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Tuesday, 27 November 2018

Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **Rosetor Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Wednesday, 5 December 2018** commencing at **3.00 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Steve Parrock".

Steve Parrock
Chief Executive

(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.)

A prosperous and healthy Torbay

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

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Meeting of the Council Agenda

1. **Opening of meeting**
2. **Apologies for absence**
3. **Minutes** (Pages 5 - 126)
To confirm as a correct record the minutes of the meeting of the Council held on 18 October and the extraordinary meeting held on 15 November 2018.
4. **Declarations of pecuniary and non-pecuniary interests**
Guidance for members:

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.

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 Elected Mayor, the Overview and Scrutiny Co-ordinator or the Chief Executive.
6. **Elected Mayor's Response to the Objection to Corporate Asset Management Plan** (Pages 127 - 128)
To consider the Elected Mayor's response to the Council's objection to the Corporate Asset Management Plan.
7. **Heart of the South West Joint Committee Update** (Pages 129 - 145)
To consider the submitted report on the above.
8. **Council Tax Base 2019/2020** (To Follow)
To consider the submitted report on the above.
9. **Proposed Council Tax Support Scheme 2019/20** (Pages 146 - 157)
To consider the submitted report on the annual review of the Council Tax Support Scheme for 2019/20.

- 10. Gambling Act 2005 'Statement of Principles 2019' (Gambling Policy)** (Pages 158 - 209)
To consider the submitted report on the above Policy Framework document.
- 11. Thriving Lives: Joint Health and Wellbeing Strategy 2018-2022** (Pages 210 - 237)
To consider a report on the revised Joint Health and Wellbeing Strategy (Policy Framework document).
- 12. Review of Constitution for Leader and Cabinet System of Governance May 2019 - Constitution Working Party Recommendations** (Pages 238 - 806)
To consider the submitted report on the above.
- 13. Provisional Calendar of Meetings for 2019/2023** (Pages 807 - 813)
To consider the submitted report on a proposed provisional four year calendar of meetings for 2019 to 2023.
- 14. Budget Monitoring 2018/19 - Quarter Two** (Pages 814 - 833)
To note the submitted budget monitoring report for Quarter 2 2018/2019 and consider any recommendations from the Overview and Scrutiny Board.
- 15. Standing Order D11 (in relation to Overview and Scrutiny) - Call-in and Urgency** (Pages 834 - 835)
To note the attached Executive decision to which the call-in procedure did not apply as set out in the attached Report.
- 16. Adjournment**
To consider adjourning the meeting until 5.30 p.m.
- 17. Petition - PATH** (Page 836)
To receive a petition and any oral representations from the public in accordance with Standing Order A12 as attached.
- 18. Public question time - Climate Change** (Page 837)
To hear and respond to any written questions or statements from members of the public which have been submitted in accordance with Standing Order A24 (as attached).
- 19. Members' questions** (Pages 838 - 847)
To respond to the submitted questions asked under Standing Order A13 (as attached).
- 20. Notice of motions**
To consider the following motions, notice of which has been given in accordance with Standing Order A14 by the members indicated:
- (a) The Mace at Council Meetings (Executive Motion)** (Page 848)
- (b) Use of the Mace at Council Meetings (Liberal Democrat Motion)** (Page 849)

- (c) 60 and 65 Bus Services (Mayoral Decision) (Page 850)
- (d) Regeneration Investment in Torbay (Page 851)
21. **Review of Polling Districts, Polling Places and Polling Stations 2018** (Pages 852 - 902)
To consider the submitted report on the outcome of the review of polling districts, polling places and polling stations.
22. **Torquay Gateway Highways Improvement - Shiphay Lane Junction to Lowes Bridge Junction- Acquisition of Land - Compulsory Purchase Order** (Pages 903 - 915)
To consider the submitted report on the above.
23. **Torbay Council's Housing Rental Company** (Pages 916 - 931)
To consider the submitted report on a proposal to merge the Housing Rental Company (RentCo) into the TDA, or subsidiary of the TDA to enable relevant affordable housing schemes to be delivered at pace.
24. **Update on Affordable Housing Schemes - Redwell Lane, Totnes Road and St Kildas** (Pages 932 - 934)
To note the submitted report on the above.

Note

An audio recording of this meeting will normally be available at www.torbay.gov.uk within 48 hours.



Minutes of the Council **(Council decisions shown in bold text)**

18 October 2018

-: Present :-

Chairman of the Council (Councillor Doggett) (In the Chair)
Vice-Chairwoman of the Council (Councillor Barnby)

The Elected Mayor of Torbay (Mayor Oliver)

Councillors Amil, Bent, Brooks, Bye, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Pentney, Robson, Sanders, Stockman, Stocks, Stubley, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman

89 Opening of meeting

The meeting was opened with a prayer.

90 Apologies for absence

Apologies for absence were received from Councillors Carter, King, Morris and Winfield.

Councillor Stocks arrived late to the meeting and during consideration of Minute 92.

91 Minutes

The Minutes of the meeting of the Council held on 20 September 2018 were confirmed as a correct record and signed by the Chairman.

92 Declarations of interests

Councillor Tyerman declared a non-pecuniary interest in respect of Minutes 96 and 100 as he was a Trustee of Torbay Coast and Countryside Trust.

(Note: Councillor Stocks joined the meeting during consideration of this item.)

93 Communications

The Chairman:

- a) announced that Torbay had been successful in achieving Gold in the Champions of Champions category in the South West in Bloom awards 2018 and thanked all those involved in achieving this accolade; and
- b) thanked all those involved with dealing with the fire at Scoffs in Paignton on Thursday 11 October 2018, including Council employees, the emergency services, local organisations and volunteers. The Chairman advised that the Council was continuing to support the residents who were evacuated including utilising the Council's Hardship Fund.

Councillor Thomas (D) provided a report to the Council as the Council's representative on the Heart of the South West Joint Committee as attached to these Minutes.

94 Order of Business

In accordance with Standing Order A7.2 in relation to Council meetings, the order of business was varied to enable item 9 on the agenda (Compulsory Purchase of Land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton) to be considered after item 6 (Public Question Time).

95 Public question time

The Chairman advised that he had allowed a late submission for public question time. Therefore, in accordance with Standing Order A24, the Council heard from Mrs Rugg, Trustee of Torbay Coast and Countryside Trust, who had submitted a statement in relation to the Compulsory Purchase of Land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton. Elected Mayor Oliver responded to the statement advising that the matter was to be considered at this meeting.

96 Compulsory Purchase of Land at Little Blagdon Farm, Collaton St Mary and Land at Preston Down Road, Paignton

The Council considered the submitted report on a proposal to acquire the leasehold interest in the land that was leased to Torbay Coast and Countryside Trust (TCCT) at Little Blagdon Farm, Collaton St Mary, and Preston Down Road, Paignton, under, if necessary, a compulsory purchase order (CPO). It was noted that the Council had been awarded £3,076,000 of Land Release Fund by the Government to secure the release of the land at both sites to enable residential development. An exempt officer briefing was circulated prior to the meeting.

Elected Mayor proposed and Councillor Mills seconded a motion, as set out below:

- (i) that delegated authority be given to the Chief Executive to continue negotiations with TCCT to acquire by agreement the land identified red (Appendices 1 and 2 of the submitted report) at Preston Down Road and Collaton St Mary, with consultation with the Elected Mayor, Group Leaders and Section 151 Officer on any Heads of Terms;

- (ii) that Council approve, if necessary, to progress and ultimately acquire the land identified red (Appendices 1 and 2 of the submitted report) at Preston Down Road and Collaton St Mary by making a Compulsory Purchase Order, under Section 226(1)(a) of the Town & Country Planning Act 1990 and the Acquisition of Land Act 1981 in respect of all or part of the land edged red on the Order Plans attached at Appendices 1 and 2 and any additional land which is considered to be required in order to bring forward the Enabling Works and the residential development, to ensure the early release of this land by March 2020;
- (iii) that in furtherance of (ii), Council authorise the Chief Executive to take all necessary steps to secure the making, confirmation and implementation of a Compulsory Purchase Order(s), including the publication and service of all notices, requisitions for information, statement of reasons and the preparation and presentation of the Council's case, including at any public inquiry, to secure confirmation of the Compulsory Purchase Order(s) by the Secretary of State;
- (iv) that in furtherance of (ii) above, the Chief Executive be given delegated authority to enter into agreement with any person to secure the withdrawal of objections to the Compulsory Purchase Order(s) and/or to negotiate and agree terms for the acquisition by agreement of any land, interests or rights as may be required for the Scheme;
- (v) that the Chief Executive be given authority to pay all necessary compensation either as agreed or as determined by the Lands Chamber of the Upper Tribunal in relation to the acquisition of land and other interests or for the overriding or acquisition of rights in consultation with the Councils S151 Officer; and
- (vi) that Council delegate to the Chief Finance Officer the approval of the expenditure of monies (including by prudential borrowing if necessary) required to cover the acquisition of Preston Down Road and Collaton St Mary, either by agreement or by CPO, on the basis that there is a clear business case which demonstrates how the monies are to be repaid from the development of the sites.

