the UK rising, but this has not been the case in Brixham, although the 2008- 2009 figure of 172 is unusually high. This figure is being regarded as a “blip” in an otherwise steady trend.

The table below shows how the birth rate for Brixham has changed.

School Year	Brixham
1997 – 98	165
1998 – 99	155
1999- 00	192
2000 – 01	163
2001 – 02	139
2002 – 03	141
2003 – 04	148
2004 – 05	141
2005 – 06	110
2006 – 07	147
2007 – 08	118
2008 – 09	172
2009 – 10	129
2010 – 11	157

We do not think that the position in Brixham will change very quickly, As you may know, the Council is worried about the strength of the local economy and is trying to revive it. We consider that most of the growth of population will be in Torquay and Paignton.

Following the closure of Chestnut Primary School there has been a reduction of children attending the nursery. Many parents select an early years provision on a school site. Since the closure of the school there have been less enquires for nursery placements.

### **What is the impact on Chestnut Nursery of empty vacancies?**

As the number of children registered decline the nursery receives less money. Funding for placements is based on parental fees and head count of children for free entitlement hours. A fall in the number of children does not lead to a reduction of costs.

In 2011 Torbay Council invested an additional £80,000 in Chestnut Nursery to maintain the provision. In the current financial climate The Council will have great difficulty in continuing to support such an overspend. If it is not possible to invest additional funding the Nursery would not manage with lower levels of funding, this would affect the quality of education and care offered to children.

### **Wasn't there a process completed to outsource Chestnut Nursery?**

Yes, Torbay Council have completed two procurement processes to offer Chestnut Nursery to an independent private provider. On both occasions there has been little interest expressed in the Nursery and no providers were able to be selected to outsource the Nursery.

Unfortunately, we think that a third procurement process would not result in a different outcome due to the falling numbers and increased costs associated with Chestnut Nursery.

### **What options are being considered?**

#### **Option One: No Change/ Status Quo**

Under this option, we would make no changes and Chestnut Nursery would remain open to see if the Nursery can continue to operate as a small nursery and to see if the demand for places increase. Fees will however have to be reviewed to help to redress the overspend.

#### Some arguments in favour of Option One

- Parents in Brixham will still be able to choose between 5 Early Years providers and a number of childminders
- There will still be a nursery provision in higher Brixham
- Children will not need to change childcare provider
- It reduces the risk that future growth will leave us with too few places

#### Some arguments against Option One

- Chestnut may become so small that it has to close suddenly without plans in place for the children who need to move childcare providers
- The nursery would find it less easy to cope with events such as staff changes, sickness and price increases
- Budgets to sustain the provision might be reduced impacting on the quality of the service that is offered
- There would still be in addition of 170 empty vacancies at the nursery per week, with so many empty places the nursery would continue to face an uncertain future
- Parents would experience increased nursery fees

#### **Option Two: Close Chestnut Nursery**

Under this option, there is a carefully planned closure of the provision at the end of February 2013, so that children have a supported transfer to an alternative early years provision for March 2013.

#### Some arguments in favour of Option Two

- It is a decisive way forward and ends uncertainty for Chestnut Nursery
- There are places at alternative Early Years provisions for Chestnut Nursery children
- It reduces empty places making alternative providers more sustainable

Torbay council no longer have an £80,000 overspend to maintain the nursery.

#### Some arguments against Option Two

- It is disruptive to the children at Chestnut Nursery
- It means that there would be no early years provision in higher Brixham
- Other early years providers may need to reorganise to accommodate children from Chestnut Nursery
- It may remove too many nursery places and leave too little room for future growth

#### **Option Three:**

Option Three is “any other option that may emerge during consultation”. We are consulting with an open mind and, whilst we think the first two options are the main ones, there might be an option that no-one has thought about until it is suggested during consultation.

#### **Has anyone else been involved in developing these options?**

We have been working closely with Brixham Town Council to identify the best way forward.

#### **Why are changes at other provisions not being considered?**

For different reasons, we do not think it would be a good idea to make changes to other early year providers in Brixham.

In the case of schools with nursery classes, parents choose to send children to early years provisions on school sites. Although there is no direct correspondence between school admission and nursery placements many parents like to support children to socialise with a potential group of children entering their local primary school.

Some provisions within Brixham are private businesses. These are not under the control of the Council. The Council would have no legal powers to close the provisions.

The Nest Nursery at Brixham CE has a high level of occupancy with less vacancies.

#### **What will happen to staff affected?**

If a decision is taken to close Chestnut Nursery under Option two, then their jobs will be at risk and we will work with staff to see if we can find an alternative suitable job for them.

We are holding separate consultations with staff, if Chestnut is closed, we have to hold formal negotiations with staff and Trade Unions.

Under option one where no change is made, jobs at Chestnut may still be at risk from any further fall in demand.

### **If Chestnut Nursery Closes?**

If a decision is taken to close the nursery we can begin working with parents, children and other providers to ensure that this is done smoothly. We would provide support for parents through the Family Information Service to seek an alternative childcare provider.

Once a place has been established, we would help the providers to arrange induction events for children to make new friends and for practitioners to learn about their new children. We would offer children a unique package of support to help support them both emotionally and academically during this transition period.

### **When will a decision be made?**

The consultation will last from 15 November 2012 to 26 November 2012. Then a report will be written for the Mayor who will also see the comments that have been made during the consultation. The Mayor will see all letters, e-mails, notes of what is said at the public meeting and a summary of questionnaire responses.

The mayor is expected to make a decision on the 6<sup>th</sup> December 2012.

If the Mayor decides to make a change involving the closure of Chestnut Nursery, the council will publish the decision.

Parents and staff would be informed of the decision. Parents would receive a minimum of 12 weeks notice to find alternative childcare provision.

### **How to make your views heard?**

Attached to this document is a response form. We do have to ask for your name since everyone and anyone is entitled to return one form only.

We are also holding an open meeting as follows:

Chestnut Nursery Community Room                      21<sup>st</sup> November 2012 at 6pm

The meeting will begin with a very short presentation to set the scene, but then the floor will be open for people to ask questions and make their views known. These will be noted down for the decision makers to see.

In addition to completing a response form, or instead of completing a response form, you can also send your views by letter or e-mail to the following addresses.

Early Years and Childcare Advisory Service  
Tor Hill House 2<sup>nd</sup> Floor North  
c/o Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

[earlyyears@torbay.gov.uk](mailto:earlyyears@torbay.gov.uk)

If you would like additional copies of this document and response form please telephone 01803 208743.

## ***The Future of Chestnut Nursery Consultation Response Form***

Please indicate whether you are:-

A parent, carer or relative of a current child at Chestnut \_\_\_\_\_

A member of staff \_\_\_\_\_

An alternative provider of Early years childcare in Brixham \_\_\_\_\_

Other (please specify) \_\_\_\_\_

Please indicate which option you prefer:

Option 1: No change \_\_\_\_\_

Option 2: Closure of Chestnut Nursery \_\_\_\_\_

Another Option: Please give details below

Please use this space to give reasons for your preference if you wish (continue overleaf/separate sheet if necessary)

Name:

Signature:

*Please return by Monday 26<sup>th</sup> November 2012 to:*

*Early Years and Childcare Advisory Service, Tor Hill House 2<sup>nd</sup> Floor North, c/o Town Hall  
Castle Circus, Torquay, TQ1 3DR*

# Agenda Item 9



Meeting: Council

Date: 6 February 2013

Wards Affected: All

Report Title: Care Home Fee Setting 2012-2014

Executive Lead Contact Details: Cllr Christine Scouler, Tel: 01803 207318  
[Christine.scouler@torbay.gov.uk](mailto:Christine.scouler@torbay.gov.uk)

Supporting Officer Contact Details: Fran Mason Tel: 01803 208424  
[Fran.mason@nhs.net](mailto:Fran.mason@nhs.net)

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## 1. Purpose

The Council, through Torbay and Southern Devon Health and Care Trust, is required each year to set its 'usual cost' (ie the cost it will pay) for residential and nursing care provision. In March 2012 a letter setting out fee levels for 2012/13 in Torbay was sent to all care home providers. These fees are currently being paid to providers and represent on average a 3.12% uplift on the fees paid in 2011/12. Following this the TQCF (Torbay Quality Care Forum), an organisation representing the owners of 29 homes in Torbay, wrote to the Director for Adult Social Services on 14<sup>th</sup> May 2012 asking her to review the decision on fees which she agreed to do, as it was accepted that there were some flaws in the process undertaken previously.

- 1.1 That review has now been undertaken, a proposal formulated and consultation has been undertaken on the proposed fee rates. The consultation has been carefully considered, which has resulted in some changes being made. This report explains the approach used to setting the 'usual cost of care' and the funding necessary to support payment of care home fee rates for 2012/13 and 2013/14.

### Banded weekly fee rates for 2012 - 2014

Nursing Care	Standard	Standard Plus	Needs
	£529*	£555*	
Residential Care	Standard	Standard Plus	Needs
	£344	£409	

Exceptional

\* Figures include RNCC (Registered Nursing Care Component) of £108.70 rounded to £109. This is funding paid by the NHS to cover the nursing costs in registered nursing homes

## 2. Proposed Decision

- 2.1 The Council approves the basis of the calculation for the 'usual cost' of residential and care home fees, as set out in this report.

- 2.2 The Council authorise funding to Torbay and Southern Devon Health and Care Trust in the sum of £494,000 in 2012/13 and recognises the additional costs £412,000 in 2013/14 in order to meet Care Home fees for that year.

### **3. Reasons for Decision**

- 3.1 To allocate the amounts set out above to Torbay & Southern Devon Health & Care Trust who have delegated authority to discharge the adult social care function on behalf of Torbay Council.

### **4. Summary**

- 4.1 Local Authorities are required to provide residential care for people over the *age of 18 who are in need of care and attention, which is not otherwise available to them.* In providing this care the Local Authority has to comply with the National Assistance Act 1948 (Choice of Accommodation) Directions, which requires Local Authorities to provide such accommodation at the place of the clients' choosing provided that;

“the cost of making arrangements for him at his preferred accommodation would not require the authority to pay more than they would usually expect to pay having regard to his assessed needs.”

This is generally known as the ‘usual cost’ and is the basis on which Local Authorities set the fees they will normally pay to care homes. (See Appendix 1 for further information).

- 4.2 There are 108 care homes in Torbay. The majority provide care for the elderly (people aged over 65). There is a notable difference between the numbers of residential and nursing homes nationally and those in Torbay. The national average split between residential and nursing care provision is 52:48 whilst in Torbay the split is 85:15. Placement trends and demand projections indicate this represents an over-supply of residential care rather than an undersupply of nursing care. In line with national trends towards personalisation and supporting people in the community, placements into residential care have been declining at a rate of about 4% annually since 2010 and this rate of reduction in demand is expected to continue over at least the next two or three years.
- 4.3 In March 2012 a letter setting out fee levels for 2012 to 2013 in Torbay was sent to all care home providers. These fees are currently in payment and represent on average a 3.12% uplift on the previous year's fees. Following this the TQCF wrote to the Director of Adult Social Services on 14<sup>th</sup> May 2012 asking her to review the decision on fees which she agreed to do, as it was accepted that there were flaws in the processes undertaken previously.
- 4.4 A review was undertaken and revised fee proposals were developed. The fee proposal relates only to those residential and nursing care homes providing care to the elderly. It was intended to fully review fee levels for people with mental health needs and learning disabilities who are under the age of 65. However this was a more difficult area than we had anticipated. This is partly because cost models are harder to find, and harder to apply in this area of care where needs can vary significantly from service user to service user. As a result a project team is being established specifically to consider the issues in these sectors of the market. As an interim measure, and without prejudice to the final outcome, it was proposed to make a non-recurrent payment of £500 per annum in 2012/13 and 2013/14 for each person whose care package is individually

negotiated and falls outside the proposed banding structure. The cost of making these payments is included at 2.2 above.

4.5 To arrive at the ‘usual cost’ of care it was necessary to establish the cost of delivering care in Torbay, as well as accommodation related costs and an appropriate contribution to the cost of capital. The proportion of beds in the market currently purchased by local authorities, the level of vacancies, capital abatement, land values and profit multiples were taken into account. There were a number of elements to the review and the detail of these is included in Appendices 1 and 2 of this report as well as in the summary below:

- **Revising the banding structure** - When someone is assessed as having a need for residential or nursing care the level, or ‘band’, of support required to meet their needs will be identified. Each band has a fee level attached to it. Prior to the review there were many different bands in use. The system was overly complex and not suitable for the shape of future care delivery. A simplified structure comprising 4 bands was developed with some care home providers and TSDHCT clinical and professional staff.

### Revised Banding Structure

<b>Residential Care</b>	Standard	Standard Plus	Needs
<b>Nursing Care</b>	Standard	Standard Plus	
Exceptional			

There is recognition that some service users will have needs that do not fit within these four bands. There is therefore an additional band of ‘exceptional need.’ For this band, an individual's needs will be assessed and a care plan to meet need will be devised, with an individually negotiated contract with the care provider.

- **Calculating the cost of care in Torbay** - There is now an increasing variety of research and development of models aimed at assessing the ‘actual cost’ of providing care including, Laing and Buisson’s annual ‘Care of Elderly People UK Market Survey’ (see Appendix 3 for a summary of this model), the Bishop Flemming report following a survey of care homes in Torbay (See Appendix 4) and work done by ADASS (Association of Directors of Adult Social Services). In all cases these models make assumptions about the average costs across a whole market. These, in turn, are built on assumptions about how a care home is operated and managed. While existing cost tools/reports were considered in the review (see Section 6 below) the decision was made to develop a Torbay model for the cost of care. To do this care costs were divided between care, accommodation and return on capital. Costs were assessed on a set of reasonable assumptions including, the staff hours per bed. Professional and clinical staff were involved in making these assumptions and the consequent

decisions. Providers were also asked to provide a snapshot of information relating to their number of staff by qualification, number of local authority placements and number of vacancies. Further information is provided in Appendix 5.

- **Defining the usual cost of care** - The approach to defining the usual costs, for each of the 4 care bands defined earlier, was to consider an appropriate fee so that:
  - It reflected the proportion of the market that is purchased by TSDHCT or is purchased at rates linked to Torbay's;
  - It covers the cost of care and accommodation (including a provision for capital maintenance which reflects an allowance on capital costs over a long period);
  - Is no lower than the average fee rate set currently;
  - It provides for a reasonable and sustainable return for a home given average fee rates secured in the market.

The key assumptions upon which these assessments are based are set out in the consultation questionnaire included as Appendix 6.

- **Economic impact assessment** - A number of factors were taken into account including, placement trends and projections, demographic projections and changing economic circumstances, supply of care homes across the three towns in Torbay and the demographics in these areas. Personal choice and new ways of working have both had an impact on demand. Projections indicate that the number of beds purchased by TSDHCT and Torbay Council over the next three years is likely to continue to fall by 4% per annum on average. This is in line with national trends and new ways of working enabling people to remain independent in their homes for longer. A greater emphasis on rehabilitation will also mean people often return to independent living after a period in hospital followed by reablement when previously they may have been admitted to care. The proposed fees reflect an appropriate price in a balanced and efficient market, which does not compensate for the current oversupply in the market for residential care. Consequently there is the risk that the market may need to re-balance, as efficient markets should do, and as a result some home owners may need to exit from the market. The proposal also includes some transitional protection for existing clients to enable providers to consider and implement changes to their businesses if they feel this is appropriate.

- 4.6 **Equality Impact Assessment** - The proposal by its very nature affects only older people and the thresholds for access to services have not been changed. The proposal represents an overall increase in the budget that the Council and TSDHCT makes available to care homes. As part of a commitment to providing services in a more personalised way to all client groups over the next 15 months TSDHCT will be working with service users, carers, providers and front line staff to develop more individual purchasing arrangements for care. A full Equality Impact Assessment is included as Appendix 8. At a meeting in May 2012 and in response to a questionnaire in July 2012, providers advised that they would prefer a fees settlement for more than one year. As a result it has been agreed that this settlement will be for two years. This has been taken

into account in assessing the usual cost of care with an assumption of a requirement to achieve efficiency and cost improvements within contracted services. To avoid any disadvantage to current residents and to enable providers to adapt to the changed bandings, the following process and transitional protection is proposed:

- Where a new banding represents an increase in the current banding, and therefore a higher fee, the revised fee will be paid with effect from the 1st April 2012 until the 31st March 2014.
- Where the new banding represents a decrease in the current banding, and therefore a lower fee, the current fee will be paid until 31 March 2014, provided the client remains a resident of the home and their care needs are unchanged.
- Anyone assessed following a final decision on the fees for the period 2012 – 2014 will be assessed under the new bandings.

4.7 As well as impacting upon the Council, the decision as to the fee rates also impacts upon service users on whose behalf the Trust contracts with care providers when they are responsible for meeting the entire cost of their care. So as not to disadvantage these self funding clients, it is proposed that the service users will become responsible for any increase in fee rate from the 1<sup>st</sup> April 2013.

4.8 The original fees proposals for 2012/13 were set out in a letter which was sent to homeowners on the 27th March 2012. Those proposals represented an average increase of 3.12% over the fees paid in 2011/12 (the actual increases ranging from 0% to 9% depending on the type of home and service user group).

4.9 Having received the request to review that offer a full review of the offer made on the 27th March 2012 has been conducted. The outcome of the review is a recommendation, as set out in this report, for a range of fees which overall would represent a further increase over the 2011/12 baseline budget as illustrated below.

	<b>Additional net cost in</b>	
	<b>2012/13</b>	<b>2013/14</b>
<b>Cost of the fees proposed 27<sup>th</sup> March 2012</b>	£374,000	£374,000
<b>Additional cost of revised proposals</b>	£494,000*	£412,000
<b>Total additional cost</b>	£868,000	£786,000

\*This figure includes transitional protection until 1<sup>st</sup> April 2013 for private fee payers contracted for by the Council

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## Supporting Information

### 5. Position

5.1 A fees proposal was developed through the process described above. This was subject to consultation between October and December 2012. The proposal has been revised as

a consequence of the feedback received and the final fee rates are those listed in paragraph 1 (above). The methodology and process followed to arrive at a usual cost of care has been supported and endorsed by Torbay Council Chief Operating Officer/Director Adult Social Services and the Executive Head of Finance/s.151 Officer, as well as the Chief Executive of Torbay & Southern Devon Health & Care Trust.

## **6. Possibilities and Options**

- 6.1 It was accepted that there were deficits in the processes undertaken in 2011 to set care home fees. There is also a growing amount of information including, a number of challenges through judicial review to the rationale and reasonableness of methods used by local authorities to set fees. As a result, to meet the requirement to set a usual cost of care, it was necessary to undertake the process described in the body of this report and set out in Appendix 5.
- 6.2 Alternative options were considered including, applying an existing cost model such as, Laing and Buisson or Bishop Fleming, or adopting another local authority's approach. It was however concluded that this would be neither appropriate nor reasonable because it would not fully take account of current circumstances in Torbay. Particular consideration was given to the Bishop Fleming report. It was however, concluded that, while the report contains a number of useful cost analyses for the costs within various cost heads, only limited confidence can be placed in these as it was based on analysis of the financial reports of only 21 businesses, is now some months old, with the sample sizes small and the standard deviations high. Additionally, in the Bishop Fleming Report the figures are set out in four cost categories, similar to the Laing and Buisson model, and Torbay does not accept that model on the basis of its treatment of the cost of capital.

## **7. Preferred Solution/Option**

- 7.1 For the reasons set out in section 6 (above) it is recommended that the Council approves the basis of calculating the 'usual cost' and agrees the fee levels recommended at paragraph 1 of this report, as a final settlement for 2012-2014. To make this possible it is necessary for the Council to make available additional funding of £494,000 in 2012/13 and to recognise the additional costs of £412,000 next year to TSDHCT to administer payment of the revised fees and transitional protection.
- 7.2 There is widespread acknowledgement of the need to address future models of care, new ways of working and the future commissioning and funding of care and support. At a local level Torbay will be developing a market position statement for adult social care in 2013 and working with providers, service users and carers on future service models (see Appendix 6). Nationally, following the Dilnot Commission recommendations the Government is considering how the cost of care will be met in the future.

## **8. Consultation**

- 8.1 Following the agreement to review fees and following the formulation of the original proposed fee rates there were a number of meetings to which all care home providers were invited, two questionnaires were sent to all care home providers and every provider was telephoned to offer an appointment for a one-to-one meeting with a member of staff. See summary of consultation at Appendix 7.

8.2 The consultation period on the fees proposal ran from 11<sup>th</sup> October 2012 to 7<sup>th</sup> December 2012. During this time a questionnaire, including the key assumptions on which the assessments underpinning Torbay's definition of usual cost were based, was sent out to all providers so that they had the opportunity to comment specifically on any or all of the assumptions. The questionnaire is included in Appendix 8. The table in (8.3 below) shows how the consultation feedback influenced the fee levels in this report and further analysis of feedback from consultation and how this was taken into account is included as Appendix 10.

### 8.3 Impact of consultation on fee rates

	<b>Original proposed fee levels</b>	<b>Revised fee levels post consultation</b>
<b>Residential Standard</b>	£341	£344
<b>Residential Standard Plus</b>	£392	£409
<b>Nursing Standard</b>	£529*	£529*
<b>Nursing Standard Plus</b>	£555*	£555*

\*Figures include RNCC of £108.70 rounded to £109

## 9. Risks

9.1 The risks associated by a failure to set fees at an appropriate level are detailed in the Equality Impact Assessment, which is detailed at Appendix 9. In summary these risks include;

- Individuals' needs arising from age might not be properly addressed,
- May cause care homes not to be viable, this could lead to home closures and consequently to disruption and distress,
- If the fee levels did not properly differentiate between different levels of need, those with more intensive needs in particular might not have them properly assessed,
- If fee levels unduly restricted residents' choice of home, this would reduce equality of opportunity and tend to increase isolation and segregation.

Accordingly TSDHCT and the Council has set fee levels which cover the actual cost of care (using bandings to ensure sufficient provision for more difficult cases such as severe dementia) and provide a return on capital, so as to ensure that these risks are avoided.

9.2 Failure to set a fee that covers Torbay's usual cost (explained in 4.1 above) may result in legal challenge. Across the country there have been a number of judicial reviews into the way local authorities set care home fees, including in Devon. These reviews have considered the reasonableness and rationality of the methodology used to set fees. This underlines the importance of the Council and Trust taking a robust and balanced approach to fee setting.

9.3 The potential economic impact is addressed in section 4.5 (above). Transitional protection forms part of the recommendation on care home fee setting for 2012 – 2014. This will enable care home owners to plan future business models. The exceptional needs band allows for a continuation of individually negotiated packages in the small number of cases where this is deemed appropriate following full assessment.

## **10. Appendices**

1. Review of Care Home Fees in Torbay 2012-2014 (October 2012)
2. Fees Review Points for Clarification (November 2012)
3. Summary of Laing & Buisson Care of Elderly People UK Market Survey 2011/12 and 2012/13
4. Torbay Care Homes Market, the Provision, Pressures and Cost Base, Bishop Fleming (September 2011)
5. Assessing the Usual Cost of Care in Torbay (October 2012)
6. Future commissioning priorities
7. Summary of consultation
8. Questionnaire (October 2012)
9. Equality Impact Assessment
10. Analysis of Consultation Responses (January 2013)

# Agenda Item 9

## Appendix 1

### Review of Care Home Fees in Torbay 2012-2014

#### Introduction

Local authorities are required to provide residential care for people over the age of 18 who are in need of care and attention, which is not otherwise available to them. In providing this care the Local Authority has to comply with the National Assistance Act 1948 (Choice of Accommodation) Directions, which requires Local Authorities to provide such accommodation at the place of the clients' choosing provided that;

"the cost of making arrangements for him at his preferred accommodation would not require the authority to pay more than they would usually expect to pay having regard to his assessed needs."

This is generally known as the 'usual cost' and is the basis on which Local Authorities set the fees they will normally pay to care homes.

Local Authority Circular (2004) 20 states at paragraph 2.5.4

"One of the conditions associated with the provision of preferred accommodation is that such accommodation should not require the council to pay more than they would usually expect to pay, having regard to assessed needs (the 'usual cost'). This cost should be set by councils at the start of a financial or other planning period, or in response to significant changes in the cost of providing care, to be sufficient to meet the assessed care needs of supported residents in residential accommodation. A council should set more than one usual cost where the cost of providing residential accommodation to specific groups is different. In setting and reviewing their usual costs, councils should have due regard to the actual costs of providing care and other local factors. Councils should also have due regard to Best Value requirements under the Local Government Act 1999."

In recent years there have been a number of judicial reviews into the way local authorities set usual costs for residential placements. This relates largely to care for the elderly because the fees paid for younger adults, such as those with poor mental health or learning disabilities, are more likely to be based on specific care packages. For these reasons Torbay's review of fees and this report relate only to residential and nursing care for the elderly.

There is now an increasing variety of research and the development of models aimed at assessing the actual cost of providing care including, Laing and Buisson's annual care for the elderly survey with care home owners, information on local authority fee rates compiled by ADASS (Association of Directors of Adult Social Services) and the emergence of local surveys such as the Bishop Flemming report in Torbay. In all cases these models make assumptions about the average costs across a whole market. These, in turn, are built on assumptions about how a care home is operated and managed.

The important elements of this definition and our interpretation of them include the following:

- The usual cost is the cost to the local authority – in other words the price that is paid to the provider;
- It represents what the authority “expects to pay” and therefore it should be a market based price;
- It should be “sufficient to meet the assessed care needs of supported residents in residential accommodation” and that implies:
  - The resources required to meet these needs are delivered by an efficient and well run home,
  - The price should reflect the direct care costs and associated accommodation costs,
  - The price does not, therefore, necessarily need to include the profit element or return on capital employed, however this may form part of a commercial pricing strategy.

This document summarises the approach Torbay has taken to reviewing the cost of care and establishing our fee rates for residential and nursing care for the elderly in the light of the above.

## **Background**

There are 108 care homes in Torbay with 2,525 bed spaces registered with CQC (Care Quality Commission). Within this total 16 are nursing homes for people over 65 with 605 bed spaces, and 59 residential homes with 1,529 beds, resulting in 75 care homes for people over 65 with 2,134 bed spaces. Homes in Torbay are run by the private sector and the average size of a home in Torbay is 28 beds against a national average of 60. There is a notable difference between the numbers of residential and nursing homes, the national average split between residential and nursing care provision is 52:48 whilst in Torbay the split is Torbay 85:15. Placement trends and demand projections indicate this represents an over-supply of residential care rather than an undersupply of nursing care. In line with national trends towards personalisation and supporting people in the community, placements into residential care have been declining at a rate of about 4% annually since 2010 and this rate of reduction in demand is expected to continue over at least the next two or three years.

In March 2012 a letter setting out fee levels for 2012 to 2013 in Torbay was sent to all care home providers. These fees are currently in payment and represent on average a 3% uplift on the previous year's fees. Following this the TQCF (Torbay Quality Care Forum, an organisation representing the owners of about 25 homes in Torbay) wrote on 14<sup>th</sup> May 2012 to the Director of Adult Social Services asking her to review the

decision on fees which she agreed to do, as it was accepted that there were deficits in the processes undertaken previously.

The review of Torbay's decision on care home fees in March 2012 is now complete. To arrive at the usual cost of care it was necessary to establish the cost of delivering care in Torbay, as well as accommodation related costs and an appropriate contribution to the cost of capital. In doing this a number of factors were taken into account and these are set out in the section entitled Defining the Usual Cost of Care. The proportion of beds in the market currently purchased by local authorities, the level of vacancies, capital abatement, land values and profit multiples were taken into account. Economic and equality impact assessments have been undertaken as part of this process.

Since the decision to review the fees providers have been involved in the review in number of ways: through three provider events, in a working group to review the revised banding structure, by answering specific questions posed to them and by providing information on their services via a local accountancy firm. Now that the review has been completed there will be a period of formal consultation, during which care home owners can respond to the methodology used, the approach that has been taken to defining the usual cost of care and the proposals themselves. The outcome of the consultation, alongside any other comments and ideas, will be considered and if appropriate the proposals set out in this paper will be revised before final recommendations are put to the full Council. It is the Council which will then take the final decision on the level of fees, which is due to take place at a meeting of the Full Council on 6 December 2012 at Oldway Mansion.

### **The Scope of the Review**

The revised fee proposal only relates to those residential and nursing care homes providing care to the elderly (people aged over 65 years).

We had intended to fully review fee levels for people with mental health needs and learning disabilities who are under the age of 65. However this is a more difficult area than we had anticipated. This is partly because cost models are harder to find, and harder to apply in this area of care where needs can vary significantly from service user to service user. We have therefore decided that we will need to establish a project team specifically to consider the issues in this sector of the market.

Consequently as an interim measure, and without prejudice to the final outcome, we propose to make a non-recurrent payment of £500 per annum in 2012/13 and 2013/14 for each person whose care package has been individually negotiated and would fall outside the proposed banding structure.

### **The Approach**

#### **Meetings with providers**

At an initial meeting to which all care homes were invited on the 31<sup>st</sup> May 2012, it was agreed with those present that bi-monthly evening meetings (6pm – 8pm) would be an effective way to ensure regular, consistent communication between Torbay Council, TSDHCT and all care home providers. Meetings were subsequently held on 6<sup>th</sup>

July and 9<sup>th</sup> September. A further meeting to consult on the proposal is due to be held on 25<sup>th</sup> October 2012.

### Revising the banding structure

At the meeting in May the existing banding structure was discussed. Providers perceived the existing banding structure as overly complex and not suitable for the shape of future care delivery.

In order to consider how the banding structure could be revised and simplified a working group comprising care home providers and TSDHCT clinical and professional staff was convened to develop a new banding structure. The group were able to create a simplified structure and this was circulated to all providers for consultation following the open meeting held on the 6<sup>th</sup> September 2012.

The simplified structure, comprising of 4 bands, recognises that a number of placements currently sit outside the present fees structure because their packages are negotiated on an individual basis. (See revised banding structure below)

### Revised Banding Structure

Residential Care	Standard	Standard Plus	Needs
	Standard	Standard Plus	
Nursing Care	Standard	Standard Plus	
Exceptional			

To facilitate the change from one banding structure to another we have mapped the old bandings to the new bandings so it is clear which fee band any person has moved from and to. This has been a paper exercise taking into account recorded assessment information.

### Calculating the cost of care in Torbay

While existing cost tools were taken into account including Laing and Buisson 2012 and Bishop Flemming's Torbay survey in 2011, the Council has a duty to take account of local circumstances in Torbay, as well as ensuring that the information used is up to date and accurate. Therefore as well as considering these tools/reports as sources of information, we have also undertaken our own work in this regard.

Care costs were divided between care, accommodation and return on capital. Costs were assessed on a set of reasonable assumptions including the staff hours per bed. Professional and clinical staff were involved in making these assumptions and the consequent decisions. Providers were also asked to provide a snapshot of information

relating to their number of staff by qualification, number of local authority placements and number of vacancies.

The approach taken in separating costs was mindful of the proposals of the Dilnot Commission recommendations that costs of care and accommodation be treated differently and if these proposals are adopted the costs of care and accommodation will need to be clearly separated. Proposals in the Care and Support White Paper to offer direct payments for residential care are also likely to require a clearer breakdown of costs.

### **Defining the usual cost of care**

Our approach to defining the usual costs, for each of the 4 care bands defined earlier, was to consider an appropriate fee so that:

- It reflected the proportion of the market that we purchase or is purchased at rates linked to Torbay's (about 45%);
- It covers the cost of care and accommodation (including a provision for capital maintenance which reflects an allowance on capital costs over a long period)
- Is no lower than the average fee rate set currently;
- It provides for a reasonable and sustainable return for a home given average fee rates secured in the market.

The key assumptions upon which these assessments are based are set out in the consultation questions so that home owners can comment specifically any or all of them.

### **Economic impact assessment**

This assessment was undertaken in order to gauge the impact of the fees proposal on the economy and also to assess any potential risk to supply in Torbay.

A number of factors were taken into account including, placement trends and projections, demographic projections and changing economic circumstances, supply of care homes across the three towns in Torbay and the demographics in these areas. Personal choice and new ways of working have both had an impact on demand. Projections also indicate the number of beds purchased by Torbay Council over the next three years is likely to continue to fall by 4% per annum on average. This is in line with national trends and new ways of working enabling people to remain independent in their homes for longer. A greater emphasis on rehabilitation will also mean people often return to independent living after a period in hospital followed by reablement when previously they may have been admitted to care.

The proposed fees reflect an appropriate price in a balanced and efficient market, which does not compensate for the current oversupply in the market for residential care. Consequently there is the risk that the market may need to re-balance, as efficient markets should do, and as a result some home owners may need to exit from the market.

The proposal includes some transitional protection for existing clients, which will be detailed later in this document.

The closure of a home may result in reduced employment and some local purchasing which will impact upon the local economy. However, should a business close the Council will ensure that residents receive support to find suitable alternative accommodation. These alternative arrangements are likely to impact positively on employment and purchasing opportunities in Torbay. While this will not mitigate the entire loss (because some increased purchasing will be absorbed within improved efficiencies and economies of scale) it will strengthen the financial position of the homes that remain in operation.

### Equality impact assessment

The proposal for fees does not affect any one group differentially. The proposal by its very nature affects only older people and the thresholds for access to services have not been changed.

As part of our commitment to providing services in a more personalised way to all client groups over the next 15 months we will be working with service users, carers , providers and front line staff to develop more individual purchasing arrangements for residential care.

### The Proposal

After a review using a structured methodology, the weekly care home fees proposed for (2012-2014) are as follows;

<b>Residential Care</b>	Standard <b>£341</b>	Standard Plus <b>£392</b>
	Standard <b>£529</b>	Standard Plus <b>£555</b>
<b>Exceptional</b>		<b>Needs</b>

These figures are weekly rates and include Registered Nurse Care Contribution (RNCC) payment (currently £108.70 per week, rounded to £109). They exclude Continuing Healthcare (CHC) and any third party top-up.

To avoid any disadvantage to current residents and to enable providers to adapt to the changed bandings, the following process is proposed:

- Where a new banding represents an increase in the current banding, and therefore a higher fee, the revised fee will be paid with effect from the 1<sup>st</sup> April 2012 until the 31<sup>st</sup> March 2014.
- Where the new banding represents a decrease in the current banding, and therefore a lower fee, the current fee will be paid until 31 March 2014, for as long as the client remains a resident of the home and their care needs are unchanged.
- Anyone assessed following a final decision on the fees for the period 2012 - 2014 will be assessed under the new bandings.

### **Consultation**

All care home providers now have an opportunity to respond to this proposal by providing their views on how the proposal was developed by responding to the attached set of consultation questions.

The consultation period will run from 11<sup>th</sup> October 2012 to 5pm on 9<sup>th</sup> November 2012. During this time there will be a meeting on 25<sup>th</sup> October 2012 for all care home owners to come and share their views with Torbay Council and TSDHCT. In addition there is an opportunity for all home providers to meet on a one to one basis with commissioning and contract management staff to share their views on the proposal. Comments and views can also be supplied by telephone, email or letter.

At the end of the consultation period all consultation responses will be considered. A report will be written summarising responses, how the responses were considered and whether this changed the proposal, including the reasons behind this.

At this point a final report will be submitted to the Council meeting scheduled to be held on 6<sup>th</sup> December 2012 for a final decision.

## Issues for clarification

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### **1. How are the needs of people with dementia taken into account in residential assessment tool?**

The group (which comprised of care home managers and health and social care staff) considered the two residential care banding tools in current use: one for general residential care and the other for mental health and dementia care. These have been used in addition to the full assessment of a person's need to reflect their overall needs in a number of different domains. Each tool captured the range and depth of care a person required across key areas related to their general physical health or their dementia/mental health needs. However the group concluded that neither tool reflected the entire range of a client's needs across all possible physical, emotional and psychological domains, where as for example the national framework for NHS Continuing Healthcare Decision Support Tool does. Additionally it was recognised that the mental health/dementia tool did not capture skin integrity and the 'general' tool did not record behavioural issues.

The group therefore agreed that it would be better to have a single tool which could capture all aspects of an individual's physical, emotional and psychological needs. To achieve this it was agreed the domains set out in the general assessment tool would be incorporated into the mental health tool to cover all aspects of care requirements.

Having amalgamated and refreshed each of the needs domains the group tested the new assessment tool against current practice by using two client scenarios to match them to current residential care bands. Additional meetings were set up to continue work on the revised assessment tool.

We are therefore confident that the needs of any individual are taken into account, including, those with dementia.

### **2. Why the Bishop Fleming Report was not accepted?**

The Council and the Trust acknowledge the Bishop Fleming report contains a number of useful cost analyses for the costs within various cost heads. However the report is based on analysis of the financial reports of only 21 homes. Additionally the figures are set out in four cost categories, similar to the Laing and Buisson model, and we do not accept that model on the basis of its treatment of the cost of capital.

Whilst the Trust and the Council have taken account the cost of capital, the approach taken is different to the Laing and Buisson model and therefore different to the Bishop Fleming report. We have noted the figures for the cost of care contained within the Bishop Fleming report but believe that only limited confidence can be placed in these as the sample sizes are small and the standard deviations high.

For these reasons we do not accept the Bishop Fleming report and created our own model for care home fees. We have been able to do so without commissioning Bishop Fleming.

### **3. Is the Council relying on cross subsidisation from private residents?**

The Council is proposing a usual cost, or price it will pay, for care. In doing this it is taking a market based approach in recognition of the fact it is not the only purchaser of care home bed spaces in Torbay and the historical tendency for home owners to charge different fees for privately and publicly funded residents.

#### 4. Why is the capital value of a home abated in the costing model?

It is important to recognise the actual capital invested in a home (for the purposes of assessing the required return on that investment). These values are difficult to ascertain from published accounts. The actual capital invested in most homes is unlikely to be the newly built or acquired cost, as many of the homes have been in the same ownership over a period of time. To better reflect the actual capital invested in the home we have taken the new build/acquired costs and abated these by a factor which is based on the average period of ownership (17 years) for homes in the authority.

It is important to note that these capital estimates are not used to determine the usual cost (as that is determined through our market based approach) but to inform it, when taking into account what return might be reasonably required by a care home owner.

#### 5. Will CQUIN be paid for the whole of this year (as homes have already incurred costs for undertaking CQUIN developments this year)?

CQUIN is included in the fees currently in payment. It is proposed to provide transitional protection until 31<sup>st</sup> March 2014 for existing residents. If, between the time of the decision on care home fees and 31<sup>st</sup> March 2014, someone eligible for CQUIN is discharged or dies then any new publicly funded resident will be funded at the new rates.

#### 6. Why is there no allowance for return on investment in the fees (ie cost = £341 & fee = £341)?

There is an allowance built into the costs (under capital maintenance and expenditure) and is therefore already included in the £341.

The following statement was in the information sent to providers after the open meeting which sets out the capital maintenance figure which is included in the cost of care.

To use the following figures for repairs and maintenance in the Torbay 2012 model:-

• Maintenance capital expenditure	£19
• Repairs and maintenance (revenue costs)	£12
• Contract maintenance of equipment	<u>£ 3</u>
	<u>£34</u>

#### 7. How are pensions (and forthcoming changes) accounted for in the model?

No allowance has been made for employers' pension contributions for nursing, care and domestic staff within the model for 1 April 2012 – 31 March 2014 because we do not believe that the forthcoming changes will impact until after April 2014.

This assumption was based on information was obtained from The Pensions Regulator leaflet 'An introduction to work-based pension changes':- When do the changes come into effect? Our understanding is that each employer will be given a date from which the changes will have to be in place. This is known as your staging date.

The first staging dates will be in October 2012 and will continue through to 2016. Staging dates will be broadly based on the number of people you have in your PAYE scheme. Employers with the largest number of workers will have the earliest staging dates. The smallest employers will have later staging dates from 2014.'

Information was also obtained from the GOV.UK website – Workplace pensions – what your employer can and can't do:- which stated that 'Your employer must automatically enrol you into a pension scheme and make contributions to your pension if you:

Are aged between 22 and State Pension age  
 Earn at least £8,105 a year  
 Work in the UK'

It was considered that the majority of the nursing and residential care homes in Torbay would fall into the small employer's category and that the work-based pension changes would not affect them before 2014. It was also considered that many of the nursing, care and domestic staff would be part-time workers earning less than £8,105 a year and that they would not have to be enrolled into a work-based pension scheme under the current qualifying conditions.

#### **8. Will there be an appeal process if homes don't agree with the outcome of the banding?**

If needs of an existing resident are unchanged but you think they have been allocated to the wrong band in the revised fees structure please contact our Contracts Team and they will discuss the situation with you.

If you think that the needs of a resident have changed and that as result of this they are currently allocated to the wrong band of care please contact the Zone Team to request a review.

#### **9. Why won't you allow top ups and third party payments?**

The Trust and the Council do allow 3<sup>rd</sup> party top ups in accordance with Government Guidance, and are legally obligated to include them when agreed as an addendum to an Individual Service Contract. The guidance on top up payments is clear and there are circumstances in which it is not legally possible to accept or arrange a top up payment.

Where a 3<sup>rd</sup> party top up is arranged the guidance requires that the Council pays the full fee and then re-claims the top up from the agreed 3<sup>rd</sup> Party.

#### **10. There don't seem to be any on-cost on management costs?**

It was considered that managers and admin/reception staff would be paid an annual salary rather than an hourly rate and that holiday and sick pay would be included in annual salary costs.

The on-costs for managers and admin/reception staff would be employer's national insurance contributions and employers' pension contributions are included in the model on the following basis:.

Salary	Employers NI – opted in	Employers NI – opted out
£37,000 pa	11.17%	8.0%
£18,500 pa	8.5%	5.9%

Assuming that most employers would have a pension scheme for management and admin/reception staff, it was decided that a weighted average of the opted out rate of employers NI% of 7.3% would be a reasonable on-cost rate to cover employers' national insurance contributions for managers and admin/reception staff.

# Agenda Item 9

## Appendix 3

### Appendix 3

#### Summary of Laing & Buisson Care of Elderly People UK Market Survey 2011/12 and 2012/13

Laing and Buisson are well known market analysts and researchers in the health and social care markets. They publish an annual report on the elderly care market as well as frequent market bulletins and updates. Much of their information is obtained through market surveys of providers.

