

Proposed Revisions to the Constitution

Local Protocol on Member and Officer Relations

2. INTERPRETATION

2.1 In this Protocol:

“the Cabinet” includes any person or body exercising executive functions;

"member" includes the Mayor, all elected members of the Council and all non-elected members of any committee (including the Standards Committee and the Overview and Scrutiny Board) (or any sub-committee) irrespective of whether or not they have any voting rights;

4. GENERAL RESPONSIBILITIES OF MEMBERS AND OFFICERS

4.1 Members and officers are all servants of the public and they are indispensable to one another. But their responsibilities are distinct.

4.2 Members determine the strategic political direction of the Council and determine those matters that are not delegated to officers. They also are responsible for representing (and are answerable to) the electorate (including those constituents who did not vote for them). Members serve only so long as their term of office lasts.

4.3 Officers are employed by the Council as a whole. Their role is to give advice to members (including those members who are not part of the majority group), to implement members' decisions and to carry out the Council's work. Officers are responsible to the Chief Executive.

8. WHAT MEMBERS MAY EXPECT FROM OFFICERS

8.1 All members are entitled to expect from officers:

- (a) A commitment to the Council as a whole, and not to any political group.
- (b) A working partnership.
- (c) An understanding of and support for respective roles, workloads and pressures.
- (d) Timely responses to enquiries and complaints.
- (e) That advice given to members will be:
 - (i) Carefully researched;
 - (ii) Based on the relevant professional knowledge, while at the same time considering the Council's wider interests;
 - (iii) Discussed and agreed with relevant colleagues;
 - (iv) Agreed by the relevant senior officer;

- (v) Politically impartial and not influenced by an officer's own political views of preferences.
- (f) Reports that contain all the relevant issues, that do not contain irrelevant matters and that set out all the options it is reasonable for the decision-maker to consider.
- (g) Regular, up to date information on matters that can reasonably be considered appropriate and relevant to their needs, having regard to any individual responsibilities that they have and positions that they hold.
- (h) That ward members will be kept informed of matters affecting their ward. Where practicable, ward members will be given reasonable advance warning of Council activities relating to their ward.
- (i) Awareness of and sensitivity to the political environment.
- (j) Appropriate knowledge and skills and a commitment to undertake training and development in order to carry out their role effectively.
- (k) Integrity, mutual support and appropriate confidentiality.
- (l) Not to have personal issues raised with them by officers or to use their relationship with members to advance their personal interests or to influence decisions improperly.
- (m) That where officers wish to bring forward new policy initiatives these will first be discussed with the Mayor, the Cabinet, or Cabinet member, as appropriate.
- (n) That officers will at all times comply with the Employee Code of Conduct.

8.2 Opposition members

As individual members, all members have the same rights and obligations in their relationship with officers and will be treated equally. This principle is particularly important in the context of the Council's Overview and Scrutiny Board, its sub-committees or any working parties of the Board. However, where a political group forms a majority group (either alone, or in partnership with another group), it is quite proper that the relationship between senior officers and the majority group will differ from that with opposition groups, given that the majority group will be able to determine the Council's policies and budget.

10. OFFICER ADVICE TO POLITICAL GROUPS

- 10.2** Such support shall only be sought from senior officers and can take many forms ranging from a briefing meeting with the Mayor or Cabinet Member prior to a formal meeting, to a presentation to a full party group meeting. Whilst in practice, such officer support is likely to be most in demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

16. WHEN THINGS GO WRONG

- 16.1** From time to time the relationship between members and officers may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation, if necessary by the Chief Executive and the Mayor or

appropriate group leader, this is not always possible. Where this is the case, and a member considers that an officer has acted in breach of this Protocol, the following procedure will be followed.

16.2 Procedure for members complaining about an officer

- (a) In the event that a member is dissatisfied with the conduct, behaviour or performance of an officer, the matter shall be raised in private with an appropriate senior officer, having regard to the seniority of the officer concerned and the seriousness of the complaint. Where the officer concerned is an assistant director, director or strategic director, the matter shall be raised with the Chief Executive.
- (b) If the matter cannot be resolved informally, the member may make a written complaint to the Chief Executive. This must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol. The Chief Executive will decide whether to conduct any investigation or delegate it to a strategic director or director.
- (c) The Chief Executive or his/her representative may disregard any complaint that he/she considers to be unreasonable, frivolous or vexatious, and that shall be the end of the matter. Otherwise the Chief Executive will give a copy of the complaint to the officer concerned and invite his/her written comments (if any) normally within 10 working days.
- (d) The Chief Executive or his/her representative will give a copy of the officer's response to the complainant and invite his/her further written comments (if any) normally within 10 working days.
- (e) If any material new issues are raised the Chief Executive or his/her representative may give the respective parties such further opportunities to make written comments as he/she shall consider reasonable.
- (f) The Chief Executive or his/her representative will then consider the written submissions and shall either uphold or reject the complaint (in whole or in part) and/or require such action as he/she considers appropriate.
- (g) If the Chief Executive or his/her representative considers it appropriate, he/she may invoke the Council's Disciplinary Procedure at any time during this process.
- (h) A complainant may at any time withdraw a complaint by notice in writing to the Chief Executive.

16.3 Procedure for officers complaining about a member

If attempts at resolving matters informally have not been successful, where an officer considers that a member has acted in breach of this Protocol, the following procedure will be followed:

- (a) The officer must make a written complaint to the Monitoring Officer. This must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol.