During the debate Councillor Thomas (D) proposed and Councillor Bye seconded an amendment to the motion as follows:

- (i) that delegated authority be given to the Chief Executive to agree heads of terms with TCCT to acquire by agreement the land identified red (Appendix 1 to the submitted report) at Preston Down Road and Collaton St Mary, in consultation with the Elected Mayor, Group Leaders and s.151 Officer and on the basis that the heads of terms reflect the contents of exempt information (circulated separately under Part 3 of Schedule 12A to the Local Government Act 1972); and
- (ii) that Council delegate to the Chief Finance Officer the approval of the expenditure of monies (including by prudential borrowing if necessary)

required to cover the acquisition of Preston Down Road and Collaton St Mary by agreement, on the basis that there is a clear business case which demonstrates how the monies are to be repaid from the development of the sites.

At this juncture and at the request of Chairman, the Chief Executive addressed the meeting as to statements made during the debate and clarified a number of issues in relation to the grant conditions for the Land Release Fund, compulsory purchase orders and the negotiations with the Torbay Coast and Countryside Trust. The Chief Executive then responded to questions from members.

A recorded vote was then taken on the amendment. The voting was taken by roll call as follows: For: Barnby, Bent, Brooks, Bye, Ellery, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Morey, O'Dwyer, Robson, Stockman, Stubley, Sykes, Thomas (D), Thomas (J) and Tolchard (19); Against: Elected Mayor Oliver, Councillors Amil, Darling (M), Darling (S), Excell, Long, Manning, Mills, Parrott, Pentney, Sanders and Stocks (12); Abstain: Councillors Doggett and Tyerman (2); and Absent: Councillors Carter, King, Morris and Winfield (4). Therefore, the amendment was declared carried.

The amended (substantive) motion was then considered by members, which was agreed by the Council as follows:

- (i) that delegated authority be given to the Chief Executive to agree heads of terms with TCCT to acquire by agreement the land identified red (Appendix 1 to the submitted report) at Preston Down Road and Collaton St Mary, in consultation with the Elected Mayor, Group Leaders and s.151 Officer and on the basis that the heads of terms reflect the contents of exempt information (circulated separately under Part 3 of Schedule 12A to the Local Government Act 1972); and**
- (ii) that Council delegate to the Chief Finance Officer the approval of the expenditure of monies (including by prudential borrowing if necessary) required to cover the acquisition of Preston Down Road and Collaton St Mary by agreement, on the basis that there is a clear business case which demonstrates how the monies are to be repaid from the development of the sites.**

(Note: Prior to consideration of Minute 96, Councillor Tyerman declared his non-pecuniary interest as a Trustee of Torbay Countryside Trust and observed the meeting from the public gallery, did not take part in the debate or vote on the matter.)

97 Members' questions

Members received a paper detailing questions, notice of which had been given in accordance with Standing Order A13. The paper also contained the answers to the questions which had been prepared by Elected Mayor Oliver and Councillors Excell, Mills, Parrott and Stocks and was circulated prior to the meeting. The

Chairman advised that Elected Mayor Oliver had requested Councillor Stocks to respond to question 11.

Supplementary questions were put and answered by Elected Mayor Oliver and Councillors Excell, Mills and Stocks, arising from their responses to the questions in respect of questions 3, 4, 6, 9 and 11.

(Note: Councillor Darling (S) asked supplementary questions in the absence of Councillor Carter.)

98 Notice of motion - Objection to Corporate Asset Management Plan

Members considered a motion in relation to an objection to the current Corporate Asset Management Plan, notice of which was given in accordance with Standing Order A14. In accordance with Standing Order A14.3(b), the motion was dealt with by this meeting.

Councillor Long proposed and Councillor Darling (S) seconded the motion, as set out below:

That the Council notes the aspirations within the emerging Torquay Neighbourhood Plan set out below in relation to Nightingale Park:

“Community Aspiration Services and Facilities. The former tip area adjacent to Browns Bridge Road named as Nightingale Park should continue to be protected for sports and leisure as identified in Torbay’s Playing Pitch Strategy and the adopted Torbay Local Plan. Detailed plans should be developed in accordance with the consultation report published in June 2016 “Nightingale Park Establishing Community Preferences”. It is proposed that a ‘sports and leisure masterplan’ should be developed to properly plan and maximise the area’s potential for sport, leisure which could include woodland walkways and a circuitous route around the park. Wild meadowland could also be included. New development within the area covered by the Gateway Masterplan must be supported by adequate community facilities which should include a new primary school and community health facilities.”

Therefore the Council formally objects to the current Corporate Asset Management Plan on the basis that Nightingale Park is not specifically referenced as land which should be prioritised for community and shared use.

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 16 November 2018:

- a) submit a revision of the Corporate Asset Management Plan with the reasons for any amendments to the Council for its consideration; or

- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.

Councillor Thomas (D) proposed and Councillor Tyerman seconded an amendment to the motion as set out below:

This Council believes in whole place and positive place shaping. Therefore, rather than object to the current policy framework on a single element as set out in the Notice of Motion, this issue be addressed in a strategic manner and be informed in part by the emerging Torquay Neighbourhood Plan, which is due to be presented to the forthcoming Extraordinary Council meeting on 15 November 2018.

As a result of any decisions taken by Council in November 2018, there may be a number of matters which need addressing in the Corporate Asset Management Plan and it would be wise to deal with these together in an holistic manner and not in isolation.

Therefore, this Council requests the Elected Mayor and the Assistant Director of Business Services to review the Corporate Asset Management Plan after the emerging Neighbourhood Plans for Torquay, Paignton and Brixham have been determined to ensure it aligns with the direction of travel of the Council and any required changes to the Plan are presented to the Council at an appropriate time.

A recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Barnby, Bent, Brooks, Bye, Hill, Kingscote, Lewis (B), Lewis (C), O'Dwyer, Robson, Sykes, Thomas (D), Thomas (J), Tolchard and Tyerman (15); Against: Councillors Amil, Darling (M), Darling (S), Doggett, Ellery, Excell, Long, Manning, Mills, Morey, Parrott, Pentney, Sanders, Stockman and Stocks (15); Abstain: Elected Mayor Oliver, Councillors Haddock and Stubley (3); and Absent: Councillors Carter, King, Morris and Winfield (4). Therefore, in accordance with Standing Order A19.2, the Chairman used his casting vote, voted against the amendment and declared it lost.

Councillor Long's and Councillor Darling's original motion was then considered by the Council which was agreed, as set out below:

That the Council notes the aspirations within the emerging Torquay Neighbourhood Plan set out below in relation to Nightingale Park:

“Community Aspiration Services and Facilities. The former tip area adjacent to Browns Bridge Road named as Nightingale Park should continue to be protected for sports and leisure as identified in Torbay's Playing Pitch Strategy and the adopted Torbay Local Plan. Detailed plans should be developed in accordance with the consultation report published in June 2016 “Nightingale Park Establishing Community Preferences”. It is proposed that a ‘sports and leisure masterplan’ should be

developed to properly plan and maximise the area's potential for sport, leisure which could include woodland walkways and a circuitous route around the park. Wild meadowland could also be included. New development within the area covered by the Gateway Masterplan must be supported by adequate community facilities which should include a new primary school and community health facilities."