In 2004 they created a cost model to estimate the average costs of operating a 50 bedded care home (both for nursing and elderly care residents). This model has been widely used and has been cited in a number of judicial reviews in which the setting of care home fees has been challenged. It was updated in 2008.

The model has four parts: three deal with the costs of care and include estimates of costs such as nursing and care assistant costs; food and other hotel costs; as well as overhead costs. The fourth part of the model deals with an estimate of the return required by owners of care home businesses. Laing and Buisson's approach and methodology for this estimate are not accepted by Torbay and an alternative has been proposed. In their recently released version of the model (December 2012), Laing and Buisson appear to have departed from their earlier approach to estimate the return required and this change is currently under review by officers.

Laing & Buisson include the following summary in their most recent publication:

'For over twenty years, the name **Laing & Buisson** has been synonymous with high-quality, pinpoint-accurate data and analysis of the health and social care sectors in the UK.

As the country's leading provider of healthcare intelligence, the **Laing & Buisson** library of market reports feature prominently on the shelves of healthcare experts working in a wide range of roles - from the chief executives, financial directors and business development managers of independent providers to the key decision makers in private equity to the heads of both regional and national government making choices over care services.

The annual publication agenda includes over ten of the most read market reports in the UK health sector, covering areas as diverse as elderly care, acute hospital services, childcare, and dentistry.

The flagship *Laing's Healthcare Market Review*, meanwhile, has carved itself a niche as *the* definitive annual commentary on independent healthcare in

the UK.

**Laing & Buisson** reports are recognised as industry standard, each with accurate, up-to-date and comprehensive analysis of key drivers, demand and supply, market structure, provider profiles and regulatory environment.

Much of the material is derived from **Laing & Buisson's** own surveys and proprietary databases, and is therefore unavailable anywhere else. As a result it is widely quoted in official reports, company prospectuses and parliamentary questions and answers, as well as regularly being cited by the national media when commenting on UK healthcare services.

If it's happening in healthcare, **Laing & Buisson** will be there.'

# **TORBAY CARE HOMES MARKET THE PROVISION, PRESSURES AND COST BASE**

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On behalf of Torbay Quality Care Forum

Tim Godfrey  
September 2011



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**Purpose of the Report**

I was instructed by the Torbay Quality Care Forum, to prepare a report regarding the shape of the market and the fees payable across three categories of care in 2010/11. These were as follows:-

- Nursing Care for the Elderly and residents with Dementia
- Personal Care for the Elderly
- Personal Care for residents with Dementia

The report will be issued to the Torbay Care Trust as part of the ongoing discussions as to the shaping of a viable local market.

I have made use of the "Calculating a Fair Price for Care: a toolkit for residential and nursing care costs", first published by the Joseph Rowntree Foundation in 2002 and updated and revised in 2004 and 2008.

This toolkit was designed to provide an efficient operator model for costs based on national benchmarking data collated by Laing and Buisson.

The Joseph Rowntree Foundation is an endowed charity that funds an unbiased, UK-wide research and development programme. In association with Laing and Buisson, the UK's foremost market analyst on the independent health care sector, their report is often cited in parliament as well as in various official documents. More recently this report has been used in fee negotiation with both North Somerset and Pembrokeshire Councils.

I have also made use of my firms "Care Sector Report for the South West 2010/11". This is an annual report and is based on a questionnaire sent out to over 700 care homes across the region. The respondents answers to a number of industry specific questions are summarised with relevant commentary.

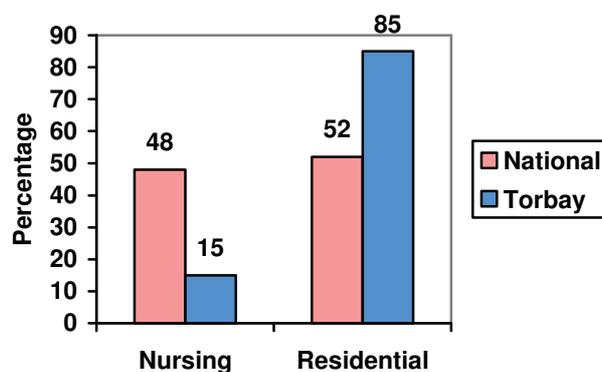
**Executive Summary**

This report incorporates the responses from 21 of the total number of care homes in Torbay. In my opinion this provides a representative sample of all three categories of care for the purpose of drawing the conclusions set out in this report.

The report indicates that whilst fees paid by the Torbay Care Trust have increased on an annual basis, this has been significantly below inflation, and as such cost pressures have resulted in the gap between fees and costs narrowing in real terms.

As detailed on page 3, there is a significantly lower number of nursing homes when compared with the overall number of residential homes in Torbay. The national average is 48% for nursing homes compared to 15% in Torbay. Given the rising costs there is a real danger that the number of nursing homes in Torbay will remain low unless fee levels reflect the underlying cost pressures.

**Percentage of care home categories in Torbay compared to National Average**



I believe the level of fees currently paid are acting as a disincentive both in terms of investment in the existing stock and new entrants into the market. This needs to be addressed sooner rather than later such that the provision of nursing care reflects the levels seen in other regions. This will in turn attract new entrants, drive up quality and avoid pressures elsewhere in the healthcare system

Continuing a policy that purely aims to keep fees to a minimum will lead to additional home closures, and the potential for a further deterioration in the quality of care.

Our recommendation would be that fees paid by Torbay Care Trust need to be in the following bandings:-

- £610 to £710 for nursing care
- £460 to £560 for residential care
- £500 to £600 for residential care including dementia

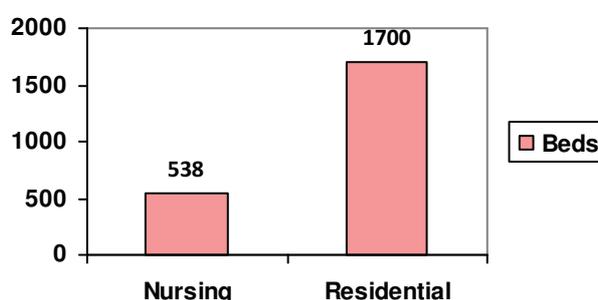
Please see page 13 for further information on these figures, however it should be noted that these figures do not take into account the implementation of NEST pensions, which are coming into effect over the next few years and will result in a 3% increase in staffing costs, or the average cost equivalent of £9 per resident per week. Please see page 12 for further details.

### Torbay Care Home Market - The current shape

Of the 116 care homes currently listed in the Torbay area, 85% are residential homes, evenly split between residential and those covering additional services including dementia. The remaining 15% offer nursing care, with a third of these offering additional services including dementia.

Across the country the average is 48% for nursing and 52% residential. Torbay clearly needs to focus on driving up the number of available nursing beds to meet the increasing challenges of an aging population.

**Residential and Nursing Beds in Torbay**



If Torbay followed the national average then the number of nursing beds available would be significantly higher. Alternatively the discrepancy in the split between residential and nursing could be due to a potential oversupply of residential homes in Torbay.

There are very few national providers in Torbay, the majority of home owners play an active role in the day to day operational side of their care home and in the main derive their sole income from this source. I would estimate that somewhere between 90% - 95% are owner operated. This is compared to the national average, where the top 10 providers of care homes, including Bupa, Care UK etc account for approximately 25% of the market share.

Whilst Torbay has been a popular retirement location, it is an economically disadvantaged area and as such it has a higher than average number of funded residents compared to private residents. Self funders are now using the internet and other available sources to review care homes and as such are more informed when selecting the home of their choice.

According to the Laing and Buisson survey of baseline fee rates from April 2009, Torbay Care Trust is in the bottom three for the South West and also had the lowest fee increase throughout the South West (of those councils which responded) for the 2009/10 year. They were also in the lowest 25 for fee increases for the same period throughout the UK (based on all 211 local authorities - see Appendix 6).

Based on the Laing and Buisson UK Market Survey for 2010/11 the national average for privately funded residents was 40%. Whilst I do not have the data available, from my own experience, the number of privately funded residents in Torbay is significantly lower as a percentage.

**Demographics**

***The local picture***

Characteristic*	Torbay	England average
Population size	134,000	-
Percentage of the population living in urban areas	85%	73%
Life expectancy at birth 2006/08, Male	78 years	78 years
Life expectancy at birth 2006/08, Female	82 years	82 years
Level of deprivation	high	-

\* From Health Protection Agency Website

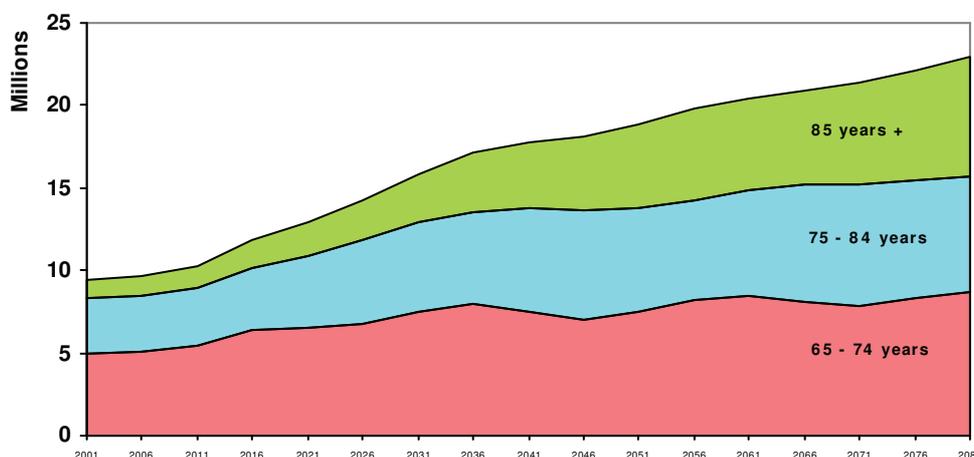
In the 10 years to 2008, Torbay's population grew by 7.3%, the 10<sup>th</sup> highest of the region's 16 counties and unitary authority areas (South West 7.4%, England 5.4%).

Torbay also has the 2<sup>nd</sup> highest % of older people among these 16 regions.

***The national picture***

It is a startling fact that the 85 yrs and over segment of the UK population is expected to multiply by more than 5 times from 1.4mn in 2010 to 7.2mn in 2081 while the 75 - 84 segment will jump from 3.5mn to 7mn over the same period.

**United Kingdom 65 years and older population 1981 - 2081**



Sources: 1981-2001, Census date; Following 2001, Government Actuary's Department 2008-based principal national projections.

The noticeable increase from 2010 onwards is a direct correlation with the baby boom era of post World War II (1946-1964). This generation will start to reach 65 from 2011 onwards.

As a result of the aging population and the current national care strategy, it is accepted that those entering the care sector will do so higher up the acuity scale. This will mean that there will be an increasing demand for nursing and nursing/dementia provision replacing the long term residential care model. Residential care will not disappear but will become more competitive due to residents having higher expectations and being more mobile.

**Declaration**

1. My overriding duty is to Torbay Quality Care Forum and I have complied and will continue to comply with that duty.
2. I have set out what I understand to be the questions in respect of which my opinion is required.
3. This report is without bias and is a statement of fact, favouring no individual party involved.
4. This report, to the best of my ability, is considered to be accurate and complete. I have mentioned all matters which I regard as relevant to the opinions that I have expressed. All matters on which I have expressed an opinion lie within my field of expertise.
5. In areas where I have no personal knowledge, I have indicated the source of the factual information.
6. Everything within this report has been included after forming my own independent view of the information to hand.
7. Where, in my view, there is scope for a variety of reasonable opinions, I have indicated the extent of that range in the report.
8. Whilst my firm acts for a number of the member homes, I know of no conflict of interest, other than any disclosed in the report, and any interest disclosed does not affect the content of the report.
9. I will advise Torbay Quality Care Forum if, between the date of my report and the meeting with Torbay Care Trust, there are any changes in circumstances which will affect my answer to the above point.
10. At the time of signing the report I consider it to be complete and accurate. I will notify Torbay Quality Care Forum if, for any reason, I subsequently consider that the report requires any corrections or further qualification.

The facts stated in the report are within my own knowledge and I have made clear that I believe them to be true. The opinions I have expressed are to my true and complete professional opinion.

Both myself and Bishop Fleming neither owes nor accepts any duty to any other party and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by their reliance on our report. If further copies of this report are needed, written consent is required before they will be issued.

Tim Godfrey  
**Bishop Fleming**  
Chartered Accountants  
50 The Terrace  
Torquay  
Devon TQ1 1DD  
Date: 29 September 2011

**Glossary of terms**

"Fair Price Model"      The calculation done using "Calculating a Fair Market Price for Care: A Toolkit for Residential and Nursing Homes" which was published by Joseph Rowntree Foundation in 2008 in association with Laing and Buisson. This document has been revised and updated from editions published by Joseph Rowntree Foundation in 2002 and 2004.

**Caveats**

1. Inevitably, there will be costs, maintenance for example, where they are charged in one year, rather than spread over several years, however all effort has been made to ensure "lumpiness" does not affect these results.
2. Invariably, there will be cases where proprietors and family members carry out essential work as part of the operation of the care home, including acting as the registered manager of the home, or as part of the care staff. In many of these cases, they will not be taking a full salary (if a salary is taken at all) for this work, as proprietors tend, for taxation purpose, to take dividends where reserves are available. Where I am aware of this occurring I have made the appropriate adjustment to the costs.
3. Where care homes have "frozen" staff pay, I have adjusted the costs within this report to take into account a 3% pay increase, as a pay freeze would artificially depress the actual costs of care.
4. As a matter of principle, the full capital costs of an individual care home cannot be determined purely from their accounts. Whilst some capital costs are accounted for in terms of interest, the input costs of the proprietor's equity is not accounted for. Whilst no attempt has been made to complete a full analysis of the capital structure of each home, the proprietor's investment may represent the bulk of the value.

The capital costs can make up a substantial proportion of total nursing home care costs (up to 27% according to the Fair Price Model) and if the full cost of own capital is not included then the costs of a home financed mainly by the proprietor will incorrectly appear to be substantially lower than a highly geared care home financed by loans and leases.

More importantly, each individual proprietor will have a differing view on the cost of capital tied up in the business, being other lost opportunities to invest, and therefore it is considered that a benchmark figure (from the Fair Price Model) would be more appropriate in this case.

For more information and rationale behind this see Appendix 3.

**Staff Input, Pay and Terms**

In all cases, payroll is the largest cost item for homes, absorbing up to 60% of the income. As such, a survey of all local providers was carried out in August 2011 to gather additional information on the breakdown of the payroll costs, including hourly pay rates, and the number of staff hours per resident per week for the different categories of staff.

The purpose of this survey is to obtain data to assist with a number of the issues addressed in this report including:-

1. The variation between local staff inputs and pay rates and those on the national benchmark used to populate the fair price model.
2. Care home efficiencies.

The responses and analysis are collated in Appendix 1. The results of the survey are set out below.

<b>Staff hours (weighted average of respondees)</b>	<b>Survey of providers</b>	<b>National benchmarks</b>	<b>Movement from benchmark</b>
Nurse staff hours per resident per week	8.0	7.5	6% up
Carer staff hours per resident per week (nursing care)	22.0	20.5	7% up
Carer staff hours per resident per week (nursing care with dementia)	19.7	20.5	4% down
Carer staff hours per resident per week (personal care)	16.7	18.5	10% down
Carer staff hours per resident per week (personal care with dementia)	22.6	22.0	3% up
Domestic and catering staff hours per resident per week	4.6	4.5	2% up
Chefs/cooks staff hours per resident per week	2.1	1.5	40% up

The results show that nursing, domestic, catering, chefs and cook hours are up. Overall carer hours are at the national benchmark.

There may be several reasons for these variants, in particular:

1. The diseconomy of having a smaller scale care home, for example a 40 bed home may need the same level of certain staffing types as a 50 bed, which results in higher staff hours per resident.
2. Higher level of service expected by private residents compared to funded residents.

The Care Quality Commission, the English regulator for the care home sector does not apply prescriptive staffing standards in terms of staff/resident ratios, and therefore the variants are not down to statutory regulations.

The providers' care homes used in this report are generally smaller when compared to the national benchmarks, averaging 28 beds (varying from 10 to 59) compared to the 60 beds from which the national benchmark is derived. This average excludes all homes which cater for other forms of care for adults below the age of 65. The implications of a smaller home are noted in point 1 above.

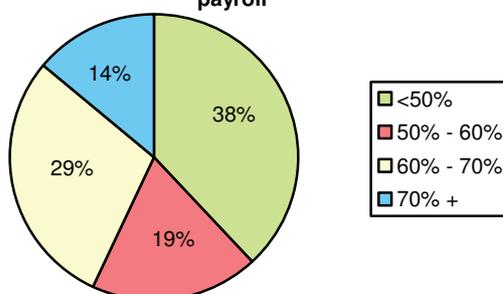
Pay rates

Pay rates for staff were reported as being similar to the average pay rates calculated from a survey carried out by Laing and Buisson in 2009/10 covering 1,000 care homes nationwide. I have also included a 3% pay rise in the table below to avoid artificially depressing the actual cost of care.

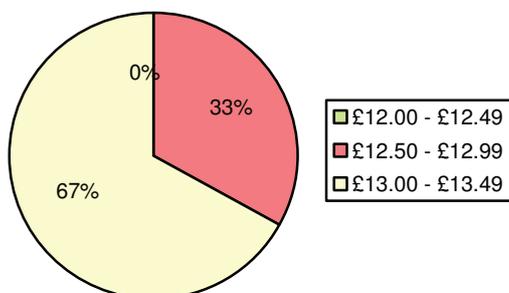
Staff pay rates (exc ER's NI)	Provider rates including 3% increase	Survey of providers 2010/11	Expected pay rates for 2010/11 (3%)	National benchmarks 2009/10
Nurses	£12.36	£12.00	£12.28	£11.92
Carers (nursing care)	£6.82	£6.62	£6.63	£6.44
Carers (nursing care with dementia)	£6.82	£6.62	£6.63	£6.44
Carers (personal care)	£6.77	£6.57	£6.63	£6.44
Carers (personal care with dementia)	£6.77	£6.57	£6.63	£6.44
Domestic and catering	£6.56	£6.37	£6.37	£6.18
Chefs/cooks	£7.50	£7.28	£8.14	£7.90

The above pay rates are standard rates, and do not include holiday pay.

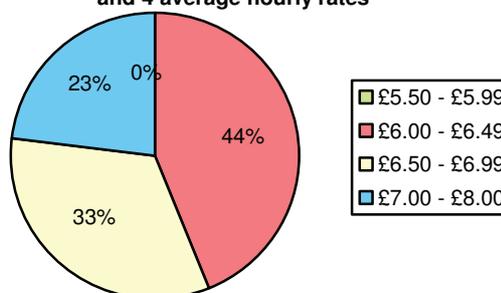
Proportion of turnover represented by payroll



Qualified Nurse average hourly rates



Care and domestic staff/NVQ level 2,3 and 4 average hourly rates



**Annual increases**

As part of this report I have looked into any annual increases expected in the cost of care, in order to identify any divergence between the price and the cost of providing the service.

Unfortunately the information I have at my disposal to look into the above is limited. I considered using accounting information going back to 2005/06 provided by the proprietors, however it is likely that any such information would be of limited use because:-

1. The accounting information would be incomplete, as noted in the caveats on page 4, in particular lacking full information on the capital costs relating to the homes.
2. The accounting information is for the care home as a whole, including private fee clients, and NHS funded "continuing care" which is likely to have had an impact on total costs dependant on the ratio between private and NHS. This is due to care homes with a higher proportion of private fees being able to spend more per resident, than those with a higher proportion of funded residents. In essence the private residents supplement the underlying cost of care for funded residents.
3. Adjustments made to the accounting information to take account of the above would be more unreliable with the passage of time, and there would be undue reliance on memory in the absence of complete records.
4. The care homes may have become more efficient and/or changes in ownership, meaning actual costs varying and causing discrepancies in any findings.

Alternatively I considered asking the proprietors' to specify additional costs incurred since 2005/06, however this would also be unreliable, as would require a consistent response, complete records and continued reliance on memory.

Therefore, the most appropriate method to provide usable results is to adapt the fair price model. The model is populated with data derived from information provided by the four largest care home groups with national portfolios in England, in addition to local cost drivers by Laing and Buisson.

This means that the model can be adapted to the relevant local area and times, by populating the underlying spreadsheet with local variables (staff hours and rates). One of the most important features is that it incorporates a formula for calculating capital costs which is independent of the capital cost structure of any particular home and which is as close to an objective, market based benchmark as it would be possible to get. This is fully described in the capital cost section which is reproduced as Appendix 3.

As staffing costs are the major cost involved within a care home, I had to decide on the best method of calculating the pay rates at this time. It is considered that information from proprietors could vary significantly between homes, national minimum wages are less directly relevant, and specially to higher paid nurses and management. For this reason, I have used Laing and Buisson's method and used the Average Earnings Index for Health and Social Work (AEIHSW), which prior to being superseded in January 2010 with the experimental Average Weekly Earnings (AWE), was considered a well established index for the sector and has been used for calculating care home fees elsewhere. The index for AEIHSW in 2009/10 was 155.9, and in 2005/06 it was 133.2. Although there is no AEIHSW for 2010/11, the AWE calculation is based on a quarterly national monetary value in the £'000's, and I have therefore decided to include a 3% pay rise to show the indicative cost of wages.

**Annual increases (cont.)**

For non-staff inflation I will be using the Retail Price Index excluding mortgage costs (RPIX), since it is in the public domain and is reasonably considered to reflect non-staff changes. Although utilities, fuel and food costs have risen much more dramatically over the last few years, it is expected that the overall RPIX increase should compensate for this, as there will be items which have not increased by RPIX. See Appendix 4 for RP05 report.

The summary of the results are provided below:-

		£ per resident per week		
2005/06 baseline using national staffing benchmarks and local pay rates and land prices:		Nursing & Nursing (Dementia)	Personal	Personal (Dementia)
	Staffing costs	£318	£205	£232
	Repairs and maintenance	£28	£28	£28
	Other non-staff current costs	£68	£68	£68
	Capital costs (ceiling)	£158	£155	£155
<b>Sub-Total</b>		<b>£572</b>	<b>£456</b>	<b>£483</b>
<b>Plus Inflation to 2010/11:</b>				
	Staffing costs - AEIHSW increase to 2009/10	£55	£35	£40
	Staffing costs - 3% increase (on costs at 2005/06 plus AEIHSW increase to 2009/10) to 2010/11	£11	£7	£8
	Repairs and maintenance	£6	£6	£6
	Other non-staff current costs	£15	£15	£15
	Capital costs (ceiling)	£34	£33	£33
<b>Sub-Total</b>		<b>£121</b>	<b>£96</b>	<b>£102</b>
Plus working time regulations changes:-				
Increase in holidays from 20 to 28 days	Staffing costs	£10	£5	£6
Nature of service - one extra hour per resident per week	Staffing costs	£7	£8	£8
<b>Sub-Total</b>		<b>£17</b>	<b>£13</b>	<b>£14</b>
<b>2010/11 using national staffing benchmarks, pay rates and adjusted for inflation</b>	Option 1 on page 13	<b>£710</b>	<b>£565</b>	<b>£599</b>
Plus local hours and pay benchmark instead of national benchmark:-				
	Staffing costs	(£23)	(£35)	(£22)
<b>Sub-Total</b>		<b>(£23)</b>	<b>(£35)</b>	<b>(£22)</b>
<b>2010/11 using local staffing benchmarks, local pay rates and adjusted for inflation</b>	Option 2 on page 13	<b>£687</b>	<b>£530</b>	<b>£577</b>

The fair price model calculation for 2005/06 is detailed as Appendix 2.

**Notes to Annual Increases**

1. Changes in legislation

The main change in legislation was the working time regulations change. This change increased the minimum holiday allowance from 20 days in 2005/06 to 28 days in 2009/10 (20 days PLUS bank holidays). Since it is almost universal practice for private sector care homes to pay the minimum holiday entitlement, this has had a direct impact on the staffing costs.

2. Mandatory issues

There are no mandatory issues that I am aware of that would give rise to a substantial change in care home costs during the period.

3. Insurance, Registrations and CRB Costs

a. Insurance is generally viewed by the sector as volatile, and can increase or decrease dramatically with no coherent trend over time. The overall cost amounts, on average, to £1.52 per resident, per week in 2010/11, compared to the allowance in the fair price model of £5.

Although this is indicating that, for the year in question, the fair price model is £3.48 higher than the cost in the accounts provided, it is considered that, due to the volatile nature of the insurance sector, an adjustment would not be appropriate.

b. Registration costs can vary wildly between years dependant on new registrations such as change in registered manager, additional rooms etc. The average cost of registration fees and CRB checks were calculated were £1.73 per resident, per week in 2010/11, compared to the allowance in the fair price model of £3.

Although this is indicating that for the year in question the fair price model is £1.27 higher than the cost in the accounts provided, it is considered that due to the variances that can occur year on year, an adjustment would not provide a true and fair view.

4. Wages costs relevant to the local area and care sector

There has been, over the last few years an upward pressure on pay rates for qualified nurses, especially those with training and experience in dementia care. This seems to stem from the problems in retaining and recruiting younger trained nurses in light of the changes in their professional training and job expectations. However there are no reliable quantitative data that I am aware of, on to how local pay rates have changed in the period in question.

**Notes to Annual Increases (cont.)**

5. NEST implementation

Although there is no current costs involved in the implementation of the National Employment Savings Trust Pension Scheme, this is a compulsory scheme coming into place between October 2012 and October 2016, and will result in additional costs of employment being a 3% employer's contribution. Although there is the option for staff to opt out of the scheme, it is expected that the vast majority will not opt out.

The voluntary start of the scheme is July 2012 and dependant on staffing pressures some providers may choose to implement the scheme early.

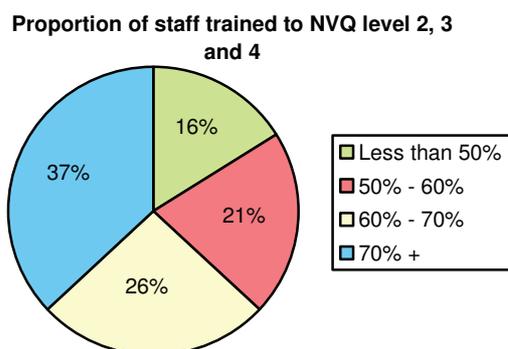
6. Other factors

There has been a requirement for a higher number of better trained staff due to the increasing dependency of residents during the period. The trend towards a higher level of dependency, along with shorter lengths of stay is well recognised within the care sector.

Staffing requirements have had a quantified impact on care home providers, as detailed in the "Calculating a Fair Market Price for Care", published in 2008 by the Joseph Rowntree Foundation. The number of hours that qualified nurses spend with residents per week has remained constant, however the number of non-nurse care hours has increased by 1 hour per resident per week.

Both of these changes have been incorporated into the calculations in Appendix 2.

Although the now abandoned National Minimum Standard required that 50% of carers should be qualified to NVQ Level 2, the changing needs of residents means that best practice dictates that responsible providers will maintain their investment in training. Respondents have an average of 66% of their carers trained to NVQ Level 2 or higher.



**Fair Price for Care**

Based on the analysis done on page 10, I consider that the price for 2010/11 should be 24% higher for all care, on average, than in 2005/06, in order to take into account all of the cost increases described previously.

In each case the price is stated as a "ceiling" price, being a price appropriate for care homes which meet all 2002 National Minimum Standards for physical environment and which were rated by the Care Quality Commission as 2 stars or above in 2010/11. The "floor" price is for a care home of adequate rating under the former CQC scheme of ratings.

The concept developed in the fair price model is that, for each individual home, a "capital cost adjustment factor" should be deducted from the "ceiling" price, pro-rata to the extent to which the home falls short of meeting appropriate standards. In the case of a home being on the borderline of acceptability, the maximum "capital cost adjustment factor" is arbitrarily set at 50% of the capital cost allowance for buildings and equipment meeting national minimum physical standards for new homes, extensions and 1st registrations since April 2002, including start up losses. See Appendix 3 for further description of this concept, as well as proposing a methodology for determining what capital cost adjustment factor is appropriate for each individual care home.

If the full costs were to be taken into account, and assuming deduction of maximum capital cost adjustment factor of £70, I believe that there would be two options for a fair price in 2010/11 which would be as follows:-

**1. Price based on fair price module, populated with national data on pay rates and national benchmarks on staff hours per resident, per week**

	"Ceiling" price (page 10)	"Floor" price
Nursing & Nursing (Dementia)	£710	£640
Personal Care	£565	£495
Personal Care (Dementia)	£599	£529

**2. Price based on fair price module, populated with local data on pay rates and local benchmarks on staff hours per resident, per week**

	"Ceiling" price (page 10)	"Floor" price
Nursing & Nursing (Dementia)	£687	£617
Personal Care	£530	£460
Personal Care (Dementia)	£577	£507

In cases where there is continuing care, this is provided within the activities of the home and is included within the overall costs of care. There is, however an additional administration cost associated with intermediate care and although this has not been identified by the providers, it will need to be taken into account, possibly by way of a booking charge being levied.

Therefore it is considered that no additional costs need to be included for these additional care types within this report.

**Efficiency of the pricing structure**

Option 1 is by definition a representation of the costs of a sufficiently efficient care home, being based on the benchmarks calculated from major care home groups whose portfolios are considered to consist of efficient, large scale homes.

Option 2 will contain elements of inefficiencies, as they are based on the current staffing inputs of the local care homes, which are on the whole, smaller than the major national groups. These larger national homes cater for a higher proportion of private payers who may have an increased service expectation compared to that which the local authority is prepared to pay for.

**Consequences of a lower price**

The general consequence of a lower price being offered is that capital investment will leave this sector, and there will be limited new capital injected to maintain or create new homes to cater for the ageing population. This is supported by the Laing and Buisson survey carried out in 2010 which shows the movement of care homes over the last twenty years (See Appendix 5), and is also supported by BUPA, who have warned that if budgets are not ring-fenced, and local authorities do not pass on the additional £2 billion allocated by the government to fund adult social care by 2014/15 there could be a shortfall of nearly 100,000 beds over the next decade. (Caring Times magazine, April 2011 edition).

Alternatively, care homes will prefer to cater for private payers, who pay a substantially higher fee, or those who can afford to pay a third party contribution, and this will in turn, reduce the choice and accessibility for NHS and council funded residents. This will, naturally, be dependant on having sufficient private payers, and in areas lacking in private fee payers it would be expected that other courses of action will need to be sought including offering only residential care, as the costs involved are less than that of nursing.

It is highly likely, that care homes with the highest levels of borrowings, and those with the higher ratio of funded, compared to private residents will be the greatest affected by a lower price being offered, and the financial strain caused may result in homes having to close.

It is also suggested in the Caring Times magazine, April 2011 edition that as many as 20% of care homes could be forced to close. In terms of Torbay, this could be as many as 24 homes closing throughout the Bay. Based on my local knowledge of the sector, I would expect that this is a reasonable estimate. At the time of writing 2.5% of the homes to which letters have been sent, have either closed or are in administration, including one in the last week, and 28% of the care homes who responded are either at a loss making or breakeven position.

This will inevitably put a further strain on the existing residents, as well as the NHS and local councils having a reduced choice available to them.

Care homes, in an effort to avoid closure, may have to adopt one or more of the following:

1. Seek privately funded residents rather than state supported
2. Require third party contributions from any state supported residents
3. Freeze pay rates for all staff
4. Reduce staffing levels to bare minimum (this will be difficult in this highly regulated sector but not impossible to do)
5. Delay maintenance work
6. Limit discretionary spending where possible.

The above options would have a detrimental affect on the residents and staff, however would still be preferable to the closure of homes.

**Brief Biography**

I am a partner in Bishop Fleming specialising in the health and social care sector and specifically care homes. My firm provides tax, audit and accounting services, but my role focuses on maintaining viability of care homes whilst proprietors seek to grow in, or exit the sector. I also advise those wishing to enter the sector and have presented at joint seminars across the south west region with Lloyds TSB Bank Plc, Pinders and Veale Wasbrough Vizards Solicitors.

Born and educated in Torbay, I became a partner in 1988 and live in Torquay with my wife and three children.

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## Appendix 5

### Assessing the 'usual cost' of care in Torbay

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There are two key elements in assessing the 'usual cost':

1. The Cost of Care (including, staff costs, repairs and maintenance and non staff costs)
2. A contribution to Return on Capital

The way in which the Torbay has approached the assessment of these two elements to arrive at a 'usual cost' based on a market fee is described below.

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#### 1. Rationale for defining Torbay cost of care 2012

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##### A: STAFF COSTS

The opinions of the Community Nurse Lead Torquay South and Assistant Director of Professional Practice were sought as to the required ratio of staff to residents to provide standard nursing care in a nursing care home.

The ratios for the actual levels of care being delivered were considered to be:-

##### Standard Nursing

NURSE	Hours between		Staff Ratio
Day / Evening	08:00	22:00	1:22
Night	22:00	08:00	1:22
Weighted Average			1:22
Hours per resident per week			7.64

CARE ASSISTANT	Hours between		Staff Ratio
Day / Evening	08:00	22:00	1:6
Night	22:00	08:00	1:12
Weighted Average			1:8.5
Hours per resident per week			19.76

##### Standard Plus Nursing

NURSE	Hours between		Staff Ratio
Day / Evening	08:00	22:00	1:18
Night	22:00	08:00	1:22
Weighted Average			1:19.67
Hours per resident per week			8.45

<b>CARE ASSISTANT</b>	Hours between		Staff Ratio
Day / Evening	08:00	22:00	1:5
Night	22:00	08:00	1:10
Weighted Average			1:7.08
Hours per resident per week			23.73

The figures were then compared against the hours per resident per week provided by Laing and Buisson and Bishop Fleming:-

	Laing & Buisson fair-market- price-toolkit 2008	Bishop Fleming September 2011 Appendix 1
Qualified Nurse	7.5	8
Carer (non-nurse) including activities co-ordination	20.5	22
Carer – nursing care with dementia	20.5	19.7

#### Decisions made:-

1. Nurse staff hours of 7.6 hours per resident per week were comparable to the industry standard set by Laing and Buisson and that this figure would be used for standard nursing care.
2. Nurse staff hours of 8.45 hours per resident per week would be used for standard plus nursing care in the Torbay usual cost of care model.
3. Carer staff hours of 19.8 hours per resident per week for standard nursing care would be used in the Torbay usual cost of care model.
4. Carer staff hours of 23.7 hours per resident per week for standard plus nursing care would be used in the Torbay usual cost of care model.

Reasonable staff ratios for residential care were considered to be:-

#### Standard Residential

<b>CARE ASSISTANT</b>	Hours between		Staff Ratio
Day / Evening	08:00	22:00	1:8
Night	22:00	08:00	1:12
Weighted Average			1:9.67
Hours per resident per week			17.37

### Standard Plus Residential

CARE ASSISTANT	Hours between		Staff Ratio
Day / Evening	08:00	22:00	1:6
Night	22:00	08:00	1:10
Weighted Average			1:7.67
Hours per resident per week			21.9

These figures were then compared against the hours per resident per week provided by Laing and Buisson and Bishop Fleming:-

	Laing & Buisson fair-market- price-toolkit 2008	Bishop Fleming September 2011 Appendix 1
Carer - personal care	18.5	16.7
Carer – personal care with dementia	22	22.6

#### Decisions made:-

1. Staff hours of 17.4 hours per resident per week for standard residential care would be used in the Torbay usual cost of care model this figures is below the industry standard set by Laing and Buisson but higher than the local figures set by Bishop Fleming.
2. Staff hours of 21.9 hours per resident per week for standard plus residential care would be used in the Torbay usual cost of care model this figures is comparable with the industry standard set by Laing and Buisson but slightly lower than the local figures set by Bishop Fleming.

Reasonable staff ratios for domestic staff and chefs / cooks were considered to be:-

DOMESTIC STAFF	Hours between		Staff Ratio
Mon - Fri	08:00	16:00	1:12
Sat & Sun	08:30	13:00	1:36
Weighted Average			1:10.75
Hours per resident per week			4.56

These figures were then compared against those provided by Laing and Buisson and Bishop Fleming:-

	Laing & Buisson fair-market- price-toolkit 2008	Bishop Fleming September 2011 Appendix 1
Domestic and catering staff	4.5	4.6
Chefs / cooks	1.5	2.1

**Decisions made:-**

1. Domestic staff hours of 4.6 hours per resident per week for all types of care would be used in the Torbay usual cost of care model, this figures is comparable with the industry standard set by Laing and Buisson and the local figures set by Bishop Fleming.
2. Chef / cook staff hours of 2.1 hours per resident per week for all types of care would be used in the Torbay usual cost of care model this figures is higher than the industry standard set by Laing and Buisson but comparable with the local figures set by Bishop Fleming.

The next area looked at was rates of pay.

The Laing and Buisson Care of Elderly People UK Market Survey 2011 include hourly wages (weighted by shift) of all staff in private care homes, UK 2005-2011 (Table 8.6), the figures for February 2011 are:-

Staff	£ p.h
Nurses	12.17
Care Assistants without NVQ	6.34
NVQ2 and above Care Assistants	6.51
Senior Carers	7.22
Cleaning, Laundry & Catering Staff	6.26
Chefs / Cooks	7.49
	£ p.a
Manager (homes >= 50 beds)	40,170

In their September 2011 report, Bishop Fleming have quoted the following pay rates which 'included a 3% pay rise to avoid artificially depressing the actual cost of care'.

Staff	£ p.h
Nurses	12.36
Carers (nursing care)	6.82
Carers (nursing care with dementia)	6.82
Carers (personal care)	6.77
Carers (personal care with dementia)	6.77
Domestic and catering	6.56
Chefs / Cooks	7.50

**Decisions made:-**

Taking the following factors into account:-

1. Wages in the Torbay area are recognised as being below the national average. In 2011 (the latest available figures) the average weekly gross pay in Torbay was £412.40 compared with £434.50 for Devon and a national average of £504.00. (Source: Nomis)
2. Both the Laing and Buisson and the Bishop Fleming figures are for 2011, so an inflationary uplift needs to be applied to arrive at 2012 pay rates.

3. The National Minimum Wage for workers aged 21 and over increases from £6.08 per hour to £6.19 per hour from 01 October 2012.

The following pay rates have been used for the Torbay usual cost of care model:-

Staff	£ p.h
Nurses	12.48
Care Assistants	6.52
Domestic Staff	6.18
Chefs / cooks	7.10

#### Management and administration costs:-

In the September 2008 (3<sup>rd</sup> Edition) of 'Calculating a fair market price for care – A toolkit for residential and nursing homes' Laing and Buisson clearly state their rationale for the cost of Management, administrative and reception staff as being 'Based on £37,000 per annum spread over 50 residents, a manager's salary cost of £16 prpw before on-costs' plus 'Based on major corporate group norms, a further £15 prpw before on-costs for other management, administrative and reception staff pay'.

Bishop Fleming's September 2011 report includes a Questionnaire Response Summary (Appendix 1) in which the average manager's salary for 19 care homes is £34,557.89 pa and admin salaries per resident per week are £14.92.

#### Decision made:-

Assuming that for the majority of care homes in the Torbay area, management and administration staff would consist of 2 FTE, one being a manager paid an annual salary of £37,000 and the other being administration / reception being paid an annual salary of £18,500 the cost per resident per week for management and administration should be set at £24.00.

#### On-costs:-

On-costs for nursing staff:-

	Laing & Buisson 2008	Bishop Fleming 2005/06	
Working Time Directive minimum holiday on-cost	12.0%	8.3%	Based on Working Time Regulations – 24 days holiday at full pay rising to 28 days from April 2009
Employers' National Insurance on-cost	9.0%	9.0%	Because some part-time staff earn below the National Insurance threshold, the average NI on-cost is less than the standard Employer's NI rate.
Statutory Sick	2.0%	2.0%	

	Laing & Buisson 2008	Bishop Fleming 2005/06	
Pay on-cost			
Employers' pension contribution on-cost	0.0%	0.0%	Workplace pension reforms being phased in from October 2012 are not expected to affect care homes until after April 2012 as the majority of care homes will be classed as small employers (less than 250 employees). The employers' minimum contribution will be 1% up to 30/09/2017 when it will rise to 2% until 30/09/2018 and then 3% from 01/10/2018, it was considered that this would not be a material change for 2012/2013 and 2013/2014.
Total nurse on-costs	24.1%	20.1%	

On-costs for carers, domestic & catering staff and chefs / cooks:-

	Laing & Buisson 2008	Bishop Fleming 2005/06	
Working Time Directive minimum holiday on-cost	12.0%	8.3%	Based on Working Time Regulations – 24 days holiday at full pay rising to 28 days from April 2009
Employers' National Insurance on-cost	8.0%	8.0%	Because some part-time staff earn below the National Insurance threshold, the average NI on-cost is less than the standard Employer's NI rate.
Statutory Sick Pay on-cost	2.0%	2.0%	
Employers' pension contribution on-cost	0.0%	0.0%	Workplace pension reforms being phased in from October 2012 are not expected to affect care homes until after April 2012 as the majority of care homes will be classed as small employers (less than 250 employees). The employers' minimum contribution will be 1% up to 30/09/2017 when it will rise to 2% until 30/09/2018 and then 3% from 01/10/2018, it was considered that this

	Laing & Buisson 2008	Bishop Fleming 2005/06	
			would not be a material change for 2012/2013 and 2013/2014.
Total carers, domestic & catering staff and chefs /cooks on-costs	23.0%	19.0%	

On-costs for managers and admin/reception staff:-

	Laing & Buisson 2008	Bishop Fleming 2005/06	
Average management, admin and reception on-costs	30.0%	30.0%	

**Decisions made:-**

To use the Laing and Buisson on-costs figures for nursing staff (24.1%) and carers, domestic & catering staff and chefs / cooks (23.0%).