- (b) The Monitoring Officer may disregard any complaint that he/she considers to be unreasonable, frivolous or vexatious, and that shall be the end of the matter. Otherwise the Monitoring Officer will give a copy of the complaint to the member concerned and invite his/her written comments (if any) normally within 10 working days.
 - (c) The Monitoring Officer will give a copy of the member's response to the complainant and invite his/her further written comments (if any) normally within 10 working days.
 - (d) If any material new issues are raised the Monitoring Officer may give the respective parties such further opportunities to make written comments as he/she shall consider reasonable.
 - (e) The Monitoring Officer will then consider the written submissions and shall, unless he/she is satisfied that the complaint is clearly unjustified, refer the matter to the Standards Committee for consideration. The Standards Committee may uphold or reject the complaint (in whole or in part) and/or recommend to Council such action as it considers appropriate.
 - (f) A complainant may at any time withdraw a complaint by notice in writing to the Monitoring Officer.
- 16.4 Exceptions may be made to the procedures outlined in paragraphs 16.2 and 16.3 above if to do otherwise would conflict with the Council's policy on "Whistleblowing" or potentially prejudice a criminal investigation (whether in progress or reasonably contemplated in the future).
- 16.5 Under either paragraphs 16.2 or 16.3 an officer may be assisted or represented by a colleague or Trades Union representative and a member may be assisted by a person acting as a "friend" in support of the member.

***Local Protocol on Relations between the Mayor and Political Groups**

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1. INTRODUCTION

- 1.1** Torbay Council will best serve the interests of local people if there are clear arrangements between the Mayor and other councillors and between the political groups represented on the Council for the management of political business. The interests of local people will also be best served if the working relationship between the Mayor and other councillors and between members of different political groups is characterised by mutual respect, informality and trust, whilst recognising the need for healthy and constructive political debate within the democratic process.

2. INTERPRETATION

- 2.1** In this Protocol:

“Senior officer” means the Chief Executive, strategic directors, directors and assistant directors;

“the Standards Board” means the Standards Board for England; and

"Statutory Officers" means the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

3. GUIDING PRINCIPLES

- 3.2 In their dealings with one another members will also uphold the Members' Code of Conduct. The following provisions of the Code are particularly relevant to relations between members:

Paragraph 2(b) of the Code -

"A member must ... treat others with respect"

Paragraph 4 of the Code -

"A member must not in his official capacity, or any other circumstance, conduct himself/herself in a manner that could reasonably be regarded as bringing his/her office or the Council into disrepute."

Paragraph 7 of the Code:

"A member must, if he/she becomes aware of any conduct by another member that he/she reasonably believes involves a failure to comply with the Council's Code of Conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him/her to do so."

6. EXTENSION OF PRINCIPLE OF CROSS-PARTY REPRESENTATION

- 6.1 By law all political groups are entitled to a proportionate number of seats on Council Committees and Sub-Committees (but not on the Cabinet, the Standards Committee and working parties). In order to facilitate good inter-party relations, Torbay Council has extended the principle of cross-party representation to the Standards Committee and working parties.
- 6.2 Each political group on the Council will be entitled to nominate a proportionate number of Scrutiny Lead Members.
- 6.3 The three members of the Standards Committee will comprise a member from each of the largest three groups on the Council. If there are less than three groups on the Council, at least one member on the Standards Committee will be nominated by the minority group.
- 6.4 Each political group will be entitled to nominate a proportionate number of representatives to every working party established by the Council or a Council committee and the second largest political group will also normally be invited to nominate two representatives to Working Parties where a strict application of proportionality would only indicate a single representative.
- 6.5 Each political group will be entitled to nominate members to a proportionate number of seats on outside organisations. Where an appointment relates predominately to an Executive function the appointment will normally be in line with any expressed recommendations of the Mayor (however the appointments to outside organisations is a Council function and ultimately it is for the Council to determine the appointments). In considering the appointments, Council may also have regard to views expressed by outside bodies. Appointments to outside organisations will be made after the local government elections in 2007 and every four years thereafter and will not normally be reviewed after a change of political balance during the four year period.

- 6.6 The Mayor will be responsible for appointing any member champions, unless such an appointment is a Council function or is reserved by law to the Council. The role of member champions is to promote their specified theme to other members, Council officers and the Council's partners to ensure a co-ordinated approach. A protocol on the role of member champions will be developed for inclusion in the Constitution.
- 6.7 Group Assistant posts will be offered to all qualifying political groups on the basis of a full-time (37 hours per week) post and not on the basis of reduced hours proportionate to the size of the group.
- 6.8 Provision of training and development for members will be provided to all members, irrespective of the political group to which they belong. A members' development programme will be prepared each year, in consultation with a working group comprising a representative from each political group, for authorisation by the Director of Law and Support. The members' training budget will be used primarily to meet the cost of the development programme with the remainder of the funding to be allocated in equal proportions (one third) to fund the following:-
- (a) Training for Cabinet Members
 - (b) Training for Scrutiny Members
 - (c) Training not specifically related to cabinet or scrutiny functions.

Additional training and development that is not included within the Members' Development Programme shall only be authorised by the Director of Law and Support.

Similarly, the Director of Law and Support shall authorise attendance at conferences/seminars by members and the members' conferences budget shall be allocated as follows:

- (i) attendance at the Local Government Association Annual Conference by the Mayor and the leaders of the two largest political groups;
- (ii) attendance at the Standards Board for England Annual Conference by Chairman/woman of the Standards Committee or other independent member and other members of the Committee nominated by the two largest political groups; and
- (iii) the remainder of the budget being allocated in equal proportions (one third) to fund attendance at conferences/seminars by:
 - (a) Cabinet Members
 - (b) Overview and Scrutiny
 - (c) Political groups (allocation based on political balance).