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In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to consider this objection by 16 November 2018:

- a) submit a revision of the Corporate Asset Management Plan with the reasons for any amendments to the Council for its consideration; or**
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement.**

99 Call-in of Elected Mayor's decision in respect of Paignton Townscape

The Council considered the submitted report on a call-in of the Elected Mayor's decision in respect of Paignton Townscape which had been referred to Council for consideration by the Overview and Scrutiny Board, at its meeting held on 26 September 2018. It was noted the Elected Mayor and Deputy Mayor were unable to attend the Overview and Scrutiny Board, and, therefore, the Board had referred the call-in to Council to enable the reasons for the call-in to be presented to the Council and for the Elected Mayor to be able to hear the concerns raised and respond to them.

Councillor Lewis proposed and Councillor Darling (S) seconded a motion, which was agreed by the Council as set out below:

That the Elected Mayor be requested to reconsider his previous decision in respect of Paignton Townscape in light of the following:

- (a) the detrimental effect on the town and continued blight on the town centre of Crossways in delaying regeneration in Paignton town centre;**
- (b) the importance of improving the street scene for Paignton town centre to encourage further private investment;**
- (c) the fairness of the decision when money has been spent on other wards in Torbay; and**

(d) the potential damage to the economy.

At the invitation of the Chairman, the Elected Mayor confirmed his original decision without modification and his Record of Decision is attached to these Minutes.

100 Capital Funding to support additional places at Roselands Primary

Members considered the submitted report on a proposal to fund an additional classroom at Roselands Primary School from the 2019-2020 Basic Need Funding allocation and Children's Services Capital Programme in order to provide a short term solution to meet the Council's statutory obligation of providing sufficient primary school places in Paignton.

Elected Mayor Oliver proposed and Councillor Stocks seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the Director of Children's Services be given delegated authority to allocate up to £599,720 from the 2019-20 Basic Need Allocation and Children Services Capital Programme to support the provision of an additional classroom at Roselands Primary School; and**
- (ii) that the transfer of the land edged red shown at Appendix 1 to the submitted report, by way of a 25 year lease at nil cost to Roselands School under the Local Government Act 1972: General Disposal Consent 2003, be approved.**

(Note: Prior to consideration of Minute 100, Councillor Tyerman declared his non-pecuniary interest as a Trustee of Torbay Countryside Trust.)

101 Review of Political Balance

The Council considered a report on a review of political balance on committees and working parties following the creation of the Torbay Community Independents Group and Councillor King becoming an independent member.

Elected Mayor Oliver proposed and Councillor Stocks seconded a motion, which was agreed (unanimously) by the Council as set out below:

- (i) that the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved; and**
- (ii) that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved.**

102 Treasury Management Mid-Year Review 2018/19

Members noted the submitted report in respect of the Council's Treasury Management activities during the first part of 2018/19.

103 Composition and Constitution of Executive and Delegation of Executive Functions

The Council received and noted the submitted report in respect of changes made by the Elected Mayor to his Executive.

104 Investment and Regeneration Committee Recommendation - Investment Opportunity

The Chairman advised that there were no recommendations from the Investment and Regeneration Committee and therefore this item was withdrawn from the agenda.

Chairman

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Torbay Council representative on the Heart of the South West Joint Committee

Update to the Council held on 18 October 2018

The third meeting of the Heart of the South West Joint Committee was held on 5 October 2018 at Taunton. The following points provide an outline of the issues discussed at the meeting.

Local Industrial Strategy

- Heart of the South West has been selected to be in Wave 2 of developing Local Industrial Strategies (LIS). The LIS would naturally evolve from the Partnership's existing Productivity Strategy and there is a need to the close collaboration between the Joint Committee and the LEP as it is developed.
- The LIS will need to demonstrate that we are making difference and define our Unique Selling Point.
- We will be working with Government for approval of the LIS by June 2019. The Joint Committee has a key role as a stakeholder in that journey, with the next challenge being prioritising our transformational opportunities.

Productivity Strategy Delivery Plan

- Given that inclusive growth and improved productivity will not happen naturally, there needs to be intervention to help business create improvements in productivity and wealth. The first version of the Delivery Plan was presented to the Joint Committee covering a wide scope of opportunities. The Delivery Plan will be an internal document which enables the Partnership to co-ordinate delivery across key priorities. It outlines existing work and that required in the future.
- The Delivery Plan is broadly divided into two sections – a “core offer” concentrating on business support and skills available to all people and businesses in the region; and a section focussing on the opportunities available in Devon and Somerset.
- Currently the Delivery Plan covers half of the opportunities previously agreed by the Joint Committee: Digital (Photonics); Advanced Engineering (Marine; Nuclear); High-value Tourism; and Farming, Food and Fishing.
- Content around core infrastructure and housing as well as on the other opportunities is progressing with a view to updating the Plan in early 2019.

Communications Document

- A communications document has been developed which is an extract from the Delivery Plan. It is more succinct than the Delivery Plan and is targeted at MPs, Ministers and Officials as part of continuing to raise the profile of the Heart of the

South West ahead of the 2018 Budget, the 2019 Spending Review and the anticipated launch of the UK Shared Prosperity Fund.

- The document will be shared with a covering letter setting out the Partnership's current "asks":
 - Recognition of the Great South West (GSW) Partnership in the Autumn Budget Statement together with a commitment to co-design a Rural Deal - a 'Rural Productivity Partnership' with GSW following publication of Rural Productivity Commission Report earlier in the year
 - Strategic Connectivity
 - Confirmation of Sub National Transport Body/ (ies)
 - Peninsular Rail priorities – e.g. commitment for funding Dawlish
 - Funding commitment for A303 improvements
 - Superfast Broadband and 5G trials
 - A38/M5 Growth Corridor study by National Infrastructure Commission
 - Transforming Cities and Strength in Places bids agreed
 - EU Fisheries underspend proposal: an offer to work with Government to develop a proposal to utilise the projected underspend in the current EU Fisheries budget.
 - Nuclear Sector Deal (and others specifically Maritime and Defence) to have clear place-based elements/funding, recognising the HotSW opportunity in these
 - LIS specific: encourage joint working with West of England Combined Authority on Wave 2 Local Industrial Strategies particularly around connectivity and smart specialisations e.g. Nuclear and Aerospace

Housing Summit

- A brief resume of the Housing Summit held on 28 September 2018 at Exeter was provided. Homes England had attended the Summit and two primary offers for the South West around investment and land acquisition/disposal. Taking the learning from the Summit, the Partnership will now be developing a bespoke package of asks and offers to Government.

Governance

- In the light of the Government's announcements from the LEP Review, it is the intention to revisit the role, function and support for the Joint Committee. There has been a natural evolution of the strong and flexible relationship between the Joint

Committee and the LEP over the last two years. The Joint Committee will continue to have a key role overseeing and delivering elements of the Productivity Strategy that don't fall under the Local Industrial Strategy. There will be a recommendation to the constituent authorities to delegate authority to the Joint Committee to agree the Councils' input into the development and approval of the LIS. This is urgent given the timetable for the development of the LIS.

Brexit Risks and Opportunities Group

- BROG have been looking at deal and no deal scenarios. The impact on local government is in three areas – services, local economies, and society. The Group is keen for the Government to share their risk assessments so we can plan properly as there is concern is that there may be a shift in focus to local government (for example, in a no deal scenario the Government expects Trading Standards and Environmental Health to 'step up' but capacity in these areas is down to the bone).
- HotSW BROG are working with Cornwall on issues of common interest including a joint response to the Agriculture Bill.

Transport for the SW Peninsula

- Good progress has been made to establishing our Sub-national Transport Body (STB) with the first formal meeting on 8 November 2018. There are five councils involved (Cornwall, Devon, Plymouth, Torbay and Somerset) and we are looking to establish close links with the neighbouring Western Gateway STB. Key functions will be to develop a sub-regional Transport Strategy for the area and to influence Government thinking and policy on strategic transport issues. The STB's initial status will be an informal, non-statutory partnership with a view to accessing Government money this year to develop a business case to establish a statutory body as soon as is practicable.

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Record of Decision

Elected Mayor's Response to the Call-in of his decision in respect of Paignton Townscape

Decision Taker

Elected Mayor on 18 October 2018

Decision

That the original decision be confirmed as follows:

- (i) that the decision taken by the Council to borrow £1.172m from PWLB for the Paignton Townscape scheme is postponed and that alternative sources of funding are explored and a detailed business case is produced before any further work is carried out on this scheme; and
- (ii) that the implementation of the Paignton Townscape scheme is considered as part of the 2019/20 budget setting process.