The on-cost figures for managers and admin/reception staff used by Laing and Buisson and Bishop Fleming were not broken down into component parts. After discussion, it was decided that holiday and sick pay would be included in annual salary costs and that the on-costs for managers and admin/reception staff would be employer's national insurance contributions and employers' pension contributions. The current rates of employers' national insurance for the salaries decided upon for the Torbay model are:-

Salary	Employers NI – opted in	Employers NI – opted out
£37,000 pa	11.17%	8.0%
£18,500 pa	8.5%	5.9%

Assuming that most employers would have a pension scheme for management and admin/reception staff, it was decided that a weighted average of the opted out rate of employers NI% of 7.3% would be a reasonable on-cost rate to cover employers' national insurance and employers' pension contributions for managers and admin/reception staff.

**Other staff costs:-**

Agency Staff Allowances – Nurses

Agency Staff Allowances – Care Assistants

Training Backfill

The Laing and Buisson and Bishop Fleming figures for other staff costs were considered:-

**Laing and Buisson Care of Elderly People UK Market Survey 2011**

	Nursing care for older people and people with dementia £ per week	Residential care for older people £ per week	Residential care for people with dementia £ per week
Agency staff allowance - nurses	£3		
Agency staff allowance - carers	£2	£2	£3
Training backfill	£4	£3	£3

**Bishop Fleming Torbay Care Homes Market, the Provision, Pressures and Costs Base September 2011**

	Nursing care for older people and people with dementia £ per week	Residential care for older people £ per week	Residential care for people with dementia £ per week
2005/06 Baseline inflated to 2010/2011 costs			
Agency staff allowance - nurses	£2		
Agency staff allowance - carers	£2	£2	£2
Training backfill	£4	£2	£2

**Decision made:-**

To use the figures from the Laing and Buisson Care of Elderly People UK Market Survey 2011 for other staff costs in the Torbay model.

**Total Staff Costs:-**

The total staff costs for the Torbay model were compared against the staff costs in the Laing and Buisson Care of Elderly People UK Market Survey 2011 and those in the Bishop Fleming Torbay Care Homes Market The Provision, Pressures and Cost Base report September 2011.

### Torbay 2012 Model

	Standard Nursing Care	Standard Plus Nursing Care	Standard Residential Care	Standard Plus Residential Care
	£ per resident per week	£ per resident per week	£ per resident per week	£ per resident per week
<b>STAFF, INCLUDING ON-COSTS</b>				
Qualified nursing staff	118	131		
Care staff	159	190	140	176
Domestic staff	53	53	53	53
Management / Admin staff	26	26	26	26
Agency staff allowance - nurses	3	3		
Agency staff allowance - carers	2	2	2	3
Training backfill	4	4	3	3
<b>TOTAL STAFF COSTS</b>	<b>365</b>	<b>409</b>	<b>224</b>	<b>261</b>

### Laing and Buisson Care of Elderly People UK Market Survey 2011

	Nursing care for older people and people with dementia	Residential Care for older people	Residential Care for people with dementia
	£ per resident per week	£ per resident per week	£ per resident per week
Qualified nursing staff	113		
Care staff	164	150	179
Domestic staff	48	48	48
Management / Admin staff	43	43	43
Agency staff allowance - nurses	3		
Agency staff allowance - carers	2	2	3
Training backfill	4	3	3
<b>2011 STAFF COSTS</b>	<b>378</b>	<b>247</b>	<b>276</b>
Inflationary uplift (1.25%)	5	3	4
<b>2012 STAFF COSTS</b>	<b>383</b>	<b>250</b>	<b>280</b>
<i>Figures may not add because of rounding</i>			
Inflation: Average Weekly Earnings by Industry (Updated September 2012) Health and Social Work – Average weekly earnings July 2011 £400 Average weekly earnings July 2012 £405. Increase = £5 = 1.25%			

**Bishop Fleming Torbay Care Homes Market, the Provision, Pressures and Costs Base September 2011**

	Nursing and Nursing (Dementia)	Personal	Personal (Dementia)
	£ per resident per week	£ per resident per week	£ per resident per week
Qualified nursing staff	96		
Care staff	144	131	157
Domestic staff	30	30	30
Management / Admin staff	40	40	40
Agency staff allowance - nurses	2		
Agency staff allowance - carers	2	2	2
Training backfill	3	2	2
2005/06 STAFF COSTS	318	205	232
Plus Inflation to 2010/11:			
AEIHSW increase to 2009/10	55	35	40
3% increase to 2010/11	11	7	8
Increase in holidays from 20 to 28 days	10	5	6
Nature of service – one extra hour per resident per week	7	8	8
Sub-total	401	260	294
Adjustment for local hours and pay benchmark	(23)	(35)	(22)
2010/2011 STAFF COSTS	378	225	272
Inflationary uplift (2.02%)	8	5	5
2012 STAFF COSTS	386	230	277
<i>Figures may not add because of rounding</i>			
Inflation: Average Weekly Earnings by Industry (Updated September 2012) Health and Social Work – Average weekly earnings July 2010 £396 Average weekly earnings July 2012 £404 (net of bonuses). Increase = £8 = 2.02%			

**B: REPAIRS AND MAINTENANCE**

As part of a consultation exercise with care home providers carried out in September 2012, the providers were asked to submit a copy of their accounts to the Care Trust. 108 providers were asked to take part in the consultation exercise, 5 out of 16 nursing care homes (31.25%) and 19 out of 57 residential care homes (33.3%) responded to the request for information. Of these 24 care homes, 5 supplied copy accounts. The purpose of requesting accounts was to look at expenditure for repairs and maintenance and other non-staff costs and to calculate a weekly cost per resident. Of the accounts received:-

- A did not state the period that it related to or include the name or the size of the care home

- B was abbreviated accounts and did not have any dates on it or include the name or the size of the care home
- C contained the detail required and was for the year ended 31 May 2011 but the name of the care home had been erased
- D contained the detail required but was for the year ended 31 March 2010
- E also contained the detail required and was for the year ended 31 March 2011

It was decided that because only two of the accounts received would be able to provide the information required it was not a large enough sample to be representative of the care home market in Torbay.

The costs for Repairs and Maintenance in the Laing and Buisson Care of Elderly People UK Market Survey 2011 and in the Bishop Fleming Torbay Care Homes Market The Provision, Pressures and Cost Base report September 2011 were compared:-

#### Laing and Buisson Care of Elderly People UK Market Survey 2011

	Nursing care for older people and people with dementia £ per week	Residential care for older people £ per week	Residential care for people with dementia £ per week
Maintenance capital expenditure	17	17	17
Repairs and maintenance (revenue)	12	12	12
Contract maintenance of equipment	3	3	3
Total repairs and maintenance	33	33	33
Inflationary uplift (2.3%)	1	1	1
2012 repairs and maintenance costs	34	34	34
<i>Figures may not add because of rounding</i>			
Inflation: CPI detailed figures by division – Furniture, household equipment & routine maintenance			
Percentage change on a year earlier – August 2012			

#### Bishop Fleming Torbay Care Homes Market, the Provision, Pressures and Costs Base September 2011

	Nursing care for older people and people with dementia £ per week	Residential care for older people £ per week	Residential care for people with dementia £ per week
Repairs and maintenance – 2005/06 baseline	28	28	28
Plus Inflation to 2010/11	6	6	6
Total repairs and maintenance	34	34	34
Inflationary uplift (8.3%)	3	3	3
2012 repairs and maintenance costs	37	37	37
<i>Figures may not add up because of rounding</i>			
Inflation: CPI detailed figures by division – Furniture, household equipment & routine maintenance			
Monthly indices August 2010 109.5 August 2012 118.6 increase 9.1 = 8.3%			



Bishop Fleming 's Torbay Care Home Market, the Provision, Pressures and Costs Base September 2011 report does not give a detailed breakdown of other non-staff current costs, the costs are stated as 2005/06 baseline £68 plus inflation to 2010/2011 £15 making a total of £83. The inflation figure of £15 is 22.06% of the baseline figure, applying this to the 2005/06 figure of £18 for utilities the 2010/2011 figure for utilities is £22. The CPI detailed figures by division for housing, water, electricity, gas and other fuels monthly indices are 130.0 for August 2010 and 144.4 for August 2012 an increase of 14.4 which is equal to 11.08%, applying this to the Bishop Fleming 2010/11 figure the 2012 cost per resident per week for utilities would be £24.

**Decision made:-**

To use a figure of £25 per resident per week for utilities in the Torbay 2012 model.

**Other non-staff current expenses**

In their Care of Elderly People UK Market Survey 2011, Laing and Buisson include the following other non-staff current expenses:-

	£ per week
Handyman / gardening (on contract)	8
Insurance	6
Medical supplies (inc. equipment rental)	3
Domestic and cleaning supplies	3
Trade and clinical waste	3
Registration fees (inc CRB checks)	3
Recruitment	2
Direct training expenses (fees, facilities, travel and materials) net of grants and subsidies	2
Incontinence products (supplied by NHS)	0
Other non-staff current expenses (Waste disposal, uniforms, linen & crockery, stationery, motor & travel, subscriptions, marketing, and sundry)	7
<b>Total non-staff current expenses</b>	<b>37</b>

The percentage change for the overall CPI detailed figures by division for the year to August 2012 is 2.5%, applying this to the L&B 2011 figure the 2012 cost per resident per week for other non-staff current expenses would be £38.

Bishop Fleming 's Torbay Care Home Market, the Provision, Pressures and Costs Base September 2011 report does not give a detailed breakdown of other non-staff current costs, the costs are stated as 2005/06 baseline £68 plus inflation to 2010/2011 £15 making a total of £83. The inflation figure of £15 is 22.06% of the baseline figure, applying this to the 2005/06 figure of £30 for other non-staff current expenses the 2010/2011 figure for other non-staff current expenses is £37. The monthly indices for the overall CPI detailed figures by division are 114.9 for August 2010 and 123.1 for August 2012 an increase of 8.2 which is equal to 7.1%, applying this to the Bishop Fleming 2010/11 figure the 2012 cost per resident per week for other non-staff current expenses would be £39.

**Decision made:-**

Taking the following factors into account:-

- The current economic situation has made it easier to recruit staff as a result of redundancies across other sectors, while concurrently aiding staff retention resulting in lower recruitment, staff training and associated costs.
- Unemployment figures show that 3,412 people in Torbay were out of work and claiming jobseeker's allowance in August 2012. This represents 4.3% of the working population compared with an average for Devon of 2.01% and a national average of 3.8%. (Source: Nomis)
- Handyman / gardening services are frequently carried out by staff employed by care homes rather than being on contract, this would reduce costs.
- Gardens are being developed to encourage residents to take an active interest in the upkeep.

It was decided to use a figure of £32 per resident per week for non-staff current expenses in the Torbay 2012 model.

## 2. Assessing contribution to return on capital

The usual cost was set using a market based approach such that:

- It reflected the proportion of the market that we purchase or is purchased at rates linked to Torbay's;
- It covers the cost of care and accommodation (including a provision for capital maintenance which reflects an allowance on capital costs over a long period)
- Is no lower than the average fee rate set currently;
- It provides for a reasonable and sustainable return for a home given average fee rates secured in the market.

The table below shows the above in numbers.

	NURSING CARE STANDARD	NURSING CARE STANDARD PLUS	RESIDENTIAL CARE STANDARD	RESIDENTIAL CARE STANDARD PLUS
	£/bed week	£/bed week	£/bed week	£/bed week
Torbay Market Rate	448	511	332	370
Cost of Care	482	526	341	378
Existing	529	555	341	392
<b>Selected Torbay Banded Rates</b>	<b>529</b>	<b>555</b>	<b>341</b>	<b>392</b>
TP Payments	10	3	10	8

The Torbay Market rate is based on a market penetration of 55%.

These rates were cross referenced against the estimated income and other capital costs for the model home. We intend that the information obtained during the consultation will help us improve these estimates. The results of these calculations are set out below. It shows that the selected rate in combination with estimates of income from other sources (private and individually negotiated other public sector [PS]) more than cover the estimated costs of operation including profit.

	NURSING CARE STANDARD	NURSING CARE STANDARD PLUS	RESIDENTIAL CARE STANDARD	RESIDENTIAL CARE STANDARD PLUS
Total number of beds	50	50	50	50
Total beds @95% capacity	47.5	47.5	47.5	47.5
% beds sold at banded rates	25%	25%	40%	40%
No. of beds sold at banded rates	12.5	12.5	20	20
% other PS beds sold	22%	22%	6%	6%
No Other PS beds sold	11.0	11.0	3.0	3.0

	NURSING CARE STANDARD	NURSING CARE STANDARD PLUS	RESIDENTIAL CARE STANDARD	RESIDENTIAL CARE STANDARD PLUS
No. of private market beds sold	24.0	24.0	24.5	24.5
	£/bed week	£/bed week	£/bed week	£/bed week
Private Market Rate (memo)	760	821	501	546
Other PS Rate (memo)	601	601	454	454
<b>Selected Torbay Banded Rates</b>	<b>539</b>	<b>558</b>	<b>351</b>	<b>400</b>
Total Home Costs pw	26,053	28,135	19,295	21,038
Private Income	18,240	19,704	12,275	13,377
Other PS Income	6,611	6,611	1,362	1,362
Income from Banded Fees	6,742	6,976	7,028	8,000
Total Income	31,593	33,291	20,664	22,739

The figures for private market income are based on Laing and Buisson figures weighted for the proportions of standard to standard plus residents. The other public sector rates are taken from our own data.

The estimates for the home costs are set out in the table below.

Torbay Usual Costs Model 2012-13 Current Assumptions	NURSING CARE STANDARD	NURSING CARE STANDARD PLUS	RESIDENTIAL CARE STANDARD	RESIDENTIAL CARE STANDARD PLUS
	£ per resident per week	£ per resident per week	£ per resident per week	£ per resident per week
D) CAPITAL COSTS				
Land	£15	£15	£15	£15
Buildings and equipment	£54	£54	£53	£53
<b>Total capital costs</b>	<b>£69</b>	<b>£69</b>	<b>£68</b>	<b>£68</b>
Fully Absorbed Costs at 85% occupancy	£613	£662	£454	£495
Total Weekly Costs for home	£26,053	£28,135	£19,295	£21,038
Land Value	£10,121	£10,121	£10,121	£10,121
Buildings and equipment	£36,013	£36,013	£35,105	£35,105
Average Rate of Return	7.8%	7.8%	7.8%	7.8%

The build up of the land and building costs is set out in the following table. The Average rate of return was determined from a report by ADASS which reviewed the actual capital employed by care homes and the actual capital costs paid.

Further detail on the calculation of the capital values (land and buildings) are set out in the following table.

<b>Land</b>	<b>NURSING CARE STANDARD</b>	<b>NURSING CARE STANDARD PLUS</b>	<b>RESIDENTIAL CARE STANDARD</b>	<b>RESIDENTIAL CARE STANDARD PLUS</b>
Source Data £ / Ha	1,500,000		1,500,000	
Acres per Hectare	2.47		2.47	
£ / acre	607,287		607,287	
Minimum land requirement for a 50 bed home (in acres)	0.75		0.75	
Land allowance in provinces, £ PER ACRE	455,466		455,466	
Land allowance in provinces, £ PER BED	9,109		9,109	
Land allowance in provinces, £ PER RESIDENT	10,121		10,121	
<b>Building / Property Values</b>				
Sales Value £ per Bed	68,609		67,109	
Land Value £ per bed	9,109		9,109	
Building Value £ per bed	59,500		58,000	
Occupancy %	95%		95%	
Building Value per Occupied Bed	62,632		61,053	
Years Building Value Abated	17		17	
Abated Building Value	36,013		35,105	

Sales values per bed are consistent with a report by Savills (Care Home Market Snapshot Summer/Autumn 2010) and with the figures used in Laing and Buisson but greater than local market data that we have received.

Years building value abated based on Torbay Care Trust data on care home registration dates.

# Agenda Item 9

## Appendix 6

### Appendix 6

#### Future Commissioning Priorities

There is widespread acknowledgement of the need to address future models of care, new ways of working and the future commissioning and funding of care and support.

Torbay has identified a number of priorities for adult social care commissioning including;

- Developing a market position statement for adult social care,
- Supporting people to remain independent at home by developing an outcomes-based specification for domiciliary care and support with a focus on reablement and recovery,
- Review residential and nursing care to inform a specific commissioning plan for accommodation-based care and support,
- Implement a quality assurance framework with all care homes,
- Work with Devon Partnership Trust and the Clinical Commissioning Group (CCG) to address care and support needs for people with poor mental health,
- Specify and procure community equipment services with the CCG,
- Deliver planned extra care housing schemes,
- Support a refresh of and implementation of a dementia strategy.

The development of a market position statement for Torbay will inform a more detailed commissioning plan linked to the priorities of the Health and Wellbeing Board. Adult social care commissioners will work with the CCG to further integrate commissioning governance and support for health, adult social care, support, housing and public health to make the best use of resources across organisations to support the commissioning function. A project team has been set up to consider individually negotiated packages of care and this will form part of the wider review of accommodation-based care and support. Service users, providers and carers, as well as operational staff and the community voluntary sector will be involved in this review.

**Appendix 7**  
**Summary of Consultation prior to October 2012**

Detail of consultation on the fee proposal issued in October 2012 is contained in Appendix 10. Following the decision to review care home fees on 22<sup>nd</sup> May 2012 and prior to development of the proposal, the following consultation and engagement took place.

<b>Event</b>	<b>Summary of feedback</b>	<b>How feedback taken into account</b>
<p>Meeting with care homes 31 May 2012 (Attendees- 13 from Torbay Council and TSDHCT, 36 representing 29 Care Homes in Torbay)</p>	<ul style="list-style-type: none"> <li>• Would like regular meetings with all care homes in the evening and involvement of care homes in wider discussion and review of fee setting</li> <li>• Concern about ability to deliver quality within current level of funding</li> <li>• Concerns about increase in complexity of need</li> <li>• Plan fees uplift over a longer period – 2/3year rolling basis</li> <li>• Address some of the issues raised in the Bishop Fleming report</li> </ul>	<ul style="list-style-type: none"> <li>• Bi-monthly meetings in place</li> <li>• Quality assessment tool will be rolled out in 2013</li> <li>• Increasing complexity acknowledged, individual choice &amp; new ways of working mean people likely to remain at home longer &amp; enter care later</li> <li>• 2 year fee rates proposed</li> <li>• Circulated 'points for clarification' with response to Bishop Fleming (Appendix 2)</li> </ul>
<p>Meeting with care homes 9 July 2012 &amp; Questionnaire to all (108) care homes 24 July 2012 (These questions were also asked at the stakeholder event on 9 July 2012. So feedback is combined). There were 26 questionnaire responses (1 from Torbay Quality Care Forum (TQCF) representing 25 providers = 51 responses).</p>	<ul style="list-style-type: none"> <li>• Banding tool does not take into account individual needs of clients</li> <li>• Email, open meetings and letters are good methods of communication</li> <li>• Most wanted a quicker conclusion to the current review process to confirm fee levels through to March 2014</li> <li>• A small fund for capital/ development grants would be welcome</li> <li>• Preference for a flat rate increase</li> </ul>	<ul style="list-style-type: none"> <li>• Revised assessment tool developed &amp; circulated. There is a band of 'exceptional needs' included in banding structure</li> <li>• Agreed to use all methods of communication</li> <li>• 2 year fee rates proposed</li> <li>• Will consider any potential to bid for public funding</li> <li>• Considered that moving from complex system of up to 24 bands to flat rate would not be practical or appropriate</li> </ul>

Event	Summary of feedback	How feedback taken into account
<p>Meeting with care homes 6 September 2012 (Attendees-8 from Torbay Council and Torbay Care Trust, 40 representing 26 Care Homes in Torbay)</p>	<ul style="list-style-type: none"> <li>• Request that information sought in respect of clients, vacancies &amp; staffing went through third party</li> </ul> <p>Round table discussion on proposed banding structure:</p> <ul style="list-style-type: none"> <li>• Welcomed simplification of bands</li> <li>• Felt there was a lack of consistency of assessment across zones</li> <li>• Response time to review requests</li> <li>• Appeals process</li> <li>• Not clear on distinction between nursing and residential</li> <li>• Will assessment process underpinning banding structure be available?</li> <li>• TQCF wanted response on why BF report not accepted</li> </ul>	<ul style="list-style-type: none"> <li>• Arranged for responses to go to Francis Clark accountants.</li> <li>• 4 bands plus exceptional needs proposed</li> <li>• To be raised with zone leads</li> <li>• To be raised with zone leads. Reviews are prioritised by need</li> <li>• Review can be requested if needs change</li> <li>• If nursing needs are identified a nursing assessment is triggered</li> <li>• Assessment tool circulated in October 2012 with fees proposal</li> <li>• Circulated 'points for clarification' with response to Bishop Fleming</li> </ul>
<p>Meeting with care homes 25 October 2012</p>	<p>See Appendix 10</p>	
<p>Questionnaire &amp; consultation pack to all (108) care homes 11 October 2012</p>	<p>See Appendix 10</p>	
<p>1-1s with care homes October/November 2012</p>	<p>See Appendix 10</p>	

In addition to the activity described above care home and Torbay and Southern Devon Health and Care Trust (TSDHCT) operational staff were involved in revising banding tool in September 2012 and in identifying the cost of care in Torbay.

# Torbay Council Care Home Fees Review

## QUESTIONNAIRE

Home \_\_\_\_\_ Date \_\_\_\_\_

Name of Person Completing \_\_\_\_\_

The Council has reviewed the fees offer made to care homes for 2012/13.

This questionnaire has been sent to all care home owners as part of the consultation process following a review of care home fees and should be read in conjunction with the report 'Review of Care Home Fees in Torbay 2012-2014'.

We welcome your feedback on the following questions and any other comments and suggestions you would like to make in relation to the review and resulting proposal.

As part of the consultation process we are offering 1-1 meetings with care home providers to answer any questions and to make sure everyone has the opportunity to feed back their views. Please email [linda.gibbs2@nhs.net](mailto:linda.gibbs2@nhs.net) or telephone 01803 208018 for an appointment.

### **Please return this questionnaire:**

- Via e-mail: [Carehomesconsultation@torbay.gov.uk](mailto:Carehomesconsultation@torbay.gov.uk) or
- By post to: Lin Gibbs, St Edmunds, Victoria Park Road, Plainmoor, Torquay TQ1 3QH

## Banding Structure

**Q1. We have listened to feedback about the fee structure - that it is too complex and needs to be simplified. Do you agree?**

YES

NO

*Please delete either Yes or No button*

The proposed new structure comprises 4 care categories:

Residential Standard  
Residential Standard Plus  
Nursing Standard  
Nursing Standard Plus

**Q2. Do you think this is the right number of categories?**

YES

NO

*Please delete either Yes or No button*

**Q3. If not what would you propose and why?**

*Please add any comments in the box below.*

**Q4. The draft assessment banding tool for residential placements is attached at Appendix A.**

*Please add any comments in the box below.*

## Banding Structure (continued)

We have mapped fee rates from the old to the new bandings in the following way:

CURRENT BANDING STRUCTURE			PROPOSED STRUCTURE
General Care Home	Good & Excellent CQUIN & NON CQUIN	B1	Residential Standard
		B2	
		B3	Residential Standard Plus
EMI Care Home	Good & Excellent CQUIN & NON CQUIN	B1	Residential Standard Plus
		B2	
		B3	
General Nursing Home	Good & Excellent CQUIN & NON CQUIN	B1	Nursing Standard
		B2	Nursing Standard Plus
		B3	
EMI Nursing Home	Good & Excellent CQUIN & NON CQUIN	B1	Nursing Standard Plus
		B2	
		B3	

**Q5. Do you think this allocation is correct?**

YES

NO

*Please delete either Yes or No button*

**Q6. If not what would you change and why?**

*Please add any comments in the box below.*

## Assessing costs Review Process

In assessing the cost of care we have reviewed costs in the following categories:

- Direct care costs (largely staffing related)
- Food and Accommodation costs (often referred to as hotel costs)
- Contribution to profit

The detailed figures for each of the first two categories are attached as **Appendix B**.

**Q7. Do you agree with these assumptions?**

YES

NO

*Please delete either Yes or No button*

**Q8. Do you agree the cost of care is the sum of the care costs and hotel costs?**

YES

NO

*Please delete either Yes or No button*

**Q9. If you do not agree with the assumptions and estimates set out in Appendix B, please set out in detail why these assumptions are incorrect.**

*Please note that in order to change our assumptions we will need an evidence base to support what you tell us. Therefore it is important that if you have evidence to support your position, that you provide it to us when you return this consultation document.*

*Please add any comments in the box below.*

## Cost & Pricing in the Care Market

It is important to share our view of how care pricing works because this has informed the cost model that underpins our fees proposal. Please answer the questions below providing further detail and alternative proposals where appropriate.

**Q10. Profit is the return that a home owner, and other investors can expect in return for the risk they have taken by investing in a care home.**

Agree

Disagree

*Please add any comments in the box below.*

**Q11. Without sufficient profit a care home will not be viable in the longer term.**

Agree

Disagree

*Please add any comments in the box below.*

**Q12. The price that can be charged for a bed in a care home will depend on what a person is willing to pay.**

Agree

Disagree

*Please add any comments in the box below.*

**Q13. There are different segments, or sectors, in the care home market which meet the needs of different people.**

Agree

Disagree

*Please add any comments in the box below.*

**Q14. To optimise income, prices are likely to vary according to these different market segments.**

Agree

Disagree

*Please add any comments in the box below.*

**Q15. The prices agreed for a bed will reflect a wide variety of factors in which both buyers and sellers are trying to get the 'best value'**

Agree

Disagree

*Please add any comments in the box below.*

**Q16. High numbers of vacancies will damage the viability of homes**

*Please add any comments in the box below.*

Agree

Disagree

**Q17. This might mean that the number of homes or beds has to reduce so that the remaining homes in the market are viable**

Agree

Disagree

*Please add any comments in the box below.*

## Market Assumptions

Please see below a number of assumptions and estimates we have used to Define the nature of the care market in Torbay.

**Q18. Do you agree the public sector purchase only a percentage of the Care Home capacity at its banded rates and contribution to profit also comes from other sources?**

YES

NO

*Please delete either Yes or No button*

*Please add any comments in the box below.*

We have looked at our conclusions to see if our purchase of bed spaces will, on average, provide for a reasonable contribution to profit in a well-run and efficient care home. To do this we have had to make some assumptions about an average business model for a care home, although it is important to note that these assumptions do not influence our calculations of cost of care. These assumptions are set out below and if you do not agree with them then please set out your reasons why and supply supporting evidence for any alternative assumptions you may propose.

Average capital cost per bed for a newly built/acquired business is:

- Residential £61,000
- Nursing £62,600

**Q19. Do you agree with this assumption?**

**YES**

**NO**

*Please delete either Yes or No button*

*If 'no' please explain why providing supporting evidence for any alternative assumptions you propose. Please add any comments in the box below.*

Taking into account the average age of care home businesses in Torbay, the average capital employed per bed for businesses currently operating in Torbay is:

- Residential £45,200
- Nursing £46,100

**Q20. Do you agree with this assumption?**

**YES**

**NO**

*Please delete either Yes or No button*

*If 'no' please explain why providing supporting evidence for any alternative assumptions you propose. Please add any comments in the box below.*

## **Usual Cost to the Local Authority for Banded Fees**

We have used all of the above estimates to help inform our decision on setting our usual cost for banded fees. These figures are set out below. They are

weekly rates and include Registered Nurse Care Contribution (RNCC) payment (currently £108.70 per week, rounded to £109). They exclude Continuing Healthcare (CHC) and any third party top-up.

<b>Residential Care</b>	Standard	Standard Plus	<b>Needs</b>
	<b>£341</b>	<b>£392</b>	
<b>Nursing Care</b>	Standard	Standard Plus	
	<b>£529</b>	<b>£555</b>	
<b>Exceptional</b>			

**Q21.** *Please enter any further comments below*

**Please return this questionnaire:**

- ➔ Via e-mail: [Carehomesconsultation@torbay.gov.uk](mailto:Carehomesconsultation@torbay.gov.uk) or
- ➔ By post to: **Lin Gibbs, St Edmunds, Victoria Park Road, Plainmoor, Torquay TQ1 3QH**

## Draft Assessment for Residential Care Homes

Name of Home: \_\_\_\_\_

Name of Resident: \_\_\_\_\_

	1	2	3	4	5
<b>Falls &amp; Mobility</b>	Independent	Unsteady/ minimal supervision	With basic equipment - supervision needed	Constant supervision during 24 hours - high risk of falling. Assistance of one other	Constant supervision 24 hours - high risk of falling. Assistance of two others/hoist
<b>Bathing /Showering</b>	Independent/ some difficulty	Not Applicable	With equipment/prompting	With assistance of one other	With assistance of two others
<b>Washing/ Dressing</b>	Independent/ some difficulty	Not Applicable	With prompting/ guidance on appropriate dress	With assistance of one other	With assistance of two others
<b>Toileting Urinary/faecal continence</b>	Full control	With difficulty / Some lapses	Uses continence aids / equipment	Uses continence aids - day and night - needs 1 to assist	Uses continence aids uncontrolled double incontinence- possibly 2 to assist
<b>Incontinence management/ toileting</b>	No problems	Rare episodes of inappropriate urinary/faecal activity	Weekly episodes of inappropriate behaviour	Daily episodes of inappropriate behaviour	Severe problems with inappropriate urinary and faecal activity
<b>Eating/Drinking</b>	Independent or with some difficulty	Food needs special preparation/equipment	Prompts/supervision of one other	Needs to be fed by staff	Specialist 1:1 feeding due to risks eg. choke/swallow - thickened fluids etc
<b>Sleeping</b>	No problems	Wakes early/ difficulty getting to sleep	Occasional disrupted sleep pattern	Sleeplessness affecting functioning and demands on staff	Severe sleep disturbance causing disruption to others. Needs constant monitoring
<b>Sensory loss - hearing/vision</b>	Independent	Manages well with equipment	Has difficulty even with equipment - occasional 1 to 1 help needed	Severe sensory loss/reluctance to use aids. 1 to 1 assistance needed for some tasks	Severe sensory loss. At risk without constant 1:1 support and/or specialist input required eg. sign language
<b>Wandering /Orientation</b>	Wanders but not at risk	Wanders and needs occasional assistance	Not Applicable	Wanders, and needs frequent assistance/monitoring during the day	Wanders, placing self at risk - constant assistance/monitoring required day & night
<b>Memory</b>	Some forgetfulness/ poor short term memory	Not Applicable/	Poor short term memory & needs regular reminders & supervision	Poor short and long term, requiring frequent reminders and monitoring	Poor short and/or long term memory with confusion/anxiety/distress

<b>Psychotic episodes (Perception)</b>	No problems/hallucinations/delusions controlled by medication	Suffers from hallucinations/delusions and needs occasional monitoring/reassurance	Suffers from hallucinations/delusions and needs regular intervention/reassurance	Not Applicable	Suffers from hallucinations/delusions of such intensity that frequent reassurance/intervention is required
<b>Mood</b>	No issues/or some mood fluctuation but little intervention required	Fluctuating mood requiring some reassurance/intervention by staff	Not Applicable	Fluctuating mood, requiring regular intervention by staff	Severe mood changes requiring constant monitoring/ frequent intervention. High risk of self-harm/suicide
<b>Communication</b>	No issues	Lacks confidence. Some skills but needs support	Occasionally inappropriate /withdrawn or limited communication/needs support	Often inappropriate/withdrawn or significant communication difficulties. Needs frequent support to avoid isolation	Always inappropriate/withdrawn or unable to communicate. Needs skilled intervention and/or specialist equipment
<b>Behaviour - including sexual behaviour and substance/alcohol use</b>	No problems	Disruptive or sexually disinhibited on rare occasions. Guidance needed occasionally with substance/alcohol	Regularly disruptive or sexually disinhibited - requiring intervention, or occasional episodes of substance/alcohol misuse	Frequently disruptive or sexually disinhibited in presence of others, or frequent episodes of substance /alcohol misuse. Frequent intervention required	Frequently disruptive or sexually disinhibited in presence of others, or frequent episodes of substance /alcohol misuse. Needing constant supervision, high level of staff intervention
<b>Verbally aggressive behaviour</b>	No problems	Occasional episodes - easily defused	Some predictable episodes requiring careful staff intervention	Frequent predictable episodes causing disruption to others	Frequent unpredictable aggression posing risk to others. Constant monitoring and skilled staff intervention required
<b>Physically aggressive behaviour</b>	No problems	Occasional episodes of mild threatening behaviour to others	Frequent predictable episodes of threatening behaviour to others - requiring intervention	Episodes of unpredictable aggression to others - not serious, but distressing - monitoring and skilled intervention required	Frequent episodes of unpredictable aggression posing risk to others. Constant supervision and skilled staff intervention required
<b>Social/emotional support</b>	Minimal needed	Occasionally requires support and reassurance.	Regularly requires support and reassurance - in predictable situations	Requires support and reassurance often and in less predictable situations	Constant high level of support and reassurance needed daily
<b>Skin Care</b>	Not Applicable	Low risk requires monitoring / moisturising	Needs pressure relieving equipment/ some intervention	Needs established turning programme/changing of	Broken skin, areas that need dressing with frequent

				dressings	observation & intervention
<b>Support with medication</b>	Low risk needs monitoring/ moisturising	Needs regular checks eg. diabetes/bloods	Frequent intervention controlled drugs(eg. diazepam)	Needs significant time & persuasion/serious effects	Not Applicable
<b>Transfers</b>	Independent	Unsteady/basic equipment/minimal supervision	Equipment/frequent supervision & assistance of one other	Specialist equipment/frequent supervision & assistance of one/two others	Very complex positioning possibly 3 to move (bariatric or contracted limbs)
TOTAL					
GRAND TOTAL		Assessors Name: _____			

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

<b>Standard</b>	<b>Standard Plus</b>		
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**Appendix B**

Direct care costs

Staff hours

**Direct care costs – Staff hours**

	Standard Residential Care	Standard Plus Residential Care	Standard Nursing Care	Standard Plus Nursing Care
<b>Qualified Nursing Staff (excludes Supernumerary managers)</b>				
Hours per resident per week	-	-	7.64	8.45
Weighted average hourly rate			£12.48	£12.48
On-costs			24.1%	24.1%
Cost per resident per week			£118	£131
<b>Care Assistant (including activities)</b>				
Hours per resident per week	17.4	21.9	19.8	23.73
Weighted average hourly rate	£6.52	£6.52	£6.52	£6.52
On-costs	23.0%	23.0%	23.0%	23.0%
Cost per resident per week	£140	£176	£159	£190
<b>Domestic Staff</b>				
Hours per resident per week	4.6	4.6	4.6	4.6
Weighted average hourly rate	£6.18	£6.18	£6.18	£6.18
On-costs	23.0%	23.0%	23.0%	23.0%
Cost per resident per week	£35	£35	£35	£35
<b>Chefs / Cooks</b>				
Hours per resident per week	2.1	2.1	2.1	2.1
Weighted average hourly rate	£7.10	£7.10	£7.10	£7.10
On-costs	23.0%	23.0%	23.0%	23.0%
Cost per resident per week	£18	£18	£18	£18
<b>Management / Administration / Reception Staff</b>				
Hours per resident per week	1	1	1	1
Weighted average hourly rate	£24.00	£24.00	£24.00	£24.00
On-costs	7.3%	7.3%	7.3%	7.3%
Cost per resident per week	£26	£26	£26	£26

## Staff Costs

	Standard Residential Care	Standard Plus Residential Care	Standard Nursing Care	Standard Plus Nursing Care
	£ per resident per week	£ per resident per week	£ per resident per week	£ per resident per week
Qualified Nursing Staff (excludes Supernumerary managers)	-	-	118	131
Care Assistant (including activities)	140	176	159	190
Catering, Cleaning & Laundry Staff	53	53	53	53
Management, Administration & Reception Staff	26	26	26	26
Other staff costs (Agency staff allowances & training backfill)	5	6	9	9
<b>TOTAL STAFF COSTS</b>	<b>£224</b>	<b>£261</b>	<b>£365</b>	<b>£409</b>

## Hotel Costs

	Standard Residential Care	Standard Plus Residential Care	Standard Nursing Care	Standard Plus Nursing Care
	£ per resident per week	£ per resident per week	£ per resident per week	£ per resident per week
Food	26	26	26	26
Utilities (Gas, oil, electricity, water, telephone)	25	25	25	25
Repairs and Maintenance	34	34	34	34
Other Accommodation costs	32	32	32	32
<b>TOTAL HOTEL COSTS</b>	<b>£117</b>	<b>£117</b>	<b>£117</b>	<b>£117</b>

## Equality Impact Assessment (EIA):

<b>Name of Report/Proposal/Strategy:</b>	Care Home Fee Setting 2012-2014	<b>Business Unit:</b>	Adult Social Care and Supporting People Commissioning Department
<b>Name (Key Officer/Author):</b>	Frances Mason	<b>Tel:</b>	01803 208424
<b>Position:</b>	Interim Head of Adult Social Care and Supporting People Commissioning	<b>Email:</b>	Fran.mason@nhs.net
<b>Date:</b>	28 <sup>th</sup> January 2013		

Since the Equality Act 2010 came into force the council has continued to be committed to ensuring we provide services that meet the diverse needs of our community as well as ensure we are an organisation that is sensitive to the needs of individuals within our workforce. This Equality Impact Assessment (EIA) has been developed as a tool to enable business units to fully consider the impact of proposed decisions on the community.

This EIA will evidence that you have fully considered the impact of your proposal / strategy and carried out appropriate consultation with key stakeholders. The EIA will allow Councillors and Senior Officers to make informed decisions as part of the council's decision-making process.

### Relevance Test – ‘A Proportionate Approach’

Not all of the proposals or strategies we put forward will be ‘relevant’ in terms of the actual or potential impact on the community in relation to equality and vulnerable groups. For instance, a report on changing a supplier of copier paper may not require an EIA to be completed whereas a report outlining a proposal for a new community swimming pool or a report proposing a closure of a service would.

Therefore before completing the EIA please answer the following questions. If you answer ‘yes’ to any of the questions below you must complete a full EIA.

1)	<b>Does this report relate to a key decision?</b>	Y <input type="checkbox"/>	N <input type="checkbox"/>
2)	<b>Will the decision have an impact (i.e. a positive or negative effect/change) on any of the following:</b> <ul style="list-style-type: none"> <li>• The Community (including specific impacts upon the vulnerable or equality groups)</li> <li>• Our Partners</li> <li>• The Council (including our structure, ‘knock-on’ effects for other business units, our reputation, finances, legal obligations or service provision)</li> </ul>	Y <input type="checkbox"/> Y <input type="checkbox"/> Y <input type="checkbox"/>	N <input type="checkbox"/> N <input type="checkbox"/> N <input type="checkbox"/>

**Section 1: Purpose of the proposal/strategy/decision**

No	Question	Details
1.	Clearly set out the purpose of the proposal	<p><b>This is a proposal to set Local Authority fee rates for residential and nursing care for older people for the 2 year period 1 April 2012 – 31 March 2014</b></p> <p>Torbay Council commissions Torbay and Southern Devon Health and Care NHS Trust (TSDHCT) to provide residential and nursing care to people with assessed needs. This care is purchased from the private market for people who do not self-fund.</p> <p>The proposal arises following a review of fee rates to ensure that the 'usual cost' the council pays for its social care placements in residential and nursing homes is set at the appropriate level having regard to the actual costs of care and accommodation .</p> <p>The proposal represents an overall increase in the budget the Council makes available for care homes including funding provision for transitional protection of current fee rates until 31st March 2014. As we are currently in the period for which we are setting the fee rates then if implemented any increase will be backdated to 1<sup>st</sup> April 2012. If the review determines that the usual cost of care is less than that currently in payment then the current fee levels will be maintained until 31<sup>st</sup> March 2014 or until the resident leaves the service.</p> <p>The detailed proposal is in Appendix 1.</p>
2. Q 115	Who is intended to benefit /who will be affected?	<p>People aged 65 and over who are assessed as requiring residential or nursing care in Torbay Local Authority area and who meet Local Authority funding eligibility criteria.</p> <p>It is noted that these people are directly affected by the decision and have protected characteristics under the 2010 Act in respect of;</p> <p>(a) Age, because those affected are elderly            (b) Disability, in particular as a result of age.</p> <p>Care home providers are significant stakeholders in this decision, and the outcome will have an impact upon their businesses. The providers have been extensively consulted throughout the consideration of this matter.</p>
a3.	What is the intended outcome?	<p>The intended outcome is an approach to setting fees which;</p> <ul style="list-style-type: none"> <li>• Ensures that care home fees are sufficient to cover the costs of care, so as to ensure that individuals' needs are properly met;</li> <li>• Ensures that care home fee rates are appropriately banded to reflect differing levels of need;</li> </ul>

No	Question	Details
		<ul style="list-style-type: none"> <li>• Ensures that care needs in Torbay are met in an efficient and sustainable Provider market which is the right size for the demand available</li> <li>• Enables the council to make best use of public resources</li> </ul> <p>The proposal maintains by virtue of the transitional protection and in some cases increases Local Authority fees for residential/nursing care for older people aged 65 and over. As a result it will maintain or improve current service levels. The proposal does not affect eligibility for these services.</p> <p>Fees will be set so that they meet the assessed care needs of individuals and cover the cost of care.</p>

## Section 2: Equalities, Consultation and Engagement

Torbay Council has a moral obligation as well as a duty under the Equality Act 2010 to eliminate discrimination, promote good relations and advance equality of opportunity between people who share a protected characteristic and people who do not.  
See also:

Joint equality strategy for Torbay, and  
Joint equality strategy action plan- 2011-14  
This is a joint equality strategy for partners.  
<http://www.torbay.gov.uk/equalsopportunities.htm>

Equality Objectives 2012-16:  
<http://www.torbay.gov.uk/equalityobjectives.htm>

Supporting the Equality Duty- Report on Equality Information, January 2012  
<http://www.torbay.gov.uk/equalityinformation.pdf>

The **Equalities, Consultation and Engagement** section ensures that, as a council, we take into account the Public Sector Equality Duty at an early stage and provide evidence to ensure that we fully consider the impact of our decisions / proposals on the Torbay community.  
It is essential that we consider, and demonstrate that we have considered within this impact assessment how individuals will be affected (eg service users and their carers).

The Equality Act 2010 requires that we must take into account the protected characteristics of age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, sexual orientation, race, and religion and belief (where relevant).