Following attendance at a conference, members will provide feedback to all members of the Council via the Members' Information Bulletin.

7. MEETINGS BETWEEN THE MAYOR AND GROUP LEADERS AND BETWEEN

GROUP LEADERS

- 7.1 The Mayor may request a meeting with any Group Leader(s) and any Group Leader may request a meeting with the Mayor and/or any other Group Leader(s) at any reasonable time to discuss issues relating to current and/or forthcoming Council business. The Mayor and all Group Leaders will use all reasonable endeavours to meet as soon as is reasonably practicable thereafter.
- 7.2 At least one clear working day before the meeting requested under paragraph 7.1 of this Protocol an officer in Democratic Services will contact those members who are to attend to ask for items to be included on the agenda for the meeting and will then send a copy of the agenda by email to the relevant members.
- 7.3 The Mayor and/or a Group Leader may invite a fellow member (and/or the Mayor's Assistant or a Group Assistant) to be present at these meetings, and if a Group Leader is unavailable the Deputy Leader, or other nominated representative, may attend in their place. Actions agreed at these meetings will be minuted or otherwise recorded (unless those attending agree otherwise). The record of the meetings may be made by the Mayor's Assistant (if attending) or the Group Assistant for the majority group (if attending) or an officer in Democratic Services (who, if not present for the whole meeting, will be invited in to record the agreed outcomes and actions).
- 7.4 These provisions may all be varied by agreement between the Mayor and the Group Leaders.

8. RELATIONS WITH MEMBERS OF OTHER LOCAL AUTHORITIES, MEMBERS OF PARLIAMENT AND MEMBERS OF THE EUROPEAN PARLIAMENT

- 8.1 Members of all political groups will observe the spirit of this Protocol in their dealings with members of other local authorities, Members of Parliament and Members of the European Parliament.
- 8.2 The Mayor and members of all political groups will seek to work constructively with members of other local authorities, irrespective of their potentially different political allegiances in order to promote the best interests of the Council and local people.
- 8.3 The Mayor and members of all political groups will seek to work constructively with Members of Parliament, especially Members of Parliament representing parts of the Borough, irrespective of their potentially different political allegiances in order to promote the best interests of the Council and local people.
- 8.4 The Mayor and members of all political groups will seek to work constructively with Members of the European Parliament, especially with Members of the European Parliament representing the South West Region, of which Torbay is a part, irrespective of their potentially different political allegiances in order to promote the best interests of the Council and local people.

10. WHEN THINGS GO WRONG

- 10.1 From time to time the relationship between members may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation, if necessary by the Mayor and Group Leaders, this is not always possible. Where this is the case, and a member considers that another member has acted in breach of this Protocol, the following procedure will be followed.

- 10.2 If attempts at resolving matters informally have not been successful, where a member considers that another member has acted in breach of this Protocol, the following procedure will be followed:
- (a) The member must make a written complaint to the other member and copy that complaint to the Mayor (if appropriate) and the relevant Group Leader(s). This must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol.
 - (b) The member who has been complained about shall (within 10 working days) respond in writing to the complainant and copy that response to the Mayor (if appropriate) and the relevant Group Leader(s).
 - (c) The Mayor (if appropriate) and relevant Group Leader(s) shall (within 10 working days (or as soon thereafter as is reasonably practicable)) meet to discuss the complaint. If they both/all consider that the complaint is unreasonable, frivolous or vexatious, that shall be the end of the matter. If they both/all consider that the complaint is of a purely technical or minor nature they may invite the member who has been complained against to make a written apology, in a form (and within a timescale) agreed between the Mayor (if appropriate) and the Group Leader(s). Once that apology has been made that shall be the end of the matter unless the member subsequently acts in a manner at variance with that apology.
 - (d) If the Mayor (if appropriate) or any of the relevant Group Leaders considers the complaint is of a more serious nature than mentioned in the previous paragraph (or if the member complained against fails to give the requisite apology) the complaint shall be referred to the Council's Standards Committee (in cases not involving an alleged breach of the Members' Code of Conduct) or to the Standards Board (in cases involving an alleged breach of the Members' Code of Conduct).
 - (e) Both the complainant and the member complained about shall be advised in writing by the Mayor (if appropriate) and the relevant Group Leader(s) of their decision.
 - (f) A complainant may at any time withdraw a complaint by notice in writing to the other member and copy that notice to the Mayor (if appropriate) and the relevant Group Leader(s).

Officer Scheme of Delegation

Description	Responsibility delegated by
9. Delegations to the Director of Law and Support	
9.1 Legal Services: Institute, defend and conduct any legal proceedings and to make any representations affecting the property rights or interests of the Council or which the Council may be entitled to authorise, institute or defend. Proceedings shall only be instituted, defended or conducted following consultation with the relevant strategic director.	Council/Cabinet

Description	Responsibility delegated by
9.2 In consultation with the relevant strategic director, to determine liability and authorise payment in respect of claims against the Council. The Director of Law and Support will consult with the relevant member in respect of any settlement in excess of £25,000 (including any payment in respect of costs) and submit an annual Claims Report to the Overview and Scrutiny Board.	
9.3 Retain counsel, independent solicitors or consultants, where appropriate.	
9.4 Give formal notices or formal demands which are deemed requisite to serve in the interests of the Council.	
9.5 To authorise variation in the terms and conditions of contracts subject to the Council's Financial Regulations and Contract Standing Orders.	
9.6 To authorise employees to appear on behalf of the Council in the County Court and/or Magistrates' Court pursuant to Section 60 of the County Courts Act 1984 and Section 223 of the Local Government Act 1972.	
9.7 To approve members' and co-opted members' travel and subsistence allowances that technically fall outside the scheme where he/she is satisfied that the expenses incurred are essential to the proper conduct of Council related business.	
9.8 (a) To approve the annual members' development programme following consultation with the Mayor and the Member Development Group; and	
(b) to authorise additional training and development that is not included within the Annual Development Programme.	
(Note: The Local Protocol on relations between the Mayor and Political Groups states that the members' training budget will be used primarily to meet the cost of the development programme with the remainder of the funding to be allocated in equal proportions (one third) to fund the following:-	
(i) Training for Cabinet Members	
(ii) Training for Scrutiny Members	
(iii) Training not specifically related to cabinet or scrutiny functions.)	