Reason for the Decision

The Executive and fellow Councillors all want to see improvements made to Torbay's Town Centres and important public spaces. This £1m+ project, which came before Council via a Motion and without a supporting Officer Report, is one such project.

Regretfully we have needed to pause the project and the procurement phase as we have been unable to identify appropriate sources of funding at this time or in the near future to continue. Due to significant in-year cost pressures in Children's Safeguarding, we have introduced a complete moratorium on non-urgent spend and a recruitment freeze is now in place for all posts which are deemed not to be posts required to fulfil statutory requirements. Furthermore we are confidently expecting a further £6m of cuts next year and £4m the year after.

The Council has now virtually run out assets to sell. Our reserves are being depleted and it would not be sensible, at this time, to proceed with any further unsupported borrowing.

With regard the proposition that this Council has favoured Torquay over Paignton and Brixham, it is not correct, based on headcount and actual need as shown by the table below:

Project	Total Project Cost £m	Dates
	TORQUAY	
Torre Abbey renovation (I/II)	11.97	2005-2015
Princess Promenade (West)	3.84	2007-2010
Rock Walk stabilisation	3.76	2008-2012
Sea Change Cockington	3.28	2009-2014
Haldon Pier (I/11)	3.06	2009-2017
Beach Huts Meadfoot	2.16	2014-2016
BIC (Lymington Road)	2.14	2008-2009
Princess Pier structural	1.66	current
Dunboyne/Sanctuary ECH	1.24	2009-2012
Town Dock	1.15	2007-2009
Inner Harbour	0.97	2014-2017
Torbay Enterprise Project	0.75	2011-2016
Townscape Heritage	0.71	2009-2010

Elected Mayor's Response to the Call-in of his decision in respect of Paignton Townscape

Livermead Sea Wall	0.67	2013-2015
SWIM Torquay	0.59	2013-2015
Other capex <£500k	4.76	
	41.71	
	BRIXHAM	
Harbour regeneration	19.74	2008-2013
Victoria Breakwater	3.89	current
Oxen Cove landing jetty	1.97	current
Various major repairs Brixham	1.02	2007-2009
Sea Change Berry Head	0.71	2009-2010
Other capex <£500k	1.50	
	28.83	
	PAIGNTON	
Paignton Library building	6.16	2009-2011
South Devon College	18.00	(of which £4m provided by Council)
Paignton Flood Defence Scheme	1.93	2006-2008
Parkwood Leisure (TLC)	1.70	2018
Hollicombe Cliffs rock armour	1.54	2017-2018
RHT regeneration Foxhole Rd	0.88	2007-2008
Palace Theatre redevelopment	0.88	2006-2009
Paignton Velodrome cyclopark	0.82	2014-2015
Paignton Geopark	0.63	2013-2014
TLC structural	0.54	2013-2014
Other capex <£500k	2.21	
My Place Parkfield	5.26	
Western Corridor	11.95	(£9.3m spend to date)
EPIC	7.70	(now mostly committed)
Graphics Controls	6.60	
	66.80	

This decision will enable funding of the Paignton Townscape scheme to be considered alongside other Council priorities as part of the budget setting process for 2019/2020.

Implementation

This decision will come into force immediately.

Information

At the Council meeting held on 18 October 2018 Members considered the call-in of the Elected Mayor's decision in respect of Paignton Townscape which had been referred to Council by the Overview and Scrutiny Board as the Elected Mayor, Deputy Mayor and Lead Call-in Promoter were all unable to attend the Board meeting. Members felt that it was unfair to consider the call-in at the Board meeting and that the Elected Mayor should be able to hear the debate and concerns raised in order for him to be able to respond to them.

The Council resolved:

“That the Elected Mayor be requested to reconsider his previous decision in respect of Paignton Townscape in light of the following:

- (a) the detrimental effect on the town and continued blight on the town centre of Crossways in delaying regeneration in Paignton town centre;

Elected Mayor's Response to the Call-in of his decision in respect of Paignton Townscape

- (b) the importance of improving the street scene for Paignton town centre to encourage further private investment;
- (c) the fairness of the decision when money has been spent on other wards in Torbay; and
- (d) the potential damage to the economy.”

The Elected Mayor considered the recommendation of the Council at the meeting and his response is set out above.

Alternative Options considered and rejected at the time of the decision

These were set out in the report submitted to Council on 18 October 2018 and were not considered.

Is this a Key Decision?

No

Does the call-in procedure apply?

No

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

None

Published

23 October 2018

Signed: _____
Elected Mayor of Torbay

Date: 23 October 2018

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**Minutes of the Extraordinary Meeting of the Council
(Council decisions shown in bold text)**

15 November 2018

-: Present :-

**Chairman of the Council (Councillor Doggett) (In the Chair)
Vice-Chairwoman of the Council (Councillor Barnby)**

The Elected Mayor of Torbay (Elected Mayor Oliver)

Councillors Amil, Bent, Brooks, Bye, Carter, Darling (M), Darling (S), Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, Morris, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubley, Thomas (J), Tolchard and Tyerman

105 Opening of meeting

The Chairman gave apologies from his Chaplain and opened the meeting with a minute's silence to allow for personal reflection.

106 Apologies for absence

Apologies for absence were received from Councillors King, Morris, Pentney, Sykes, Thomas (D) and Winfield.

107 Declarations of interests

Councillor Stockman declared a non-pecuniary interest in respect of Minute 111 as she was the Chair of the Brixham Peninsula Neighbourhood Forum in her role as a Brixham Town Councillor.

108 Public question time

The Chairman advised that he had allowed late submissions for public question time in respect of Neighbourhood Plans for Torquay, Paignton and Brixham. Members noted that the Council had received five statements each relating to individual plans. Therefore, the Chairman advised that he had exercised his discretion to enable each statement to be heard prior to the consideration of the relevant Neighbourhood Plan on the agenda.

109 Paignton Neighbourhood Plan - Determination of Independent Examination

Prior to consideration of this item and in accordance with Standing Order A24, the Council heard from Mr David Watts, Chairman of the Paignton Neighbourhood Forum, who had submitted a statement in relation to the Paignton Neighbourhood Plan. The Deputy Mayor and Executive Lead for Planning and Waste responded to the statement that had been put forward advising that the matter was to be considered at this meeting.

The Council then received the Paignton Neighbourhood Plan, which had been submitted by the Paignton Neighbourhood Forum, along with the Independent Examiner's report on the Plan. It was noted that the Localism Act 2011 enabled communities to become involved directly in planning for their areas and communities were able to produce neighbourhood plans. Once adopted Neighbourhood Plans formed part of the statutory development plan to inform the determination of planning applications.

In determining the Paignton Neighbourhood Plan, Members noted the Independent Examiner had recommended that, subject to modifications, the Plan met the basic conditions required to proceed to a referendum. It was further noted that Officers had considered the Examiner's recommendations and made a number of further prescribed modifications to meet the legal basic conditions, as set out in the submitted report. The Paignton Neighbourhood Forum had indicated that they were in agreement with the Officer recommendations to Council.

Councillor Mills proposed and Councillor Haddock seconded a motion as set out below, which was determined by recorded vote and agreed unanimously. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Carter, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubley, Thomas (J), Tolchard and Tyerman (31); and Absent: Councillors King, Morris, Pentney, Sykes, Thomas (D) and Winfield (6).

It is recommended that the Council:

- (i) Agrees the decision statement in Appendix 2 to the submitted report and attached to these minutes, which shall be adopted and published accordingly, and that the Paignton Neighbourhood Plan as modified in Appendix 3 to the submitted report, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended);**
- (ii) Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the referendum, reflecting all modifications set out in the decision statement in Appendix 2 to the submitted report; and**

- (iii) Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Paignton Neighbourhood Area.**

110 Torquay Neighbourhood Plan - Determination of Independent Examination

Prior to consideration of this item and in accordance with Standing Order A24, the Council heard from Mr Leon Butler, Chairman of the Torquay Neighbourhood Forum, who had submitted a statement in relation to the Torquay Neighbourhood Plan. The Deputy Mayor and Executive Lead for Planning and Waste responded to the statement that had been put forward advising that the matter was to be considered at this meeting.