This duty means that we have to ensure that individuals with different needs get the different treatment they need, to ensure that they are not disadvantaged, and to ensure that services/facilities are available to them on an equal basis in order to meet their needs.

We need to ensure that we are advancing the equality of opportunity by recognising any disadvantages to which protected groups are subjected, and considering how these can be overcome.

In addition we also need to ensure that the human rights of individuals are protected. This means we have to ensure that fee levels enables service users to have;

- An appropriate level of care which provides dignity and respect,
- An appropriate level of care which ensures their protection from torture and ensures their freedom of thought, belief and religion within the Human Rights Act 1998.

- An appropriate level of care which ensures the elimination of discrimination and the promotion of good relations under the Equality Act 2010),
- A reasonable level of choice in where and how they live their life and interact with others.
- A right to life (ensuring that nothing we do results in unlawful or unnecessary/unavoidable death).

### Evidence, Consultation and Engagement

No	Question	Details
4.	Have you considered the available evidence?	<p data-bbox="496 1207 523 1680"><b>Information on the cost of care</b></p> <p data-bbox="571 114 743 1680">The process involved detailed analysis of the local market. The document entitled 'Assessing the Usual Cost of Care in Torbay (October 2012)' details the methodology and information that was considered in developing the fees proposal, and the document entitled 'Care Home Fees Review- Analysis of Consultation Responses and Changes Arising due to Consultation.' updates the position following the conclusion of the consultation period, which details how the proposal has been amended in light of the consultation responses received.</p> <p data-bbox="783 114 946 1680">As part of the review of fee rates a Torbay cost model (a methodology for determining the usual cost of care in Torbay) has been developed. This comprises four care categories (each with a usual cost of care, or fee, attached) that take into account the differing care needs of those within that category. These are Standard Residential, Standard Residential Plus, Standard Nursing and Standard Nursing Plus. The two standard plus categories take account of the increased care needs of some residents including, for example, those diagnosed with dementia.</p> <p data-bbox="986 114 1185 1680">The majority of care home residents in Torbay do not fall within the banded fee rates covered by this proposal. These fee rates are set in order to provide choice of accommodation in accordance with Department of Health guidance known as 'The Choice Directive'. Local Authorities are required to provide residential care for people over the age of 18 who are in need of care and attention, which is not otherwise available to them. In providing this care the Local Authority has to comply with the National Assistance Act 1948 (Choice of Accommodation) Directions, which requires Local Authorities to provide such accommodation at the place of the clients' choosing provided that,</p> <p data-bbox="1225 159 1286 1680">"the cost of making arrangements for him at his preferred accommodation would not require the authority to pay more than they would usually expect to pay having regard to his assessed needs."</p>

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		<p>Some care homes offer facilities that may be desirable to some but are not required to fulfil the care needs of an individual such as sea views, very large rooms, concierge and other non-care services. If a prospective resident were to choose a home offering such facilities then there is provision for third parties to “top up” the usual costs payments from the Council. It is important to note that these third party payments are over and above the cost of care which is covered by the Council fee. Therefore, the usual cost or banded fee rate is a parameter in a user’s choice but, by design, these rates reflect the differential needs of different groups of users.</p> <p>Furthermore, where an individual’s assessed care needs fall outside those that can be adequately described by the banding assessment criteria then these individuals will be assessed within the exceptional needs banding, for individual packages of care which will be individually negotiated with the care fees being set outside of the banded rates therefore falling outside the scope of this decision.</p> <p>Information and research has been taken into account in order to formulate the fees proposal including inter alia:</p> <ul style="list-style-type: none"> <li>• Research by Laing and Buisson (2012),</li> <li>• Research by Bishop Fleming (2011)</li> <li>• Information from ADASS (Association of Directors of Adult Social Services)</li> <li>• Health and social care professionals have provided advice on the cost of care in Torbay</li> <li>• Information has been sought from and given by care home providers in Torbay</li> <li>• Feedback from providers in meetings, 1-1s and in response to a structured questionnaire.</li> </ul> <p>TSDHCT have used the above research and information to give careful consideration of how this proposal could affect the parameters within which older people have a choice of residential accommodation and if this will have differential effects upon people with different needs, and with protected characteristics.</p> <p>TSDHCT have also given careful consideration to the market supply of beds. It is clear there is an oversupply of beds in Torbay, particularly residential care beds. There is also good evidence to suggest that both private and public sector demand for residential care will continue to fall. The market will have to adjust and resize and this may include some homes choosing to close. We have looked at these risks specifically. It is important to note that if care homes do cease trading, TSDHCT has a process in place to assist homes in difficulty and to manage the necessary relocation of all residents (both public and privately funded).</p> <p>It is not possible to forecast which care homes might close as the market adjusts. It is however, likely to be those with high rates of bed vacancies (relative to the rest of the market) and any that have made unwise commercial decisions for example, to increase provision in a declining market, distribute profits rather than retain them and to buy into a market</p>

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		<p>which is in oversupply. These factors, and others, indicate that any home closures will not fall on a particular type of home and more specifically a particular type of resident. Therefore no differential impact is envisaged or foreseen.</p> <p>Below is a summary of clients in long-stay residential and nursing care placed by Torbay so includes out of area placements. There are also short stay placements but these are not included in the table. The table shows there are 564 clients- the majority are women who are White British.</p> <p>Table 1: Long stay care home placements as on 13 December 2012 (excluding fully self funded)</p> <table border="1" data-bbox="448 190 1171 1680"> <thead> <tr> <th>Gender</th> <th>Ethnicity</th> <th>Residential care</th> <th>Nursing care</th> <th>Total residential and nursing</th> </tr> </thead> <tbody> <tr> <td></td> <td>White British</td> <td>333</td> <td>47</td> <td>380</td> </tr> <tr> <td></td> <td>White Irish</td> <td>9</td> <td>0</td> <td>9</td> </tr> <tr> <td></td> <td>White and Black African</td> <td>&lt;5</td> <td>0</td> <td>&lt;5</td> </tr> <tr> <td>Female</td> <td>Any other White background</td> <td>&lt;5</td> <td>0</td> <td>&lt;5</td> </tr> <tr> <td></td> <td>Any other ethnic group</td> <td>&lt;5</td> <td>0</td> <td>&lt;5</td> </tr> <tr> <td></td> <td>Information not yet obtained</td> <td>8</td> <td>0</td> <td>8</td> </tr> <tr> <td></td> <td><b>Total females</b></td> <td><b>356</b></td> <td><b>47</b></td> <td><b>403</b></td> </tr> <tr> <td></td> <td>White British</td> <td>120</td> <td>29</td> <td>149</td> </tr> <tr> <td></td> <td>White Irish</td> <td>&lt;5</td> <td>&lt;5</td> <td>&lt;5</td> </tr> <tr> <td>Male</td> <td>Any other White background</td> <td>&lt;5</td> <td>&lt;5</td> <td>&lt;5</td> </tr> <tr> <td></td> <td>Any other ethnic group</td> <td>&lt;5</td> <td>&lt;5</td> <td>&lt;5</td> </tr> <tr> <td></td> <td>Information not yet obtained</td> <td>&lt;5</td> <td>&lt;5</td> <td>5</td> </tr> <tr> <td></td> <td><b>Total males</b></td> <td><b>129</b></td> <td><b>32</b></td> <td><b>161</b></td> </tr> <tr> <td></td> <td><b>Total Males and females</b></td> <td><b>485</b></td> <td><b>79</b></td> <td><b>564</b></td> </tr> </tbody> </table> <p>Source: TSDHCT</p>	Gender	Ethnicity	Residential care	Nursing care	Total residential and nursing		White British	333	47	380		White Irish	9	0	9		White and Black African	<5	0	<5	Female	Any other White background	<5	0	<5		Any other ethnic group	<5	0	<5		Information not yet obtained	8	0	8		<b>Total females</b>	<b>356</b>	<b>47</b>	<b>403</b>		White British	120	29	149		White Irish	<5	<5	<5	Male	Any other White background	<5	<5	<5		Any other ethnic group	<5	<5	<5		Information not yet obtained	<5	<5	5		<b>Total males</b>	<b>129</b>	<b>32</b>	<b>161</b>		<b>Total Males and females</b>	<b>485</b>	<b>79</b>	<b>564</b>
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<b>Total 65+</b>	<b>365</b>	<b>547</b>	<b>616</b>	<b>782</b>	<b>1,025</b>	<b>1,341</b>	<b>1,758</b>	<b>2,315</b>	<b>3,055</b>																																																																								

No	Question	Details
5.	How have you consulted on the proposal?	<p>The following consultation and engagement has taken place:</p> <ul style="list-style-type: none"> <li>• Stakeholder consultation and information events on 31 May 2012, 9 July 2012, 6 September 2012 and 25 October 2012 for the 108 care home owners and staff.</li> <li>• Request for providers to submit information to the TSDHCT in September 2012</li> <li>• Questionnaire to the 108 care home providers on consultation process on 24 July 2012</li> <li>• Consultation on the fees proposal 11<sup>th</sup> October 2012 to 7<sup>th</sup> December 2012- Consultation pack and questionnaire to care home providers</li> <li>• 1:1 meetings and telephone interviews with care home providers in October and November 2012</li> <li>• Report to Council on 6<sup>th</sup> February 2013 with final recommendations on care home fee rates for 2012-2014</li> <li>• Care home provider and TSDHCT operational staff had detailed involvement in revising banding tool in September 2012</li> <li>• Briefings and meetings with Social Workers, nurses and other staff who have clients who may enter residential care</li> <li>• Involvement of health and social care staff in identifying cost of care in Torbay</li> </ul>
6.	Outline the key findings	<p>31 May 2012 stakeholder (consultation and information) event: Attendees- 13 from Torbay Council and TSDHCT, 36 representing 29 care homes in Torbay</p> <p>Key feed back:</p> <ul style="list-style-type: none"> <li>• Need to revise banding tool together</li> <li>• Would like regular meetings with all care homes in the evening and involvement of care homes in wider discussion and review of fee setting</li> <li>• Concern about ability to deliver quality within current level of funding</li> <li>• Concerns about increase in complexity of need</li> <li>• Plan fees uplift over a longer period – 2/3year rolling basis</li> <li>• Need to address some of the issues raised in the Bishop Fleming report</li> <li>• Bi-monthly evening meetings</li> <li>• Actions from meetings to be followed up</li> </ul> <p>Questionnaire sent to 108 care homes on 24 July 2012. These questions were also asked at the stakeholder event on 9 July 2012. There were 26 questionnaire responses and 1 combined questionnaire by Torbay Quality Care Forum (TQCF) representing approximately 25 providers.</p> <p>Feedback from questionnaire and stakeholder event were combined. Key feedback:</p> <ul style="list-style-type: none"> <li>• Banding tool does not take into account individual needs of client base</li> </ul>

No	Question	Details
		<ul style="list-style-type: none"> <li>• Email, open meetings and letters are good methods of communication</li> <li>• Most wanted a quicker conclusion to the current review process to confirm fee levels</li> <li>• A small fund for capital/ development grants would be welcome</li> <li>• Preference for a flat rate increase</li> </ul> <p>6 September 2012 stakeholder consultation and information event: Attendees-8 from Torbay Council and TSDHCT, 40 providers representing 26 care homes in Torbay</p> <p>Key feedback from consultation on the fee proposal sent on 11 October 2012:</p> <ul style="list-style-type: none"> <li>• Fees were not high enough</li> <li>• Banding structure and assessment tool is simpler and meets diverse needs although others said it was not flexible enough</li> <li>• Concern at accepting only parts of the Bishop Fleming report</li> <li>• Some comments indicated that homes rely on the public sector for a large percentage of their clients</li> <li>• Torbay homes are smaller than the national average of larger homes that figures are based on so issues of economies of scale and less buying power</li> <li>• Concern over low % included in model and the application of abatement to capital</li> <li>• Staff rates considered too low, problems retaining staff and agency rates high</li> <li>• Allowance for management and admin costs was insufficient</li> <li>• Concern raised that no specialist band for EMI (elderly mentally infirm) or dementia and rising need and complexity of residents</li> </ul> <p>For full feedback refer to the report- 'Care Home Fees Review- Analysis of Consultation Responses and Changes Arising due to Consultation', January 2013</p>
7.	<p><b>What amendments may be required as a result of the consultation?</b></p>	<ul style="list-style-type: none"> <li>• Restructuring fees is a direct result of consultation</li> <li>• Simplifying of residential care assessment tool and fee banding structure was requested during consultation. Reducing from 12 bands to 4 and fees directly linked to the bands.</li> <li>• Social Workers, nurses and other staff who have clients who may enter residential care, and care home providers met and went through in detail the 2 current residential care assessment tools and combined them into one comprehensive residential assessment tool. Due to this- <ul style="list-style-type: none"> <li>○ Interventions within each range of a care domain (e.g. behaviour or continence etc) were removed, amended, expanded or added to better reflect the needs of an individual</li> <li>○ Wording to represent times and frequencies of the interventions that individuals required were amended to better</li> </ul> </li> </ul>

No	Question	Details
		<p>reflect the individuals needs for example in 'Incontinence management and toileting – daily, weekly etc</p> <ul style="list-style-type: none"> <li>○ The section on skin care was added and care home providers contributed extensively to the wording in that section</li> <li>○ Care home providers contributed extensively to the section on 'Support with medication'</li> <li>○ Changes were also made to the sections: 'Mobility and transfers', 'Eating and nutrition', 'Sleeping', 'Wandering' and 'Mood'</li> <li>○ The term 'Perception' was changed to 'Psychotic episodes'</li> </ul> <ul style="list-style-type: none"> <li>● Representatives from care homes met with TSDHCT staff to look at and discuss at which points on the assessment of individual care needs the care becomes more complex. Further discussion is taking place on the point when Standard Plus is appropriate based on an individual's overall needs</li> </ul> <p>An extension of the consultation period until 7 December 2012 and proposed a revised banding structure in response to feedback. Key amendments made to the fees proposal due to feedback were:</p> <ul style="list-style-type: none"> <li>● Agreed to use an average of fees advertised on web for nursing care and Laing and Buisson South West rates for residential because the over supply of residential care and low demand keeps private fees unnaturally low</li> <li>● A revised figure for return on capital invested was agreed</li> <li>● Allowance for staff costs in the areas of management, admin, pensions and wages was increased</li> <li>● Staffing ratios/ hours revised at a meeting with manager in Older Persons' Mental Health Team on 5 December and they are now within 10% of those published in revised Laing and Buisson survey</li> <li>● Agreed to identify lead commissioners and contract managers and continue with bi-monthly meetings with care home owners</li> <li>● A quality framework is being piloted with providers and will inform a future approach that meets the needs of both providers and commissioners</li> </ul> <p>For full amendments due to consultation refer to the report- 'Care Home Fees Review- Analysis of Consultation Responses and Changes Arising due to Consultation', January 2013</p>

## Positive and Negative Equality Impacts

Question		Details	
No	Question	Positive Impact	Negative Impact
8.	Identify the potential positive and negative impacts on specific groups		<b>Neutral Impact</b>
	<b>All groups in society generally</b>		There are no perceived impacts on society in general. The proposal does not affect eligibility to these services
	<b>Older people</b> There were 564 people- who were Torbay placements- aged 65+ residing in long term residential and nursing care as on 13 December 2012 excluding fully self funding (Table 1). This is 1.8% of the number of over 65s in Torbay's general population as recorded in the 2011 census. General population has slightly increased since the 2001 census	Continue to provide sustainable residential/nursing care to current and future residents to meet individual need.  The Council and TSDHCT staff are working to enable older people to remain independent in their own homes or regain independence after a period in hospital or residential care, which most people prefer and enables personal choice.	The proposal does not affect eligibility to these services as assessments centre on an individual's personal needs. The banded levels of usual cost fee rates take into account differential needs. There are mechanisms in place to support those whose care needs fall outside the designated care bands. Therefore there is no differential impact on meeting the care needs of this group.
			It is in the nature of setting the "usual" cost that the figures mark the maximum that TSDHCT and the Council will pay for the care of an eligible, means tested and funded resident. Beyond that figure, funding would require a top-up payment by a third party. In that sense there is an economic impact on those third parties. However, assessed care needs are covered by the fees which TSDHCT and the Council will pay.  TSDHCT and the Council has considered the following risks which would arise if the fees were set at an excessively low level.  If the fee levels were not sufficient to cover the costs of care, then individuals' needs arising from age might not be properly addressed.  If fee levels did not properly differentiate between different levels of need, those with more intensive needs in particular might not have them properly addressed.  Regard to costs of care might not sufficiently consider factors which particularly affect those with greater levels of dependency and/or cognitive

No	Question	Details
		<p>difficulties. Thus dementia patients might not benefit from, for example, sufficient staffing levels to serve their socialisation needs.</p> <p>If low fee levels caused care home businesses not to be viable this could lead to home closures and consequently to disruption, distress and threat of life to residents. .</p> <p>If fee levels unduly restricted residents' choice of home (or caused their home of choice to close), this would reduce equality of opportunity and tend to increase isolation and segregation.</p> <p>Accordingly TSDHCT and the Council has set fee levels which cover the actual cost of care (using bandings to ensure sufficient provision for more difficult cases such as severe dementia) and provide a return on capital, so as to ensure that these risks are avoided.</p> <p>It is also noted that the decline in care home placements over the last few years is also driven by changing personal choice with people opting to remain at home and the improvements in services aimed at re-enabling and maintaining the independence of older people at home therefore increasing choice overall. TSDHCT and the Council is confident that the fee levels will not</p>

No	Question	Details	
		exacerbate the decline.	
	<p><b>People with caring responsibilities</b></p> <p><b>People with a disability</b></p> <p>There are projected to be 2,633 people aged 65+ with dementia in Torbay in 2012. This Information and the work being carried out in Torbay to improve the quality of life for people with dementia is included in section 4.</p> <p>Based on the 2001 census, it was projected that the number of people aged 65+ with a limiting long term illness is 15,098 in 2012 (Source: POPPI)</p> <p><b>Women or men</b></p> <p>71% of the care home population (as in table 1) are female, compared to 56% of the general population recorded in the 2011 census</p> <p>The profile of the population shows that women tend to outlive men and therefore there are more women in older age so a higher proportion in care homes.</p>	<p>There is no differential impact based on caring responsibilities.</p> <p>Continue to provide sustainable residential/nursing care to current and future residents to meet individual need.</p>	<p>There is no differential impact based on caring responsibilities.</p> <p>See under "Older people" above. This category of decision could give rise to the same risks as are listed there. Again, TSDHCT and the Council is confident that the fees have been set at levels which are sufficient to avoid these risks.</p>
			<p>The proposal does not affect eligibility to these services as assessments centre on an individual's personal needs. The banded levels of usual cost fee rates take into account differential needs. There are mechanisms in place to support those whose care needs fall outside the designated care bands. Therefore there is no differential impact on meeting the care needs of this group</p>
			<p>There is no differential impact based on gender i.e. the effects of the decision will be the same for male residents and female residents.</p> <p>The proposal does not affect eligibility to these services as assessments centre on an individual's personal needs. The banded levels of usual cost fee rates take into account differential needs. There are mechanisms in place to support those whose care needs fall outside the designated care bands. Therefore there</p>

No	Question	Details	
	<p>More women tend to work in the care industry. Therefore this policy will almost certainly affect more women</p>		<p>is no differential impact on meeting the care needs of this group</p>
	<p><b>People who are black or from a minority ethnic background (BME)</b></p> <p>According to table 1, 93.8% of clients aged 65+ in long stay residential placements are White British. This compares to 94.8% in the general population (all ages) recorded in the 2011 census</p>		<p>There is no particular impact by reason of ethnicity, although it is recognised that particular issues (e.g. the cultural needs of specific individuals) may have some effect on costs of care. Exceptional needs banding could be used if necessary.</p>
	<p><b>Religion or belief (including lack of belief)</b></p>		<p>There is no particular impact by reason of religion, although it is recognised that particular issues (i.e. the needs of individuals) may have some effect on costs of care. Exceptional needs banding could be used if necessary.</p>
	<p><b>People who are lesbian, gay or bisexual</b></p>		<p>There is no particular impact by reason of sexual orientation, although it is recognised that particular issues (i.e. the needs of individuals) may have some effect on costs of care. Exceptional needs banding could be used if necessary.</p>
	<p><b>People who are</b></p>		<p>There is no particular impact by reason</p>

No	Question	Details
	transgender	of a person being transgender, although it is recognised that particular issues (i.e. the needs of individuals) may have some effect on costs of care. Exceptional needs banding could be used if necessary.
	People who are in a marriage or civil partnership	There is no differential impact based upon people who are in a marriage or civil partnership. Exceptional needs banding could be used if necessary.
	Women who are pregnant / on maternity leave	Given the age range of the client group, the proposals are unlikely to affect pregnancy and/or maternity
9.	Is there scope for your proposal to eliminate discrimination, promote equality of opportunity and / or foster good relations?	TSDHCT and the Council is committed to ensuring that we meet the diverse needs of our community. The duty under the Equality Act reinforces our moral obligation to have 'due regard' to eliminating unlawful discrimination, advancing equality of opportunity and foster good relations between people who share a protected characteristic and people who do not. Setting care home fees at sufficient levels ensures that those with different needs get the different treatment they need and are not disadvantaged, and that facilities are available to them on an equal basis in order to meet their needs. In this way the decision advances equality of opportunity by recognising the disadvantages to which protected groups are subject and considering how they can be overcome.

**Section 3: Steps required to manage the potential impacts identified**

No	Action	Details
10.	Summarise any positive impacts and how they will be realised most	Positive impacts include: <ul style="list-style-type: none"> <li>• simplifying the banding structure for residential and nursing care</li> <li>• fee levels which are sufficient to cover the costs of care</li> </ul>

	effectively?	<p>TSDHCT &amp; the Council are confident that the fees sufficiently cover the costs of care at each level. Care was taken to refer to Laing &amp; Buisson figures, Bishop Flemming figures, consultation and using local industry knowledge and expertise. The document 'Assessing the Usual Cost of Care in Torbay (October 2012)' details how these were considered.</p> <p>TSDHCT and the Council are confident that the bandings properly differentiate between different levels and types of need. This decision is similarly the product of extensive consultation and consideration. The simplification of banding was requested by providers, and TSDHCT is confident that the fees are sufficient in all bands. The inclusion of the 'exceptional needs' banding ensures that need that does not fit within the other levels is appropriately provided for, and ensures that there is no adverse effect on the provision for those with greater needs.</p> <p>Specifically as a result of the work detailed above TSDHCT and the Council are confident that the need to ensure that particular residents' needs for stimulation and/or association e.g. in serious cases of dementia, has been appropriately considered and included in staffing costs. Each service user is the subject of a full assessment of need, on an annual basis, which ensures careful consideration of all types of need, including needs of this kind. As a result of the assessment, each service user is placed in the appropriate band, and if in any case the bands do not appropriately reflect the level of need, the exceptional need banding is used, and an individual contract, based on specific need will be entered into.</p> <p>The proposal represents an overall increase in the budget the Council makes available for care homes including funding provision for transitional protection of current fee rates until 31st March 2014.</p> <p>TSDHCT is proposing to improve guidance to assessors to ensure that every care home resident is placed in the right band for their needs.</p> <p>TSDHCT's use of multiple providers helps meet diverse needs e.g specific cultural needs and provides choice in the market.</p> <p>It is TSDHCT and the Council's considered opinion that the fees levels proposed are sufficient to avoid the closure of homes that are run efficiently, run at a good level of occupancy and which do not over rely on publicly funded placements.</p> <p>The proposal will therefore allow the continuation of the provision of a sustainable residential and nursing care home market to meet current and future demands, ensuring that those in need of residential care have a range of choice as to where they reside.</p>
11.	Summarise any negative impacts and how these will be managed?	<p>It is not possible for TSDHCT and the Council to set fees at levels that eliminate all risk of home closures, or that meet all the aspirations of all home owners to make substantial returns on their investments. There is an oversupply of bed spaces within Torbay, and the market will have to adapt to ensure efficiency. This may mean that some homes choose to close. As custodians of public money, Torbay Council and TSDHCT need to obtain value for money with its statutory duties, and</p>

		<p>cannot compensate for an oversaturated and/or inefficient market.</p> <p>It is important to note that closures are not anticipated to occur as a result of the level of fees paid.</p> <p>However, faced with a risk of home closures, TSDHCT mitigates against it by applying its policy "Care Home Closure – framework and checklist", formulated having regard to guidance contained in 'Achieving Closure' (2011), published by the Health Services Management Centre, University of Birmingham and the Association of Directors of Adult Social Services, in association with the Social Care Institute for Excellence.</p> <p>Thus TSDHCT:</p> <ul style="list-style-type: none"> <li>• is alert to, and responds to, indicators of a risk of a home closure; and</li> <li>• provides support and access to advice for homes that are experiencing difficulty to explore all options,</li> </ul> <p>In the event of an anticipated or actual closure, TSDHCT would in particular;</p> <ul style="list-style-type: none"> <li>• Put in place a dedicated and skilled assessment team to carry out assessments of individuals needs,</li> <li>• Involve all relevant parties in decisions about future placements/services,</li> <li>• Provide support to individuals and their families,</li> <li>• Plan the practicalities of any moves.</li> </ul>
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**Section 4: Course of Action**

<b>No</b>	<b>Action</b>	<b>Details</b>
12.	<p>State a course of action</p> <p>[please refer to action plan after section 5]</p>	<p>Amendments to the fees proposal have been made as a result of consultation. Transitional protection has been applied until 31 March 2013 so payments for existing placements will not change until after this date..</p> <p>See also the information re mitigation of the risk of home closures, albeit that closures are not anticipated to occur as a result of this decision.</p>

## Section 5: Monitoring and Action Plan

		Details
No	Action	
13.	Outline plans to monitor the actual impact of your proposals	<p>Any impacts will be monitored as they emerge and the following measures will be taken to provide early alert to any unintended impacts and plan responses to any negative impacts::</p> <p>Identify risk indicators for potential home closure and agree how identified risks will be managed.</p> <p>Monitor home closures.</p> <p>Monitor rates of placement.</p> <p>Incorporate service user and carer feedback into quality assurance framework for care homes and monitoring feedback.</p> <p>Analyse national and local trends through Torbay's JSNA, Census information and POPPI (Projecting Older People Population Information).</p> <p>Review banding structure and assessment tool.</p> <p>Regular meetings with care home owners</p> <p>Regular liaison with CCG and health and social care professionals including, older persons mental health team and zone teams (as part of quality assurance framework).</p> <p>Monitor impact of new ways of working &amp; alternatives to residential care such as, extra care housing, assistive technology, equipment, home improvements and community care and support .</p> <p>Monitor availability of social activities for people in care homes.</p>

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## Action plan

No.	Action	Reason for action / contingency	Resources	Responsibility	Deadline date
1.	Identify risk indicators for potential home closure and agree how identified risks will be managed	Early alert to problems to apply care home closure policy at an early stage enabling close work with provider including where appropriate independent	Contracts team and finance reports Business advice	TSDHCT	18 February 2013

No.	Action	Reason for action / contingency	Resources	Responsibility	Deadline date
2.	<b>Monitor home closures</b>	business advice. To consider trends and put in place mitigating actions where home closures affect TSDHCT ability to meet assessed care needs	Monthly reports from contracts team	TSDHCT	28 February 2013 (monthly thereafter)
3.	<b>Monitor rates of placements (this may include revision to current data collection systems so that reports of placements by protected characteristics can be produced)</b>	To keep demand and supply under review and identify any negative impacts to particular groups	Review of current data collection Quarterly reports from finance team	TSDHCT	30 <sup>th</sup> June 2013 (quarterly)
4.	<b>Incorporate service user and carer feedback into quality assurance framework for care homes</b>	To ensure feedback from service users and carers informs future service design and delivery and identifies any issues relating to implementation of the proposal early so that action can be taken to mitigate risk	Business Support and contracts team	TSDHCT	1 <sup>st</sup> October 2013
5.	<b>Analyse national and local trends through Torbay's JSNA, Census information and POPPI (Projecting Older People Population Information)</b>	To identify trends and emerging or changing demand to inform future commissioning and service change	Analysis of information	Public Health and TSDHCT/Torbay Council	31 <sup>st</sup> March 2014
6.	<b>Review banding structure and assessment tool</b>	To improve process	Business support, clinical/professional staff and care home providers	TSDHCT	31 <sup>st</sup> December 2013
7.	<b>Regular meetings with care home owners</b>	To improve	Operational staff, contracts team & commissioners	TSDHCT, CCG & Torbay Council	6 <sup>th</sup> March 2013 (bi-monthly)

No.	Action	Reason for action / contingency	Resources	Responsibility	Deadline date
8.	Regular liaison with CCG and health and social care professionals including, older persons mental health team and zone teams (as part of quality assurance framework)	To make sure all people with assessed care needs have access to a range of appropriate services	CCG, TSDHCT, Torbay Council	TSDHCT	31 <sup>st</sup> March 2013
9.	Monitor impact of new ways of working & alternatives to residential care such as extra care housing, assistive technology, equipment, home improvements and community care and support	To ensure a range of options are available to maximise independence and choice for people with assessed care needs and to inform commissioning & service transformation	Strategic Development & commissioning	TSDHCT/Torbay Council	31 <sup>st</sup> March 2013 (quarterly)
10.	Monitor availability of social activities for people in care homes	To make sure service users have access to a range of activities	Contracts team and commissioners	TSDHCT/Torbay Council	31 <sup>st</sup> March 2013 (quarterly)

## Care Home Fees Review- Analysis of Consultation Responses and Changes Arising due to Consultation-

### 1. Methodology of consultation

The questionnaire was sent to 108 care homes in Torbay registered with CQC (Care Quality Commission). Within this total 16 are nursing homes for people aged over 65, and 59 are residential homes, resulting in 75 care homes for people over 65. The questionnaire was emailed and sent by post. Care home providers were also given the opportunity to have one to one meetings or telephone conversations where they were given the chance to discuss the issues in an open and free way. These took the form of unstructured interviews and while some care home providers chose to go through the questionnaire, others used the opportunity to make general comments relating to the proposal. Representations from homes were also accepted in writing via email/ letter.

There were 35 homes represented in individual responses, and then an additional group response which represented 29 unidentified homes was received.

Excluding the group response, the following is a breakdown of the 35 homes that responded to the consultation,

<b>Home Type</b>	<b>Number who responded</b>
Nursing over 65	7
Residential over 65	22
Learning disability and/or Under 65	6
<b>Total</b>	<b>35</b>

**Results from the questionnaire are outlined in section 2 of this report and results from other forms of consultation are outlined in section 3. The two are reported separately to avoid any misinterpretation of views.**

**2. Questionnaire Results**

13 questionnaires were returned, 1 of these was a group questionnaire representing 29 homes. Some of these 29 homes may also have completed their own individual questionnaires, so there is the potential that there may be some double counting of their responses. The remaining 12 questionnaires represented 16 homes.

The following is a breakdown of the 16 care homes who responded:

<b>Home Type</b>	<b>Number who responded</b>
Nursing over 65	5
Residential over 65	11
Learning disability and/or Under 65	0
<b>Total</b>	<b>16</b>

**2.1 Banding Structure**

**Q1. We have listened to feedback about the fee structure – that it is too complex and needs to be simplified. Do you agree?**

	<b>Number</b>
Yes	10
No	1
No response	1
Yes- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

**Q2. Do you think this the right number of categories?**

Respondents were given the proposed new structure which comprises 4 care categories and were asked to state if they thought this was the right number

	<b>Number</b>
Yes	6
No	5
No response	1
No- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

Taking into account the 29 homes in the group response- the majority thought it was the wrong number of categories.

**Q3. If not, what would you propose and why?**

The general consensus of those that disagreed with the proposed banding structure was that it is too rigid and too simplistic. There was a belief that there needed to be more flexibility to encompass diverse and individual needs, particularly higher needs (including dementia where it was said that care is more expensive). One respondent felt that because of the changes in funding the only way to provide a service would be to take residents with lower dependency.

**Q4. The draft assessment banding tool for residential placements is attached at Appendix A. Please add any comments below.**

Although some respondents were more positive in saying that the assessment banding tool is “self-explanatory and easy to follow” others expressed the opinion that it does not cater well for clients with high needs who require multiple carers, and it was expressed that the criteria to move from Standard to Standard Plus were high. A consistent message from the responses was that the needs of people with dementia were highlighted as being an omission from the banding tool and categories.

**Q5. Do you think this allocation is correct?**

Respondents were given a table showing how the fee rates have been mapped from the old to the new bandings

	<b>Number</b>
Yes	4
No	5
No response	3
No- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

Out of those who responded, the majority disagreed with it.

**Q6. If not what would you change and why?**

One respondent felt that the current B2 and B3 banding categories should be combined, not bands B1 and B2 as proposed. Again, the needs of people with dementia were raised and the extra expenditure required on this client group. There

was a belief that funding would be lost for homes that work with these residents if fees categories did not accurately reflect these needs.

However, one respondent felt that the banding allocation was correct because “we have the ability to assess individuals who needs do not fit into these categories.”

## 2.2 Assessing Cost Review Process

In assessing the cost of care, the costs in the following categories were reviewed:

- Direct care costs (largely staffing related)
- Food and Accommodation costs (often referred to as hotel costs)
- Contribution to profit

Respondents were given the detailed figures for each of the first 2 categories and asked:

### Q7. Do you agree with these assumptions?

	Number
Yes	3
No	8
No response	1
No- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

The majority disagreed with the assumptions in the cost model. One respondent made the point that “management/admin often covered by manager.”

### Q8. Do you agree the cost of care is the sum of the care costs and hotel costs?

	Number
Yes	1
No	9
No response	2
No- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

Virtually all respondents who commented did not agree with one respondent replying that “individual needs need to be reflected in the care costs”.

**Q9. If you do not agree with the assumptions and estimates set out in Appendix B, please set out in detail why these assumptions are incorrect**

Several respondents compared residential costs with costs of B&B accommodation/youth hostels to make a case that the fee level was too low. Costs of training, equipment and general administration was also brought up as an additional cost to the employer. Some respondents did mention extra/group recreational activities/entertainments.

Two respondents did provide figures to support their position that they would make little or no profit from the new proposed fees.

### 2.3 Cost and pricing in the care market

**Q10. Profit is the return that a home owner, and other investors, can expect in return for the risk they have taken by investing in a care home.**

	Number
Agree	9
Disagree	2
No response	1
Disagree- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

The overriding message coming from the respondents can be summarised by one respondent who said “your proposals do not allow for an adequate profit for homes to operate successfully.” Another made the point that they would make a net loss.

The group response by 29 homes gave the concern that “TCT [Torbay Care Trust] do not seem able to distinguish between Return on Capital, gross profit and net profit.”

**Q11. Without sufficient profit a care home will not be viable in the longer term**

	Number
Agree	12
Disagree	0
No response	0
Agree- Group response by 29 homes	1
<b>Total</b>	<b>13</b>

All respondents agreed with this statement, the responses are best summarised by one respondent who said “your proposals do not allow for sufficient profit on return,” and the group response which said that “care homes are not social enterprises– they are businesses”. Staff costs, costs of living, need for high occupancy to make a profit- all of these things were noted by respondents as impacting on the ability to make a profit.

**Q12. The price that can be charged for a bed in a care home will depend on what a person is willing to pay**

	Number
Agree	6
Disagree	5
No response	1
Disagree- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

Taking into account the group response, the majority disagreed with this statement. The cost being dependent on the needs of the client was a regular theme arising from the consultation responses. One respondent said that “if home owners are under financial pressure then there is a danger that they will agree to low rates just to stay in business– and it will be the service user who suffers in the long run”. The group response appeared to think that the Local Authority wanted to rely on forcing continuation or extension of unfair practice (differential pricing) simply to subsidise the amount it wishes to pay.

**Q13. There are different segments, or sectors, in the care home market which meet the needs of different people**

	Number
Agree	12
Disagree	0
No response	0
Disagree- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

There was a general recognition in the consultation responses that different people require different levels of care. A view expressed was that the complex needs of

clients is getting ever greater, and that some people have to move as their condition deteriorates; in addition it was expressed that some care homes have to be “more choosy” in whom they take than a home that can cater for higher needs.

**Q14. To optimise income, prices are likely to vary according to these different market segments**

	Number
Agree	11
Disagree	1
No response	0
No response- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

The majority of the respondents agreed with the proposition, in that the level of care dictates the price so that nursing care would be more expensive than standard care. High level dementia and/or mental health care costs more than other residential care. However, one response made the point that private clients should not be expected to subsidise the cost of care provided to publicly funded clients.

The group response stated that “care homes which focus on provision of high quality environment in theory may choose to charge a higher fee. What homes should not do is to charge differential pricing for the same care ... as this is an unfair business practice. Unfortunately the continued chronic underfunding by TCT means that homes must attempt to use this as a means of survival. However the reality in Torbay is that there are few private fee payers, so in practice it is not a solution.”

**Q15 The prices agreed for a bed will reflect a wide variety of factors in which both buyers and sellers are trying to get the ‘best value’**

	Number
Agree	8
Disagree	2
No response	2
Disagree- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

Some respondents challenged the interpretation of “best value.”

It was expressed that the costs of employing good quality care staff impact upon the bed costs. With fee levels at the rate proposed it was expressed that recruitment and retention will be difficult, with homes needing to be paid at the correct level to provide appropriate levels of care.

In respect of the figures being based on a national average of a 60 bed home it was expressed “the savings that can be made in homes of large capacity are not possible in smaller units such as we have here in Torbay” and as such “the fees offered to the residential sector overall in Torbay are not realistic and do not make enough funding available for high quality provision of care..... Best value must not be achieved at the expense of not providing sufficient funding to the home owner in order to put him out of business– or not sufficient to allow him to provide proper suitable care provision.”

The group response challenged the question– “This does not reflect the reality in Torbay today. Because there has been and continues to be chronic underfunding by TCT, fee rates are below cost. Many homes are in a desperate position. The statement suggests that fee levels are adequate and there is ‘negotiating room’. This is simply not true”

#### **Q16 High numbers of vacancies will damage the viability of homes**

	<b>Number</b>
Agree	12
Disagree	0
No response	0
Agree- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

It was agreed by all that this would mean that income will reduce which means there is “less to put back into the home [and] may mean areas of the home close or fall into disrepair.”

One respondent noted “I understand that we are second from the bottom in the league tables of fees– are[they] set at such a rate to force home owners out of business?”

One respondent expressed the view that care in the community is not always the reasonable option that people think it is, in that this can involve costly agency care packages that provide minimal visits to these service users in their own home and are offered as ‘providing you with all the care you need to remain in your own home.’ It was their view that the total cost of care in the community may be more expensive

than the “the very reasonable cost to the tax payer of someone being funded in 24 hour residential care and support... Talking about value for money– I think you will find that the residential care packages represent the best value for money by far. It is the perception of the trust that everyone who is elderly and frail or infirm would rather stay in their own home– often lonely; frightened and receiving a few very short (15 minutes at times) visits from care workers.”

Other comments included “Torbay assumptions of 95% occupancy is very high and exceeds even when demand was high.”

**Q17 This might mean that the number of homes or beds has to reduce so that the remaining homes in the market are viable**

	Number
Agree	9
Disagree	2
No response	1
Agree- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

There were a variety of responses to this question. The group response pointed out that “it is not the job of TCT to cause a reduction in frail elderly beds to happen by paying less than the cost of care,” and that “there is likely to be an undersupply of nursing beds and of specialist dementia beds, as there is in the rest of Devon. We are extremely concerned that TCT appear to have no strategy whatsoever to address this.”

An alternative view expressed was that the aging population may require greater provision in the long term, thus countering any potential reduction in homes.

The emphasis on keeping people in their own homes which may not be their wish or in their best interests was raised, and one respondent said that there was the possibility that homes will close, reducing bed numbers, and so the price of care will increase, or there will not be enough beds to meet demand (so fees will rise again), possibly costing the Trust much more money in the end.

One respondent noted that smaller independent homes will find it more difficult to survive as bigger organisations have greater buying power and ability to develop; as patient needs increase/change many of these smaller homes will no longer be fit for purpose.

## 2.4 Market assumptions

**Q18 Do you agree the public sector purchase only a percentage of the Care Home capacity at its banded rates and contribution to profit also comes from other sources?**

	Number
Yes	9
No	2
No response	1
Yes- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

Some comments indicated that homes rely on the public sector for a large percentage of their clients, and a couple of respondents pointed out that in their cases the fees from private clients and funded clients are charged the same, as they do not discriminate between client groups. The group response said that it was incorrect to assume that private clients are charged more. Another response made the point that many privately-funded clients become Local Authority clients after a year or so.

### Q19

Torbay has made assumptions about the average capital cost per bed for a newly built/acquired business. This is:

- Residential £61,000
- Nursing £62,600

**Do you agree with this assumption?**

	Number
No	6
Yes	5
No response	1
No- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

Those who disagreed challenged the methodology and the figures - a couple of respondents quoted a bed price of £100,000 (by Knight Frank), although one respondent did suggest a lower price for the average capital cost per bed for a newly built/acquired business of approximately £40, 000.

**Q20**

Torbay has made assumptions: Taking into account the average age of care home businesses in Torbay, the average capital employed per bed for businesses currently operating in Torbay is:

- Residential £45,200
- Nursing £46,100
- 

**Do you agree with this assumption?**

	<b>Number</b>
Yes	5
No	4
No response	3
No- Group response of 29 homes	1
<b>Total</b>	<b>13</b>

See responses to Q19 above

**Q21 Please enter any further comments below?**

One respondent used the proposed fee rates to set out their position that they would not make enough profit to operate, coming up with a profit figure of 1.59%:

“If I went to the bank and stated I wanted to purchase a care home and stated the profit figures as above, they would not lend me the capital... As a private enterprise we have to make suitable returns on our investment and time, and without that, services will not be offered...”

The group response summarised: “The rates you propose are too low. They do not reflect the actual cost of care and do not allow for a reasonable return. A care home cannot be viable on these fee levels. They will inevitably affect quality in many homes, and will force some care homes to close. Regardless of any opinion regarding oversupply of residential frail beds, such forced closures will have serious consequences for the residents involved, and should not be caused by underfunding and underpaying.”