Description**Responsibility
delegated by**

9.9 To authorise attendance at conferences/seminars by members.

(Note: The Local Protocol on relations between the Mayor and Political Groups states that the members' conferences budget be allocated as follows:

(i) attendance at the Local Government Association Annual Conference by the Mayor and the leaders of the two principal groups;

(ii) attendance at the Standards Board for England Annual Conference by Chairman/woman of the Standards Committee or other independent member and other members of the Committee nominated by the two largest political groups; and

(iii) the remainder of the budget being allocated in equal proportions (one third) to fund attendance at conferences/seminars by:

(a) Cabinet Members

(b) Overview and Scrutiny

(c) Political groups (allocation based on political balance)

Description**Responsibility
delegated by****General scheme of delegation to the Chief Executive and directors****Delegations to the Chief Executive**

1.19 Where the Chief Executive is of the opinion that as a matter of urgency any decision in relation to a Council Function shall be taken in the best interests of either the Council or the inhabitants of the Borough and it is not in his/her opinion reasonably practicable to convene a meeting of the Council to consider the matter he/she may take such decisions (in consultation with the relevant member), as he/she considers necessary, The Chief Executive will also submit to a meeting of the Council a written report of any action taken under this paragraph 1.19 (and the reasons for that action and the alternative options he/she considered) as soon as reasonably practicable.

Description	Responsibility delegated by
5. Delegations to the Chief Executive	
5.1 In consultation with the Mayor and Leaders of all the political groups, to determine all appointments (or decide not to make appointments) to outside organisations at any time after the general review of such appointments in accordance with the Protocol on Relations between the Mayor and Political Groups. Where consensus between the Mayor and the leaders of the all the political groups is not forthcoming, the Chief Executive may refer the matter to the Council for determination.	Council

Standing Orders in relation to Council Meetings

A1. ANNUAL MEETING OF THE COUNCIL

A1.2 At the Annual Meeting, the Council will:

- (i) elect a person to preside if the Chairman/woman of the Council is not present. (Note: The Mayor is not permitted to be the Chairman/woman or Vice-Chairman/woman.);
- (ii) receive apologies for absence;
- (iii) receive any declarations of interest from the Mayor, members and officers;
- (iv) elect the Chairman/woman of the Council for the ensuing Municipal Year. (Note: The Mayor is not permitted to be the Chairman/woman.);
- (v) elect the Vice-Chairman/woman of the Council for the ensuing Municipal Year. (Note: The Mayor is not permitted to be the Vice-Chairman/woman.);
- (vi) approve the minutes of the last meeting;
- (vii) receive any announcements from the Mayor, Chairman/woman, Group Leaders and/or the Chief Executive;
- (viii) be informed by the Mayor about the composition and constitution of the Cabinet for the coming year, and the names of councillors he/she has chosen to be members of the Cabinet;
- (ix) appoint the Overview and Scrutiny Co-ordinator and (if any) the Overview and Scrutiny Lead Members. (Note: Cabinet members shall not be appointed as the Overview and Scrutiny Co-ordinator or scrutiny lead members.);
- (x) appoint at least one Overview and Scrutiny Committee, a Standards Committee and such other committees and working parties as the Council considers appropriate to

deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution). In appointing those committees the Council will;

- (a) determine which committees to establish for the Municipal Year;
- (b) determine the size and terms of reference of those committees;
- (c) determine the allocation of seats in accordance with the political balance rules;
- (d) request nominations of members to serve on each committee and appoint to those committees in accordance with Standing Order A1.4) below; and
 - (xi) to appoint one member of the Council to the Devon and Cornwall Police Authority for the Municipal Year;
- (xii) approve a programme of ordinary meetings of the Council for the year; (xiii) to receive from the Mayor a record of delegations of executive functions in accordance with Standing Order C2;
- (xiv) agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution); and
- (xv) consider any business set out in the notice convening the meeting.

A1.3 In the year of an election, to make appointments to member champion positions (in the case of a council function).

A1.4 In the year of an election, to determine appointments to outside organisations.

A1.5 The members to serve on each committee, sub-committee, working party and any other body (including outside organisations) will be nominated by the Group Leaders by notice in writing to the Assistant Director (Democratic Services) (including by e-mail if verified by the Assistant Director (Democratic Services)) or may be nominated by the Group Leaders at the Annual Meeting. The Group Leaders will notify any changes in nominations in writing to the Assistant Director (Democratic Services). Members not affiliated to any political group may indicate their preference in relation to places on committees, sub-committees, working parties and other bodies in writing (including by e-mail if verified by the Assistant Director (Democratic Services)).

A5. NOTICE OF AND SUMMONS TO MEETINGS (To apply to Overview and Scrutiny)
(This Standing Order may not be suspended)

A5.4 The Chief Executive will determine the content of the summons following consultation with the Chairman, Mayor and Group Leaders, but any member may request the Chief Executive to include an item for business, provided that it relates to a matter within the powers of the Council.