The Council then received the Torquay Neighbourhood Plan, which had been submitted by the Torquay Neighbourhood Forum, along with the Independent Examiner's report on the Plan. It was noted that the Localism Act 2011 enabled communities to become involved directly in planning for their areas and communities were able to produce neighbourhood plans. Once adopted Neighbourhood Plans formed part of the statutory development plan to inform the determination of planning applications.

In determining the Torquay Neighbourhood Plan, Members noted the Independent Examiner had recommended that, subject to modifications, the Plan met the basic conditions required to proceed to a referendum. It was further noted that Officers had considered the Examiner's recommendations and did not concur with a large number of his recommendations. Therefore, Officers proposed a number of changes, particularly the rewording and retention of a considerable number of policies, which the Examiner had recommended be deleted from the Plan. The modifications recommended by Officers were considered to better meet the legal basic conditions, as set out in the submitted report. The Torquay Neighbourhood Forum had indicated that they were in agreement with the Officer recommendations to Council.

The Chairman advised that an updated Appendix 3 had been circulated prior to the meeting.

Councillor Mills proposed and Councillor Haddock seconded a motion as set out below, which was determined by recorded vote and agreed unanimously. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Bye, Carter, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stublely, Thomas (J), Tolchard and Tyerman (31); and Absent: Councillors King, Morris, Pentney, Sykes, Thomas (D) and Winfield (6).

It is recommended that the Council:

- (i) Agrees the decision statement in Appendix 2 to the submitted report and attached to these minutes, which shall be adopted and**

published accordingly, and that the Torquay Neighbourhood Plan as modified in updated Appendix 3 circulated on 14 November 2018, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended);

- (ii) Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the referendum, reflecting all modifications set out in the decision statement in Appendix 2 to the submitted report; and
- (iii) Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Torquay Neighbourhood Area.

(Note: Councillor Bye left the meeting after consideration of this item.)

111 Brixham Peninsula Brixham Peninsula Neighbourhood Plan - Determination of Independent Examination

Prior to consideration of this item and in accordance with Standing Order A24, the Council heard from the following, who had submitted statements in relation to the Brixham Peninsula Neighbourhood Plan:

Mr James Mitchell, on behalf of the Waterside Area Residents' Association;

Mr Mike Harris of Stride Treglown, on behalf of Abacus Projects Limited;
and

Brixham Town Councillor Jackie Stockman, Chair of Brixham Peninsula Neighbourhood Forum.

The Deputy Mayor and Executive Lead for Planning and Waste responded to the statements that had been put forward advising that the matter was to be considered at this meeting and that the Council's Monitoring Officer had published a briefing in respect of the legal issues raised on behalf of Abacus Projects.

The Council then received the Brixham Peninsula Neighbourhood Plan, which had been submitted by the Brixham Town Council (prepared by the Brixham Peninsula Neighbourhood Forum as subsidiary of the Town Council), along with the Independent Examiner's report on the Plan. It was noted that the Localism Act 2011 enabled communities to become involved directly in planning for their areas and communities were able to produce neighbourhood plans. Once adopted Neighbourhood Plans formed part of the statutory development plan to inform the determination of planning applications.

In determining the Brixham Peninsula Neighbourhood Plan, Members noted the Independent Examiner had recommended that, subject to modifications, the Plan met the basic conditions required to proceed to a referendum. It was further noted

that Officers had accepted many of the Examiner's recommendations and made a number of modifications not recommended by the Examiner. The proposed additional modifications recommended by Officers were considered to better meet legal basic conditions, whilst maintaining the original intent of the community. The Officers recommendations were set out in the submitted report.

The Chairman advised updated Appendices 2 and 3 had been circulated prior to the meeting, along with a briefing note and revised officer recommendation prepared by the Monitoring Officer.

Councillor Mills proposed and Councillor Haddock seconded a motion as set out below, which was determined by recorded vote and agreed unanimously. The voting was taken by roll call as follows: For: Elected Mayor Oliver, Councillors Amil, Barnby, Bent, Brooks, Carter, Darling (M), Darling (S), Doggett, Ellery, Excell, Haddock, Hill, Kingscote, Lewis (B), Lewis (C), Long, Manning, Mills, Morey, O'Dwyer, Parrott, Robson, Sanders, Stockman, Stocks, Stubbley, Thomas (J), Tolchard and Tyerman (30); and Absent: Councillors Bye, King, Morris, Pentney, Sykes, Thomas (D) and Winfield (7).

It is recommended that the Council:

- (i) That the decisions of the Council in respect of the designation of the Neighbourhood Forum for Brixham be rescinded (minutes 93/12/12 and 135/12/17 refer) in recognition that an application in respect of forum status was not required, given that the Town Council is considered to be the 'relevant body' in accordance with sections 61F and 61G of the Town and Country Planning Act 1990;**
- (ii) Agrees the decision statement in updated Appendix 2 circulated on 14 November 2018 and attached to these minutes, which shall be adopted and published accordingly, and that the Brixham Peninsula Neighbourhood Plan as modified in updated Appendix 3 circulated on 14 November 2018, is submitted to a referendum in accordance with the Neighbourhood Planning (General) Regulations 2012 (as amended) and the Neighbourhood Planning (Referendums) Regulations 2012 (as amended);**
- (iii) Delegate to the Assistant Director of Transport and Planning to ensure that the Policy maps are finalised for inclusion in the Plan prior to the referendum, reflecting all modifications set out in the decision statement in updated Appendix 2 circulated on 14 November 2018; and**
- (iv) Accepts the Examiner's recommendation that it is not necessary to extend the referendum area and that the most appropriate area for the referendum will be that of the Brixham Peninsula Neighbourhood Area.**

(Note: Prior to consideration of Minute 111, Councillor Stockman declared her non-pecuniary interest as Chair of Brixham Peninsula Neighbourhood Forum in her role as a Brixham Town Councillor.)

Chairman

Appendix 2:

Decision Statement Table: Paignton Neighbourhood Plan

Assessment of Examiner's Report

Background

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

Mrs Deborah McCann was appointed through the National Planning Independent Examiner Referral Service (NPIERS) as the Independent Examiner in March 2018. This appointment was consented to by the Neighbourhood Forum. Mrs McCann, an experienced examiner, is independent of the Council and Neighbourhood Forum, possesses appropriate qualifications and has no interest in any land within the Torquay area. Whilst she had previously been employed by Torbay Council in the 1990s, this was considered by the Monitoring Officer not to represent a conflict of interest because of the significant passage of time.

All written representations were provided to the Examiner along with the submitted plan and associated documents. As part of the examination, Mrs McCann held an exploratory meeting public hearing at Paignton Library on 10 May 2018. The final report was received by the Council on 18th July 2018. The report was published on the Council's website on 19th July 2018.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

Examiner Recommendations.

The Examiner recommend a number of modifications needed to meet the Basic Conditions. Their general thrust of the modifications is to make the Plan more supportive of development in order to meet the Torbay Local Plan's strategic requirements. The LPA has agreed with the bulk of these modifications. However, it is considered that in some instances the basic conditions can be effectively met with different wording, which bring the Plan into overall closer alignment to the Local Plan and NPPF. This wording has been developed in close discussion with the Neighbourhood Forum. The modified policy wording is available in Table A2(1) and (2) below.

Table A2(1) Assessment of Examiner's Report and LPA Response.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
General and procedural matters				
Section 2 P3	<p>Summary Recommendations</p> <ol style="list-style-type: none"> 1. The Paignton Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions. 2. Satisfied that the Referendum Area should be the same as the Plan Area, 3. Having read the Paignton Consultation Statement and the representations made in connection with this subject the examiner considers that the consultation process was robust and that the Neighbourhood Development Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations. 4. Find that the Paignton Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum. 	Reasons set out in main report, plus see below.	<p>Accept recommendations with the exceptions of further modifications noted below.</p> <p>The LPA concur that the Plan proposal has been prepared in accordance with the legal requirements.</p> <p>No significant cross boundary issues have arisen in relation to the Paignton Neighbourhood Plan which would suggest that the referendum area should be extended.</p>	The Paignton Neighbourhood Plan as modified by the examiner, with the LPA's further modifications, may proceed to referendum.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 4.2 P8	I am satisfied that the Paignton Neighbourhood Forum meets the necessary requirements and is the Qualifying Body.	P8	The LPA is satisfied that Paignton Neighbourhood Forum is the appropriate qualifying body, as its forum status was approved by Council in December 2012 and 2017.	
Section 4.3	Confirms the neighbourhood Plan area		Noted – see above.	
Section 4.4	Confirms the Plan period 2012-30		Agree This corresponds to the Torbay Local Plan 2012-30 period	
Section 6.3 PP13-15	Conclusions from Exploratory meeting. There is no mechanism in the law, or NPPF, for a Local Plan to require a Neighbourhood Plan to allocate sites. My conclusion on this point is that the Paignton Neighbourhood Plan is not in conflict with this element of Torbay Local Plan strategic policy SS1.	Rationale set out in section 6.3 of Inspectors report. PP13-15	As noted in the main report, the LPA accepts the LPA and a number of developers made representations on this issue. The Examiner's recommendation on this matter is accepted for the reasons set out in the main Council report.	