One respondent asked that TCT “need to take direct approach and be honest with providers about financial situation and endeavour to work in partnership.”

**3. Other forms of consultation**

Some care home providers took up the opportunity to have one to one meetings and telephone conversations where there was no formal set of questions asked. This gave the opportunity to give feedback in an open and free way. It also gave respondents the opportunity to raise issues and concerns. Representations were also accepted in writing via email/letter. Feedback also came from an open provider meeting on 25 October 2012 following the issuing of the fees proposal.

Some providers who participated in these consultations also completed a questionnaire so some of the themes and comments outlined below may cross over to the analysis in section 2. However, the meetings and telephone interviews gave respondents the chance to expand further on some of the issues they had identified in the questionnaire.

There were 19 one to one meetings and 5 telephone interviews as well as email responses- altogether representing 32 homes. In addition a document was produced as a group response representing 29 homes. Some of these 29 homes may also have responded individually through the methods mentioned above so there may be a cross over of opinions.

A breakdown of the 32 homes excluding the group response is as follows:

<b>Home Type</b>	<b>Number who responded</b>
Nursing over 65	7
Residential over 65	19
Learning disability and/or Under 65	6
<b>Total</b>	<b>32</b>

The 6 homes that specialise in learning disability and/or under 65s are not affected by these proposals. Their feedback has however, been included where relevant to this consultation. Specific issues relating to their sectors will be kept and considered as part of any consultations for these sectors.

Themes arising from these consultations are set out below:

**3.1 General views on fees proposal**

Overall respondents are not happy with this proposal. One called it a 'Contentious offer'. Feedback was that:

- Fees not high enough
- Concerns they would lose money or would not survive based on current residents and proposed fees
- The group response said that the proposal does not cover the actual cost of care or the sustainability of the sector expressing the view that it fails in formulation and amount
- The group response said that the Local Authority Circular (2004)<sup>20</sup> requires the actual cost of care to be considered taking into account local factors and sufficiency and therefore should not consider third party and other cross subsidies
- Should regard local factors in the cost such as Torbay having smaller homes and therefore issues with economies of scale
- One respondent pointed out that there is a potential future increase in demand from an aging population, particularly as the people born after the Second World War come to need care and therefore believed that the long term future needs to be taken into account
- The group response said that the Care Trust should have looked at how efficient homes are and if they could be run more efficiently
- The group response felt that the cost model used is defective in its calculations
- Torbay's proposed fees are lower than in other Local Authority areas
- One respondent believed that Central Government should make a national fee model a priority
- There is concern that the Care Trust has accepted only certain parts of the Bishop Fleming report. According to the group response- Bishop Fleming report "is accurate and reflects the current position facing the sector and what is required to address that position." Another respondent said that "the Bishop Fleming report may only cover 21 Homes but those Homes represent a high percentage of the total bed spaces in the Bay. The capital cost model in the report is widely accepted as reasonable and it is therefore incorrect for Torbay to opt out of a nationally accepted model just to meet a 'locally convenient' figure"

### **3.2 Private Fee Rates (relates to Questionnaire Q.12)**

There was a concern raised that it may be discriminatory to charge private clients higher fees. There was a view that the Care Trust is using private clients to subsidise fee rates and there was general concern at this. Comments included:

- One respondent said it was not discrimination to charge private clients higher so the Local Authority and homes could work together to promote take up by private clients. They say the care is the same but the accommodation is different
- Another respondent said that the fee structure does not discriminate against private clients

- Two respondents say they charge the same rate for public and private clients. One of them stated it was morally wrong to charge private fee payers more but another said they may have to start charging private clients more
- A couple of responses say that they don't or rarely get private clients
- One pointed out that there is a very variable market in the proportion of clients that pay privately or are publicly funded and that you can't rely on getting private clients. Another said that publicly funded clients make up a large percentage of the market
- A comment was that the home will lose private fees when clients' money runs out and they change over to public funding
- A respondent said that lower demand in the Market means a lower private fee potential
- A response was "The fact that some homes charge a premium to privately funded clients is irrelevant when calculating a fair fee to be paid for publically funded clients"

### **3.3 Capital/ Return on Capital/ Profit (relates to Questionnaire Q.10-11, 19-20)**

This was a recurring theme and concern throughout the consultation. Concerns were:

- Not clear if/where capital costs included in the calculation of costs.
- One respondent said that the cost of care was ok but there is a dramatic problem in the use of Capital believing the process to be flawed and doesn't think officers have the technical ability to assess the cost of capital.
- One respondent said that the Care Trust think return on capital should come from private fees- so private fees will need to go up.
- There was a view expressed that the ADASS (Association of Directors of Adult Social Services) model has been misapplied to get the cost of return on capital, abating property value and return on investment rate. The group response said that according to Local Authority Circular (2004)<sup>20</sup> actual costs should include return on capital and the Care Trust was incorrect to say otherwise. Return on capital is not profit. The group response stated: "Without a realistic provision being made for return on capital in the consideration of the actual costs of care and the fees themselves, care homes simply will not be able continue to operate and meet the assessed care needs of its residents. If the return on capital becomes unsustainable then a business may not necessarily fold over night, but in trying to keep things afloat there may well be corners cut or standards compromised in desperation to maintain the service and the business." The group response said that the methodology to calculate return on capital is flawed.

”The TCT has misapplied the ADASS model in respect of return on capital, which itself fails to pay regard to relevant local factors”

- There was concern over the capital value of a home being abated in the costing model. The respondent said “Capital cost is the current cost in all circumstances”
- Concerns about profit- were expressed, with no room for profit or reinvestment in the proposed fees and a claim that the model gives operating margins, not profit

### **3.4 Costs (relates to Questionnaire Q. 7-9)**

Many of the homes raised concerns regarding the assumptions. One respondent said they would make a net loss on this fees proposal. There were questions within the responses asking about different aspects of costs and whether they have been included. Several respondents have given their costs to illustrate in their view that proposal costs and assumptions are too low. Below are responses relating to different aspects of costs.

#### **3.4.1 Staff rates**

The general response was that staff rates are too low to recruit and retain staff. Several providers provided their pay scales to illustrate this opinion:

- There is no incentive to complete training and professional development. One respondent stated he pays higher wages as an incentive to complete NVQs.
- A comment was that agencies pay much higher than allocated in the proposal calculations
- One respondent said they would lose staff based on the proposal
- Domestic carers hourly rate is 1p short of the minimum wage.
- A couple of providers noted that they make use of training provided by the Care Trust and any other free training
- A couple of providers said that even currently they cannot afford to pay staff good rates and find it hard to retain staff

#### **3.4.2 On costs, administrative and management costs and pensions**

Several providers expressed concern as to the assumptions behind these costs:

- There was concern about future changes in National Insurance/pension arrangements for staff from April 2013. One respondent stated that the majority of their staff earned more than the assumed £8105 per annum and so would have to be enrolled into a work based pension scheme
- It was stated that there was an under estimation of on costs- “Management on costs- why 7.3% and not 23% as with other groupings.”

- 'Management/admin costs higher for small homes like ours compared to 40 bed home.'
- One respondent said that 1 hour of admin per resident worked for them
- Human Resources consultancy and management is heavily biased to managing staff and their issues. Staff management takes a lot of time. The Care Quality Commission (CQC) would be up in arms if only 1 hour of management per week per client. They seriously dispute 1 hour of management per week per client stating it's not viable
- There was also mention of costs of sick pay, maternity and paternity pay
- A respondent noted that CQC require 5 training days per annum. Another respondent said that training does not appear to be included within the cost of care.

### **3.4.3 Hotel costs**

Responses received expressed the general view that the assumptions and costs are too low:

- One respondent said that food costs are understated for ordinary residential care. Clients eat better and require a more extensive/expensive menu
- A respondent said that costs for bed and board are not realistic, making a comparison with hotel/bed and breakfast accommodation
- One respondent said that food and accommodation cost assumptions were similar costs to their costs

### **3.4.4 Other costs**

- One respondent did not see any reference or inclusion of costs associated with activities, social stimulation/ outings which they see as a considerable cost pressure but necessary to meet clients needs and care standards
- Infection control is producing an increasing financial burden as is the charge for removal of pharmaceuticals
- Respondents list the equipment they loan or purchase which is very costly. Some purchase above and beyond what is required to improve quality for resident. Issues were raised with 6 week equipment loans

## **3.5 Complex needs and dementia [relates to Staff Hours & Ratios] (relates to Questionnaire Q.13-14)**

Respondents generally say that as client needs increase, more staff time is needed and the proposed fees are not enough to cover the increased needs of clients, including dementia.

- Several respondents said that clients in residential care have more diverse and complex needs now than in the past with one noting that people moving into residential care have higher needs on verge of nursing. Residents have unpredictable needs- very variable e.g. personal care (toileting) which cannot be left and cannot plan a set number of hours of staff time. With dementia clients, needs are so variable from day to day
- Having often frailer people with more complex needs leads to shorter stays because they die [leading to voids]. There is a complete shift of care and staffing e.g. 2 people to change doubly incontinent people. Several noted that they need more staff- sometimes 3- to manage clients. A couple of respondents noted that higher turnover means there is more demand on resources, including more admissions and assessments
- “I quite understand the financial constraints we all face however if fees are reduced ... it will make no economic sense to accept residents whose care needs are so complex and who require a large amount of staff time to care for their most basic of needs.” ... “We realise that the needs of residents has changed over the past years but this has to be reflected in the fee paid in order for us to employ enough staff to meet each persons needs in a dignified and compassionate way.”
- Nursing needs are far more complex and more time consuming– working to support families as well– more difficult because end of life care and more staff needed.
- One respondent said that several clients have near-nursing needs and residential homes are looking after some nursing service users- which distorts and hides the true nursing demand in the market. There was another concern that money saving may mean people are or will be placed in residential care when they need nursing.
- One respondent said that they would have expected dementia demand to be higher but only 70% dementia beds occupied. People with dementia can cause damage to property resulting in additional expenditure

### **3.6 Banding structure (relates to Questionnaire Q.1-6)**

Concern and dissatisfaction was expressed particularly around dementia:

- There was the feeling that the tool doesn't cover EMI (Elderly Mentally Infirm)/dementia as it is often more complicated than nursing home provision and specialist training is needed which is time consuming. One respondent says that a 3rd band higher than Standard Plus is needed for dementia. Another says that there needs to be a better definition of EMI- there is an understanding that this includes dementia and therefore would assume that current EMI residential bandings would apply

- One respondent had concerns regarding the application of the tool- will it be used/recognised properly with training for frontline staff in usage and how will exceptional needs categories be determined
- The group response says “The TCT appears to have failed in its equality duties by failing to consider and or enquire and provide for the different categories of resident needs within its proposed fee bands, which are not adequately sufficient or sophisticated so as to provide for all categories of care, such as dementia care”
- The tool doesn't show thresholds for different bands.
- One noted that this will mean a reduction in fees as residents in current band 2 will move down to the new Standard band. Clients have higher needs but are rarely assessed as band 3 so will go to Standard band
- A positive comment was that higher and lower needs are reflected in the tool.

### **3.7 Financial constraints**

There were concerns raised about the costs of running a business in this climate including:

- Banks are a high risk to the sector- some care homes are going out of business. One respondent said that banks are threatening to call in loans and single operators are trying to make efficiency savings to save their businesses- EBITDA must be twice normal rates in lean times to give confidence to banks
- Concerns about cost of living increasing- fuel, food, water, waste, and not getting inflation for 2013/14
- One suggestion was charging residents for incidentals such as personal items, toiletries, laundry, entertainment, escorts to appointments and incontinence nets. Current contracts insist some of these services are provided so this would need to be amended

### **3.8 Occupancy (relates to Questionnaire Q.16-17)**

Several respondents raised this theme:

- Points included that occupancy is a risk area and that small homes more occupancy sensitive
- One respondent said that higher turnover means more occupancy needed for homes to be viable, Another said that fees don't allow for fluctuations when homes are not full such as a flu epidemic
- Another said they cannot plan ahead as they don't know how many residents there will be

- A suggestion was a central point for reporting vacancies
- The group response said that assumed level of occupancy and private occupancy were both too high
- One respondent made the point that people want to stay living in their local area
- However, one respondent said there is an over-saturation of nursing beds and another felt that an over-supply of care beds will be allowed to linger on with the new fee proposal. However, another respondent felt there was no over capacity of beds and that the new Kingskerswell bypass will bring more people into the Bay so there will then be a shortage of beds.

### **3.9 Partnership working**

Several responses mentioned the need for partnership working:

- Some said they appreciate visits from the Care Trust and other homes to help with improvements and to understand how they work
- One respondent said they liked schemes such as CQUIN and like to build Local Authority/care home relationships
- Another uses free training at Horizons Centre provided by Torbay Care Trust- it is a positive relationship,
- One respondent felt that people don't understand the complexities of managing a home

### **3.10 Quality (relates to Questionnaire Q.15)**

There were concerns raised about the ability to maintain quality with the proposed fee structure:

- One said that CQC require ongoing improvement which is hard to achieve on less fees and another said the fees proposal was inappropriate to provide a decent quality of life to residents
- One respondent felt that the fee structure should reward quality- higher fees if higher quality as this gives higher performing homes incentive and opportunity to develop their services. They said CQUIN system should have been improved rather than disbanded. Others said they valued it although one said it was extra paperwork and administration which took time
- The point was raised that high quality is important especially in a Market with over supply

**3.11 Themes outside of this consultation**

Comments and issues were raised that are not directly linked to this consultation. These will be kept and used in future consultations and will be useful in relation to other issues.

**3.11.1 Safeguarding**

There was a comment that the safeguarding process was too long and had negative impacts on a home, Another said there were layers of bureaucracy in collecting information for the Contracts Team in Torbay Care Trust and for Safeguarding

**3.11.2 Learning disability**

There were responses from care homes with a specialism in learning disability. There were concerns about potential changes in the learning disability sector in the future, and comments about block fees, day care and waking night staff. This information can be considered as part of any future learning disability consultation.

**4. Changes arising from consultation**

<b>Theme</b>	<b>Summary of feedback</b>	<b>How feedback taken into account</b>
<b>General views on fees</b>	<p>Concerns they would lose money or not survive based on the proposal.</p> <p>Does not cover actual cost of care or sufficiency.</p> <p>Group response said Model defective in calculations.</p> <p>Concern at accepting only parts of the Bishop Fleming report.</p>	<p>Transitional protection is proposed to allow time for businesses to plan. Migrating residents from old to new bands will result in both increases as well as decreases in rates.</p> <p>The model covers the cost of care. Following consultation feedback all pay rates included are at least minimum wage level and management and admin costs have been increased.</p> <p>Bishop Fleming report is not accepted (see appendix 2)</p>
<b>Private fee rates</b>	<p>Providers fed back that they did not achieve the rate of private fees listed in the Laing &amp; Buisson South West fee estimates, others said they could only achieve about £100 above public fee rates and some told us they charged private residents the same fees as public residents</p> <p>Some comments indicated that homes rely on the public sector for a large percentage of their clients</p> <p>Felt that Local Authority wanted to rely on forcing continuation or extension of unfair practice (differential pricing) simply to subsidise the amount it wishes to pay.</p>	<p>Agreed to use an average of fees advertised on web for nursing care and Laing and Buisson South West rates for residential because the over supply of residential care and low demand keeps private fees unnaturally low. (National benchmark: ratio of residential to nursing care provision nationally is 52:48. In Torbay the ratio is 85:15)</p> <p>Nursing £658 and £755 (average advertised on web)</p> <p>Residential £501 and £547 (L&amp;B SW rates)</p> <p>Economic impact has been calculated and transitional protection is proposed to allow time for business to change.</p> <p>Agreed to set 10% margin on placements purchased at publicly funded banded fee rates (35% in nursing and 50% in residential). Agreed a market based view is appropriate, reasonable and usual in a private market.</p>
<b>Capital/ Return on</b>	<p>Concern over low % return included in model and the application of abatement to capital</p>	<p>A revised figure for Return on capital invested of 9.5% is</p>

**DRAFT**

<b>Theme</b>	<b>Summary of feedback</b>	<b>How feedback taken into account</b>
<b>Capital/ Profit</b>	Figures included in model for capital and property valuation were queried.	<p>proposed to replace original figure of 7.8% and takes account of the feedback on application of abatement</p> <p>Following feedback revised valuations of £67.1k and £68.6 k per bed for residential and nursing homes respectively are proposed.</p>
<b>Costs</b>	<p>Staff rates considered too low, problems retaining staff and agency rates high. Concern over future pension costs. Allowance for management and admin costs was insufficient. In 1 instance pay rate is 1p short of national minimum wage. Costs of training, equipment and general administration are also brought up as an additional cost to the employer. Torbay homes are smaller than the national average of larger homes that figures are based on so issues of economies of scale and less buying power.</p>	<p>Allowance for staff costs in the areas of management admin, pensions and wages was increased.</p> <p>Staff costs increased where 1 penny short of minimum wage.</p> <p>Assumptions on these costs are included in the model.</p>
<b>Complex needs and dementia [relates to Staff Hours &amp; Ratios]</b>	Concern raised that there is no specialist band for EMI or dementia & that levels of need and complexity of residents are rising.	<p>Staffing ratios/ hours were increased following a meeting with a mental health manager in response to feedback It was decided not to include a separate band for dementia because it was agreed it would be better to have a single assessment tool which could capture all aspects of an individual's physical, emotional and psychological needs. To achieve this it was agreed the domains set out in the general assessment tool would be incorporated into the mental health tool to cover all aspects of care requirements (see also Appendix 2).</p>

Theme	Summary of feedback	How feedback taken into account
<b>Banding structure</b>	<p>Concern that there was no separate band for dementia or EMI and that migration to new bands would mean loss of income.</p> <p>Some felt it was too rigid and simplistic to reflect individual need. Others preferred this simpler version.</p>	<p>(see above)</p> <p>Considered impact of migration to new bands and acknowledged there would be downward migration as well as upward migration in applying the revised banding structure and transitional protection is proposed to manage immediate risk. Majority of providers and staff welcomed simpler reduced banding structure.</p>
<b>Financial constraints</b>	<p>Concern over ability to support loans and investment on level of return on capital proposed.</p>	<p>In response to feedback a revised figure for return on capital invested of 9.5% is proposed to replace original figure of 7.8% and revised valuations of £67.1k and £68.6 k per bed for residential and nursing homes respectively is proposed.</p>
<b>Occupancy</b>	<p>Feedback on rate of turnover when needs are complex and end of life care has increased and a feeling that this made it harder to maintain levels of occupancy.</p>	<p>Considered but agreed need to use efficient business model and currently there are vacancies and low demand particularly but not exclusively in residential care. The fee levels cannot compensate for low occupancy rates.</p>
<b>Partnership working</b>	<p>Feedback that visits from Trust and training provided is valued.</p>	<p>Agreed to identify lead commissioners and contract managers and continue with bi-monthly meetings with care home owners and consider improved regular communication via newsletter or virtual network will be taken into account when structuring and integrating commissioning support.</p>
<b>Quality</b>	<p>Some concern raised that CQUIN no longer in place and concern that revised fees may affect quality.</p>	<p>Considered weight of feedback on complexity of CQUIN and need to decouple from fees. This does not mean CQUIN schemes cannot be considered in the future. A quality framework is being piloted with providers and will inform a future approach that meets the needs of both providers and commissioners.</p>

<b>Theme</b>	<b>Summary of feedback</b>	<b>How feedback taken into account</b>
	Concern that care in the community can be more costly and not always what clients wish.	The cost of care at home compared to residential care is considered as part of individual assessment.



**Meeting:** Council

**Date:** 6 February 2013

**Wards Affected:** All Wards

**Report Title:** Clennon Valley Cycling Facilities

**Executive Lead Contact Details:** Councillor Robert Excell, 07811965194, robert.excell@torbay.gov.uk

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## 1. Purpose

- 1.1 To increase the number of active sports participants and to promote and encourage cycling as a recreational sport by the provision of two sports facilities at Clennon Valley.
- 1.2 Negotiations are ongoing with British Cycling for the provision of £780,000 of funding by them towards:-
  - (i) 1.5km Closed Road Cycling Circuit; and
  - (ii) An outdoor velodrome.

However this funding would have to be matched by the Council.

- 1.3 The development of the above facilities would benefit the local economy as this will be the only such facility in the South West and therefore of regional significance attracting users from outside of Torbay and visitors for competitions and events.

## 2. Proposed Decision

- 2.1 That £780,000 of capital monies are made available for the development of a 1.5km Closed Road Circuit and an outdoor velodrome at Clennon Valley subject to match funding being provided by British Cycling and subject to planning permission being obtained.

## 3. Reasons for the Decision

- 3.1 The decision to agree to allocate Capital Money for the required match funding of 50% of the total development costs with British Cycling providing the remaining 50% costs would allow council officers to continue negotiations with British Cycling and to apply for the funding available.

- 3.2 An agreement would allow Torbay Council to progress the scheme development, carry out the required consultations and investigations and designs for planning requirements. The funding opportunity would only be available for a limited time period and it would be important that Torbay Council are fully prepared and ready to carry out the development within the set time scales

#### **4. Summary**

- 4.1 A business case for this development is included with this report (**Appendix 1**) and it puts forward the reasoning behind the proposal to build the cycling facilities. The proposal if agreed would have significant economic and health benefits for the residents of Torbay and surrounding areas. The business case highlights the importance of these benefits and the possible scales of increase to the prosperity of Torbay. Increasing the tourism offer, encouraging regional and national events to use the facilities, these events would increase media coverage and consequently raise the profile of Torbay.
- 4.2 The decision to allocate the match funding is critical to take the project forward and to show that Torbay is keen to take the opportunity provided by British Cycling to enhance the sports provision within Torbay. British Cycling have made the development of cycling facilities in the South West a priority. Torbay is their preferred location but if no decision is reached then the offer would be made to other authorities within the South West as they must have the facilities developed during 2013-2014.

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#### **Supporting Information**

##### **5. Position**

- 5.1 The scheme involves the development of a 400m outdoor 'velodrome' and a 1.5km 'Closed Road Circuit' both facilities would be for community use and competitive cycling and would be located at Clennon Valley in Paignton. Torbay Council would own the facility on completion and be responsible for future maintenance and any liabilities.
- 5.2 The British Cycling (BC) has identified the regional need for a Velodrome and a Closed Cycle Circuit in the South West Region. The BC are on record as saying the provision of these facilities in the South West are one of their highest National Priorities. Torbay is stated to be the BC preferred location. As a result British Cycling has agreed to receive an application to jointly fund this project providing 50% match funding can be secured and the required criteria met.
- 5.3 The nearest cycling facilities to Torbay for an outdoor velodrome is Bournemouth for the Closed Road Cycle Circuit is either Birmingham or London. A closed road is to be developed in Bath during 2013. Manchester and London are the only areas that have both a Closed Road Circuit and Velodrome.

- 5.4 The building of a Closed Road Cycling Circuit would offer a much wider range of activities other than cycling and would greatly enhance the Council's ability to deliver the health and well being programs. The Closed Circuits also allows for the safe training and confidence building for novice cyclists. Closed road circuits also provide a facility for a wide range of sports while ensuring that they can be undertaken in a safe controlled manner.
- 5.5 The concept of a Velodrome and the uses to which it can be put will be understood. The overwhelming advantage of an outdoor track over a timber indoor circuit is the very significant reduction in the capital and revenue costs. These savings greatly outweigh any diminution in the quality of the track or restrictions that will be placed on its use.

## **6. Possibilities and Options**

- 6.1 Do Nothing – British Cycling will be advised that Torbay Council would not want to pursue the project. British Cycling would look at other options within the South West.
- 6.2 To provide a capital allocation of £780k towards the project funded through Prudential Borrowing. The Council would intend to fund the prudential borrowing through income gained from the facility if this was not possible it would require a revenue budget of £57,700 per annum. An income/expenditure prediction is contained within the business case.

## **7. Preferred Solution/Option**

- 7.1 Option 6.2 would be the preferred option. Whilst it must be understood that the project contains a risk that the income may not cover the expenditure and the cost to repay the prudential borrowing revenue costs the benefits to the local economy and health provide significant opportunity for Torbay.

## **8. Consultation**

- 8.1 Public consultation has not yet been carried on the development of these facilities as a specific opportunity but has been carried out on the general development of sports at Clennon Valley. When the funding is agreed in principle a full consultation process will be undertaken.
- 8.2 Initial consultation has taken place with stakeholders to establish how the facility may be managed in the future, the likely usage and how the facility would be constructed. This information has been included within the Business Case financial estimates. A stipulation from British Cycling that we should not negotiate with cycling clubs or possible users in the South West until the funding is allocated.

## **9. Risks**

- 9.1 The key risks are outlined within the business case attached as **Appendix 1**. However, they are summarized as follows:-

- 9.2 Consultation exercise indicates the local population, do not want the development to go ahead or the facility does not receive planning approval.
- 9.3 Torbay Council fails in their application to British Cycling for the award to develop both facilities at the same time.
- 9.4 Geotechnical investigation reveals problems that can't be dealt with through construction. These issues will be revealed before contracts are signed for main construction project. No indications of issues through surveys and desktop assessments.
- 9.5 Tenders above original estimates for track. The project would be redesigned to reduce standards where possible to reduce costs or retender.
- 9.6 The income received from the facility does not cover the running costs and the prudential borrowing replacements. Discussion with stakeholders indicates that they are confident income would cover running costs but may not be sufficient to cover the prudential borrowing cost unless additional income from car parking, for example, is included. This is outlined within Income/Expenditure section of the business case. Should the income not cover the prudential borrowing costs this would have to be funded from the Residents & Visitor Services revenue budget.

## **Appendices**

- Appendix 1            Business Case
- Appendix 2-        Equality Impact Assessment

TORBAY COUNCIL

# CYCLING DEVELOPMENT

Proposed cycling facility development Clennon  
Valley

**I Williams**  
**January 2013**

This document has been written to highlight the financial and other benefits of developing cycling facilities in Torbay working with British Cycling to build an outdoor Velodrome and Closed Road Circuit. It highlights the benefits to health and fitness for residents as well as giving indications to the benefits gained from tourism and sports visitors to these facilities.

### SUMMARY

The document puts forward the reasoning behind the proposal to build the cycling facilities of an Outdoor Velodrome and Closed Road Cycling Circuit at Clennon Valley. The proposal if agreed would have significant economic and health benefits for the residents of Torbay and surrounding areas. The business case highlights the importance of these benefits and the possible scales of increase to the prosperity of Torbay. Increasing the tourism offer, encouraging regional and national events to use the facilities, these events would increase media coverage and consequently raise the profile of Torbay.

The report states that information regarding the usage figures and therefore the income and expenditure details is difficult to accurately show, as there are no comparable facilities outside London and Manchester. Where possible the usage figures given for individual facilities in different parts of the country have been pulled together and an estimated figure for total usage is given. Figures given for hire charges, membership costs etc are drawn from the average hire charges given from several different facilities throughout the country. The estimated membership numbers for the Cycling Circuit were derived from determining the likely catchment area for regular usage of the facility, identified as Dartmouth, Totnes, Newton Abbot, Teignmouth and Torbay. The latest cycling club membership figures for Devon is 2808 and these numbers are rising weekly. Local Authorities, central government and the health authorities are encouraging cycling as both a means of sustainable transport, combating obesity and delivering the health and fitness programme. The other sporting and fitness opportunities that could be delivered by the closed road circuit would increase the membership numbers from figures given for cycling alone. The opportunity is there to allow for a safe and well managed sports facility that offers a wide range of activities.

Several case studies have been included in the report detailing the findings from both types of facility located in various regions of England have been included. The studies give details related to numbers of participants and the types of activity that takes place, the details only concern cycling activities the other sports uses are not identified in these figures. The expected participation figures over a 15 year period are also estimated using the British Cycling formula.

Sport England carry out sports profile surveys on a regular basis, covering the all of the areas in England, this survey gives details the local sports profile comparisons for Torbay, South West Region and National figures. The findings indicate the benefits of sport numbers of participants, levels of obesity etc as well as the benefits to local employment. The findings from the latest report are given in this business case as evidence of the benefits, also included are links to various Sport England Web pages detailing the findings on Health and Fitness, Economic Growth and Crime reduction.

The report gives the various management options that could be employed to run the facilities each option needs to be addressed to enable a decision on the optimum methods to satisfy the Council requirements. The options given allow a wide range of flexibility within them that when an agreed option is reached it can be taken forward to develop a more detailed business plan.

CYCLING DEVELOPMENT

PROJECT SUMMARY

<p><b>What is the project</b></p>	<p>To develop a 400m outdoor 'velodrome' and a 1.5km 'Closed Road Circuit' both facilities would be for both community use and competitive cycling and both proposals would be located at Clennon Valley in Paignton.</p> <p>British Cycling (BC) has identified the regional need for a Velodrome and a Closed Cycle Circuit in the South West Region. The BC are on record as saying the provision of these facilities in the South West are one of their highest National Priorities. Torbay is currently the BC preferred location. As a result British Cycling has agreed to potentially jointly fund this project providing 50% match funding can be secured and the required criteria met</p> <p>The nearest cycling facilities to Torbay for an outdoor velodrome is Bournemouth for the Closed Road Cycle Circuit is either Birmingham or London. A closed road is to be developed in Bath during 2013. Manchester and London are the only areas that have both a Closed Road Circuit and Velodrome.</p> <p>The building of a Closed Road Cycling Circuit would offer a much wider range of activities other than cycling and would greatly enhance the Council's ability to deliver the health and well being programs. The Closed Circuits also allows for the safe training and confidence building for novice cyclists. Closed road circuits provide a facility for a wide range of sports while ensuring that they can be undertaken in a safe controlled manner.</p> <p>The concept of a Velodrome and the uses to which it can be put will be understood. The overwhelming advantage of an outdoor track over a timber indoor circuit is the very significant reduction in the capital and revenue costs. These savings greatly outweigh any diminution in the quality of the track or restrictions that will be placed on its use.</p>
<p><b>Why are we doing it?</b></p>	<ul style="list-style-type: none"><li>• To increase the number of active sport participants and improve the opportunities for sport and leisure activities within Torbay</li><li>• To reduce both the actual, and perceived dangers to cyclists;</li><li>• To provide more, and better cycle facilities,</li><li>• To promote and encourage cycling as a recreational tool, and as a means to improving the health of the population of Torbay and the South West by promoting cycling as a means of exercise. Supporting health benefits through partnership work with the</li></ul>

	<p>local NHS Trust and community stakeholders;</p> <ul style="list-style-type: none"><li>• Provide a facility that could be included within the GP referral units and therefore an additional income source</li><li>• To promote cycling as a major sport accessible to all via sign posting to the work conducted by the sports development team within Torbay Council in partnership with British Cycling and other sport governing bodies.</li><li>• These facilities would be the only ones in the South West and as such there are opportunities for hosting major events for a wide range of sports.</li><li>• The increase in sports participation visits to Torbay could significantly raise the amount of money spent with local business, retailers and hoteliers. There is the added bonus of the various media opportunities local and national to raise the profile of Torbay which could in turn increase visitor numbers. The Bournemouth Skyride event showed that 20% of participants were tourists.</li></ul>
<p><b>Benefits from doing it</b></p>	<p>It has been reported that 40% of the UK will be obese by the year 2015. Cycling as a form of transport, and/or recreational cycling is a tool that can help alleviate the pressure of obesity upon society. Cycling as a fitness and leisure activity can be undertaken by all age groups and by providing a safe and family friendly facility encourages family cycling groups. By encouraging cycling within Torbay, we are able to continue creating a more cycle friendly environment, helping to reduce the potential health challenges affecting the town.</p>
<p><b>Prosperity</b></p>	<p>By developing the additional sports facilities it will help to make Torbay a destination resort for cycling, there is already well designed international grade BMX track as well as a Mountain bike track. The development of a closed road circuit and outdoor velodrome would make Torbay an extremely attractive proposition as a centre for all cycling requirements.</p> <p>The Velodrome is needed for the development of competitive cycling with Mid Devon Cycling Club and the smaller local clubs within the South West region. Torbay will be proactive in promoting cycling, both as a leisure activity and as a tourism opportunity, cycling will also be promoted as an attractive alternative for journeys currently made by the private car. Providing facilities for the encouragement of cycling, training and building</p>

## BUSINESS CASE

<p><b>How we will achieve benefits</b></p>	<p>confidence for cyclists of all abilities</p> <p>Cycling is a rapidly expanding leisure activity within the whole of the UK The promotion of leisure cycling is a major contributor to the health agenda and has already played an integral part in improving the health and fitness of our communities. Sky Ride Local events are seen as an opportunity to encourage more participation and by working in partnership with British Cycling Torbay can be at the forefront of these events in the South West.</p> <p>Training cyclists to use the road network is crucial, to mitigate potential accidents. By training primary school children, we are instilling a safe cycling ethos into the next generation of cyclists in Torbay. Cycle training is currently delivered to Bikeability levels 1 and 2 to primary schools, and up to level 3 for secondary schools and adults.</p> <p>The training courses delivered, emphasise real traffic situations that will be encountered by cyclists on a daily basis the preliminary training can be carried out in safety from a Closed Cycle Circuit.</p>
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## OPTIONS APPRAISAL

Option Description	Benefits	Costs	Risks
Do nothing	Retain open spaces for other uses	£0	Lack of development in cycling locally and loss of existing and new participants in sport. Possible loss of income from anticipated increase in visitor numbers. Loss of possible business to hospitality and tourism outlets in Torbay.
Build outdoor velodrome.	Increase in participation in cycling and wheeled sports.  Provision of Facility that would allow for both local and national events. It would meet the needs of local and regional cycling clubs to provide a wider choice of	£900,000  <b>£450,000 Match funded by British Cycling</b>	This is not a routine project we would rely on help and advice from both British Cycling and specialist engineers  Before using velodrome users may have to be trained and accredited therefore coaching is required. If there insufficient number of coaches,

BUSINESS CASE

	<p>activity and participation</p> <p>The facility will be the only one in the South West it is anticipated that riders will make use of this from Devon, Cornwall and Somerset. The ancillary facilities required could be a major income generator for local business.</p> <p>Opportunity to host regional, national and international cycle events. With increased media opportunities to boost the profile of Torbay. The opportunities for boosting visitor numbers and the subsequent increase visitor spend will help the prosperity of Torbay.</p> <p>Increased use of Clennon Valley car park is expected as a result of locating the facility in this location.</p> <p>Increase in sport opportunities for schools throughout the region.</p>		<p>user numbers will be limited.</p> <p>This facility requires the use of track bikes, road bikes cannot be used. The likelihood is that users will need to hire this equipment. There will be a need to procure a cycle hire enterprise to lease a facility on the site.</p> <p>There will be a need to work with local clubs and British Cycling to both promote and run these events. Working in partnership will be important as well as good programming and site management. The extra facilities required for holding the events which would include changing rooms, car parking etc would have to be available and is located already adjacent to the site</p> <p>Lack of car parking may affect some multi event days like Race for Life/Hockey Tournament</p> <p>School funding for sports may be reduced resulting in fewer events and reduced use by local school</p>
<p>Build Closed Cycle Circuit</p>	<p>Increase in participation in a variety of sports and leisure activities, these include:</p> <p>Nordic Ski,</p> <p>In-line skating,</p> <p>human powered vehicle racing,</p> <p>disability cycling,</p>	<p>£660,000</p> <p><b>£330,000</b></p> <p><b>Match funded by British Cycling</b></p>	<p>The possible different uses of this facility are many and varied, to meet the needs of all users the programmed use of the circuit would need to be carefully managed. Failure to do this would lead to dissatisfaction and possible loss of users.</p> <p>The management of this facility would need to be seen to be giving a</p>

BUSINESS CASE

	<p>jogging</p> <p>road racing athletics,</p> <p>other athletic based sport,</p> <p>cycling proficiency courses,</p> <p>cycling confidence building training,</p> <p>cycling for leisure and fitness (informal)</p> <p>schools use for the delivery of the sports curriculum. Other uses as would be suitable.</p> <p>Delivery of other health and fitness activities as required by the GP referral programme</p> <p>The facility will be only 1 of 2 to be built in the South West it is anticipated that riders and other users from Devon, Cornwall and Somerset will make full use of this facility. It is also expected that tourists will make informal use of the facility whilst the circuit will be available to meet the needs of sports tourism.</p> <p>Opportunity to host regional, national and international events. With increased and extended media coverage to raise the profile of Torbay. The opportunities for boosting visitor numbers and the subsequent increase visitor spend will help the prosperity of Torbay.</p> <p>At present under 16 year old</p>	<p>fair usage to all and not let a lead club monopolise usage, this problem has been identified by British Cycling as well.</p>
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## BUSINESS CASE

	<p>are not allowed to race on the highway. Participants must travel to MOD establishments or other cycle circuits for competitions. However there are lots of restrictions when using these establishments and the permissions for use may be withdrawn at any time even up to an event starting. The requirement for a purpose built facility is considered paramount. This facility would give increased number of venues for racing but would encourage competition with the SW area without the need for long distance travel.</p>		
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### TIMESCALE - WHAT IS THE PROJECT IMPLEMENTATION TIMESCALE?