A7. ORDER OF BUSINESS

(A7.1 (i) to (iv) to apply to Committees, Cabinet and Overview and Scrutiny)

A7.1 Except as otherwise provided in Standing Order A7.2 (and subject to Standing Order A15), the order of business at every ordinary and extraordinary meeting of the Council shall be:

- (i) to elect a person to preside if both the Chairman/woman and Vice-Chairman/woman of the Council are not present. (The Mayor is not permitted to be the Chairman/woman or Vice-Chairman/woman.);
- (ii) to deal with any business required by statute to be dealt with before any other business;
- (iii) to approve as a correct record the minutes of the last meeting of the Council;
- (iv) to receive any declarations of interest from the Mayor, members and officers;
- (v) to receive any communications or announcements from the Mayor, the Chairman/woman, the Overview and Scrutiny Co-ordinator or Chief Executive;
- (vi) to receive petitions from the public in accordance with Standing Order A12;
- (vii) to receive questions from the public in relation to matters which, in the opinion of the person presiding at the meeting, are relevant to the business of the meeting and in accordance with Standing Order A24 (**A7.1 (vii) to apply to Cabinet**);
- (viii) to deal with any business from the last meeting of the Council (**A7.1 (viii) to apply to Committees, Cabinet and Overview and Scrutiny**);
- (ix) to receive reports from the Cabinet, the Council's committees (including Overview and Scrutiny Bodies) and officers including proposals from the Cabinet in relation to the Council's budget and policy framework and receive questions and answers on any of those reports;
- (x) to receive reports on the business of joint arrangements and external organisations;
- (xi) to consider any other business specified in the summons to the meeting;
- (xii) to answer any question under Standing Order A13; and
- (xiii) to consider motions in accordance with Standing Order A14.

A12. PETITIONS

A12.10 Where the subject matter of the petition is due to be considered by the decision-maker before the next meeting of the Council the petition shall be referred direct to the appropriate body or person for consideration. Standing orders A12.1 to A12.9 shall apply if this is the case with appropriate amendments as necessary. Receipt of the petition will be reported to the next Council meeting without debate.

Standing Orders in relation to Overview and Scrutiny

D13. THE "CALL-IN" MECHANISM

D13.2 On receipt of a written request for a decision to be called-in, the proper officer (in consultation with the Chairman/woman) will call a meeting of the Overview and Scrutiny Board to be held within ten working days of receipt of the request (excluding the day of receipt and the day of the meeting). The Call-in Promoter and at least two of the Call-in Supporters shall attend the relevant meeting of the Overview and Scrutiny Board (and may be asked to speak on the matter and/or be questioned by members of the Board). With the prior approval of the Overview and Scrutiny Co-ordinator, a Call-in Supporter may attend in place of the Call-in Promoter. If the Call-

in Promoter (or substitute approved in accordance with this Standing Order) and two Call-in Supporters do not all attend the meeting of the Overview and Scrutiny Board the call-in request shall be deemed to be withdrawn unless the Board resolve otherwise on a majority vote. The Overview and Scrutiny Co-ordinator and/or the Overview and Scrutiny Board may also require any one or more of the other Call-in Supporters to attend the relevant meeting of the Board and be questioned about the Notice of Call-in and their reasons for supporting it.

D13.3 If, for whatever reason, a valid meeting of the Board is not held within ten working days, the decision will take effect on the expiry of those ten working days unless (in the opinion of the Monitoring Officer) the decision is outside the Budget and Policy Framework.

D13.4 Having considered the decision, the Overview and Scrutiny Board has a number of options open to it:

Option	Subsequent Action
A. Take no further action.	The original decision will take effect from the date of the meeting of the Overview and Scrutiny Board.
B. Refer the decision back to the decision maker for reconsideration, setting out in writing the nature of the Board's concerns.	<p>Within a further ten working days, the decision maker will resolve to either:</p> <ul style="list-style-type: none"> (i) confirm the decision without modification; or (ii) confirm the decision with modification; or (iii) rescind the decision. <p>If the decision maker does none of the above within ten working days, the decision shall be deemed to have been rescinded.</p>
C. In exceptional circumstances, refer the matter to the Council for scrutiny, giving reasons for why the matter is being referred to Council.	<p>Upon such request, the proper officer shall arrange a meeting of the Council within 20 working days (excluding the day of receipt or the day of the meeting) or as soon thereafter, as is reasonably practicable, unless a normal Council meeting is scheduled within 30 working days (excluding the day of receipt or the day of the meeting) in which case the matter shall be referred to that meeting.</p> <p>At the Council meeting, if the Council does not object to the decision, no further action is necessary and the decision will be effective from the date of the Council meeting.</p>

Provided the decision has been made in accordance with the Policy Framework and the Budget, the Council has no power to amend the decision but may refer any decision to which it objects back to the decision maker together with the Council's views on that decision.

The decision maker will then, within a further ten working days, resolve to either:

- (i) confirm the decision without modification; or
- (ii) confirm the decision with modification; or
- (iii) rescind the decision.

If the decision maker does none of (i), (ii) or (iii) above within ten working days the decision shall be deemed to have been rescinded.

(Note: The Secretary of State's Guidance on the referral of matters to Council by Overview and Scrutiny states "To avoid the possibility of very many emergency council meetings ... overview and scrutiny committees should only use the power ... to refer matters to the full council if they consider that the decision is contrary to the policy framework or contrary to or not wholly in accordance with the budget.")