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 6.3.9-10 PP13-15	<p>There are a number of policies within the Paignton Neighbourhood Plan that, as currently worded would have a negative impact on the plan's ability to support the strategic development needs set out in the Torbay Local Plan.</p> <p>With modifications (set out in section 4 of the report) the Plan would be in general conformity with the strategic policies of Torbay Local Plan 2012-2030 and have regard to National Policy and thus meet the Basic Conditions in this context.</p>	<p>Rationale set out in section 6.3 of Inspectors report.</p> <p>Pp13-15 and section 4</p>	<p>The LPA noted that the examiner's Modifications have brought the Plan into general conformity with the basic conditions.</p> <p>There are some instances where the LPA, in discussion with the Forum, considers that alternative wording of policies can achieve the same outcome.</p>	<p>The Paignton Neighbourhood Plan as modified by the examiner, with the LPA's further modifications, may proceed to referendum.</p>
Section 7 P15	<p>Consultation Process: Satisfied that the consultation process leading to Submission meets the requirements off the Neighbourhood Planning (General) Regulations 2012.</p>	<p>See explanation on p15.</p>	<p>The LPA agrees with the Examiner's conclusion.</p>	
Section 8 P15	<p>Post Submission consultation (Regulation 16) Examiner notes that she considered the representations resulting from the Regulation 16 Consultation which ran from 1 November 2017 to 18 December 2017 as well as late representation.</p>	<p>P15 11.6.6</p>	<p>Noted.</p>	
Section 9.4	<p>Satisfied having regard to these documents and other relevant documents, policies and</p>	<p>Detailed explanation is</p>	<p>Noted. See detailed comments below.</p>	

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	legislation that the Paignton Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions. (These are described on p16 of the Examiner's Report)	provided through the report (see below). 10.1 NPPF (2012) 10.2 Strategic policies of the Torbay Local Plan 2012-30		
Section 11 P19	<p>11.1 European Convention on Human Rights (ECHR) and other European Union Obligations</p> <p>Examiner satisfied that ECHR and other EU obligations have been met.</p> <p>A voluntary Sustainability Appraisal (SA) incorporating a Strategic Environmental Assessment (SEA) that demonstrates how the Neighbourhood Plan would contribute to the achievement of sustainable development has been submitted with the Plan</p> <p>The appraisal did not find any likely significant effects arising from the Neighbourhood Plan policy proposals that would need mitigation.</p>		The LPA agree that a Sustainability Appraisal, incorporating an SEA has been carried out and consulted on with the statutory bodies as required.	

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Section 11.2-11.6 Pp19-21	<p>Habitats Regulations Screening The examiner is satisfied that the HRA "Screening stage" does substantively meet the requirements.</p> <p>11.4.4 The Neighbourhood Plan does not add to or substitute any of the identified development sites that the Local Plan HRA has already considered and the policy proposals of the Neighbourhood Plan add further protection to the natural environment and biodiversity of the Plan area. Appraisal of the Neighbourhood Plan has therefore drawn first upon the conclusions of the Local Plan HRA in this Screening assessment.</p> <p>11.6.1 Having regard to the Local Plan HRA outcome, screening of the Neighbourhood Plan has taken into account the assessment of development sites identified in the Local Plan alongside the policy proposals of the Neighbourhood Plan to ensure a comprehensive screening of individual proposals and "in- combination" effect is achieved.</p> <p>The Examiner's report has considered the effect of the Judgment of the European Court of Justice, case C-323/17 ("People over</p>		<p>The Council has drafted an HRA Appropriate Assessment of the Post Examination Version of the Neighbourhood Plan (September 2018) No sites are allocated for development by the Plan and the Paignton Neighbourhood Plan policies will not affect the integrity of any of the European sites identified and the conservation objectives of these sites would be sustained. Natural England has been consulted and have not objected to the Council proceeding on this basis as the competent authority.</p> <p>In response to the AA's recommendations, Policy PNP1 (Area wide) at element f) has been introduced and paragraph 8.16 and 8.17 have been added to the Plan to confirm the position and the words agreed with the Forum.</p>	<p>The Plan may proceed to Referendum.</p> <p>An additional criteria has been added to Policy PNP1 in response to the HRA Appropriate Assessment.</p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	Wind").			
11.8 P24	Satisfied that the Paignton Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure.		Noted and agreed.	
11.9 P24	Satisfied that the Paignton Neighbourhood Plan, subject to modification covers development and land use matters.	11.9.1	Noted and agreed.	
11.10 P24	Satisfied that the themes for the Neighbourhood Plan have developed as a result of the community consultation carried out and that the policies of the plan respond to those themes.	11.10.1	Noted and agreed.	
12.9 p25	<p>General Comments</p> <p>A number of overarching modifications are recommended for all Policies in order to meet the Basic Conditions:</p> <ul style="list-style-type: none"> Where the word "permitted "has been used I have replaced it with "supported" as the decision to permit or refuse a planning application lies with the Local Planning 	<p>Recommendations are self-explanatory and an additional rationales provided elsewhere in the report P25. ...</p>	<p>The LPA agrees with these revisions, Where the Forum and the Council prefer a different wording that meets the Basic Conditions it is set out below.</p>	

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>Authority.</p> <ul style="list-style-type: none"> • Some policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control. • As the National Planning Policy Framework is in the process of revision I have removed reference to paragraph numbers, as these are likely to change when the new Framework is published. • A number of policies refer to the requirement to provide financial contributions. Neighbourhood Plans can include a list of priorities for spending Neighbourhood Plan apportioned CIL payments (though not within the policy section) however the imposition of financial obligations is subject to administration by the Local Planning authority and set out in other policy which cannot be revised by the Neighbourhood Plan. 			
Policies				

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
PNP1 Area Wide (p26-8)	Modify policy PNP1 and revised policy subsections within umbrella of PNP1.	Changes made to make the policy clear and unambiguous (p28 of report)	<p>The Policy's objective has been retained but the policy has been reduced in length or refer to types of development proposals that will, and will not, be supported</p> <p>Officers agree that the Modified PNP1 meets the basic conditions. For clarity it is recommended that a further heading entitled "Achieving "Sustainable Development" is inserted directly above the final five criteria following: "Sustainable development will be achieved by ensuring..."</p> <p>The LPA has added an additional criteria to the Policy in response to the Habitats Regulations Appropriate Assessment.</p>	Policy Modified as per Examiner's wording (PP28-9), with minor additional LPA modification to add heading to aid clarity and in response to the HRA Appropriate Assessment (See above).
Annex 1 to Policy PNP1 P29	Policy sub-divided into separate sub-policies as below.	To reduce confusion and separate out the wide range of issues, and relate policies to land use matters. (P27-8 of report)	Noted and agreed.	