Start date	End Date
April 2013	April 2014

### BENEFITS - GIVE MORE DETAIL ABOUT WHO WILL BENEFIT FROM THIS PROJECT AND HOW?

Who?	How?
Torbay Residents	<p>These facilities will allow for a variety of uses both for recreation and sport it will also allow the users to train for bikeability in a safe environment. The availability for the facility to be used for other non vehicle road sports where users can take part without the fear of power driven vehicles. The benefit is for all residents within Torbay and will be accessible for all areas and built in a centralised location. The facilities will be available for community informal use as well as for organised training and sports events.</p> <p>The additional income generated from sports related tourism both</p>

	<p>day and overnight visits would have a positive impact on the prosperity of Torbay. The facilities will be regional and to a standard where major events could be held this would raise the profile of Torbay and would increase the levels of pride within the community.</p> <p>The health benefits cannot be ignored as it is shown in research carried out in 2010 that cycling provided UK employers a saving of £128 million in absenteeism</p>
<p><b>Users</b></p>	<p>It is expected that as a regional centre, users will be from Cornwall Devon and Somerset but predominantly from the South Devon area. The wide variety of activities that can be undertaken using the facility mean that it satisfies a number of the requirements of various sports and recreational activities. These can be undertaken in a safe and controlled environment; and with availability of good ancillary facilities, would prove a good and attractive prospect for participants.</p> <p>There are 72 British Cycling registered Clubs in the South West and 35 of these are in Devon. These Devon clubs have a stated membership of 2336 people as at the beginning of 2012, which are the most up to date figures available. (It is expected that these figures will rise as a result of a very successful year for British Cyclists and high media coverage).</p> <p>The current figures for the number of members of British Cycling in the South West region is; 2,808 with an estimated 8,450 members of local clubs. Over the last 4 years the membership of BC has risen from 25,000 to 61,600 and is still growing at a rate of just over 1,000 per month. The large increase has been put down to the success of British Cyclists in the Olympics and Paralympics and the Tour de France. The winner of this year's Tour of Britain race is from Plymouth. There are many cycling enthusiasts who are not visible as British Cycling members who would also be users of the facilities as recreational cyclists.</p> <p>There are 11 Clubmark Clubs in the Region, 6 of them in Devon, and a further 8 Go Ride accredited Clubs 6 of which are in Devon. All of these are accredited to work with under 16's. Under 16's which in effect means all Youth racing, has to be on Closed circuits, they are not permitted to race on the open road. This is why the circuit in Torbay would play such a key role for this particular age group.</p> <p>It is recognised that the participation by women in all sporting areas is on the decline and where this may be as a result of the feeling of safety and security these facilities would help. The membership of British Cycling shows that only between 15 and 20% are women,</p>

	<p>there is an acknowledged need to encourage these figures to increase. Providing these facilities would help to alleviate the problems women and young people have with all sports in relation to participation in a safe environment.</p> <p>It is recognised that young people in the South West do not achieve their full potential because of the lack of facilities and the ability to train. The lack of officially recognised cycling circuits and velodromes requires participants to travel long distances to train and to participate in active competition. The nearest locations for road racing for under 16 year olds is London or Birmingham.. Where they do enter competitive competitions. When young people do enter and travel to the venues, they are not effective competitors, it is understood that this is because of the lack of training opportunities in the South West.</p>
<p><b>Councillors</b></p>	<p>Positive contributions to the communities they represent as well as Torbay as a unitary authority. The development would show that Torbay Council is serious in the commitment to the provision of good quality Sport facilities and the delivery of Health and Fitness programmes for the benefit of all residents. The council's commitment to enhance the wealth and prosperity of the Bay by the provision of enhanced tourism visits and the higher profile of Torbay.</p>
<p><b>Partners</b></p>	<p>Opportunities for sports clubs to develop and improve by offering better and more accessible facilities. The provision of the South West Regional facility for Cycling would encourage partnership working with other local authorities to meet their needs. Sports governing bodies achieving national and local targets to reduce obesity, increase participation, improve health.</p> <p>Working with Schools in the region to provide a good facility to deliver a safe and accessible location to deliver their sporting requirements.</p> <p>This development is likely to increase the use of other local cycling facilities; Scadson Woods (Mountain Bike) and Parkfield (BMX Circuit) There is a serious opportunity to make Torbay a centre of excellence for all cycling sports including road racing and certainly the leading facility in the South West. This scenario would have a positive outcome on tourism and profile of Torbay</p>

<p><b>Private Sector</b></p>	<p>There are several opportunities for local business to be involved in this development following its completion. There will be opportunities for catering operations both everyday or for major events, there will also be a possibility for equipment hire facilities, some equipment that is required for use is specialised for track use.</p> <p>Research undertaken by the LSE into the British Cycling Economy that in 2010; 1.3 million new cyclists took up cycling as a sport or recreational activity generating an increased revenue. The retail sector for cycling is estimated to be worth £2.46 Billion. The indirect benefits for local business is the increase in day and stay visits to make use of the developments, and the expected use increase in tourism directly attributed to the use of the facility. The businesses that could benefit range from catering, overnight accommodation through to local attractions.</p> <p>The benefits are also expected to be result in an increase in local interest in cycling, which is likely to result in additional retail sales for local bike shops.</p>
<p><b>Stakeholders</b></p>	<p>Opportunities for Torbay Council to develop partnerships with schools etc.</p> <p>South Devon College have shown interest in usage, there would also be excellent opportunity to work with Paignton Sports College as well as colleges within other areas of the South West.</p> <p>Schools – opportunities to reduce obesity and increase sports participation, we have a sports development officer who will take an active part in increasing the participation. The expected ability of the Closed Road Circuit to cater for a number of sports means that increase in active participation in sports and activity could be catered for.</p> <p>The ability to cater for the needs of a wide range of abilities and expertise means that this an attractive scheme for many sports clubs to become active stakeholders.</p> <p>Cycling Clubs – there is a very positive interest from cycle clubs within the South West and Mid-Devon Cycling which is one of the largest clubs in the country expressing a keen interest to be involved and act as the anchor club for the new facilities.</p> <p><a href="#">New cycling partnership formed for Torbay ( Oct 2012 Press Release)</a></p>

	<p>Representatives from Torbay Council, health, cycling interest groups and cycling retailers recently came together at Parkfield in Paignton to kick-start the development of a new cycling partnership for Torbay.</p> <p>The purpose of the meeting was to develop the sports, leisure and recreational aspects of cycling throughout Torbay.</p> <p>Mayor, Gordon Oliver, said: “We must take advantage of the recent enthusiasm for cycling generated by Britain’s success in the Tour De France, the Olympics and the Tour of Britain. Regular cycling can help improve the health of residents of all ages in Torbay. There are also economic benefits to establishing the Bay as a cycling centre of excellence.”</p> <p>Lively discussions were held and existing facilities, such as Parkfield, were discussed as well as ideas for future progression. All agreed there was a need to develop a new cycling group in Torbay and that it would promote cycling as an activity as well as focusing on key calendar events.</p> <p>Debbie Stark, Director of Public Health, said: “We all agreed that there was a need to increase the uptake of cycling through the promotion of sports, facilities and recreational events. One way to achieve this was through the creation of a new cycling group for Torbay.</p> <p>“I cannot stress strongly enough the benefits of cycling activity to health and well-being. This includes weight control, mental well-being, joint protection and the reduction of risk factors which can lead to heart attacks – all of which have been proven.”</p> <p>After the event attendees were treated to a display from world champion BMX rider Kai Forte and Darren Tottman from the Pro Cycle Centre in Newton Abbot.</p>
<p><b>Third/Voluntary Sector</b></p>	<p>Opportunities for volunteers to work on the cycle circuit promoting the various sporting activities and delivering the health and fitness initiatives. Torbay Sports Council we hope would take an active part in helping to deliver some of the benefits and activities that would be enabled by the facilities. There are other opportunities for working with Police and other youth agencies for setting up cycle and cycle maintenance workshops where cycles can be repaired to provide equipment for others at an affordable price.</p>
<p><b>Visitors</b></p>	<p>The Velodrome facility will be the only one built in the South West</p>

	<p>and the Closed Road Circuit will be 1 of 2 built. The expectations are that the development will greatly increase the number of visitors to Torbay, some will visit as a destination purely because we have such a facility and to either use or as spectators. The proposals would allow for equipment hire facilities on site to ensure that any visitors could make full use of them when they open.</p> <p>This together with the BMX track, Mountain Bike runs and the development of the National Cycling Network will make Torbay a choice destination for those seeking active holidays.</p> <p>The contribution from visitors to the local economy would be from day visitors, weekend visitors for events and potentially tourists visiting the area specifically for the facilities. Based on figures for income associated tourism provided within the Torbay Tourism Strategy the provision of ten events a year could contribute £200,000 to the local economy. As Clennon Valley is situated close to caravan and camp sites in the area they would be well placed to provide accommodation for these type of events. If the facility attracted 1,000 day visitors during a year and 1,000 weekend visitors this would contribute another £100,000 to the local economy.</p>
<p><b>Other</b></p>	<p>It is believed that incidents of anti social behaviour will reduce as the increase in active participation increases. The facilities would provide more scope for volunteer sectors working with young people and encourage them to have alternative interests.</p>

**HOW WILL WE KNOW THEY HAVE BENEFITED?**

<p><b>What will improve overall?</b></p>	<p><i>The increase in sport and recreational participation by all, this would be measured as part of the current statistics School participation after school clubs and through the curriculum.</i></p>
<p><b>Participation levels</b></p>	<p><i>Continued use by cycling clubs and the number of events that they would host throughout the year, if the facility was not adequate numbers attending and bookings would quickly reduce. More local cycling talent will be transformed into regional and national competitors.</i></p>
<p><b>Pride in the Bay</b></p>	<p><i>Torbay Residents satisfaction surveys would highlight if the development was meeting or exceeding their expectations.</i></p>
<p><b>Sporting</b></p>	<p><i>Full use of the facility by clubs and sports participants, increased</i></p>

## BUSINESS CASE

<p><b>opportunities</b></p> <p><b>Visitors to the bay</b></p> <p><b>Increased use of other facilities and attractions.</b></p>	<p><i>numbers of visitors to Torbay.</i></p> <p><i>Lower levels of anti-social behaviour as more people will be accessing the site and encouraged to cycle. Increase in residents cycling to work, cycling to school and possible reduction in car usage</i></p> <p><i>Full programme of usage</i></p> <p><i>Consultation and questionnaires.</i></p> <p><i>Programming showing user numbers not necessarily just block bookings for clubs as this does not give good indication of benefit</i></p>
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### PERFORMANCE MEASURES

<p><b>Performance measure today</b></p>	<p>This development would incorporate 2 separate facilities which is unusual outside of the very large cities, as such performance and bench marking information is difficult. We have obtained details of the various activities and the prices charged but as most facilities are fairly new. British Cycling has evidenced the normal maintenance costs for the circuit and track is negligible other than through vandalism or severe weather conditions.</p>
<p><b>Performance level at project end</b></p>	<p>When the project is completed other facilities will have been in operation for some time and we could then have the opportunity to benchmark some of the performance figures. This project however will differ in the fact that there are 2 facilities with different uses, we will be the main facility for the whole of the SW so would expect different usage figures because of the distances involved in travelling to the site for everyday use.</p>
<p><b>What controls will be established to ensure that the benefit is being realised?</b></p>	<p>A management agreement would be drawn up which would include regular questionnaires and customer satisfaction surveys. Monitoring of programming to ensure that cycle clubs are not monopolising the use of the facilities and that they are meeting the needs of all user groups. Working with all parties and stakeholders including Sport England and British Cycling to meet their requirements</p>

### WHAT KEY ACTIONS NEED TO OCCUR FOR THE PROJECT TO HAPPEN?

<p><b>Action(s)</b></p>	<ul style="list-style-type: none"> <li>• Consultation required with Community partnerships.</li> <li>• Consult with local cycling clubs</li> <li>• Consult with Torbay Sports Council</li> <li>• Liaise with Health Care Trust, Active Devon and other partners</li> </ul>
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## BUSINESS CASE

- Carry out ground investigations
- Liaise with Environment Agency
- Complete funding application for British Cycling
- Set up project board
- Engage engineering consultants work with British Cycling to design facilities
- Design to planning stages apply for planning permission
- Procure contractors.

### COST - WHAT ARE THE PREDICTED PROJECT COSTS?

<b>Works Contractors</b>	
Closed Road Circuit	£550,000
Velodrome	£750,000
Consultant (geotechnical investigation 20, specialist project manager 25, detailed design 15) – contingency included	Expected costs using some in house 10% 130,000
Procurement	n/a
Staff	n/a
Other Planning fees	n/a (part of the specialist services)
Legal depending on future management agreements	n/a (part of specialist services)
Contingency at 10%	£130,000
<b>Total</b>	<b>£1.56 million</b>

### FUNDING - HOW WILL THE PROJECT BE FUNDED?

	Yes/ No	Source of funding	Estimated Amount (£)
Apply for capital funding	Yes	Council Capital	£780,000

**BUSINESS CASE**

<p><b>Attract funds from partners, grants, lottery funding, and area based grants.</b></p> <p><b>Work on all possible funding sources to reduce the need for council capital but this is not certain that money will be available</b></p>	Yes	British Cycling	<p>£780,000</p> <p>BC are working on match funding total cost</p>
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**WHEN DO YOU ANTICIPATE INCURRING THE COSTS?**

Financial Year 1	Financial Year 2	Financial Year 3	Financial Year 4	Financial Year 5	Total (£)
2013	2014				
400,000	£380,000				780,000

**RISK -**

Risk Description Also considers any high risk projects running concurrently with this project. E.g. H & S Compliance, New Design, New Technology, No designated project manager	Name who will deal with this risk?
Consultation exercise shows the local population do not want the development to go ahead	Councillors and officers
Torbay Council fails in their application to British Cycling for the award to develop both facilities at the same time.	British Cycling have confirmed this is a high priority project and the funding should be prioritised for 2013-2014
Capital funds being unavailable from Torbay Council to match fund both of the facilities, decision then required to stop the proposal or carry on with one facility that would deliver the best outcome	Senior officers and executive head to offer advice on the delivery of one of the facilities that would deliver the most benefit for Torbay.
Geotechnical investigation reveals problems that can't be dealt with through construction. These issues will be revealed before contracts are signed for main construction project. No indications of issues through surveys and desktop assessments.	Project Manager. Torbay Council engineering Department

## BUSINESS CASE

Construction risks this will be covered within the contract.	Successful tenderer. Project Manager
Tenders above original estimates for track redesign to reduce standards where possible to reduce costs or retender	Project Board
The impact of other possible developments within Clennon Valley.	Project Board
Income fails to cover running costs and capital repayment costs.	Resident and Visitor Services Revenue spending

### LEGAL IMPLICATIONS

#### Is there any legislation affecting the project?

- Planning legislation
- H&S legislation
- All CDM regulations
- Title to the land to be used will need verification
- Once the build has been completed the leases for commercial use will probably be required also dependent on future management the legal agreements to be put in place and obviously Health and Safety risk assessments for all uses need to be in carried out.

BUSINESS CASE

STRENGTHS	WEAKNESSES	OPPORTUNITIES	THREATS
<ul style="list-style-type: none"> <li>• The facilities would be the only ones in the SW large catchments area.</li> <li>• British Cycling backing and 50% match funding.</li> <li>• Cycling as a sport is high in the public interest as a result of a successful Olympics and other international successes</li> <li>• South West England has a large number of cycling clubs who would make use of the facility.</li> <li>• Mid Devon Cycling Club is ranked in the top ten in England one of British Cycling biggest clubs</li> <li>• Meets the strategic needs to promote cycling as travel and exercise.</li> <li>• Multi-Use capability of the facilities</li> <li>• Benefits several different sports including opportunities for people with disabilities</li> </ul>	<ul style="list-style-type: none"> <li>• Difficult to find revenue data to bench mark against as this development will be the only one outside of Manchester and London to have dual facilities.</li> <li>• There is an obvious threat in that the income figures assumed may not be realised at the given hire charges.</li> <li>• Many velodromes have either recently been built or are under construction. Comparable Indoor tracks differ greatly No meaningful financial figures or user figures are available.</li> <li>• Few if any facilities have been built in tourist areas (usually built in larger urban areas) it is difficult to provide empirical evidence to support the claims for positive the impact on tourism industry.</li> <li>• For the reason above interclub competition and training may not entail travel for participants and</li> </ul>	<ul style="list-style-type: none"> <li>• To develop Torbay as the main destination centre for all cycling in the West Country increasing the use of My Place BMX facilities and TCCT Mountain Bike Track.</li> <li>• Whilst an outdoor velodrome will be less desirable for competitions than an indoor one it will nonetheless attract regional competition events and publicity</li> <li>• Promote Torbay as a tourist destination through increased media coverage of cycling and sports events that would be held at these facilities.</li> <li>• Promotion of tourism and leisure activities opportunities to related businesses for the provision of all requirements of both participants and spectators</li> <li>• To promote and encourage cycling as a means of transport and recreational activity</li> </ul>	<ul style="list-style-type: none"> <li>• Cycling clubs are not willing to in make use of the site or not being proactive in organising events and competitions.</li> <li>• Not making the correct management option to run the facilities although this should have in place a means to change requirements.</li> <li>• The buildings we would utilise for changing facilities and refreshments would no longer be under our control and alternative resources will be required.</li> <li>• Increased costs of the development with related legal requirements</li> <li>• Flood risk, the ancillary buildings will need to be located on adjacent higher ground.</li> <li>• Competition – if Torbay does not embrace these facilities and the</li> </ul>

## BUSINESS CASE

<ul style="list-style-type: none"> <li>• Encouragement of all hard to reach groups to make use of the facility especially providing a safe environment for women and young people to undertake activities.</li> <li>• Facilities provide a safe site to carry out proficiency training and confidence building</li> <li>• Promotes the health and well being programme and reducing levels of obesity</li> <li>• Reduction in anti-social behaviour</li> <li>• Site is in central location with good transport links</li> <li>• Good parking and adjacent to leisure centre with the likely increase in users and location close to other sports opportunities.</li> <li>• Torbay is already a tourist destination and has the infrastructure to cater for larger events</li> <li>• Both facilities are</li> </ul>	<p>spectators as it would in the SW so again it would be difficult to quantify the benefits.</p> <ul style="list-style-type: none"> <li>• The decision on future management of the site and responsibilities is important to give a more meaningful appraisal of income/expense.</li> <li>• An outdoor velodrome will not attract the highest level of competition events to Torbay because of the lack to stadia seating, the slower track surface and the absence of an climate (warmer indoor air and no wind increase speed).</li> <li>• Some residents particularly those with homes overlooking the Clennon Valley will oppose the intrusion of hard surfaces and lighting on the valley floor.</li> <li>• BC wish dogs to be prohibited (and this is advisable on safety grounds) this will create some opposition</li> <li>• The use of the pitch in the refuge may only be used outside times when</li> </ul>	<ul style="list-style-type: none"> <li>• To provide employment opportunities related to the management of the facility and the provision of retail and catering units associated with the development.</li> <li>• To allow local sports men and women access to facilities that will enable them to become elite athletes with all the resultant benefits that will flow to them personally, to the community and the local area.</li> <li>• The facilities will involve 'hard to reach' groups in sport</li> <li>• The opportunity to use the investment to level other grant funding (e.g. Iconic Funding)</li> </ul>	<p>current BCA support promptly neighbouring authorities are already waiting to step into Torbay's shoes..</p>
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BUSINESS CASE

<p>projected to be revenue positive giving a positive return on the capital invested</p> <ul style="list-style-type: none"><li>• An indoor velodrome would cost circa £30M the outdoor track will cost less than £1M</li><li>• Both facilities will be durable requiring little physical maintenance</li><li>• The 400M outdoor velodrome will allow a sports pitch to be located in the central refuge</li><li>• Allowing novice cyclists a safe environment in which to learn will reduce injuries and may save lives</li></ul>	<p>the Velodrome is in use</p>		
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**WHAT ARE OUR PEERS DOING?**

**Research nationally and locally. What facts, figures and lessons learned are available?**

There are several ongoing projects to build both Velodromes and Closed Road Cycle Circuits, very few are located in the South of England. The nearest road circuit is being built in Bath and the closest Velodrome is in Bournemouth albeit a 250 m track that is acknowledged to be for more experienced riders. The only locations that have both a velodrome and cycle circuit are in London and Manchester. British Cycling are keen that they will finance and support only one velodrome and 2 cycle circuits in the South West, Torbay would be the main cycling centre for the region. Plymouth Council are actively working to introduce a closed Road Cycling Circuit in the town centre to link up with cycle routes.

Other Local Authorities have submitted expression of interest with British Cycling to provide both these facilities within the local area if Torbay cannot proceed..

**HAS PARTNERSHIP WORKING BEEN EXPLORED?**

**Please state who has been consulted and give reasoning behind the decision**

Project is being developed with British Cycling and Mid Devon Cycling club however there are several other clubs in the local area that would be consulted. Several other possible stakeholders e.g. Torbay Sports Council would be approached once agreement of funding has been gained

## BUSINESS CASE

### Possible Programming/Availability for Closed Road Cycle Circuit based on similar facilities in the UK

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
0900-1100	Community use	Club use events	Club use events				
1100-1300	School/college use	Club use events	Club use events				
1300-1500	School/ community Use	Club use events	Club use events				
1500-1700	Training use	Club use events	Club use events				
1700-1900	Club use	Club use events	Club use events				
1900-2100	Club Use	Club use events	Club use events				

### Possible Programme for Velodrome based on similar facilities

	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
0900-1100	Community use	Community use	Community use				
1100-1300	School/college use	Club Use events	Club Use events				
1300-1500	School/ community Use	Club Use events	Club Use events				
1500-1700	Training Use	Club Use events	Club Use events				
1700-1900	Club use	Club Use events	Club Use events				
1900-2100	Club use	Club Use events	Club Use events				

## Case Studies

Several case studies have been carried out by British Cycling these relate to the number of participants rather than income as well as the number of new participants to cycling. The results given indicate the number of cycling participants and do not take into account participants in other sports activities.

**Stourport** Closed Road Circuit Opened in April 2010 the events delivered in the first 33 weeks of opening were:

- Schools 195 events Participants 5850
- Go-Ride 30 events Participants 300
- Coaching 54 events Participants 809
- Cycling 4 events Participants 130.

British Cycling then applied a formula which would give the estimated annual participation figure of 11,170, Over a 15 year period this would give an estimated participation figure of 336,400

The circuit provided a traffic free cycle and sport environment for all participants, it is identified that a safe environment is fundamental to achieving satisfaction.

## Redditch BMX track

Although this project is not to build a BMX track it is envisioned that by creating these facilities it would enhance the usage of Parkfield BMX track by linking this facility as a cycling destination. The BMX track at Redditch participation levels over the initial 20 week period gave:

Coaching 20 weekly sessions 937 participants

Events 1 Regional 192 participants

The track has delivered 1129 new participants to the area in 4.5 months period when new participants can undertake a sporting activity in a safe environment. Novice riders can undertake safe and extensive coaching sessions; to improve the expertise of riders and nurture their talents. The costs of using this facility for 2012/2013

## Redditch Premiers

**All Persons Wishing To Use The BMX Track Will Now Need A Yearly Membership as Listed Below**

Bronze Junior Pay and Play Membership £5.00 (Includes 1st Session)

Bronze Adult Pay and Play Membership £8.00 (Includes 1st Session)

Silver Junior Membership £15.00

Silver Adult Membership £25.00

## BUSINESS CASE

Silver Family Membership £60.00  
Gold Junior Membership £125.00 (Includes Free Race Jersey)  
Gold Adult Membership £185.00 (Includes Free Race Jersey)  
Gold Family Membership £500.00 (Includes Free Race Jersey)

In Order To Race In Club Races You Will Need Either Gold or Silver Memberships

### Session Costs

Bronze £3.50  
Silver £2.50  
Bike Hire £2.50 Extra for All Memberships

### Knowsley Outdoor Velodrome

This facility has only recently opened and the usage figures have been estimated by using the results of a similar facility built at Bournemouth. The estimated figures for a 15 year period are:

- Go ride Events            1530    Participants 30,600
- Coaching Events        3060    Participants 76,200
- Events                    1240    Participants 44,000
- Community Events
- Schools                    3400    Participants 15,460

Total participants over 15 years estimated at 166,260

Knowsley velodrome is a large, 400 metre excellently built outdoor track, with a 30 degree bank, capable of accommodating both track and road bikes. It opens itself up to a lot of different uses in performance cycling. It is a perfect venue for coaching the skills of serious cycling in a controlled and safe environment.

## BUSINESS CASE

### Sport England

Local Sport Profiles compiled for Sport England give information relating to sport provision and the participation figures for Torbay in comparison to the South West and the rest of England. The document also gives figures for the our nearest comparable neighbours

Indicator	Year	Torbay	South West	England
Population growth to 2015 (expected) aged 16+	2010	126,300	4,244,300	41,581,300
	2012	136,800	5,382,800	52,953,900
	2015	139,300	5,512,200	54,087,800
Obesity Adults (2009) Children	2009	25.8%	24.7%	24.2%
	2009	9.9%	8.9%	9.6%
New Sports Business as a proportion of all new Business	2006 - 2009	0	1.09%	0.86%
Employment in sports as a %age of all employment	2006	1.4%	1.3%	1.2%
	2007	0.8%	1.3%	1.3%
	2008	0.5%	1.2%	1.2%
Adult Participation at least 3x30	Total	21%	23.3%	22%
	Disabled	0	11.0%	9.4%
	Non disabled	23.7%	25.7%	24.3%
Health cost of sporting inactivity (source Department of Health 2007)	Total Cost	£2,430,290	£75,553,788	£764,661,980
	Cost/100,000	£1,731.050	£1.484,709	£1,531.401

The Sport England findings within the profile report for Torbay highlights the need to enhance sporting facilities to encourage activities that will provide for the needs of disabled people. The provision of a closed road cycle circuit would meet the requirements by affording a facility that is managed and is a safe environment, for the use of people of all abilities. Adult participation in sporting activities is given as slightly less than both the regional and national average but this could be raised by developing more facilities that would cater for a variety of sports.

## BUSINESS CASE

The figures highlighted in the report show that there has been no new sports related businesses started in Torbay during the years 2006-2009. The lack of development could be a reason why sports related employment has declined by 60% over this period, whilst in the South West and nationally; it has remained stable. The provision of the cycling facilities could provide the initiative to start new related businesses in Torbay and would provide for an increase in sports related employment.

The figures given by the Department of Health indicate the high cost of sporting inactivity with Torbay showing a much higher cost when compared to the regional and national costs. These costs could be reduced by working with partners and providing the facilities to encourage sporting activity.

The Community Club Development Programme for British Cycling shows that it has supported 14 projects worth £5,177,155 with British cycling contributing nearly £3 million to this total. The figures obtained from the supported projects provided that a:

- 53% increase in active members
- 36% increase in coaches
- 21% increase in volunteers
- 94% increase in participation

The report also gives that ***“Investment in Traffic Free Sports facilities has clearly evidenced the contribution that could be made to the Grow, Excel and Children and Young people outcomes; given that the cycling circuits funded through the CCDP have allowed the youth arm of clubs to develop; giving an 86% increase in under16 active members compared to the overall programme average of 23%”***

The benefits for young people to take part in sports activities in a safe and controlled environment would include:

- Reducing anti social behaviour
- Reducing obesity levels
- Encouraging young people to be active
- Encouraging the team spirit
- By providing a facility to enable young people obtain life skills
- Provision of coaching to allow young people to achieve their full potential

The links to Sport England information documents detailing findings that give evidence to some of the benefits indicated in this document

<http://www.sportengland.org/research/idoc.ashx?docid=f8d40a02-0287-4d0d-a983-a10da77842cf&version=-1>

[http://www.sportengland.org/research/culture\\_and\\_sport\\_evidence.aspx](http://www.sportengland.org/research/culture_and_sport_evidence.aspx)

[http://www.sportengland.org/research/the\\_value\\_of\\_sport\\_monitor/fitness\\_and\\_health.aspx](http://www.sportengland.org/research/the_value_of_sport_monitor/fitness_and_health.aspx)

[http://www.sportengland.org/research/the\\_value\\_of\\_sport\\_monitor/crime\\_reduction.aspx](http://www.sportengland.org/research/the_value_of_sport_monitor/crime_reduction.aspx)

[http://www.sportengland.org/research/the\\_value\\_of\\_sport\\_monitor/economic\\_impact.aspx](http://www.sportengland.org/research/the_value_of_sport_monitor/economic_impact.aspx)

## Outgoings

- On site staffing 7 days per week 0900-2100
  - Grounds maintenance inc litter (Could be included in Tor2 contract or the site operators)
  - Electricity costs for lighting columns
  - Changing Facilities (Repairs and Maintenance)
  - Changing Facilities (Cleansing)
  - Changing Facilities (Consumables)
  - Changing Facilities (Utility Services)
  - Business Rates for whole site
  - Managing Booking system (could be provided by adjacent facility)
  - Repairs and Maintenance requirements for track and circuit including fencing
  - Site security
  - Marketing and Promotion
  - Some event organisation and management, it is likely that cycle clubs would help.
  - Staff welfare facilities
  - Legal, insurance costs and liabilities
  - Considerations for Income Generation
- Could be provided by adjacent facilities

## Consideration for Income/Expenditure

The figures given in the for the year 1 accounts take into consideration the following:

- Both facilities to be affected by adverse weather conditions however Velodrome use is affected to a greater degree.
- Annual membership of the facilities is aimed at community use with an agreement that it cannot be used when booked out to schools, events or clubs. The figures given are based on a population numbers within a 10 mile catchment area, uses are for a variety of leisure and recreational use of the Closed Road Circuit in particular.
- The annual membership fee would include full use of the facilities during the community use periods this would be the only fee payable, no hire charges would be required. It is envisaged that by using this membership it would increase active sports participation on an actively managed site. The fees would cover the costs of staffing and maintenance and would give control of the facilities when they are booked for club and other uses.
- Based on the possible programming given above maximum hours per annum available for each facility based on a 12 hour day, 5 day week are 2,880 per year available for use. The account allows for a usage of 10 hours per week other sport use and 10 hours per week club use. Total use is 960 hours, 1920 hours available booking periods remain to allow other income generation, schools/colleges etc.
- As above each facility would have 104 days available for events and full club use days. Figures given allow for Closed Road Circuit; 80 days use and Velodrome; 60 days use. Remaining days take allowance for weather and other income generation.
- The figures given are based on average usage at other venues but this is uncertain as there are no like for like facilities in the UK.
- Expenditure could be reduced if the staff allocated are trained to the required standard that they can be accredited to both coach and staff the velodrome. (This has to be manned by accredited person while open)
- Grounds maintenance and minor maintenance carried out by the staff.
- Partner cycle clubs staff for club nights and event days.

## BUSINESS CASE

### Additional income allowance has been made for the following:

- Rental income from associated facilities café, cycle hire etc
- Event catering licence agreements profit sharing etc
- Income from events
- Income from school and other educational hire of facilities
- Increased car park income

### Indirect income

- Increased visitor expenditure in Torbay
- Increase income from Tourism
- Benefits for Parkfield BMX increased usage and cycling offers.
- Financial benefits for Parkwood Leisure and increased usage of the Leisure Centre.
- Other interested developers may have increased confidence to invest in Torbay.

### Possible hire charges

#### Circuit

Annual facility membership non club	£40.00 per annum
club training per hour	30.00
non affiliated cycling club per hour	35.00
other sports team use per hour	35.00
other per hour	35.00
Daily Hire Aff Club	180.00
Daily Hire Club	200.00
Daily Hire cycling	250.00
Daily Hire other	300.00
Hourly Charge	2.50

#### Velodrome

Cyclist Accredited 1 hour	2.50
club training per hour (aff) with coach	30.00
club training per hour without coach	40.00
Daily Hire Aff club with coach	250.00
Daily Hire Club with coach	300.00
Daily Hire Club Without coach	400.00

BUSINESS CASE

Expenditure	£ Annual	Income	£ Annual
Site Staff	25,000	<b>Road Circuit</b>	
Grounds Maintenance	2,000	Sports other than Cycling 130 hours @ £30	3,900
Street Lights (elec)	1,200	Cycle club Bookings hour 520 hours @ £30	15,600
Changing Facilities TLC	incl	Full Day Bookings 20 @ £200	4,000
NNDR	10,000	Schools & Colleges 104 hours @ £30	3,120
Road Circuit R&M	2,000	<b>Total per Annum</b>	<b>26,620</b>
Velodrome R&M	2,000	<b>Velodrome</b>	
Booking/Admin Costs	1,500	Aff Club Hour 520 hours @ £30	15,600
Marketing & Promotion	2,000	Non Aff Club/Training 104 hours @ £40	4,160
Site Security	500	Full Day Bookings 20 @ £300	6,000
		Schools & Colleges 52 hours @ £40	2,080
		<b>Total Per Annum</b>	<b>27,840</b>
Legal Insurance costs	2,000	Hourly Sales 50 hours per week	6,500
Coaching to Accreditation	5,200	Weekly Tourist Membership 350 @ £20	7,000
Sink Fund	4,000	Annual Membership 750 @ £40	30,000
<b>Total Per Annum</b>	<b>57,400</b>	<b>Total per annum</b>	<b>97,960</b>
		<b>Annual Operating Profit</b>	<b>40,560</b>
		<u>Other potential income</u>	
		Car parking increased income	8,000
		Catering for events	3,000
		Cycle Hire	4,000
		Advertising	3,000
Capital Repayments £780,000 Repay over 25 yrs £1.442 million	57,700	<b>Total Annual Income</b>	<b>115,960</b>
<b>Total Expenditure</b>	<b>115,100</b>	<b>Balance Profit</b>	<b>860</b>

**MANAGEMENT OPTIONS**

There are several future management options available for the successful running of both of these facilities. The various management options are currently used by other local authorities and all are working, where the facility is council managed there is already a permanent staff presence within the park so costs of the facility are minimised.

There is a thought that any management would be a not for profit sport organisation when any profits made being pulled back to offset the costs of other sports provided within Torbay Council remit. This form of management would continue providing benefits for all sports that would help the council to deliver their Health and Fitness responsibilities.

Parkwood Leisure who manage the Torbay Leisure Centre adjacent to the proposed site have written to the Council registering an interest in the development and management of this facility.

Alongside the cycling some concessions can be included

- 1; cafe/bar
- 2; cycle hire/skates
- 3; cycle repair
- 4; coaching

these could be managed within the same remit as the facility or stand alone as per the council requirements

Options	Pro	Con
<p><b>Full council Responsibility (option 1)</b></p>	<p>Keep all income</p> <p>Complete control on usage</p> <p>Change management regime at a later stage if required</p> <p>Ability to deliver other uses for facility if required</p>	<p>Responsible for all future maintenance cost</p> <p>Responsible for all health and safety including inspections</p> <p>Responsible for all programming to meet needs</p> <p>Responsible for all marketing</p> <p>Responsible for all grounds maintenance</p>

BUSINESS CASE

		<p>Responsibility for staffing levels</p> <p>Difficulty in obtaining external funding</p> <p>Organise events</p> <p>Major repairs would require sink fund</p> <p>Not statutory requirement so budgets could be affected unless ring fenced</p> <p>Profits may be hived off to meet other budget shortfall</p>
<p><b>Council partnership with sport club:</b> (option 2)</p>	<p>Council would retain some control on usage</p> <p>Council get a fixed annual income</p> <p>Council able to deliver its own policies</p> <p>Council could delegate responsibility to sport club</p> <p>Still able to apply for external funding</p> <p>Could put their position to lease at a later date</p> <p>Partnership could be not for profit money is ring fenced to go back into maintenance and betterment</p> <p>Greater likelihood of obtaining volunteers</p>	<p>Council would still have management responsibilities Officer and councillor time capacity</p> <p>Sport club may fold over time responsibility falling back on council</p> <p>Possible conflict between requirements of sport and council needs</p> <p>Council would keep maintenance liabilities</p> <p>Possibly lose public goodwill</p> <p>Grounds maintenance and everyday minor maintenance could be same, as council may not be best value for the enterprise</p>

BUSINESS CASE

<p><b>Full repairing lease to sport clubs.(40 years)</b> <b>(Option 3)</b></p>	<p>Council would have guaranteed annual income Council no maintenance responsibility</p> <p>No day to day health and safety responsibility</p> <p>No manpower responsibilities other than overseeing delivery</p> <p>Not for profit lessee would ensure sustainability of the facility</p> <p>Minimal council marketing required</p> <p>Tender process for lessee does not need to take full account of income only value</p> <p>Delivery of services Greater ability to obtain external funding</p> <p>Maintenance or affected by council budget cut backs Volunteer Labour and event organisation more likely</p> <p>Ability to gain maximum rate relief</p>	<p>Council would not have total control</p> <p>Club could fold if no other lessee could be found council would take responsibility</p> <p>Council may not maximise its possible income (tight lease agreement)</p> <p>Council staff would have to monitor lease but minimal control should be required</p>
<p><b>Lease to commercial leisure provider</b> <b>(Option 4)</b></p>	<p>Full repairing lease</p> <p>Minimal council involvement</p> <p>Tender process would maximise income to council</p>	<p>Council will lose some control</p> <p>Commercial operator would be unlikely to obtain grants</p> <p>Profits ploughed back into company not necessarily to</p>

## BUSINESS CASE

	<p>Absolutely no maintenance or management costs to council Lessee would bring in expertise</p> <p>Ability for lessee to take on and manage concessions</p>	<p>pavilion</p> <p>Sports clubs could be priced out (tight lease/ management agreement required)</p>
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DRAFT

## Equality Impact Assessment (EIA):

<b>Name of Report/Proposal/Strategy:</b>	Cycling Development Clennon Valley	<b>Business Unit:</b>	Resident & Visitor Services
<b>Name (Key Officer/Author):</b>	Ian Williams	<b>Tel:</b>	7954
<b>Position:</b>	Senior Natural Environment Officer	<b>Email:</b>	ian.williams@torbay.gov.uk
<b>Date:</b>	4 <sup>th</sup> January 2013		

Since the Equality Act 2010 came into force the council has continued to be committed to ensuring we provide services that meet the diverse needs of our community as well as ensure we are an organisation that is sensitive to the needs of individuals within our workforce. This Equality Impact Assessment (EIA) has been developed as a tool to enable business units to fully consider the impact of proposed decisions on the community.

This EIA will evidence that you have fully considered the impact of your proposal / strategy and carried out appropriate consultation with key stakeholders. The EIA will allow Councillors and Senior Officers to make informed decisions as part of the council's decision-making process.

### Relevance Test – ‘A Proportionate Approach’

Not all of the proposals or strategies we put forward will be ‘relevant’ in terms of the actual or potential impact on the community in relation to equality and vulnerable groups. For instance, a report on changing a supplier of copier paper may not require an EIA to be completed whereas a report outlining a proposal for a new community swimming pool or a report proposing a closure of a service would.

Therefore before completing the EIA please answer the following questions. If you answer ‘yes’ to any of the questions below you must complete a full EIA.

1)	<b>Does this report relate to a key decision?</b>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
2)	<b>Will the decision have an impact (i.e. a positive or negative effect/change) on any of the following:</b> <ul style="list-style-type: none"> <li>• The Community (including specific impacts upon the vulnerable or equality groups)</li> <li>• Our Partners</li> <li>• The Council (including our structure, ‘knock-on’ effects for other business units, our reputation, finances, legal obligations or service provision)</li> </ul>	<input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> Y	<input type="checkbox"/> N <input type="checkbox"/> N <input type="checkbox"/> N

**Section 1: Purpose of the proposal/strategy/decision**

No	Question	Details
1.	Clearly set out the purpose of the proposal	<p>The proposal is to obtain match funding capital to build a 1.5 Km closed road circuit and Velodrome at Clennon Valley.</p> <p>British Cycling (BC) has identified the regional need for a Velodrome and a Closed Cycle Circuit in the South West Region. The BC are on record as saying the provision of these facilities in the South West are one of their highest National Priorities. Torbay is currently the BC preferred location. The nearest cycling facilities to Torbay for an outdoor velodrome is Bournemouth for the Closed Road Cycle Circuit is either Birmingham or London. A closed road is to be developed in Bath during 2013. Manchester and London are the only areas that have both a Closed Road Circuit and Velodrome.</p> <p>The objectives of this proposal are to create a major cycling facility at Clennon Valley to be available for all cyclists in the South West of England. Creating an opportunity for both holding Regional and National cycling events as well as an important facility for cyclists of all abilities to undertake training.</p> <p>The closed road cycling circuit would provide a safe environment for a wide variety of sports including cycling, jogging, walking etc. The circuit would be enclosed and lit and would allow the public to participate in health and fitness activities in a safe controlled environment catering for all people.</p>
2.	Who is intended to benefit / who will be affected?	<p>All people are expected to benefit from the proposed development; however the main beneficiaries of the velodrome would be all cyclists in the South West Region as a direct result of the facility, residents of Torbay as an indirect beneficiary of the increase in visitors and tourists attending for the use of the facility.</p> <p>It has been reported that 40% of the UK will be obese by the year 2015. Cycling as a form of transport, and/or recreational cycling is a tool that can help alleviate the pressure of obesity upon society. Cycling as a fitness and leisure activity can be undertaken by all age groups and by providing a safe and family friendly facility encourages family cycling groups. By encouraging cycling within Torbay, we are able to continue creating a more cycle friendly environment, helping to reduce the potential health challenges affecting the town.</p> <p>The beneficiaries of the Closed Road Circuit would be all residents and visitors who wish to undertake physical activities or health and well being initiatives,</p>

No	Question	Details
3.	What is the intended outcome?	<p>The intended outcomes are to:</p> <ul style="list-style-type: none"> <li>• To increase the number of active sport participants and improve the opportunities for sport and leisure activities within Torbay</li> <li>• To reduce both the actual, and perceived dangers to cyclists;</li> <li>• To provide more, and better cycle facilities,</li> <li>• To promote and encourage cycling as a recreational tool, and as a means to improving the health of the population of Torbay and the South West by promoting cycling as a means of exercise. Supporting health benefits through partnership work with the local NHS Trust and community stakeholders;</li> <li>• Provide a facility that could be included within the GP referral units and therefore an additional income source</li> <li>• To promote cycling as a major sport accessible to all via sign posting to the work conducted by the sports development team within Torbay Council in partnership with British Cycling and other sport governing bodies.</li> <li>• These facilities would be the only ones in the South West and as such there are opportunities for hosting major events for a wide range of sports.</li> <li>• The increase in sports participation visits to Torbay could significantly raise the amount of money spent with local business, retailers and hoteliers. There is the added bonus of the various media opportunities local and national to raise the profile of Torbay which could in turn increase visitor numbers. The Bournemouth Skyride event showed that 20% of participants were tourists.</li> </ul> <p>By developing the additional sports facilities it will help to make Torbay a destination resort for cycling, there is already well designed international grade BMX track as well as a Mountain bike track. The development of a closed road circuit and outdoor velodrome would make Torbay an extremely attractive proposition as a centre for all cycling requirements.</p>

## Section 2: Equalities, Consultation and Engagement

Torbay Council has a moral obligation as well as a duty under the Equality Act 2010 to eliminate discrimination, promote good relations and advance equality of opportunity between people who share a protected characteristic and people who do not.

The **Equalities, Consultation and Engagement** section ensures that, as a council, we take into account the Public Sector Equality Duty at an early stage and provide evidence to ensure that we fully consider the impact of our decisions / proposals on the Torbay community.