D18. ATTENDANCE BY OTHER MEMBERS OF THE COUNCIL, OFFICERS AND OTHER PERSONS AT MEETINGS OF OVERVIEW AND SCRUTINY BODIES

D18.4 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Board or the sub-committee may resolve to adjourn the meeting for the item(s) concerned, and in consultation with the member or officer, arrange an alternative date for attendance (to take place normally within a maximum of ten working days from the date of the meeting).

***Standing Orders in relation to Budget and Policy Framework**

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F8. Reviews/Amendments to existing Policy Framework documents	4-90

F4. PROCESS FOR DEVELOPING THE POLICY FRAMEWORK

- F4.1 Before a plan within the Policy Framework is adopted, or subject to Standing Order F8, the Cabinet shall publish a timetable in accordance within which it will make proposals to the Council. Details of any proposed consultation exercise shall be included in the Forward Plan and the consultation period shall normally be not less than six weeks. The form and nature of any consultation to be undertaken may be discussed between the Cabinet and the Overview and Scrutiny Board to ensure its effectiveness. Any representations made to the Cabinet will be taken into account in formulating the initial proposals.
- F4.2 If the matter is one where an Overview and Scrutiny Board has carried out a review of policy, then the outcome of that review will be reported to the Cabinet and considered in the preparation of initial proposals.
- F4.3 The Cabinet's initial proposals will then be sent to all members of the Overview and Scrutiny Board for further consideration and to all appropriate external consultees. The Overview and Scrutiny Co-ordinator (or his/her nominee), on behalf of the Overview and Scrutiny Board, will then indicate if he/she is content for the proposals to be submitted to the Cabinet without any formal consideration or response from the Overview and Scrutiny Board. He/she will inform the Assistant Director (Democratic Services), the Mayor and Group Leaders where he/she decides that a formal response will not be given.
- F4.4 If the Overview and Scrutiny Board wishes to respond to the Cabinet during the consultation process then it may do so. As the Overview and Scrutiny Board has responsibility for fixing its own work programme, it is open to the Overview and Scrutiny Board to investigate, research or report in detail with policy recommendations before the end of the consultation period. The Cabinet will take any response from the Overview and Scrutiny Board into account in drawing up its proposals.

- F4.5 In addition, the Cabinet may seek informal discussions with the Overview and Scrutiny Board to debate any areas of difference.
- F4.6 At the end of that period, the Cabinet will finalise its proposals having regard to the responses to the consultation and submit them to the Council for consideration. The Cabinet's report to Council will explain how the Cabinet has taken into account any recommendations from the Overview and Scrutiny Board and other consultation responses.
- F4.7 The Council will consider the Cabinet's proposals. In reaching a decision on the Cabinet's proposals the Council may:
- (i) adopt the Cabinet's proposals without amendment, in which case the Council may make a decision with immediate effect; or
 - (ii) follow the process set out in Standing Orders F4.8 to F4.11 below, where it has objections to it.
- F4.8 Before the Council:
- (i) amends the draft plan or strategy;
 - (ii) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
 - (iii) adopts (with or without modification) the plan or strategy,
- it must inform the Elected Mayor of any objections which it has to the draft plan or strategy and must give him/her instructions requiring the Cabinet to reconsider, in light of those objections, the draft plan or strategy submitted to it.
- F4.9 Where the Council gives instructions in accordance with Standing Order F4.8, it must specify a period of at least five working days beginning on the day after the date on which the Elected Mayor receives the instructions on behalf of the Cabinet within which the Elected Mayor may:
- (i) submit a revision of the draft plan or strategy as amended by the Cabinet (the "revised draft plan or strategy"), with the Cabinet's reasons for any amendments made to the draft plan or strategy, to the Council for its consideration; or
 - (ii) inform the Council of any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for any such disagreement.
- F4.10 Subject to Standing Order F4.11, when the period specified by the Council referred to in Standing Order F4.9 has expired, the Council must, when:
- (i) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy; or
 - (ii) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

- (iii) adopting (with or without modifications) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Cabinet's reasons for those amendments, any disagreement that the Cabinet has with any of the Council's objections and the Cabinet's reasons for that disagreement, which the Elected Mayor submitted to the Council, or informed the Council of, within the period specified.

F4.11 Where the Council proposes to:

- (i) amend the draft plan or strategy or, as the case may be, the revised draft plan or strategy;
- (ii) approve, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or
- (iii) adopt with modifications the plan or strategy,

and that plan or strategy (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the draft plan or strategy or, as the case may be, the revised draft plan or strategy, the amendments or modifications must be approved by at least a two thirds majority of those members present and voting in favour. Where a two thirds majority voting in favour of the Council's amendments is not achieved, then the Cabinet's proposals will stand.

(Standing Orders F4.7 to F4.11 reflect the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001.)

F4.12 The process for dealing with a proposed addition to or amendment to a Policy Framework document may, however, be varied where the Mayor and/or Overview and Scrutiny Co-ordinator (or their respective deputies or nominees) have confirmed in writing (including via email) to the Assistant Director (Democratic Services) that they are in agreement to the variations to the process.

F4.13 Subject to Standing Order F8, any changes to the Policy Framework are reserved to the Council.

F7. VIREMENTS AND GENERAL LIMITATIONS ON EXPENDITURE

F7.1 General limitations as to expenditure against Budgets and arrangements for virements and are set out in the Council's Financial Regulations.