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy PNP1(a) Rural Character Area pp29-31 and 36	Former Annex 1 policy becomes PNP1(a) Rural Character Area Policy Modified	As per general comments above.	Policy re-worded to make less restrictive, but the thrust of the policy criteria are retained. Annex 1 as submitted also contains elements relating to Local Food (with some text being recommended for deletion as a policy and moved to form a "community aspiration"). The LPA considers that the modified wording meets the basic conditions.	Policy PNP1(a) retained as per Examiner's recommendation.
PNP1 (b) pp31-34	Local Green Spaces. The Policy wording is recommended for revision to protect Local Green Spaces from harm other than in "very special circumstances". Fifty one LGS's confirmed as meeting the required criteria: Eight LGS's are recommended for deletion, these being: PLGS 30. Primley Woods PLGS 32. Clennon Valley PLGS 54. Great Parks PLGS 57. Westerland Valley PLGS 58. Yalberton Valley PLGS 60. Little Blagdon, Sunday Car Boot Field	The examiner has assessed the LGS against all of the tests in NPPF paragraphs 76-77 She notes the Council's/TDA's objection to PLGS.14 Parkfield and PLGS.20 Oldway but considers that the designation is clearly defined and meets the required	PLGS 14 Parkfield. It is noted that the LGS does not cover the buildings at Parkfield, but the open space to the south and west of the main building. The Examiner has assessed the area against the NPPF tests (76 -77) and finds it in accordance with the Basic Conditions. PLGS20: Oldway Mansion Gardens. The LPA and TDA objected to this designation. However the Examiner has considered it against the NPPF tests/Basic Conditions and has found it meets the required criterion (p32). It is noted that this could affect the future development potential of Oldway	Plan Modified as recommended by examiner (with minor amendments as agreed with the Forum for the purpose of mapping clarity.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>PLGS 61 Brake Copse, Collaton St Mary PLGS 62. Collaton Heath/ Saturday car boot sale field.</p> <p>PLGS21 Shorton Valley Woods and PLGS 55 Snowdonia Close , Collaton St Mary should be amended to remove the areas in private ownership.</p>	<p>NPPF tests (p32)</p> <p>The Examiner notes the TDA's objection that some LGSs may have development potential, but did not consider this to be a valid objection in terms of the NPPF tests (she did note that some LGSs could have had an element of protection under NPPF74 but the proposal must be considered as submitted).</p> <p>The deleted LGSs 24,30,32,54,57 and 58 are all considered to be extensive tracts of land (p33).</p>	<p>Mansion. However this is not part of the "Basic Conditions". Application P/2011/0925 for Oldway Mansion has expired and there is no extant proposal which would be obviously jeopardised by the LGS designation.</p> <p>Should the LPA revise the boundary of PLGS20, this would be tantamount to "a different view as to a particular fact" which would require consultation. It would result in very probable objection from the community and need for a second Examination (with associated cost and time implications).</p> <p>PLGS 60. Little Blagdon, Sunday Car Boot Field The area is indicated in the Adopted Masterplan as food production area and will therefore have a level of protection under PolicyPNP24/NPPF 91C and 97 (formerly 74). Therefore the examiner's recommendation is considered proportionate.</p> <p>PLGS 61 Brake Copse, Collaton St Mary. The copse would need to be protected as part of a development's</p>	

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		<p>PLGS60 Little Blagdon "Sunday Car Boot Sale Field", PLGS 61 Brake Copse, and PLGS62 Collaton Heath "Saturday Car Boot sale field" are deleted on the grounds that insufficient evidence has been provided to persuade the Examiner that the site is demonstrably special.</p>	<p>landscaping scheme and for biodiversity reasons and therefore the Examiner's assessment is accepted.</p> <p>PLGS 62. Collaton Heath/ Saturday car boot sale field. The area would be outside the development area in SS2/SDP3/PNP24 and would therefore enjoy a limited protection as countryside area. The Examiner's conclusion that it should not be LGS is accepted.</p> <p>Revised LGS Boundaries. The LPA agree that it is appropriate to remove the areas which are private gardens/ownership from LGS. However the determining factor is an area's performance against the NPPF tests not ownership per se, and some of the land that it is agreed meets the criteria is not publicly owned.</p> <p>It is not clear whether the land identified as being in "private ownership" at Snowdonia Close, Yalberton, is legally in separate ownership from the bulk of the LGS. However the land recommended</p>	

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			<p>for removal appears to be physically separated from the main LGS by trees and accordingly fulfils a different role from the bulk of the land shown as LGS.</p> <p>Because of the scale of mapping in the Neighbourhood Plan, minor boundary adjustments are necessary in producing the Policies map to ensure that the boundaries correspond to natural features and do not include private drives etc. This is a minor editorial matter and has been worked up with the Forum.</p>	
PNP1 (Local Food) P34	<p>Local Food. Modify the Policy: Delete and restate as a community aspiration.</p> <p>Note that elements of the submitted Local Food Production have been retained by the Examiner in PNP1(v), PNP1(a)and PNP1(c) 4</p>	Increase clarity and certainty (p36)	<p>The LPA agree with the Examiner that some of the criteria on local food are in part better treated as community aspirations.</p> <p>Elements of the submitted Policy are not therefore contained in PNP1(a) and PNP1(c)4 but notes the overarching policy has been retained by the Examiner in the main PNP1 – Area Wide policy at (v).</p>	Plan modified as recommended by Examiner and as modified further as shown in Appendix 3 in agreement with Paignton Neighbourhood Forum Note that some text has been moved to other Policies (PNP1(c))

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			The LPA however agrees with the Forum that some elements of the wording recommended for deletion (protection of hedgerows and dual purpose edible hedgerows) are land use considerations and can be referred to in Policy PNP1(c) below in accordance with the intent of the policy as submitted. The examiner's modifications elsewhere are considered by the LPA to be sufficient to ensure that these criteria are afforded proportionate weight in the Policy and likely decisions based on it. The modified policy wording and addition of 'aspiration' text to supporting text at paragraph 6.43 have been agreed with the Forum that meet the requirements of the Basic Conditions.	
Annex 2 to PNP1: Design Guide pp36-45	Annex 2: Design Guide subdivided into separate policies (following on from PNP1 (b) above).	Reduce length and scope for confusion (p36)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1(c) Design Principles	Design Principles. Policy retained with modifications. Some parts of the policy are reduced in length (e.g. biodiversity). The	The re-numbering is intended to reduce length and	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner, with

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	modified policy PNP1(c) now covers: 1. Strengthen Local Identity, 2. Biodiversity and geodiversity, 3. Treescape, 4. Local food production.	scope for confusion (p36)	<p>The agrees that it is appropriate to expand PNP1(c) criteria 4. to refer to the need to protect orchards and promote the biodiversity/recreational value of dual use "edible hedgerows" which are land use matters that meet the Basic Condition requirement to meet the intent of the submitted Plan wherever it is possible to do so. The wording supports Policy SC4 of the Local Plan.</p> <p>The LPA is satisfied that the examiner's other modifications to the Plan are sufficient to ensure that these considerations are given appropriate weight in the use of the policy as a development management tool.</p>	additional text as shown in Appendix 3 as agreed with the Forum as the Qualifying Body that submitted the Plan.
PNP1(d) Residential Development.	Residential Development. Policy modified but the principles are retained.	As above	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1 (e) Commercial Facilities.	Commercial Facilities. Policy modified but the principles of this part of PNP1 are retained	As above	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP1 (f)	Towards a sustainable, low carbon, energy	As above	The LPA agrees with the modified	Plan modified as

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Towards a sustainable, low carbon, energy efficient economy	efficient economy. . Policy modified but the principles of this part of PNP1 are retained.		wording	recommended by Examiner
PNP1(g) Designing Out Crime.	Designing Out Crime. The policy is reduced in length with detailed measures (formerly points 29-35) moved to become community aspirations	Reduce unnecessary level of detail (page 43)	The LPA disagrees with the examiner that the designing out crime criteria (29-35) are unnecessary detail. In the LPAs view they are useful criteria which are in accordance with Local Plan Policy DE1.4 and NPPF 69. Whilst the 2018 NPPF does not form part of the tests of soundness, paragraph 95 requires plans to promote public safety and take into account wider security threats.	Further modify Policy PNP1(g) by retaining criteria 29-35 of Submission Policy for the clarity it provides. (See text in table below).
PNP1(h) Sustainable Transport	Sustainable transport. The principles of this part of PNP1 are largely retained.	pp43-44	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
Former Annex 3 to Policy PNP1. Now PNP1(i) Surface water	Surface water. The Annex is modified to become PNP1(i). The principles of the annex/policy are largely retained.	p44-45	The LPA agrees with the modified wording together with a further modification to the criteria sub-references to ensure clarity of their application when making decisions. This	Plan modified as recommended by Examiner with the further clarification as shown in Appendix 3