### Evidence, Consultation and Engagement

No	Question	Details
4.	Have you considered the available evidence?	<p>It is expected that as a regional centre, users will be from Cornwall Devon and Somerset but predominantly from the South Devon area. The wide variety of activities that can be undertaken using the facility mean that it satisfies a number of the requirements of various sports and recreational activities. These can be undertaken in a safe and controlled environment; and with availability of good ancillary facilities, would prove a good and attractive prospect for participants.</p> <p>There are 72 British Cycling registered Clubs in the South West and 35 of these are in Devon. These Devon clubs have a stated membership of 2336 people as at the beginning of 2012, which are the most up to date figures available. (It is expected that these figures will rise as a result of a very successful year for British Cyclists and high media coverage).</p> <p>The current figures for the number of members of British Cycling in the South West region is; 2,808 with an estimated 8,450 members of local clubs. Over the last 4 years the membership of BC has risen from 25,000 to 61,600 and is still growing at a rate of just over 1,000 per month. The large increase has been put down to the success of British Cyclists in the Olympics and Paralympics and the Tour de France.</p> <p>There are 11 Clubmark Clubs in the Region, 6 of them in Devon, and a further 8 Go Ride accredited Clubs 6 of which are in Devon. All of these are accredited to work with under 16's. Under 16's which in effect means all Youth racing, has to be on Closed circuits, they are not permitted to race on the open road. This is why the circuit in Torbay would play such a key role for this particular age group</p> <p>It is recognised that the participation by women in all sporting areas is on the decline and where this may be as</p>

No	Question	Details
		<p>a result of the feeling of safety and security these facilities would help. The membership of British Cycling shows that only between 15 and 20% are women, there is an acknowledged need to encourage these figures to increase. Providing these facilities would help to alleviate the problems women and young people have with all sports in relation to participation in a safe environment.</p> <p>It is recognised that young people in the South West do not achieve their full potential because of the lack of facilities and the ability to train. The lack of officially recognised cycling circuits and velodromes requires participants to travel long distances to train and to participate in active competition. The nearest location for road racing for under 16 year olds is London or Birmingham where they do enter competitive competitions. When young people do enter and travel to the venues, they are not effective competitors, it is understood that this is because of the lack of training opportunities in the South West.</p> <p>Research undertaken by the LSE into the British Cycling Economy that in 2010; 1.3 million new cyclists took up cycling as a sport or recreational activity generating increased revenue. The retail sector for cycling is estimated to be worth £2.46 Billion. The indirect benefits for local business is the increase in day and stay visits to make use of the developments, and the expected use increase in tourism directly attributed to the use of the facility. The businesses that could benefit range from catering, overnight accommodation through to local attractions</p>
5.	How have you consulted on the proposal?	<p>Not as yet however it has been identified that we will need to consult with the following groups, if the decision for the funding is agreed:</p> <ul style="list-style-type: none"> <li>• Consultation with members of the public, including Community Partnership groups</li> <li>• Consultation with local cycling clubs</li> <li>• Consultation with the Torbay Sports Council</li> </ul> <p>Ongoing customer satisfaction surveys/Sport England surveys will also take place if/once the project is completed.</p>

No	Question	Details
6.	Outline the key findings	<p>This section will need to be completed once consultation has been undertaken.</p> <p>Case studies undertaken in other areas have shown the following:</p> <p><b>Stourport</b></p> <p>Closed Road Circuit Opened in April 2010 the events delivered in the first 33 weeks of opening were:</p> <ul style="list-style-type: none"> <li>• Schools 195 events Participants 5850</li> <li>• Go-Ride 30 events Participants 300</li> <li>• Coaching 54 events Participants 809</li> <li>• Cycling 4 events Participants 130.</li> </ul> <p>British Cycling then applied a formula which would give the estimated annual participation figure of 11,170, Over a 15 year period this would give an estimated participation figure of 336,400</p> <p>The circuit provided a traffic free cycle and sport environment for all participants, it is identified that a safe environment is fundamental to achieving satisfaction.</p> <p><b>Redditch BMX track</b></p> <p>Although this project is not to build a BMX track it is envisioned that by creating these facilities it would enhance the usage of Parkfield BMX track by linking this facility as a cycling destination. The BMX track at Redditch participation levels over the initial 20 week period gave:</p> <ul style="list-style-type: none"> <li>• Coaching 20 weekly sessions 937 participants</li> <li>• Events 1 Regional 192 participants</li> </ul> <p>The track has delivered 1129 new participants to the area in 4.5 months period when new participants can undertake a sporting activity in a safe environment. Novice riders can undertake safe and extensive coaching sessions; to improve the expertise of riders and nurture their talents. The costs of using this facility for</p>

No	Question	Details
		<p>2012/2013</p> <p><b>Knowsley Outdoor Velodrome</b></p> <p>This facility has only recently opened and the usage figures have been estimated by using the results of a similar facility built at Bournemouth. The estimated figures for a 15 year period are:</p> <ul style="list-style-type: none"> <li>• Go ride Events      1530      Participants 30,600</li> <li>• Coaching Events      3060      Participants 76,200</li> <li>• Events                    1240      Participants 44,000</li> <li>• Schools                    3400      Participants 15,460</li> </ul> <p>Total participants over 15 years estimated at 166,260</p> <p>Knowsley velodrome is a large, 400 metre excellently built outdoor track, with a 30 degree bank, capable of accommodating both track and road bikes. It opens itself up to a lot of different uses in performance cycling. It is a perfect venue for coaching the skills of serious cycling in a controlled and safe environment.</p>
7.	What amendments may be required as a result of the consultation?	To be confirmed once consultation has been undertaken

## Positive and Negative Equality Impacts

No	Question	Details		
8.	Identify the potential positive and negative impacts on specific groups	<i>It is not enough to state that a proposal will affect everyone equally. There should be more in-depth consideration of available evidence to see if particular groups are more likely to be affected than others – use the table below. You should also consider workforce issues. If you consider there to be no positive or negative impacts use the 'neutral' column to explain why.</i>		
	All groups in society generally	<p><b>Positive Impact</b></p> <p>It has been reported that 40% of the UK will be obese by the year 2015. Cycling as a form of transport, and/or recreational cycling is a tool that can help alleviate the pressure of obesity upon society. Cycling as a fitness and leisure activity can be undertaken by all age groups and by providing a safe and family friendly facility encourages family cycling groups. Training cyclists to use the road network is crucial, to mitigate potential accidents.</p> <p>The development would show that Torbay Council is serious in the commitment to the provision of good quality Sport facilities and the delivery of Health and Fitness programmes for the benefit of all residents</p> <p>It is believed that incidents of anti social behaviour will reduce as the increase in active participation</p>	<p><b>Negative Impact</b></p>	<p><b>Neutral Impact</b></p>

No	Question	Details
	<p>increases. The facilities would provide more scope for volunteer sectors working with young people and encourage them to have alternative interests.</p>	
	<p>Older or younger people</p> <p>Training cyclists to use the road network is crucial, to mitigate potential accidents. By training primary school children, we will instil a safe cycling ethos into the next generation of cyclists in Torbay.</p> <p>It is recognised that young people in the South West do not achieve their full potential because of the lack of facilities and the ability to train. The lack of officially recognised cycling circuits and velodromes requires participants to travel long distances to train and to participate in active competition. The nearest location for road racing for under 16 year olds is London or Birmingham where they do enter competitive competitions. When young people do enter and travel to the venues, they are not effective competitors, it is understood that this is because of the lack of training opportunities in the South West. By building the velodrome in Torbay we will be able to offer young people these facilities.</p>	

No	Question	Details
	<p>By building the velodrome in Torbay we would be able to work with Schools in the region to provide a good facility to deliver a safe and accessible location to deliver their sporting requirements.</p>	
People with caring responsibilities	People with a disability	There is no differential impact
	<p>The closed road circuit can be used for disabled sport – currently these facilities do not exist in the South West</p> <p>Within a Sport England profile report for Torbay they highlight the need to enhance sporting facilities to encourage activities that will provide for the needs of disabled people – the provision of a closed road cycle circuit would meet the requirements by offering a facility that is managed and is a safe environment, for the use of all people</p>	
Women or men		<p>It is recognised that the participation by women in all sporting areas is on the decline and where this may be as a result of the feeling of safety and security these facilities would help. The membership of British Cycling shows that only between 15% and 20% are women, there is</p>

No	Question	Details
	an acknowledged need to encourage these figures to increase. Providing these facilities would help to alleviate the problems women and young people have with all sports in relation to participation in a safe environment.	
People who are black or from a minority ethnic background (BME)		There is no differential impact
Religion or belief (including lack of belief)		There is no differential impact
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
9.208 <b>Is there scope for your proposal to eliminate discrimination, promote equality of opportunity and / or foster good relations?</b>	Creates a facility that can be used equally by all it does not benefit any particular group is good for all groups to participate equally	

**Section 3: Steps required to manage the potential impacts identified**

No	Action	Details
10.	<p>Summarise any positive impacts and how they will be realised most effectively?</p>	<p>We would like to build a velodrome in Torbay for the following positive reasons:</p> <ul style="list-style-type: none"> <li>• To increase the number of active sport participants and improve the opportunities for sport and leisure activities within Torbay</li> <li>• To reduce both the actual, and perceived dangers to cyclists;</li> <li>• To provide more, and better cycle facilities,</li> <li>• To promote and encourage cycling as a recreational tool, and as a means to improving the health of the population of Torbay and the South West by promoting cycling as a means of exercise. Supporting health benefits through partnership work with the local NHS Trust and community stakeholders;</li> <li>• Provide a facility that could be included within the GP referral units and therefore an additional income source</li> <li>• To promote cycling as a major sport accessible to all via sign posting to the work conducted by the sports development team within Torbay Council in partnership with British Cycling and other sport governing bodies.</li> <li>• These facilities would be the only ones in the South West and as such there are opportunities for hosting major events for a wide range of sports.</li> <li>• The increase in sports participation visits to Torbay could significantly raise the amount of money spent with local business, retailers and hoteliers. There is the added bonus of the various media opportunities local and national to raise the profile of Torbay which could in turn increase visitor numbers. The Bournemouth Skyride event showed that 20% of participants were tourists.</li> </ul> <p>These positive impacts would be realised once the velodrome is built.</p> <p>Within a Sport England profile report for Torbay they highlight the need to enhance sporting facilities to encourage activities that will provide for the needs of disabled people – the provision of a closed road cycle circuit would meet the requirements by offering a facility that is managed and is a safe environment, for the use of people of all abilities.</p>

11.	Summarise any negative impacts and how these will be managed?	There is a risk that some members of the public may not support the development of a velodrome in Torbay – this section will need to be updated once consultation with local residents has taken place
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#### Section 4: Course of Action

No	Action	Details
12.	State a course of action [please refer to action after section 5]	<p>To be confirmed once consultation has taken place</p> <p><b>Where: -</b></p> <p><b>Outcome 1: No major change required - EIA has not identified any potential for adverse impact in relation to equalities and all opportunities to promote equality have been taken.</b></p> <p><b>Outcome 2: Adjustments to remove barriers – Action to remove the barriers identified in relation to equalities have been taken or actions identified to better promote equality.</b></p> <p><b>Outcome 3: Continue with proposal - Despite having identified some <u>potential</u> for adverse impact / missed opportunities in relation to equalities or to promote equality. Full justification required, especially in relation to equalities, in line with the duty to have 'due regard'.</b></p> <p><b>Outcome 4: Stop and rethink – EIA has identified actual or potential unlawful discrimination in relation to equalities or adverse impact has been identified.</b></p>

#### Section 5: Monitoring and Action Plan

No	Action	Details
13.	Outline plans to monitor the actual impact of your proposals	<p>Ongoing customer satisfaction surveys/Sport England surveys continue to take place if/once the project is completed.</p> <p>We will continue to work with Torbay Sports Council and British Cycling to ensure that the aims and objectives of the scheme are met and continue to be met.</p>

**Please use the action plan below to summarise all of the key actions, responsible officers and timescales as a result of this impact assessment**

**Action plan**

Please detail below any actions you need to take:

<b>No.</b>	<b>Action</b>	<b>Reason for action / contingency</b>	<b>Resources</b>	<b>Responsibility</b>	<b>Deadline date</b>
1	If the project goes ahead initial consultation with the cycling clubs in the South West	Determine the needs for all classes of cycle sport, future usage etc	Time/Staff	Project Board	Depends when money becomes available
2	Meeting with Sport England and British Cycling	To engage with the governing bodies of sport to ensure that the build meets their criteria and needs for both able bodied and disabled sports	Time/Staff	Project Board	Depends when money becomes available
3	Meeting with Torbay Sports Council	To obtain their backing for the multi sports facility. Look at future management and marketing of the facility	Time/Staff	Project Board	Depends when money becomes available
4	Public consultations local residents, Sport clubs, hard to reach groups.	Explaining what we are doing and the impact the project will have on all people. Determine what the local sports participants require for formal and informal recreation	Time/Staff	Project Board	Depends when money becomes available
5	Meeting with possible partners i.e. schools, sports colleges, tourism. Leisure providers, commercial operatives	Ensure we are building something that benefits the greatest number of people. Ensures that the project is sustainable	Time/Staff	Project Board	Depends when money becomes available



**Meeting:** Council

**Date:** 6 February 2013

**Wards Affected:** All Wards in Torbay

**Report Title:** Disposal of Town Hall Car Park, for Redevelopment

**Executive Lead Contact Details:** Councillor David Thomas, 07917072227,  
david.thomas@torbay.gov.uk

**Supporting Officer Contact Details:** Steve Parrock Chief Executive TDA  
[steve.parrock@tedcltd.com](mailto:steve.parrock@tedcltd.com) (01803) 209873 / [iain.masters@tedcltd.com](mailto:iain.masters@tedcltd.com) (01803) 208975

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## 1. Purpose

- 1.1 The Council is seeking a step change in the pace of regeneration and strives to support proposals that lead to job creation in Torbay. The recommendation in this report is consistent with this ambition because it will lead to the delivery of retail investment in Torquay Town Centre where it would encourage shoppers to adopt a town centre first approach and thereby best support other town centre retail businesses.
- 1.2 This report proposes to authorise the lease of land to a developer who wishes to promote a food retail development on the site of the Town Hall Car Park, at Castle Circus Torquay.
- 1.3 The proposal will deliver a capital receipt for the Council, it will make best use of Council assets and it will ensure the Council obtains best value.

## 2. Proposed Decision

- 2.1 That the Council to enter into a conditional contract to lease the Town Hall Car Park to Hawkstone PLC on the terms set out below.
- 2.2 That the Chief Executive of the TDA be instructed to negotiate terms for a conditional contract to grant a 199 'peppercorn' year ground lease to Hawkstone PLC in return for the developer paying a premium sum of not less than £2.5m.
- 2.3 That the contract to lease the land be subject to the developer achieving a detailed planning approval for a food store development together with associated car parking. The developer to submit a detailed planning application within 6 months and the development should be commenced within 12 months of planning approval.

- 2.4 That the terms of any contract shall not result in a reduction of the number of parking spaces currently available for the public on the site
- 2.5 The remaining terms of the contract negotiated shall be approved by the Deputy Mayor.
- 2.6 The approval to be subject to contract, planning approval and the TDA obtaining an independent valuation of the scheme so as to ensure the Council has (and is been seen to have) obtained best value. In the event there are changes to either the proposed scheme or the contract terms after the terms are agreed that further independent valuation advice will be sought.

### **3. Action Needed**

- 3.1 The decision will require TDA officers to deal with contract negotiations and for Council officers to support the proposal by responding to requests for pre-application and other pre-contract consultation issues.

### **4. Summary**

- 4.1 The scheme proposed by the developer will deliver a food store of circa 4,000 sq mtrs (net sales) and parking spaces.

### **Supporting Information**

#### **5. Position**

- 5.1 This is an executive decision however as the Mayor has declared an interest therefore in accordance with the Council's Standing Orders, the Deputy Mayor will be the decision maker. The Deputy Mayor has expressed his wish to consider Member comments and to decide the matter at the Council meeting 6<sup>th</sup> February 2013.
- 5.2 Hawkstone having submitted an offer for the site had previously requested and were granted an Exclusivity Period from the Deputy Mayor to undertake due diligence. This was in recognition of the cost and professional commitment that they were required to give to the proposed acquisition.
- 5.3 The cross party Town Centre Regeneration Group having received and considered all the expressions of interest and considered other options have unanimously agreed the Deputy Mayor should consider the matter at Council and support the recommendations that are contained in this report.
- 5.4 Entering into a conditional contract is an appropriate next step because:

- (i) The developer will essentially need to engender 'operator' confidence to secure offers from supermarket chains. Those operators will not give credence to the developers' position unless the developer can demonstrate a contractual ability to proceed.
- (ii) There is considerable cost involved in advancing the proposal to planning and to the point at which a supermarket groups will commit to the proposal.
- (iii) Until the supermarket operator's rental offer, floor space requirement, and technical specification is known, and also the development costs are determined, the land value will remain uncertain. The selection of a development partner and the grant of a conditional contract delivers certainty and therefore makes the successful disposal of the site for a capital receipt more likely and the proposals contain safeguards that ensure best value is obtained.

5.5 Best Value is protected in the absence of competitive bidding by ensuring that an Independent Valuer verifies (prior to contract) that the terms of the draft contract deliver best value. The valuation advice and the Best Value Consideration being subject to the satisfaction and approval of the Deputy Mayor and the Executive Head for Finance.

5.6 Town Hall Car Park was a site proposed for Phase 1 of the former Regeneration JV. The Council considered and rejected the Joint Venture Proposals. The quality of Hawkstone's approach to development and retail development credentials were however demonstrated during the Council's consideration of the firm's LABV bid submission. The Council subsequently decided not to proceed with a wider LABV JV. Proposals for single site solutions were considered a more appropriate way to proceed. This proposal therefore does not form a part of any wider scheme linked to other Council owned sites.

5.7 The Council's gross income from the Town Hall Car park is currently £144,000 per annum.

## **6. Possibilities and Options**

6.1 Other options considered included:

- i) Using the land for the existing use / other purposes:
  - (a) The land has the benefit of an office consent that was obtained as a part of the Office Re-organisation Project (ORP). That proposal provided for the inclusion of office space for external occupiers. The ORP has been implemented without the need for this provision due to amendments made in the ORP. The option of building office space would be an acceptable use of the land however a) the current economic viability of office development is uncertain and b) office provision could be provided elsewhere.

- (b) Do Nothing - The car park could be retained as a car park without the food store development. The recommended action re-instates same amount of parking provision whilst obtaining a capital receipt for the Council.
  - (c) Residential, other retail or other uses. Other options were considered at the point when the decision to promote the office proposal at a) above were considered. These options were rejected then and no reason is known to reconsider that decision.
- (ii) Dealing with the disposal in other ways.

The Town Centre Regeneration Group considered and rejected the option of openly and competitively marketing the Castle Circus site. It arrived at its recommendation on the basis of advice from Officers for the following reasons:

- (a) The opportunity had been tendered and openly marketed during the bidding for the LABV process. Interested firms had the opportunity to express interest in site through this process; Hawkstone's offer was the only offer remaining. Other expressions of interest subsequently received have been considered.
- (b) In view of the need for expedience caused by competing and emerging food store proposals elsewhere in Torbay the Town Centre Regeneration Group is of the opinion that adequate time is not available for the Council/TDA to undertake a marketing exercise.
- (c) Were the Council to invite competitive bids in circumstances where development costs and the proceeds of development would not (and cannot) be adequately be known by bidders during a bid process reliable offers would not be likely to be obtained; The risk to the Council and bidders of any proposals not being deliverable and the cost of implications of such is high. Furthermore the capital receipt will be linked to rental offers from food stores some of whom would not reveal their interest at this stage due to their backing for other competing schemes.

## **7. Preferred Solution/Option**

- 7.1 The Council enters into a Contract with Hawkstone PLC on the terms set out.
- 7.2 The Council does not have an active requirement for new or additional car parking resulting from the disposal of the land. The contract will not oblige the Developer to develop the scheme once it has planning approval. It will be the Developers decision to commence development and for it then to address all of the relevant planning policies including the likely need for re-provision of public shoppers car parking within the immediate vicinity of the site along with any other planning obligations that may be agreed with the Council's planning department. It is not therefore considered that the disposal of the site is a procurement for the purposes of the Public Contracts Regulations 2006.

7.3 The deal will also be subject to two open market valuations and this is sufficient to address the Councils obligation to secure best value under S123 of the Local Government Act 1972.

7.4 The costs of contracting the Lease will be met from existing TDA budgets. All the subsequent development costs will be met by the Developer

## **8. Consultation**

8.1 Torquay Neighbourhood Forum has been consulted. Food retail use of the site is proposed in the consultation draft of the Neighbourhood Plan.

8.2 The proposal has previously been discussed by the steering group of the Torre & Upton Community Partnership, the Chair confirms her support. The proposal will be further discussed at the meeting on 23<sup>rd</sup> January – a verbal update will be given.

8.3 The proposal will be discussed by the steering group of the Steering Group of Torquay Town Centre Community Partnership at a meeting on the 5<sup>th</sup> February – a verbal update will be given.

8.4 The Coalition of Disabled people and Shop Mobility have been contacted and will be given support for relocation. The developer intends to provide similar units as part of the development for the use of the present tenants however this will not be a requirement of the contract. The TDA will ensure interim arrangements are implemented.

8.5 The grant of the exclusivity period to Hawkstone has been widely reported.

8.6 Highways, Drainage and Planning officers have been consulted.

## **9. Risks**

9.1 These are summarized in Appendix 1 however the principal issues can be summarized as follows:

9.2 That Planning Consent is not forthcoming. Consultation has taken place the issue will be considered on its merits in due course.

9.3 Public opposition, not considered to be a significant risk.

9.4 Legal challenge on procurement grounds. This issue has been considered and for the reasons given above it is not considered that the Public Contract Regulations 2006 apply to the disposal.

9.5 Lack of operator demand, discussions with at least one operator confirms there is operator demand. The developer will conduct a full marketing exercise once the contract is exchanged with the Council.

9.6 Technical impediments prevent development. As with any 'brown field' town centre site there are inevitably development constraints with the site. The developer is aware of all the likely issues and is content to proceed. The cost risk of any such impediment would rest with the developer.

## **Appendices**

### Appendix 1 – Equality Impact Assessment

#### **Additional Information**

- Council Report in 2009 Minute 356: Delivering Regeneration Through Joint Ventures, Report 244/2009.
- Cabinet Report in 2011 Minute 514.2: Delivering Regeneration Through Joint Ventures, Report 20/2011.
- Equality Impact Assessment (EIA)

All are available on the Council's web site or available on request

## Equality Impact Assessment (EIA):

<b>Name of Report/Proposal/Strategy:</b>	Disposal of Town Hall Car Park, for Redevelopment	<b>Business Unit:</b>	Torbay Development Agency
<b>Name (Key Officer/Author):</b>	Steve Parrock / Iain Masters	<b>Tel:</b>	01803 208975 or 208973 ext 8975 / 8973
<b>Position:</b>	Senior Development Surveyor	<b>Email:</b>	<a href="mailto:steve.parrock@tedcltd.com">steve.parrock@tedcltd.com</a>
<b>Date:</b>	6 February 2013		<a href="mailto:iain.masters@tedcltd.com">iain.masters@tedcltd.com</a>

Since the Equality Act 2010 came into force the council has continued to be committed to ensuring we provide services that meet the diverse needs of our community as well as ensure we are an organisation that is sensitive to the needs of individuals within our workforce. This Equality Impact Assessment (EIA) has been developed as a tool to enable business units to fully consider the impact of proposed decisions on the community.

This EIA will evidence that you have fully considered the impact of your proposal / strategy and carried out appropriate consultation with key stakeholders. The EIA will allow Councillors and Senior Officers to make informed decisions as part of the council's decision-making process.

### Relevance Test – ‘A Proportionate Approach’

Not all of the proposals or strategies we put forward will be ‘relevant’ in terms of the actual or potential impact on the community in relation to equality and vulnerable groups. For instance, a report on changing a supplier of copier paper may not require an EIA to be completed whereas a report outlining a proposal for a new community swimming pool or a report proposing a closure of a service would.

Therefore before completing the EIA please answer the following questions. If you answer ‘yes’ to any of the questions below you must complete a full EIA.

1)	<b>Does this report relate to a key decision?</b>	<input checked="" type="checkbox"/> Y	<input type="checkbox"/> N
2)	<b>Will the decision have an impact (i.e. a positive or negative effect/change) on any of the following:</b> <ul style="list-style-type: none"> <li>• The Community (including specific impacts upon the vulnerable or equality groups)</li> <li>• Our Partners</li> <li>• The Council (including our structure, ‘knock-on’ effects for other business units, our reputation, finances, legal obligations or service provision)</li> </ul>	<input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> Y <input checked="" type="checkbox"/> Y	<input type="checkbox"/> N <input type="checkbox"/> N <input type="checkbox"/> N

**Section 1: Purpose of the proposal/strategy/decision**

No	Question	Details
1.	Clearly set out the purpose of the proposal	<p>The EIA relates to a proposal to lease land to a developer who wishes to promote a food retail development on the site of the Town Hall Car Park, at Castle Circus Torquay.</p> <p>The proposal will deliver a capital receipt for the Council, it will make best use of Council assets and it will ensure the Council obtains best value.</p>
2.	Who is intended to benefit / who will be affected?	<ul style="list-style-type: none"> <li>• Everyone who uses Torquay Town Centre or who has a stake in its viability or vitality</li> <li>• Council tax payers and the Community as a whole in view of size of capital receipt</li> <li>• Residents of Torbay in so far as it will effect their food shopping preferences.</li> <li>• Those seeking employment in the retail sector.</li> </ul>
3.	What is the intended outcome?	<p>A capital receipt / better use of council assets / improved employment / the development of a town centre food store.</p>

## Section 2: Equalities, Consultation and Engagement

Torbay Council has a moral obligation as well as a duty under the Equality Act 2010 to eliminate discrimination, promote good relations and advance equality of opportunity between people who share a protected characteristic and people who do not.

The **Equalities, Consultation and Engagement** section ensures that, as a council, we take into account the Public Sector Equality Duty at an early stage and provide evidence to ensure that we fully consider the impact of our decisions / proposals on the Torbay community.

### Evidence, Consultation and Engagement

No	Question	Details
4.	Have you considered the available evidence?	<p>Available evidence on issues connected to the proposal will primarily relate to the principles of land use and Council planning policies. These land uses issues are not however central to the property decision that is before Council.</p> <p>The EIA relates a decision on issues pertaining to a property transaction. National and local policy considerations however support the principle of a town centre first approach to retail provision.</p>
5.	How have you consulted on the proposal?	<p>Yes with regard the principle of leasing the land to the developer however the resultant decision will be made subject to planning and the scheme proposals will require (and will get) extensive further consultation prior to implementation.</p> <ul style="list-style-type: none"> <li>• Participation in the Torquay Neighbourhood Forum debate. The issue is on agenda for a public meeting of the Forum for 4<sup>th</sup> February</li> <li>• Briefing Community Partnerships (Torre &amp; Upton CP and Torquay Town Centre CP)</li> <li>• Contact with Stakeholder Groups (including shop mobility and the Coalition of Disabled People)</li> <li>• Technical consultation has occurred with officers of the Council</li> <li>• The Transport Working Group will be contacted prior to the Issue going to Council</li> </ul>
6.	Outline the key findings	<p>The the Torre &amp; Upton CP steering group is supportive. No equalities issues were raised.</p> <p>The views of the Town Centre CP cannot be obtained because the CP has not had a meeting within the timeframe of the proposal.</p>

No	Question	Details
		<p>The Neighbourhood Forum has included the principle of a food store within its Draft Neighbourhood Plan. Any equalities issues raised will be verbally reported on the 6<sup>th</sup> February following the public meeting on the 4<sup>th</sup>.</p> <p>Shop Mobility supports the principle of the development subject to the safeguards suggested by the TDA (equivalent or better reinstatement / adequate temporary arrangements).</p> <p>The CEO of the Coalition of Disabled People:</p> <ul style="list-style-type: none"> <li>• Had invited the project manager to attend Coalition's Board Meeting on the 5<sup>th</sup> for a formal response from Board</li> <li>• The CEO supports the principle of the development subject to the safeguards suggested by the TDA (equivalent or better reinstatement / adequate temporary arrangements).</li> <li>• Believes a supermarket has the potential to improve employment prospects for disabled people</li> <li>• Indicated supermarkets tend to be best practice employers / retailers in terms of equalities</li> </ul>
7. D	What amendments may be required as a result of the consultation?	No amendments are required at present however the requirements of disabled users are better understood as a result of the consultation and proposals that have been suggested will be incorporated into the project.

## Positive and Negative Equality Impacts

No	Question	Details		
		Positive Impact	Negative Impact	Neutral Impact
8.	Identify the potential positive and negative impacts on specific groups	<i>It is not enough to state that a proposal will affect everyone equally. There should be more in-depth consideration of available evidence to see if particular groups are more likely to be affected than others – use the table below. You should also consider workforce issues. If you consider there to be no positive or negative impacts use the 'neutral' column to explain why.</i>		
	All groups in society generally			The re-use of the car park site will not effect its availability nor should it adversely impact any group in society.  The decision before Council on 6 <sup>th</sup> February relates to the property transaction that will bring forward the development proposal, equalities issues arising from the decision will be much more likely to arise as detailed consideration during the design phase of the project.
	Older or younger people	See below for potential positive benefits relating to employment / diet and wealth.		Ditto
	People with caring responsibilities	See below for potential positive benefits relating to employment / diet and wealth.		Ditto
	People with a disability	Consultation suggests many potential positive impacts: <ul style="list-style-type: none"> <li>• Improved employment prospects, food stores tend to have progressive equalities policies and are as seen as best practice employers</li> </ul>	<ul style="list-style-type: none"> <li>• Temporary disruption to the Coalition of Disabled People offices and Shop Mobility (mitigation measures will be implemented)</li> </ul>	Ditto

No	Question	Details
		<ul style="list-style-type: none"> <li>• Improved access arrangements to food provision</li> <li>• Potential improved outcomes in terms of diet and a reduction in the proportion of income spent on food</li> <li>• Better premises outcome for the Coalition of disabled people &amp; shop mobility in long run</li> </ul>
	Women or men	See above for potential positive benefits relating to employment / diet and wealth.
	People who are black or from a minority ethnic background (BME)	See above for potential positive benefits relating to employment / diet and wealth.
	Religion or belief (including lack of belief)	See above for potential positive benefits relating to employment / diet and wealth.
	People who are lesbian, gay or bisexual	See above for potential positive benefits relating to employment / diet and wealth.
	People who are transgendered	See above for potential positive benefits relating to employment / diet and wealth.
	People who are in a marriage or civil partnership	See above for potential positive benefits relating to employment / diet and wealth.
	Women who are pregnant / on maternity leave	See above for potential positive benefits relating to employment / diet and wealth.

No	Question	Details
9.	<p><b>Is there scope for your proposal to eliminate discrimination, promote equality of opportunity and / or foster good relations?</b></p>	<p>wealth.</p> <p>The Council will consider through its capital program how its capital receipt will be applied to promote improved equalities across the community within Torbay as part of the Council's normal business.</p> <p>The developer and the acquiring supermarket group will be responsible for implementing equalities policies through the design phase and operational life of the food store. The Council can consider requiring the developer to suggest ways in which it can improve equalities outcomes.</p>

**Section 3: Steps required to manage the potential impacts identified**

No	Action	Details
10.	<p><b>Summarise any positive impacts and how they will be realised most effectively?</b></p>	<p>The proposal should result in improved prosperity within the whole community, early engagement with the developer and the food store operator (when known) will improve the prospects of enhanced outcomes on equalities issues.</p>
11	<p><b>Summarise any negative impacts and how these will be managed?</b></p>	<p>The Council is recommended to instruct officers to ensure the Shop Mobility and Coalition of Disabled people are not adversely effected and that interim accommodation proposals do not result in a reduction in the service levels they are able to provide.</p>

**Section 4: Course of Action**

No	Action	Details
12.	<p>State a course of action</p> <p>[please refer to action after section 5]</p>	<p>Outcome 2 –</p> <p>No significant or permanent adverse outcomes are expected therefore an ‘outcome 1’ might be appropriate however as all the opportunities to promote equalities have not so far been taken (because it is not yet appropriate to do so because the project is not yet at a design stage) an Outcome 2 is given. :</p> <p><b>Where: -</b></p> <p><b>Outcome 1: No major change required - EIA has not identified any potential for adverse impact in relation to equalities and all opportunities to promote equality have been taken.</b></p> <p><b>Outcome 2: Adjustments to remove barriers – Action to remove the barriers identified in relation to equalities have been taken or actions identified to better promote equality.</b></p> <p><b>Outcome 3: Continue with proposal - Despite having identified some potential for adverse impact / missed opportunities in relation to equalities or to promote equality. Full justification required, especially in relation to equalities, in line with the duty to have ‘due regard’.</b></p> <p><b>Outcome 4: Stop and rethink – EIA has identified actual or potential unlawful discrimination in relation to equalities or adverse impact has been identified.</b></p>

**Section 5: Monitoring and Action Plan**

No	Action	Details
13.	<p>Outline plans to monitor the actual impact of your proposals</p>	<p>It is recommended the developer liaise with Council officers prior to Contract to ensure their proposals properly address equalities issues and consideration as the developer advances the design of the development scheme.</p>

*Please use the action plan below to summarise all of the key actions, responsible officers and timescales as a result of this impact assessment*

### Action plan

Please detail below any actions you need to take:

No.	Action	Reason for action / contingency	Resources	Responsibility	Deadline date
1	Ensure the operational requirements of Shop Mobility and the Coalition of disabled people are taken into account.			Developer / Project manager / planning Officers	Prior to Contract
2	Developer to submit an Equalities Impact Assessment Plan of its own to the Council prior to contract suggesting ways in which they propose to address equalities issues in the design phase.				
3	The Council to consider the Developers Equalities Impact Assessment prior to contract and make comment on the ways in which the development. A report on the process to be provided to the Deputy Mayor by the Project Manager prior to contract.				

# Agenda Item 12



**Meeting:** Council

**Date:** 6 February 2013

**Wards Affected:** Wellswood, Tormohun and Ellacombe Wards

**Report Title:** Torquay Inner Harbour Pontoon Berthing Project

**Executive Lead Contact Details:** Jeanette Richards, Executive Lead for Tourism and Environment, (01803) 846004, [Jeanette.richards@torbay.gov.uk](mailto:Jeanette.richards@torbay.gov.uk)

**Supporting Officer Contact Details:** Kevin Mowat, Executive Head of Tor Bay Harbour Authority, (01803) 292429, [Kevin.Mowat@torbay.gov.uk](mailto:Kevin.Mowat@torbay.gov.uk)

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## 1. Purpose

- 1.1 This report provides details of the “Torquay Inner Harbour Pontoon Berthing Project”, which was approved by the Council’s Harbour Committee on 11<sup>th</sup> June 2012. The project proposes to replace the existing chain moorings with new pontoon moorings in Torquay’s inner harbour. It is the aim of this report to provide the Council with sufficient information to enable them to reach a decision regarding this project.
- 1.2 The Harbour Authority’s existing inner harbour customers at Torquay will benefit from greatly improved mooring facilities. New customers waiting for pontoon berths will ensure that the inner harbour occupancy level is increased significantly. Even more people within Torbay and beyond will have the opportunity and be encouraged to use the Torquay harbour.

## 2. Proposed Decision

- 2.1 That the Harbour Committee’s recommendation to replace the existing chain moorings in Torquay’s inner harbour be approved.
- 2.2 That the Torquay Inner Harbour Pontoon Berthing Project be added to the Council’s Capital Plan and the use of prudential borrowing of approximately £800,000 be approved to enable the scheme to proceed.
- 2.3 That, the Executive Head of Tor Bay Harbour Authority, in consultation with the Chairman of the Harbour Committee and the Mayor, be authorised to use his delegated powers to proceed with the Torquay Inner Harbour Pontoon Berthing Project and that the Torbay Development Agency be asked to provide the necessary project management services.

### **3. Summary and Reasons for recommendations**

- 3.1 To seek the Council's, approval for the Harbour Committee's recommendation to develop pontoon moorings, in Torquay's inner harbour, to replace the existing chain moorings.
  - 3.2 To create improved moorings for local people and those within the sub-region, whilst continuing the development of a sustainable harbour that will meet the needs of the community.
  - 3.3 To raise the overall amenity of the inner harbour at Torquay and improve the quality of the area for the users of the harbour, whether they are boat owners, businesses in the area or others within the community.
- 

### **Supporting Information**

#### **4. Position**

- 4.1 The idea of putting pontoon berths in Torquay's inner harbour has been in circulation for many years but it wasn't until May 2003 when the half-tide cill became operational that the opportunity was properly unlocked. Water is now retained at half-tide and this change to the harbour infrastructure has been shown to be reliable over a number of years.
- 4.2 The success of the Town Dock, which opened in April 2008 in the outer harbour, has shown that there is a clear demand for pontoon berthing. This facility enjoys healthy waiting lists and the occupancy rate has effectively been 100% from the first day.
- 4.3 On the 22<sup>nd</sup> June 2009 the Harbour Committee considered Report 150/2009 which provided an overview of a project that would replace the existing chain moorings with pontoon berths in Torquay's inner harbour. In minute 106/2009 the Harbour Committee noted the report and agreed that a 'Key Decision' entry should be submitted for inclusion in the Council's Forward Plan. A Forward Plan entry (Ref. 25/2009) was subsequently made but the entry was later withdrawn because the project was not seen as being sufficiently imminent to warrant inclusion. More recently a new Forward Plan entry has been made.
- 4.4 The relentless high demand for Town Dock berths, ongoing support from harbour users and the news regarding the South Devon link road, which will open up a wider catchment area, have all combined to encourage the Harbour Authority to seek a decision now, to move this project forward.

- 4.5 The drawing in Appendix 1 shows a proposed layout that will deliver 173 berths to replace 173 moorings. It is expected that access to the pontoons will be via a bridge located close to an overflow taxi rank (actually located on the harbour estate) on Victoria Parade. As the capacity of the harbour will not change there should not be any concerns regarding additional vehicular traffic or the need for increased car parking capacity. The area adjacent to the access bridge can serve as a drop off and pick up location during daylight hours and could well continue with its taxi use at night. This would not be dissimilar to its current use.
- 4.6 The Council has a lease with Marina Developments Ltd (MDL) in connection with Torquay Marina and ancillary buildings which contains various obligations for consultation with MDL should the Council wish to construct a new 'marina' within an area extending to one nautical mile from the extremity of Princess Pier. The definition of the word 'marina' is defined in the lease as "any system of berthing vessels giving pedestrian access from the berth to the shore, but shall not include the provision of berthing for visiting vessels exhibitions and landing".
- 4.7 When considering the development of the Town Dock the Council initially considered these obligations to be binding and consequently entered into lengthy, subject to contract, negotiations with MDL in relation to the construction of the Town Dock in the outer harbour at Torquay. However, the Council found it necessary to obtain Counsel's opinion on the relevant provisions and Counsel found them to be for the most part unenforceable due to the wording being unenforceable in law. Also, the relevant lease provisions fell foul of the Council's public law duties and accordingly the Council believe they are free to deal with their harbour duties and powers without being fettered by the pre-existing MDL lease provisions.
- 4.8 Consequently the opinion of Counsel was set out to MDL and their solicitors but they have neither confirmed acceptance of, nor denied, its validity. However, in the spirit of a good landlord and tenant relationship the Executive Head of Tor Bay Harbour Authority, the Harbour Committee Chairman and the Mayor have met with MDL to discuss the Council's intention to upgrade the inner harbour chain moorings to pontoon berths.
- 4.9 Given the current state of the economy and so as to provide plenty of time for procurement, this design and build project, if agreed, will not commence until the winter of 2013/14.
- 4.10 The Torbay Development Agency's capital projects team will be asked to assist the Executive Head of Tor Bay Harbour Authority to procure the Torquay Inner Harbour Pontoon Berthing Project scheme using experienced piling contractors and pontoon manufacturers, under the guidance of a suitable Project Board team. A design and build contract will be used based on a very clear brief (Appendix 2 shows a draft outline of the Project Brief). If the Council supports the Torquay Inner Harbour Pontoon Berthing Project scheme, as recommended by the Harbour Committee, then it is expected that the development will be open for use by April 2014. A

Harbour Revision Order already exists which gives statutory approval to this scheme and planning consent is not therefore required.

- 4.11 The cost of the proposed Torquay Inner Harbour Pontoon Berthing Project scheme has been identified as approximately £800,000. This figure has been determined from information provided by Solent Marine who were involved in the construction of the Town Dock. As Solent Marine is a leading marina contractor this development cost is considered by Executive Head of Tor Bay Harbour Authority to be suitably accurate. Similarly the revenue operating costs have been taken from the Harbour Authority's experience of managing the Town Dock over the last five years.
- 4.12 At an estimated cost of £800,000 this project cannot be funded directly from the harbour reserve fund, although it could be part funded from the reserve fund. Therefore, other than allowing a third party to own and operate the facility the Torquay Inner Harbour Pontoon Berthing Project can only be funded by way of prudential borrowing. Given the way that prudential borrowing works the harbour account would be required to budget to repay the cost of the principal and interest over a period no longer than the life of the asset. Based on the expected cost of £800,000 and an asset life of 20 years, this would cost the harbour account £61,821 per annum. If the asset life is assumed to be 25 years then the cost to the harbour account would reduce to £54,285 per annum.
- 4.13 A new Torquay Inner Harbour Pontoon Berthing Project would naturally attract a revised level of charging to reflect the obvious improvement in the quality of mooring provision and to generate sufficient income to pay for borrowing. As part of a consultation exercise a new combined charge (including harbour dues & mooring fees) has been suggested at £129.95 per metre (plus VAT) per annum, being half way between the existing chain mooring rate (including harbour dues & mooring fees) of £91.07 per metre (plus VAT) per annum and the current Town Dock rate. This figure was then used to provide a detailed analysis of costs and incomes associated with the Torquay Inner Harbour Pontoon Berthing Project scheme, using the Town Dock assessment of running costs and an assessment of income at different occupancy rates. The analysis is attached to this report as Appendix 3.
- 4.14 The assessment that is Appendix 3 utilises the known maintenance costs of the Town Dock less the saving on existing maintenance regimes, Harbour Authority income estimates (based on £129.95 per metre) including a 3-year phased uplift of existing mooring holders to the new Torquay Inner Harbour Pontoon Berthing rate and a 20-year/25-year repayment period under prudential borrowing rules for a £800,000 investment. The table indicates that net operating income is sufficient to meet annual principal and interest repayments. At the end of a 20-year term, it is estimated that a net income surplus of £569,562 could be generated for investment in harbour infrastructure and services plus possible early repayment of some of the loan principal. A 25-year term could deliver a surplus of £700,565.

- 4.15 A range of sensitivity analyses have also been undertaken to assess the impact of changes to some of the variables i.e. income and expenditure. Thus an inflation rate of 2.5 % per annum has been added to the operating expenditure heads. A 70% occupancy rate has been used in the 25 year plan and an occupancy rate of 80% has been used in the 20 year plan. Furthermore it has been assumed that prices will increase on average by 2.5% per annum. Income forecasts for both the 20 year and 25 year plans have assumed that existing customers remain on the current rate of harbour charges but if a 3-year staged increase is approved then a further minimum income of £6,700 can be achieved in years one, two and three. Obviously an increase in the construction costs will incur an annual increase in principal and interest repayments and similarly any increase in annual operating costs will incur annual increases in expenditure. However, given that the predicted surplus and the potential additional income from existing customers can both be used to support additional borrowing and if necessary the harbour reserve fund could be used to reduce the initial or subsequent level of borrowing; the scheme is considered to be financially viable.
- 4.16 The Torquay Inner Harbour Pontoon Berthing Project will improve access to moorings for harbour customers and the community. There are no obvious negative impacts in respect of environmental sustainability or crime and disorder.

## **5. Possibilities and Options**

- 5.1 To continue with the existing provision of chain moorings, without providing improved mooring opportunities for local people. This option would still require some considerable capital investment because new ground chains would be required throughout the inner harbour and it would mean that the unsightly tender racks would remain on the top of the old inner harbour slipway. Furthermore the Harbour Authority would need to enter into a costly contract for mooring maintenance using professional diving services.
- 5.2 To allow MDL, or another operator, to develop, own and manage a pontoon berthing facility in Torquay's inner harbour. Based on the existing rental terms for Torquay Marina this option does not improve the income received from the existing inner harbour moorings (assuming occupancy rates returned to previous levels). This option would not sit well with the harbour user group or the Harbour Liaison Forum who have always promoted a Council run facility.

## **6. Preferred Solution/Option**

- 6.1 That the proposal to replace the existing chain trot moorings in Torquay's inner harbour is approved and that the new facility is owned and managed by Tor Bay Harbour Authority on behalf of Torbay Council.

## 7. Consultation

7.1 On the 2<sup>nd</sup> June 2009 the Executive Head of Tor Bay Harbour Authority advised the Torquay & Paignton Harbour Liaison Forum that in line with the Tor Bay Harbour and Maritime Strategy he was considering further improvements to harbour facilities and infrastructure. The Forum was asked for their views on the idea of replacing the Torquay inner harbour chain moorings with pontoon berths. An indicative drawing of the pontoon layout (similar to Appendix 1) was circulated for discussion. After a brief debate the Forum broadly supported the idea but several people recognised that the pricing structure would need careful consideration.

7.2 In 2009 as part of the Harbour Authority's Annual Users Survey customers were asked the following questions :-

- (i) Do you think Tor Bay Harbour should provide further pontoon moorings for use by annual berth holders ?
- (ii) Where would you like to see further pontoon berthing ?
- (iii) Which market sector should the Harbour Authority target for its pontoon berthing ?