F8. REVIEWS/AMENDMENTS TO EXISTING POLICY FRAMEWORK DOCUMENTS

F8.1 Where a Policy Framework document has been approved by the Council it will be kept under review by the relevant Director/Assistant Director. The relevant Director/Assistant Director may amend a Policy Framework document, following consultation with the Mayor, relevant member and the group leaders (or their nominees), in order to ensure that the document:

- (i) reflects any subsequent budget or policy decision made by the Council; or
- (ii) complies with the law or ministerial direction; or
- (iii) follows best practice or is in the interest of local people.

***Standing Orders in relation to Access to Information**

E15. SPECIAL URGENCY

E15.1 If a decision must be taken by a specific date and Standing Order E14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chairman/woman of the body making the decision obtains the agreement of the Overview and Scrutiny Co-ordinator or (if he/she cannot reasonably be contacted) the Scrutiny Lead Member that he/she reasonably considers most relevant, that the making of the decision is urgent and cannot reasonably be deferred. If the Overview and Scrutiny Co-ordinator and the Scrutiny Lead Member are unable to act, then the agreement of the Chairman/woman of the Council, or (if no Chairman/woman is appointed) the Vice-Chairman/woman of the Council must be obtained.

E15.2 The Mayor will submit quarterly reports to the Council summarising the decisions of the Cabinet taken in accordance with Standing Order E15.1 in the preceding three months.

E16. REPORTS TO COUNCIL

E16.1 If the Overview and Scrutiny Board thinks that a Key Decision has been taken which was not:

- (i) included in the Forward Plan; or
- (ii) the subject of the general exception procedure (Standing Order E14); or
- (iii) the subject of an agreement with a the Overview and Scrutiny Co-ordinator, the relevant scrutiny lead member or the Chairman/woman or the Vice-Chairman/woman of the Council under Standing Order E15 the Overview and Scrutiny Board may require the Cabinet to submit a report to the Council within such reasonable time as the Board specifies. The power to require a report rests with the Board, but it is also delegated to the proper officer, who shall require such a report on behalf of the Board when so requested in writing by any five members.

E16.2 The Cabinet will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within seven days of the receipt of the written notice or the resolution of the Board, then the report may be submitted to the meeting after that. The report to the Council will set out the particulars of the decision, the decision taker and, if the Mayor is of the opinion that it was not a Key Decision, the reasons for that opinion.

***Standing Orders in relation to Contracts**

H8. RECEIPT OF TENDERS

H8.1 Every invitation to tender must state that a tender will only be considered if it is received by the due date and time in a sealed, plain envelope with the word "Tender" and the title of the contract written on it. There must be no mention of the sender's name or any other way of identifying the sender from the envelope. Unused supplies

of tender envelopes shall be strictly controlled and access only allowed to authorised officers.

- H8.2 All tenders for works where the estimated value is in excess of £50,000 shall be addressed and returned to the Assistant Director (Democratic Services). All tenders for works with an estimated value up to and including £50,000 shall be addressed and returned to the relevant head of business unit or nominated officer.
- H8.3 All recipients of tender documents received within the Council shall immediately endorse the envelope with the time and date of receipt and pass it unopened to the addressee (as required under Standing Order H8.2 above), who shall not otherwise be directly involved in the tendering process or the management of the contract.
- H8.4 The Assistant Director (Democratic Services) (or relevant head of business unit or nominated officer) shall mark the tender envelope accordingly (date received and number) and keep a record of all tenders received.
- H8.5 The Assistant Director (Democratic Services) (or relevant head of business unit or nominated officer) shall keep all tenders unopened and safe and secure in a safe or locked cabinet until they are requested on, or after the final date for receipt of tenders, by the officer convening an opening session.
- H8.6 Where electronic tendering is supported, tenders may be received via the Devon Tenders e-Tendering portal which is a secure (hosted) electronic tendering system. Electronic tenders must be in a format and layout prescribed by the Council and shall be submitted via the Devon Tenders e-Tendering portal where access is restricted to authorised officers at the time of tender opening.

***Standing Orders in relation to the Cabinet**

C6. MEETINGS OF THE CABINET

- C6.9 There will be an item on the agenda of the Cabinet where matters have been referred to it by the Overview and Scrutiny Board (or any of its sub-committees).
- C6.10 Any member of the Council may ask the Mayor to put an item on the agenda for an Cabinet meeting for consideration. If the Mayor agrees, the item will be considered at the next available meeting of the Cabinet. The notice of the meeting will give the name of the councillor who asked for the item to be considered and that councillor will be invited to attend the meeting.
- C6.10 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties.
- C6.11 Where a motion has been referred by Council to the Cabinet for consideration, the Member who submitted the motion shall be entitled to address the Cabinet on such motion.
- C6.12 In other circumstances, where any two of the Head of the Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no such meeting of the Cabinet within an appropriate timescale to deal with the issue in

question, then they may also require that a meeting be convened at which the matter will be considered.

Code of Conduct for Members

General Obligations

2. A member must:

- (a) promote equality by not discriminating unlawfully against any person;

(Note: It is unlawful to discriminate against anyone on the grounds of gender, race, disability, sexual orientation, religion, belief or age, and the Council under a positive obligation to promote equal opportunities.)

- (b) treat others with respect; and

- (c) not do anything which compromises or which is likely to compromise the impartiality of those who work for, or on behalf of, the Council.

3. A member must not:

- (a) disclose information given to him/her in confidence by anyone, or information acquired which he/she believes is of a confidential nature, without the consent of a person authorised to give it, or unless he/she is required by law to do so; nor

- (b) prevent another person from gaining access to information to which that person is entitled by law.

4. A member must not in his/her official capacity, or any other circumstance, conduct himself/herself in a manner that could reasonably be regarded as bringing his/her office or the Council into disrepute.