In response to these questions 86.6% said yes to Question (i), 80% of Torquay respondents said 'Torquay inner harbour' and 54% said the market sector should be 'Town Dock' style i.e. limited water/electricity, basic security, local priority and pricing similar to the Town Dock. The 2012 Annual Users Survey response to the market sector Question gave 86% in support of a 'Town Dock' style facility with limited water/electricity, basic security and local priority.

7.3 On the 29<sup>th</sup> May 2012 the Torquay & Paignton Harbour Liaison Forum were provided with a sketch (similar to Appendix 1) of the proposed Torquay Inner Harbour Pontoon Berthing scheme and the Executive Head of Tor Bay Harbour Authority gave an overview of the project. Consequently the Liaison Forum provided unanimous support for the moorings upgrade.

7.4 This season the Harbour Authority conducted a survey of existing Town Dock customers, those on the Town Dock waiting list and existing Inner Harbour customers. The main results are set out below :-

13 Town Dock customers would consider a new inner harbour berth

8 Town Dock waiting list customers would consider a new inner harbour berth while they waited for a Town Dock berth

80% of Inner Harbour customers who responded would welcome a new pontoon style berth

7.5 On 23<sup>rd</sup> July 2012 the Mayor, the Harbour Committee Chairman and the Executive Head of Tor Bay Harbour Authority met with Marina Developments Ltd. Feedback from the Managing Director of MDL indicated that they were concerned that they

might be damaged or disadvantaged by the Council's proposals. Subsequently the Executive Head of Tor Bay Harbour Authority provided MDL with some reassurance regarding the scale of the project and the target market.

7.6 Relevant Council officers and a number of taxi drivers have been approached regarding the Victoria Parade location for the embarkation bridge. No concerns were forthcoming.

## **8. Risks**

8.1 There is a risk that the harbour account may not be able to meet the cost of the prudential borrowing. However, a financial sensitivity analyses has been undertaken, drawn from Appendix 3 and this is detailed in paragraph 4.15.

8.2 There is a risk that the inner harbour half-tide cill could fail and boats moored on the new pontoons would subsequently sustain damage if the water level fell too low. To mitigate against this risk the inner harbour half-tide cill is the subject of a clear planned maintenance regime which includes regular underwater inspections. Furthermore, harbour staff are trained to operate emergency procedures, with an alternative power pack in the event of a power failure.

8.3 As detailed in 4.6 and 4.7 above, there is a risk that MDL might see this project as a 'marina' and use the terms of their lease to challenge the Council's right to replace the existing inner harbour chain moorings with new pontoon berths.

8.4 There is a residue risk that Torquay harbour may be unable to grow its reputation for high quality maritime facilities if the Torquay Inner Harbour Pontoon Berthing Project is not developed.

8.5 An environmental risk always exists if any boat discharges pollution into the harbour but in this location, behind a half-tide cill, the problem would be more apparent and could be more damaging. Even though the proposed pontoon berthing project will not increase the mooring capacity in this area of the harbour the occupancy rate is expected to rise considerably. Also, the improved facilities will encourage greater use of craft by their owners and consequently the possibility of people staying on their boats overnight. This environmental risk will be mitigated by educating customers and backing this up with the threat of bye-law enforcement. Furthermore, it might be possible to provide some quayside toilets adjacent to the access bridge on Victoria Parade or on pontoons within the structure itself.

## **Appendices**

Appendix 1 Torquay Inner Harbour - Proposed Pontoon Layout

Appendix 2 Torquay Inner Harbour Pontoon Berthing Project Brief

- Appendix 3            Detailed Analysis of Costs and Incomes Associated with the Torquay Inner Harbour Pontoon Berthing Project
- Appendix 4            Equality Impact Assessment

**Additional Information**

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

Torquay Inner Harbour Pontoon Berthing Project – Harbour Committee Report 11/6/12

Torquay Harbour Town Dock Report - Report 172/2006

Torquay Inner Harbour Pontoon Berthing Project – June 2009

Torquay Inner Harbour Pontoon Berthing Project – Forward Plan entry Ref. 25/2009 & I009414

Lease Agreement for Torquay Marina (5<sup>th</sup> October 1987)



**Appendix 2**

**Tor Bay Harbour Authority**

**TORQUAY INNER HARBOUR PONTOON BERTHING PROJECT BRIEF**

1. The project is intended to replace 173 trot moorings with a piled system of pontoon berths, linked to the shore with an access bridge.
2. The main purpose of providing the berthing will be for use by local resident boats and customers in the wider South Devon sub region.
3. A site plan of the available harbour area is attached.
4. The project should be able to accommodate 173 craft ranging in size from 6metres to 10metres in length.
5. The craft on existing chain moorings range in length from 4.87metres to 9.14metres.
6. The use of finger pontoons should be utilised.
7. Power and water services are not required to individual berths but can be made available to each arm of finger pontoons.
8. Adequate pontoon lighting and navigation lights should be installed.
9. The project is aimed at local boat owners that desire an affordable berth. A comprehensive service normally associated with a Marina will not be required. i.e. 24-hour staff cover, power and water supply easily accessible to each berth, the provision of a laundrette and similar ancillary facilities.
10. Pontoon decking should be based on the need for durability rather than comfort, the use of concrete should be considered if it provides sufficient advantages. An indication of the likely maintenance cycle and associated costs should be given for any recommended system.
11. Borehole ground investigations have previously been carried out and the results of these investigations are available on request.
12. A full bathymetric survey of the harbour is also available on request. Dredging is not considered necessary given the size of the target craft.

13. Safe fairways must exist around the pontoons to allow access to the half-tide cill.
14. Consideration should be given to a floating pump-out station and/or a limited number of floating toilet facilities.
15. An access bridge for pedestrians and trolleys, with a security gate, should be located off Victoria Parade. The bridge landing pontoon should be large enough to accommodate trolley storage and waste bins.
16. The existing chain moorings system will need to be removed and the contractor will need to work around a number of moored craft.
17. The project must follow the Code of Practice for the Design, Construction and Operation of Coastal and Inland Marinas and Yacht Harbours produced by the British Marine Industries Federation.

**June 2012**

**DETAILED ANALYSIS OF COSTS AND INCOMES ASSOCIATED WITH TORQUAY INNER HARBOUR PONTOON SCHEME**

Year	Year	Year	Year	Year	Year	Year	TOTALS																		
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	
£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	
2,000	2,100	2,200	2,300	2,400	2,500	2,600	2,700	2,800	2,900	3,000	3,100	3,200	3,300	3,400	3,500	3,600	3,700	3,800	3,900	4,000	4,100	4,200	4,300	4,400	80,000
1,300	1,320	1,340	1,360	1,380	1,400	1,420	1,440	1,460	1,480	1,500	1,520	1,540	1,560	1,580	1,600	1,620	1,640	1,660	1,680	1,700	1,720	1,740	1,760	1,780	8,500
4,729	4,700	4,600	4,500	4,400	4,300	4,200	4,100	4,000	3,900	3,800	3,700	3,600	3,500	3,400	3,300	3,200	3,100	3,000	2,900	2,800	2,700	2,600	2,500	2,400	23,800
4,539	4,700	4,800	4,900	5,000	5,100	5,200	5,300	5,400	5,500	5,600	5,700	5,800	5,900	6,000	6,100	6,200	6,300	6,400	6,500	6,600	6,700	6,800	6,900	7,000	8,000
14,409	14,820	15,120	15,420	15,720	16,020	16,320	16,620	16,920	17,220	17,520	17,820	18,120	18,420	18,720	19,020	19,320	19,620	19,920	20,220	20,520	20,820	21,120	21,420	21,720	157,250
(121,041)	(124,067)	(127,200)	(130,400)	(133,700)	(137,000)	(140,400)	(143,900)	(147,500)	(151,200)	(155,000)	(158,900)	(162,900)	(167,000)	(171,200)	(175,500)	(179,900)	(184,400)	(189,000)	(193,700)	(198,500)	(203,500)	(208,600)	(213,800)	(219,100)	(4,137,408)
(108,632)	(109,247)	(112,080)	(114,980)	(117,960)	(121,040)	(124,240)	(127,580)	(131,080)	(134,740)	(138,560)	(142,560)	(146,740)	(151,100)	(155,640)	(160,360)	(165,260)	(170,340)	(175,600)	(181,040)	(186,660)	(192,460)	(198,440)	(204,580)	(210,880)	(3,624,939)
54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	54,285	1,357,125
(62,347)	(64,962)	(67,795)	(70,795)	(73,995)	(77,395)	(80,995)	(84,795)	(88,795)	(92,995)	(97,395)	(101,995)	(106,795)	(111,795)	(116,995)	(122,395)	(127,995)	(133,795)	(139,795)	(145,995)	(152,395)	(158,995)	(165,795)	(172,795)	(179,995)	(2,267,714)
(62,347)	(107,309)	(165,104)	(225,799)	(289,494)	(353,689)	(423,454)	(496,479)	(566,174)	(644,999)	(727,304)	(810,119)	(895,734)	(993,049)	(1,096,764)	(1,187,679)	(1,292,494)	(1,392,909)	(1,506,824)	(1,622,939)	(1,740,354)	(1,866,269)	(1,988,784)	(2,127,699)	(2,267,714)	(44,180)
(1,300)	(1,330)	(1,360)	(1,390)	(1,420)	(1,460)	(1,500)	(1,540)	(1,580)	(1,620)	(1,660)	(1,700)	(1,740)	(1,780)	(1,820)	(1,870)	(1,920)	(1,970)	(2,020)	(2,070)	(2,120)	(2,170)	(2,220)	(2,280)	(2,340)	(2,340)
47,229	48,400	49,600	50,800	52,100	53,400	54,700	56,100	57,500	58,900	60,400	61,900	63,400	65,000	66,600	68,300	70,000	71,800	73,600	75,400	77,300	79,200	81,200	83,200	85,300	1,611,329
(6,419)	(7,892)	(9,555)	(11,285)	(13,015)	(14,755)	(16,595)	(18,435)	(20,275)	(22,115)	(23,955)	(25,795)	(27,635)	(29,475)	(31,315)	(33,155)	(34,995)	(36,835)	(38,675)	(40,515)	(42,355)	(44,195)	(46,035)	(47,875)	(49,715)	(700,565)
(6,419)	(14,310)	(23,865)	(35,150)	(48,165)	(60,420)	(77,015)	(95,450)	(109,225)	(130,760)	(154,335)	(176,950)	(204,905)	(235,000)	(263,935)	(296,420)	(335,155)	(365,740)	(407,075)	(450,860)	(493,095)	(541,980)	(593,515)	(643,510)	(700,565)	(700,565)

**Notes:**

1. Inflation of 2.5% per annum added to operating expenditure heads.
- 1a. Although these costs are incurred every 10 years, the assessment assumes an annual set aside to meet this expenditure by year 10, thus smoothing the cost.
2. Current Training, Cleaning, Electricity, Consumables, P & S and Communication.
3. Assumes 70% capacity year 1 and that charges are increased in line with inflation each year (2.5% in this assessment).
4. Based on equal annual repayments of principal and interest over 25 years.
5. Existing income & expenditure of current trot moorings that will be forgone.

**DETAILED ANALYSIS OF COSTS AND INCOMES ASSOCIATED WITH TORQUAY INNER HARBOUR PONTOON SCHEME**

Note	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15	Year 16	Year 17	Year 18	Year 19	Year 20	TOTAL
£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£	£
1. Annual Operating Costs:	2,000	2,100	2,200	2,300	2,400	2,500	2,600	2,700	2,800	2,900	3,000	3,100	3,200	3,300	3,400	3,500	3,600	3,700	3,800	3,900	59,000
1. Repairs & Maintenance Annual						2,500	2,600	2,700	2,800	2,900	3,000	3,100	3,200	3,300	3,400	3,500	3,600	3,700	3,800	3,900	59,000
1. Every 3rd Year						2,500	2,600	2,700	2,800	2,900	3,000	3,100	3,200	3,300	3,400	3,500	3,600	3,700	3,800	3,900	59,000
1. Every 6th Year						2,500	2,600	2,700	2,800	2,900	3,000	3,100	3,200	3,300	3,400	3,500	3,600	3,700	3,800	3,900	59,000
1a. Every 10th Year but set aside to fund Rates	3,120	3,120	3,120	3,120	3,120	3,120	3,120	3,120	3,120	3,120	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	4,000	68,000
1. Other Operating costs	4,539	4,700	4,800	4,900	5,000	5,100	5,200	5,300	5,400	5,500	5,600	5,700	5,800	5,900	6,000	6,200	6,400	6,600	6,800	7,000	122,339
2.	4,570	4,700	4,800	4,900	5,000	5,100	5,200	5,300	5,400	5,500	5,600	5,700	5,800	5,900	6,000	6,200	6,400	6,600	6,800	7,000	122,339
	14,229	14,820	14,920	15,220	15,620	18,320	16,120	16,420	23,320	17,900	18,200	21,800	18,800	19,100	22,800	19,900	20,400	29,300	21,400	21,900	379,869
3. Annual income: Mooring Fees	(131,950)	(135,200)	(138,600)	(142,100)	(145,700)	(149,300)	(153,000)	(156,800)	(160,700)	(164,700)	(168,800)	(173,000)	(177,300)	(181,700)	(186,200)	(190,900)	(195,700)	(200,600)	(205,600)	(210,700)	(3,368,650)
<b>Net Annual Operating Surplus:</b>	<b>(117,721)</b>	<b>(120,580)</b>	<b>(123,680)</b>	<b>(126,880)</b>	<b>(130,180)</b>	<b>(133,980)</b>	<b>(138,880)</b>	<b>(140,380)</b>	<b>(137,380)</b>	<b>(146,800)</b>	<b>(160,800)</b>	<b>(151,400)</b>	<b>(158,500)</b>	<b>(162,800)</b>	<b>(163,400)</b>	<b>(171,000)</b>	<b>(175,300)</b>	<b>(171,300)</b>	<b>(184,200)</b>	<b>(188,800)</b>	<b>(2,398,500)</b>
4. Principal repayment on Loan of £800k.	61,821	61,821	61,821	61,821	61,821	61,821	61,821	61,821	61,821	61,821	61,821	61,821	61,821	61,821	62,321	62,821	63,321	63,821	64,321	64,821	1,246,920
<b>Net annual (Surplus)/Deficit</b>	<b>(55,900)</b>	<b>(58,759)</b>	<b>(61,859)</b>	<b>(65,059)</b>	<b>(68,359)</b>	<b>(71,159)</b>	<b>(74,059)</b>	<b>(77,559)</b>	<b>(75,559)</b>	<b>(84,979)</b>	<b>(88,779)</b>	<b>(89,579)</b>	<b>(86,679)</b>	<b>(100,779)</b>	<b>(101,079)</b>	<b>(108,179)</b>	<b>(111,979)</b>	<b>(107,479)</b>	<b>(119,879)</b>	<b>(123,979)</b>	<b>(1,741,641)</b>
<b>Cumulative (Surplus)/Deficit</b>	<b>(55,900)</b>	<b>(114,659)</b>	<b>(176,518)</b>	<b>(241,577)</b>	<b>(309,936)</b>	<b>(379,095)</b>	<b>(454,154)</b>	<b>(532,713)</b>	<b>(608,272)</b>	<b>(688,251)</b>	<b>(782,030)</b>	<b>(871,609)</b>	<b>(968,288)</b>	<b>(1,069,067)</b>	<b>(1,170,146)</b>	<b>(1,278,325)</b>	<b>(1,390,304)</b>	<b>(1,497,783)</b>	<b>(1,617,662)</b>	<b>(1,741,641)</b>	
5. Less: existing mooring mtc. costs	(1,300)	(1,320)	(1,360)	(1,390)	(1,420)	(1,460)	(1,500)	(1,540)	(1,580)	(1,620)	(1,660)	(1,700)	(1,740)	(1,780)	(1,820)	(1,870)	(1,920)	(1,970)	(2,020)	(2,070)	(33,050)
5. Less: loss or existing trot mooring inc.	47,229	46,400	49,600	50,800	52,100	53,400	54,700	56,100	57,500	58,900	60,400	61,900	63,400	65,000	66,600	68,300	70,000	71,800	73,600	75,400	1,205,129
<b>Net annual (Surplus)/Deficit</b>	<b>(9,971)</b>	<b>(11,689)</b>	<b>(13,619)</b>	<b>(15,649)</b>	<b>(17,679)</b>	<b>(17,219)</b>	<b>(21,859)</b>	<b>(23,999)</b>	<b>(19,639)</b>	<b>(27,699)</b>	<b>(30,039)</b>	<b>(29,379)</b>	<b>(35,019)</b>	<b>(37,559)</b>	<b>(36,299)</b>	<b>(41,749)</b>	<b>(43,899)</b>	<b>(37,649)</b>	<b>(48,299)</b>	<b>(50,649)</b>	<b>(569,552)</b>
<b>Cumulative (Surplus)/Deficit</b>	<b>(9,971)</b>	<b>(21,660)</b>	<b>(35,279)</b>	<b>(50,928)</b>	<b>(68,607)</b>	<b>(85,826)</b>	<b>(107,685)</b>	<b>(131,684)</b>	<b>(151,323)</b>	<b>(179,022)</b>	<b>(209,051)</b>	<b>(238,440)</b>	<b>(273,459)</b>	<b>(311,018)</b>	<b>(347,317)</b>	<b>(389,066)</b>	<b>(432,965)</b>	<b>(470,614)</b>	<b>(518,913)</b>	<b>(569,562)</b>	

- Notes:
1. Inflation of 2.5% per annum added to operating expenditure heads.
  - 1a. Although these costs are incurred every 10 years, the assessment assumes an annual set aside to meet this expenditure by year 10, thus smoothing the cost.
  2. Cost of Training, Cleaning, Electricity, Consumables, P & S and Communication.
  3. Assumes 80% capacity year 1 and that charges are increased in line with inflation each year (2.6% in this assessment).
  4. Based on equal annual repayments of principal and interest over 20 years.
  5. Existing income & expenditure of current trot moorings that will be forgone.

## Equality Impact Assessment (EIA):

<b>Name of Report/Proposal/Strategy:</b>	Torquay Inner Harbour Pontoon Berthing Project
<b>Name (Key Officer/Author):</b>	Kevin Mowat Tor Bay Harbour Authority
<b>Position:</b>	Executive Head of Tor Bay Harbour Authority 01803 292429
<b>Date:</b>	15 <sup>th</sup> November 2012 Kevin.Mowat@torbay.gov.uk

Since the Equality Act 2010 came into force the council has continued to be committed to ensuring we provide services that meet the diverse needs of our community as well as ensure we are an organisation that is sensitive to the needs of individuals within our workforce. This Equality Impact Assessment (EIA) has been developed as a tool to enable business units to fully consider the impact of proposed decisions on the community.

This EIA will evidence that you have fully considered the impact of your proposal / strategy and carried out appropriate consultation with key stakeholders. The EIA will allow Councillors and Senior Officers to make informed decisions as part of the council's decision-making process.

### Relevance Test – ‘A Proportionate Approach’

Not all of the proposals or strategies we put forward will be ‘relevant’ in terms of the actual or potential impact on the community in relation to equality and vulnerable groups. For instance, a report on changing a supplier of copier paper may not require an EIA to be completed whereas a report outlining a proposal for a new community swimming pool or a report proposing a closure of a service would.

Therefore before completing the EIA please answer the following questions. If you answer ‘yes’ to any of the questions below you must complete a full EIA.

1)	<b>Does this report relate to a key decision?</b>	Y
2)	<b>Will the decision have an impact (i.e. a positive or negative effect/change) on any of the following:</b> <ul style="list-style-type: none"> <li>• The Community (including specific impacts upon the vulnerable or equality groups)</li> <li>• Our Partners</li> <li>• The Council (including our structure, ‘knock-on’ effects for other business units, our reputation, finances, legal obligations or service provision)</li> </ul>	Y Y Y

**Section 1: Purpose of the proposal/strategy/decision**

No	Question	Details
1.	Clearly set out the purpose of the proposal	<p>The inner harbour mooring facilities comprise of 173 'trot' or fore and aft style moorings. This traditional type of mooring vessels in close proximity to each other is no longer compatible with modern boat configurations. The moorings are arranged by a series of chains which attach to the seabed. The entire system is nearing its effective life end unless substantial repair &amp; maintenance works are put into place. This provides the opportunity to upgrade and improve this area of the harbour closest to the town centre, bringing it into line and standard with the outer harbour facilities.</p> <p>The proposal is to withdraw all trot mooring facilities and replace with modern 'fit for purpose' pontoon berths to cater for the same size and number of vessels in the inner harbour. This provides a safer and more secure berth for vessels, is favoured by marine insurance companies, a preferred option for the existing mooring holders, providing a lower level of perceived risk in terms of damage to vessels and theft/vandalism of property and a much improved vista.</p>
2. 2009 241	Who is intended to benefit / who will be affected?	<p>This proposal will directly affect and benefit the existing mooring holders, customers of the Harbour Authority, people on the moorings waiting list for an inner harbour berth and interested parties wishing to secure an affordable berth within Torquay Harbour subject to appropriate catchment area restrictions – preference is to be made to local residents wherever possible. The criteria will be the same as the existing Town Dock and in line with the Moorings Policy.</p> <p>Marina Developments Ltd (Torquay Marina) may be affected although the proposed project is targeting a different market. The capacity in the inner harbour will not be increased and will cater for all existing mooring holders in the first instance.</p> <p>No other stakeholders will be affected significantly.</p>
3.	What is the intended outcome?	<ul style="list-style-type: none"> <li>• Improved modern pontoon berthing facilities</li> <li>• Safer berthing with easier access, especially those with health &amp; mobility issues</li> <li>• Lower perceived risk – damage to boats – sinking boats – theft</li> <li>• Better maintained craft due to improved access</li> </ul>

No	Question	Details
		<ul style="list-style-type: none"> <li>• Increase in customer safety with walk on access to boats as opposed to use of individual tenders</li> <li>• Removal of unsightly tender racks on the inner harbour slipway</li> <li>• Increased mooring occupancy and increased income</li> <li>• Demand for more desirable facilities and a positive reputational impact</li> </ul>

## Section 2: Equalities, Consultation and Engagement

Torbay Council has a moral obligation as well as a duty under the Equality Act 2010 to eliminate discrimination, promote good relations and advance equality of opportunity between people who share a protected characteristic and people who do not.

The **Equalities, Consultation and Engagement** section ensures that, as a council, we take into account the Public Sector Equality Duty at an early stage and provide evidence to ensure that we fully consider the impact of our decisions / proposals on the Torbay community.

### Evidence, Consultation and Engagement

No	Question	Details												
4.	Have you considered the available evidence?	<p>Torbay Harbour Annual User Surveys show clear evidence of demand for such facilities.</p> <p><b>2012:</b></p> <p>Q: Do you think that Tor Bay Harbour should provide further pontoon moorings for use by annual berth holders?</p> <table border="1"> <thead> <tr> <th></th> <th>Number</th> <th>Percent</th> </tr> </thead> <tbody> <tr> <td>Yes</td> <td>95</td> <td>81.2%</td> </tr> <tr> <td>No</td> <td>22</td> <td>18.8%</td> </tr> <tr> <td><b>Total</b></td> <td><b>117</b></td> <td><b>100.0%</b></td> </tr> </tbody> </table>		Number	Percent	Yes	95	81.2%	No	22	18.8%	<b>Total</b>	<b>117</b>	<b>100.0%</b>
	Number	Percent												
Yes	95	81.2%												
No	22	18.8%												
<b>Total</b>	<b>117</b>	<b>100.0%</b>												
5.	How have you consulted on the proposal?	<p>Consultation on this proposal has been through the Torquay Harbour Users Association, the Torquay &amp; Paignton Harbour Liaison Forum and the Council's Harbour Committee for a number of years now and certainly since 2009. The results of this consultation are outlined below. It has also been the subject of specific questions within the Harbour Authority's Annual User Surveys (see above for 2012 results).</p>												
6.	Outline the key findings	<p>This project has seen high levels of support from those consulted and it is clear recommendation from the Council's Harbour Committee. In 2009 86.6% of Harbour Users agreed that Tor Bay Harbour should provide further pontoon moorings for use by annual berth holders and 80% of Torquay respondents said these should be in Torquay inner harbour. The 2012 Annual Users Survey response to a market sector question gave 86% in support of a 'Town Dock' style facility in Torquay inner harbour.</p>												

No	Question	Details
7.	What amendments may be required as a result of the consultation?	No amendments are currently required as a result of consultation although final detailed design of the scheme can still be influenced by relevant stakeholders through the Torquay/Paignton Harbour Liaison Forum.

## Positive and Negative Equality Impacts

No	Question	Details		
8.	Identify the potential positive and negative impacts on specific groups	<i>It is not enough to state that a proposal will affect everyone equally. There should be more in-depth consideration of available evidence to see if particular groups are more likely to be affected than others – use the table below. You should also consider workforce issues. If you consider there to be no positive or negative impacts use the ‘neutral’ column to explain why.</i>		
		Positive Impact	Negative Impact	Neutral Impact
	All groups in society generally	-	-	-
	Older or younger people	Y – Easier and safer access to boats.	-	-
	People with caring responsibilities	-	-	No differential impact on this group
	People with a disability	Y – if berth holder. Easier and safer access to boats.	-	-
	Women or men	-	-	No differential impact on this group
	People who are black or from a minority ethnic background (BME)	-	-	No differential impact on this group
	Religion or belief (including lack of belief)	-	-	No differential impact on this group
	People who are lesbian, gay or bisexual	-	-	No differential impact on this group
	People who are transgendered	-	-	No differential impact on this group
	People who are in a marriage or civil partnership	-	-	No differential impact on this group
	Women who are pregnant / on maternity leave	-	-	No differential impact on this group

9.	Is there scope for your proposal to eliminate discrimination, promote equality of opportunity and / or foster good relations?	There are no specific opportunities but harbour facilities will be improved for the community as a whole.
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**Section 3: Steps required to manage the potential impacts identified**

No	Action	Details
10.	Summarise any positive impacts and how they will be realised most effectively?	Ease of access to vessel moorings. This impact will be realised by the introduction of a pontoon system with a bridge ramp access to the shore. Benefits will be measured through the Harbour Users Annual Survey and the expected increase in mooring occupancy levels.
11	Summarise any negative impacts and how these will be managed?	This EIA has not identified any potential for adverse impact in relation to equalities

**Section 4: Course of Action**

No	Action	Details
12.	State a course of action [please refer to action after section 5]	<b>Outcome 1: No major change required</b> - EIA has not identified any potential for adverse impact in relation to equalities and all opportunities to promote equality have been taken.

**Section 5: Monitoring and Action Plan**

No	Action	Details
13.	Outline plans to monitor the actual impact of your proposals	As the EIA has not identified any potential for adverse impact in relation to equalities, no specific monitoring requirements have been identified. The Harbour Authority will continue to conduct its Annual Harbour Users Survey.

*Please use the action plan below to summarise all of the key actions, responsible officers and timescales as a result of this impact assessment*

**Action plan**

Please detail below any actions you need to take:

No.	Action	Reason for action / contingency	Resources	Responsibility	Deadline date
1	Conduct an Annual Harbour Users Survey	To monitor any unforeseen impact in relation to equalities.	Tor Bay Harbour Authority business unit	Kevin Mowat	September 2015
2					
3					
4					
5					

## Scheme of Delegation of Executive Functions to the Executive, Committees of the Executive and Officers

This report is presented to the meeting of Council on 6 February 2013 in accordance with Standing Order C4.2(a) for inclusion in the Council's Scheme of Delegation (Schedule 6 to Part 3) of the Constitution of Torbay Council. Following Councillor Tyerman's resignation as Executive for Finance and Audit, this portfolio will be included in the Mayor's area of responsibility until further notice.

1. The names, addresses and wards of the people appointed to the Executive by the Mayor are set out below:

Name	Address	Electoral Ward
Deputy Mayor and Executive Lead for Strategic Planning, Housing and Energy – Councillor David Thomas	54 Lower Fowden Broadsands Paignton TQ4 6HS	Blatchcombe
Executive Lead for Tourism and Environment – Councillor Jeanette Richards	Montana 217 Dartmouth Road Paignton TQ4 6LG	Blatchcombe
Executive Lead for Safer Communities and Transport – Councillor Robert Excell	31 St Michael's Road Decoy Newton Abbot TQ12 1DJ	Tormohun
Executive Lead for Involved and Healthy Communities – Councillor Alison Hernandez	50 Cadewell Lane Shiphay Torquay TQ2 7ER	Shiphay with the Willows
Executive Lead for Children, Schools and Families – Councillor Chris Lewis	7 Lutyens Drive Paignton TQ3 3LA	Preston
Executive Lead for Adult Social Care and Older People – Councillor Christine Scouler	4 Merryland Close Preston Paignton TQ3 1HT	Preston
Executive Lead for Business Planning and Governance – Ken Pritchard	62 Lower Fowden Elbury Cove Paignton TQ4 6HS	Churston with Galmpton
Executive Lead for Culture and the Arts – Councillor Dave Butt	90 Marldon Road Paignton TQ3 3NW	Preston

2. The Mayor is responsible for the discharge of all executive functions (except as specified in paragraph 3. below). Executive Leads will have an advisory role in relation to the areas of responsibility set out below.

	<b>Portfolio</b>	<b>Cross Cutting Issues (Services/Outcomes)</b>	<b>Corporate Lead for:</b>	<b>Main Director/ Executive Head</b>
Mayor Gordon Oliver (Executive Lead for Employment and Regeneration, Finance and Audit)	Employment and Regeneration, Finance and Audit	<ul style="list-style-type: none"> <li>• Built Environment</li> <li>• Employment and Skills</li> <li>• Business support</li> <li>• Regeneration</li> <li>• Business Relocation, Creation and Growth (inc. social enterprise/apprenticeships)</li> <li>• Inward Investment</li> <li>• Property (assets)</li> <li>• Estates</li> <li>• <i>(Torbay Economic Development Company)</i></li> <li>• <i>(Local Enterprise Partnership)</i></li> <li>• <i>(Events Forum)</i></li> <li>• Financial (including Capital and Revenue Budget and Budget Monitoring)</li> <li>• Corporate debt and creditor payments</li> <li>• Revenue and Benefits</li> <li>• Business Rates <i>(Devon Audit Partnership)</i></li> </ul>	<p><b>Prosperity:</b></p> <ul style="list-style-type: none"> <li>■ Job-led regeneration focusing on specific sectors.</li> <li>■ Create the right environment for inward investment.</li> <li>■ Continue to progress with the South Devon Link Road.</li> <li>■ Adhere to sympathetic regeneration.</li> <li>■ Through the Torbay Strategic Partnership encourage public and private sectors to develop employment of apprentices.</li> <li>■ Continued to provide value for money for our communities by: <ul style="list-style-type: none"> <li>○ Reducing costs/increasing income/improving productivity so increases in council tax are kept low.</li> </ul> </li> </ul>	<p>Director of Place and Resources</p> <p>Chief Operating Officer Economic Development Company</p> <p>Director of Place and Resources</p> <p>Executive Head Finance</p>

	Portfolio	Cross Cutting Issues (Services/Outcomes)	Corporate Lead for:	Main Director/ Executive Head
Deputy Mayor and Executive Lead for Strategic Planning, Housing and Energy – Councillor David Thomas	Strategic Planning, Housing, Waste and Energy	<ul style="list-style-type: none"> <li>• Spatial Planning</li> <li>• Housing Standards</li> <li>• Housing Options</li> <li>• Affordable housing</li> <li>• Facilities management</li> <li>• Environmental Policy (including waste and carbon reduction)</li> <li>• Energy</li> <li>• <i>(Waste Disposal (TOR2))</i></li> <li>• <i>(Torbay Strategic Partnership)</i></li> <li>• <i>(Torbay Town Centre Development Forum)</i></li> </ul>	<p><b>Prosperity:</b></p> <ul style="list-style-type: none"> <li>■ Monitor the TOR2 contract for improved recycling, waste and clean streets.</li> <li>■ Support the creation of Town Centres Business Improvement Districts.</li> <li>■ Revitalise the retail offer in the town centres.</li> <li>■ Plan for the supply and demand of energy for the Bay.</li> </ul> <p><b>Health:</b></p> <ul style="list-style-type: none"> <li>■ Reduce local greenhouse gas emissions.</li> </ul> <p><b>Happiness:</b></p> <ul style="list-style-type: none"> <li>■ Ensure an appropriate supply of quality housing within communities.</li> </ul>	<p>Director of Place and Resources</p> <p>Executive Head Spatial Planning</p>

	<b>Portfolio</b>	<b>Cross Cutting Issues (Services/Outcomes)</b>	<b>Corporate Lead for:</b>	<b>Main Director/ Executive Head</b>
Executive Lead for Culture and the Arts – Councillor Dave Butt	Arts, theatres libraries and museums	<ul style="list-style-type: none"> <li>• Culture, museums, archives, theatres, libraries, arts</li> <li>• Libraries supporting education and health</li> <li>• Theatre contracts and arts development grants</li> <li>• Museum grants</li> <li>• Music for schools</li> <li>• <i>(Arts Council Regional Board)</i></li> <li>• <i>(Creative Torbay)</i></li> <li>• <i>(Archives – Devon County Council Partnership)</i></li> <li>• <i>(Cultural Champion for Torbay)</i></li> </ul>	<p><b>Happiness:</b></p> <ul style="list-style-type: none"> <li>■ Work towards creating a sustainable and flourishing leisure, culture and tourism sector that is open to residents and visitors.</li> </ul>	
Executive Lead for Tourism and Environment – Councillor Jeanette Richards	Tourism and Environment	<ul style="list-style-type: none"> <li>• Leisure, beaches, parks and open spaces</li> <li>• Special events</li> <li>• Tor Bay Harbour Authority</li> <li>• <i>(Torbay Coast and Countryside Trust)</i></li> <li>• <i>(English Riviera Tourism Company)</i></li> </ul>	<p><b>Happiness:</b></p> <ul style="list-style-type: none"> <li>■ Work towards creating a sustainable and flourishing leisure, culture and tourism sector that is open to residents and visitors.</li> </ul>	<p>Director of Place and Resources</p> <p>Executive Head Residents and Visitor Services</p> <p>Executive Head Tor Bay Harbour Authority</p>

	<b>Portfolio</b>	<b>Cross Cutting Issues (Services/Outcomes)</b>	<b>Corporate Lead for:</b>	<b>Main Director/ Executive Head</b>
Executive Lead for Safer Communities and Transport – Councillor Robert Excell	Safer Communities and Transport	<ul style="list-style-type: none"> <li>• Safer Communities</li> <li>• Food Safety and Standards</li> <li>• Safety and Licensing</li> <li>• Trading Standards</li> <li>• Community Protection</li> <li>• Emergency Planning</li> <li>• Flooding and Drainage</li> <li>• Corporate Health and Safety</li> <li>• Corporate Security (CCTV, Street Lighting, )</li> <li>• Strategic Transport</li> <li>• Highways management</li> <li>• Parking</li> <li>• Public toilets</li> <li>• Cemeteries and Crematoria</li> <li>• Sport</li> <li>• Tree Services</li> <li>• <i>(Community Safety Partnership)</i></li> <li>• <i>(Riviera International Conference Centre)</i></li> </ul>	<p><b>Prosperity:</b></p> <ul style="list-style-type: none"> <li>■ Lobby to improve rail services.</li> </ul> <p><b>Health:</b></p> <ul style="list-style-type: none"> <li>■ Promote sport and outdoor activity to improve health and wellbeing.</li> </ul> <p><b>Happiness:</b></p> <ul style="list-style-type: none"> <li>■ Work towards keeping crime low by: <ul style="list-style-type: none"> <li>○ Maintaining focus on the night-time economy; and</li> <li>○ Working with the Police Director for resources to ensure crime levels remain low and people feel safe.</li> </ul> </li> <li>■ Make it easier to get around the Bay by developing integrated transport where feasible.</li> </ul>	<p>Director of Public Health</p> <p>Executive Head Community Safety</p> <p>Executive Head Residents and Visitor Services</p>

	<b>Portfolio</b>	<b>Cross Cutting Issues (Services/Outcomes)</b>	<b>Corporate Lead for:</b>	<b>Main Director/ Executive Head</b>
<p>Executive Lead for Involved and Healthy Communities – Councillor Alison Hernandez</p>	<p>Involved and Healthy Communities</p>	<ul style="list-style-type: none"> <li>• Partnerships</li> <li>• Localism</li> <li>• Closing the Gap and Public Health (including Health Improvement and Public Health Commissioning)</li> <li>• Communication</li> <li>• Consultation</li> <li>• Community Development including Community Partnerships</li> <li>• Voluntary Sector Development</li> <li>• Champion for Volunteers</li> <li>• Local Democracy</li> </ul>	<p><b>Health:</b></p> <ul style="list-style-type: none"> <li>■ Continue to work on the Closing the Gap Strategy and roll out to other areas by involving communities.</li> <li>■ Reduce the negative impact of alcohol, obesity, tobacco and drugs on our communities.</li> <li>■ With partners, use the principles of Early Intervention and Early Prevention in supporting communities (joint with Councillors Lewis and Scouler).</li> </ul> <p><b>Happiness:</b></p> <ul style="list-style-type: none"> <li>■ Jointly engage and involve communities to resolve local issues in neighbourhoods.</li> <li>■ Engage with communities in rolling out locality workings and community budgets as part of localism.</li> <li>■ Promote democracy, transparency and civic engagement, and when able to, re-look at the Mayoral System of Governance (joint with Councillor Pritchard)</li> </ul>	<p>Director of Public Health</p> <p>Executive Head Community Safety</p> <p>Executive Head Health Improvement</p>

	<b>Portfolio</b>	<b>Cross Cutting Issues (Services/Outcomes)</b>	<b>Corporate Lead for:</b>	<b>Main Director/ Executive Head</b>
Executive Lead for Children, Schools and Families – Councillor Chris Lewis	Children, Schools and Families	<ul style="list-style-type: none"> <li>• Safeguarding and wellbeing</li> <li>• Early Intervention</li> <li>• Family Intervention Project</li> <li>• Intensive Family Support Services</li> <li>• Domestic Abuse Services</li> <li>• School Improvement</li> <li>• School Leadership</li> <li>• Youth Offending Team</li> <li>• Youth, Childrens and Family Centres</li> <li>• Early Years Services</li> <li>• Integrated Locality Teams 0-19</li> <li>• Children’s Commissioning (<i>Children’s Trust</i>)</li> <li>• (<i>Health and Wellbeing Board</i>)</li> </ul>	<p><b>Prosperity:</b></p> <ul style="list-style-type: none"> <li>■ Raise skills levels by working with schools and South Devon College to meet the standards set by the Department for Education for attainment and attendance.</li> <li>■ Tackling child poverty</li> </ul> <p><b>Health:</b></p> <ul style="list-style-type: none"> <li>■ Continue to improve Children safeguarding (joint with Councillor Scouler on Adults safeguarding).</li> <li>■ With partners, use the principles of Early Intervention and Early Prevention in supporting communities (joint with Councillors Hernandez and Scouler).</li> <li>■ Reduce teenage pregnancy.</li> </ul>	<p>Director of Children’s Services</p> <p>Director of Public Health</p> <p>Executive Head Safeguarding and Wellbeing</p>

	<b>Portfolio</b>	<b>Cross Cutting Issues (Services/Outcomes)</b>	<b>Corporate Lead for:</b>	<b>Main Director/ Executive Head</b>
Executive Lead for Adult Social Care and Older People – Councillor Christine Scouler	Adult Social Care and Older People	<ul style="list-style-type: none"> <li>• Adult Services</li> <li>• Older People</li> <li>• Supporting People</li> <li>• <i>(Torbay Care Trust)</i></li> </ul>	<b>Health:</b> <ul style="list-style-type: none"> <li>■ Continue to improve Adults safeguarding (joint with Councillor Lewis on Children safeguarding).</li> <li>■ With partners, use the principles of Early Intervention and Early Prevention in supporting communities (joint with Councillors Lewis and Hernandez)</li> </ul>	Director of Adult Services and Resources
Executive Lead for Business Planning and Governance – Ken Pritchard	Business Planning, Governance and Member Development	<ul style="list-style-type: none"> <li>• Performance</li> <li>• Human Resources and Organisational Development (including Payroll)</li> <li>• Business Change and Programme Support</li> <li>• Risk Management</li> <li>• Information Services</li> <li>• Commercial Services</li> <li>• Governance</li> <li>• <i>(Local Enterprise Partnership)</i></li> </ul>	<b>Prosperity:</b> <ul style="list-style-type: none"> <li>■ Continued to provide value for money for our communities by: <ul style="list-style-type: none"> <li>○ Reviewing the structures of the Council so they are still fit for purpose.</li> </ul> </li> </ul> <b>Happiness:</b> <ul style="list-style-type: none"> <li>■ Promote democracy, transparency and civic engagement, and when able to, re-look at the Mayoral System of Governance (joint with Councillor Hernandez)</li> </ul>	Director of Adult Services and Resources  Director of Place and Resources  Executive Head Information Services  Executive Head Commercial Services  Executive Head Business Services

3.
  - (i) The Deputy Mayor will be responsible for the discharge of all executive functions relating to the regeneration of the Castle Circus area of Torquay as the Mayor owns properties in this area and has a personal and prejudicial interest;
  - (ii) the Deputy Mayor will be responsible for the discharge of executive functions if the Mayor:
    - (a) is absent (e.g. on holiday) for a period of time or in cases of urgency where the Chief Operating Officer is satisfied that the Mayor cannot be reasonably contacted;
    - (b) is incapacitated through illness; or
    - (c) has a person prejudicial interest in any matter requiring determination.
  - (iii) If the Mayor or the Deputy Mayor (Councillor David Thomas) are unable to act on a matter requiring a decision then the Chief Operating Officer shall have the power to determine any matter requiring a decision.
4. No executive committees have been appointed at the present time.
5. No executive functions have been delegated to area committees, any other authority or any joint arrangements at the present time.
6. The Mayor has also (so far as lawful) delegated to officers the discharge of those functions that are referred to in Schedule 7 and are executive functions in the manner set out in that Schedule, in accordance with (and subject to) the Council's Standing Orders in relation to the Executive.
7. So far as the Constitution requires officers to consult with "the relevant member", the areas of responsibility of the Executive Leads are as set out paragraph 2 above.