5. A member:

- (a) must not in his/her official capacity, or any other circumstance, use his/her position as a member improperly to confer on or secure for himself/herself or any other person, an advantage or disadvantage; and

- (b) must, when using or authorising the use by others of the resources of the Council:

- (i) act in accordance with the Council's requirements; and

- (ii) ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the Council or of the office to which the member has been elected or appointed.

6. (1) A member must when reaching decisions:
- (a) have regard to any relevant advice provided to him/her by:
 - (i) the Council's Chief Finance Officer acting in pursuance of his/her duties under section 114 of the Local Government Finance Act 1988; and
 - (ii) the Council's Monitoring Officer acting in pursuance of his/her duties under section 5(2) of the Local Government and Housing Act 1989; and
 - (b) give the reasons for those decisions in accordance with the Council's (and any statutory) requirements in relation to the taking of an executive decision.
- (2) In sub-paragraph (1)(b) above and in paragraph 9(2) below, an "executive decision" is to be construed in accordance with any regulations made by the Secretary of State under section 22 of the Local Government Act 2000.
7. A member must, if he/she becomes aware of any conduct by another member that he/she reasonably believes involves a failure to comply with the Council's Code of Conduct, make a written allegation to that effect to the Standards Board for England as soon as it is practicable for him/her to do so.

(Note 1: The Council has endorsed the recommendation of the Standards Committee that this paragraph shall take precedence over paragraph 3(a) as far as there may be any apparent conflict between the two provisions; and

Note 2: To comply with current legislative requirements it would now also be unlawful to discriminate against belief.)

Supplying References

19. Members shall not give any formal written references for any applicants of jobs or other positions within the Council and shall not give references to any potential contractors with the Council.

Breaches of the Code

20. Any person may report any breaches of this Code in writing to the Standards Board for England, PO Box 36656, London, SE1 0WN.

(Note: Paragraphs 19 and 20 are local provisions adopted by Torbay Council.) **Article 4 – The Council**

4.01 Meanings

- (a) Policy Framework

The Policy Framework consists of the following plans and strategies:

- (i) those required by the law, namely:
 - (1) Best Value Performance Plan

- (2) Children's and Young People's Plan
- (3) Community Plan
- (4) Community Safety Strategy
- (5) Plans and strategies which together comprise the Development Plan
- (6) Local Transport Plan
- (7) Gambling Act Policy/Statement of Principles
- (8) Licensing Policy

(ii) those other plans and strategies which Government Guidance recommends shall be adopted by the Council as part of the Policy Framework, namely:

- (1) Corporate Plan
- (2) Food Safety Service Plan
- (3) Housing Strategy including the Housing Renewal Policy and Homelessness Strategy

(iii) other plans and strategies that the Council may decide shall be adopted at a meeting of the Council as a matter of local choice, namely:

- (1) Adult Social Care Annual Strategic Agreement (between Torbay Primary Care Trust and the Council) (following the establishment of the Torbay Care NHS Trust)
- (2) Capital Plan
- (3) Communication, Engagement and Consultation Strategy
- (4) Corporate Asset Management Plan
- (5) Corporate Capital Strategy
- (6) Cultural Strategy
- (7) Equality and Inclusion Policy Scheme
- (8) Economic Regeneration Plan (including the Marine/Harbour Strategy and Tourism Strategy)
- (9) Health and Safety Service Plan
- (10) Human Resources Strategy
- (11) Older Persons Strategy – known as operation 'FISH.net'
- (12) Organisational Development Plan
- (13) Prevention of Fraud and Corruption Policy
- (14) Scheme for Financing Schools

- (15) Supporting People Strategy
- (16) Torbay Heritage Strategy
- (17) Waste Management Strategy
- (18) Whistle-blowing Policy
- (19) Workforce Plan

Article 8 – The Standards Committee

8.02 Composition

(a) Political Balance

The political balance rules in section 15 of the Local Government and Housing Act 1989 do not apply to Standards Committees.

(b) Membership

It is a statutory requirement that the Standards Committee will be composed of at least two councillors and one independent member (see (c) below). When Brixham Town Council is established the membership will also include at least one parish member who will be present when matters relating to the parish are being considered.

The Council will consult with Brixham Town Council (once established) when deciding whether to have a Town Council Standards Sub-Committee. The Standards Committee will also consult the Town Council on the numbers and terms of office of the members of the Sub-Committee (if appointed).

For a committee of more than three members, at least 25 per cent of the membership will be independent of the Authority.

The Mayor is not entitled to sit on the Standards Committee and no more than one member of the Cabinet may sit on the Committee.

The Standards Committee of Torbay Council is composed of three councillors and four independent members.

(c) Independent members

Independent members must not be related to or have a close friendship with a member or officer of the Authority. They must not (within the period of five years immediately preceding the date of the appointment) have been a member or officer of the Authority.

Independent members will be entitled to vote at meetings, but may not send a substitute or deputy in their place.

The Council is required to advertise for independent members of the Standards Committee in one or more local newspapers where a vacancy occurs.

When an existing independent member comes to the end of their term or office they will inform the Assistant Director (Democratic Services) whether or not they wish to serve for another term of office. If they wish to serve for another term of office a selection panel comprising the Group Leaders and the Chairman/woman or Vice-Chairman/woman of the Standards Committee and the Chief Executive will decide whether or not to recommend the Council to re-appoint the independent member for another term of office without the vacancy being advertised (this may be done via email). If they do not wish to re-stand or if the selection panel wishes the vacancy to be re-advertised then this will be classed as a vacancy and the above procedure will be followed.