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			is considered to be a minor editorial matter for the purpose of correcting a formatting error.	and agreed with the Forum as the Qualifying Body that submitted the Plan.
PNP2 Town Centre	Town Centre. Modify the Policy to refer to the Torbay Local Plan town centre boundary, (which is less extensive than the PNP boundary in Figure 6.3). Reference to "All development" has been replaced by "Development", Point (c) "achieve bold but sensitive change" has been deleted but the other criteria in the policy have been retained.	The modification is intended to improve clarity and reduce ambiguity (p46).	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner
PNP3 Paignton Harbour.	Paignton Harbour. Modify policy to remove "restrictive wording": The principles of the policy remain otherwise unchanged.	p48	No clearly defined boundary for the harbour is indicated, which could in officers' view lead to confusion. Define the extent of Paignton Harbour (following the line in Fig 6.3 (p32) of the PNP and including the northern breakwater to the Esplanade on the Polices map.	Plan modified as recommended by Examiner with a minor additional modification to define the Harbour area.
PNP4 Seafront.	Seafront. Modify Policy. The principles of the Policy are retained, with the exception of the references to Local Green Spaces.	Reference to LGSS is considered by the Examiner to be	The LPA agrees with the modified wording	Plan modified as recommended by Examiner

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		unnecessary duplication of modified policy PNP1(b)(LGS) (p49)		
PNP5 Torbay Road	Torbay Road Modify policy to remove restrictive wording. The policy is largely unchanged.	pp50-51	The LPA agrees with the modified wording.	Plan modified as recommended by Examiner
PNP6 Station Square "Gateway"	Station Square "Gateway" Modify to remove restrictive wording in last paragraph (as per general comment). The policy is otherwise unchanged.	pp51-2	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP7 Victoria Square	Victoria Square. Modify policy to make it more supportive of development. For example requirements such as the requirement for like-for-like replacement of lost car parking have been made more flexible but must still meet the adopted standards.	To ensure that deliverability of development has not been unduly burdened. (p52)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP8 Crossways, Hyde Road, and Torquay	Crossways Modify to remove restrictive wording (as per general comment). The policy is otherwise unchanged.	Only general comments are made (p53)	The examiner has retained reference to the pedestrian walkway through Crossways, despite the LPA's and TDA representation that the walkway is nor a	Plan modified as recommended by Examiner with the following minor

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Road			<p>public right of way and could adversely affect redevelopment proposals. The examiner's report does not specifically address this matter. Discussion with the Forum has agreed that the objection can be overcome by referring to retaining "a" pedestrian link rather than "the" pedestrian link. This removes unintended level of policy prescription.</p> <p>Both Hyde Road and Torquay Road Frontages are designated secondary frontages in the Adopted Torbay Local Plan. The PNP does not show retail frontages but Policy PNP18 shows Crossways (and its Torquay Road and Hyde Road frontages) as being within the Secondary Retail Area. Reference to secondary shopping frontages can be made as a minor factual correction for consistency and has been agreed with the Forum.</p>	<p>additional modifications:</p> <p>a) retain the primary and secondary retail frontages along Hyde Road and Torquay Road...</p> <p>c) retain the a pedestrian link between Torquay Road and Hyde Road</p>
PNP9 Victoria Park	Victoria Park Modify Policy to reflect its Local Green Space status, but the thrust of the policy and its objectives have been retained.	p54	The LPA agrees with the modified wording	Plan modified as recommended by Examiner

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PNP10 Queens Park	Queens Park Modify Policy to reflect its Local Green Space status, but the thrust of the policy and its objectives have been retained.	p55	The LPA agrees with the modified wording. Note that the site is shown as a potential housing site (PNPH17 in Appendix C of the Local Plan); but the LPA did not object to its LGS status.	Plan modified as recommended by Examiner

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PNP11 Old Town	Old Town PNP11 is not a policy but a list of community aspirations and should be modified and moved to a separate section of the Plan. it could be rephrased and included in a CIL priority list.	PNP11 not considered to be a land use policy (p57 of report).	<p>The LPA considers that PNP11 "Old Town" contains useful considerations to assist in the regeneration of Paignton Old Town and realising its special characteristics. It is therefore supportive of, and adds to the principles in SDP2 of the Local Plan and has regard to the NPPF.</p> <p>The LPA and Forum consider that the policy is capable of re-wording to meet the basic conditions, and accordingly should be retained.</p> <p>The policy has accordingly be revised in collaboration and agreement with the Forum. As a template Policy PNP6 (Station Square 'Gateway') has been used as this was approach endorsed by the Examiner.</p>	Policy PNP11 retained and modified as shown in table 2A (below) and Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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PNP12 Getting Around	Getting Around: Policy PNP12 is not a policy but a list of community aspirations/ projects and should be modified and moved to a separate section of the plan. It could be rephrased and included in a CIL priority list.	PNP11 not considered to be a land use policy. p58 of Report.	The LPA supported the aims of Policy PNP12 to improve movement in the town centre. It assists with delivering the objectives set out in Policies SDP2 and TA1 of the Local Plan and has regard to the NPPF. The LPA and Forum consider that it should be revised to meet the Basic Conditions using the policy structure and wording using the approach endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway') (see PNP11 above)	Policy PNP12 retained and modified as shown in Table 2A below and Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.
PNP13 Housing Opportunities in the Town Centre	Housing Opportunities in the Town Centre: Policy modified as follows: The examiner has deleted the local occupancy condition (point C). More minor modification to wording of criteria "a", "b", and "d". The Examiner has modified the Policy to refer to the Torbay Local Plan town centre boundary, which does not include the harbour area. However this appears to be an editorial oversight since the Policy as recommended by the Examiner retains a reference to the	To provide clarity; Adequate evidence has not been provided to support an occupancy restriction (pp58-59 and 76) Absence of a Policies Map (overall) will make application of the policy difficult.	As an editorial modification, it is recommended that that Policy PNP13 be revised to "Housing Opportunities in the Town Centre <u>and harbour area</u> " and that the first line of the policy states: "...homes within the Torbay Local Plan town centre boundary <u>and harbour area</u> , the following will apply <u>Reason</u> – the Town Centre boundary in the Local Plan does not include the harbour area which the submitted Plan and Examiner Report both indicate is intended to be included.	Policy PNP13 amended as shown in Appendix 3 to include the Examiner's modifications together with the additional wording to include the harbour area as agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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	harbour at criteria b)(i)			
PNP14 Core Tourism Investment Area (PCTIA/CTIA)	Core Tourism Investment Area. Policy Modified by prefixing the policy with "Paignton", so that the PCTIA is distinguished from the CTIAs in the Torbay Local Plan. Policy modified to add flexibility but the thrust of the policy has been retained The PCTIA covers a wider area than the Local Plan.	pp59-60 (general comments)	The Policy seeks to protect a wider area than the Torbay Local Plan (including include some of the streets behind The Esplanade which are outside the CTIA), however the Policy as modified allows changes of use where there is no reasonable prospect of tourist use, and is accordingly considered to be in general conformity with the Local Plan (specifically Policies TO1-3).	Plan modified as recommended by Examiner
PNP15 Flood and Sea Defences	Flood and Sea Defences. Modify to remove restrictive wording (as per general comment). The policy is otherwise substantially unchanged.	pp 61-62	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP16 Victoria Street	Victoria Square Modify to remove restrictive wording (as per general comment). The policy is otherwise substantially unchanged.	P62-63	The LPA agrees with the modified wording. See Policy PNP18 below which is relevant to this policy.	Plan modified as recommended by Examiner
PNP17 Transport Gateway	Transport Gateway. No changes are recommended to this policy	P63 (No specific comment)	The LPA does not object to this policy which is land use based. It is noted that all year opening of toilet and tourist facilities may be unenforceable through planning: but as a land use policy meets Basic Condition requirements as worded	No change to policy.

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			in PNP17.	
PNP18 Supporting the Retention of Retail Uses (formerly) Supporting Independent Traders/.	Supporting the Retention of Retail Uses. Formerly Supporting Independent Traders. The Policy has been re-titled to ensure it relates to land use (i.e. retail) rather than local traders. Policy significantly modified by the Examiner to require changes of use away from Class A1 (shop) in primary and secondary areas to meet a viability test or demonstrate support for wider regeneration.	Add clarity about the uses to which the policy refers and acknowledge permitted development rights. pp63-64	This is a more restrictive approach than Local Plan Policies TC1-3. However because the Examiner's modifications allow exceptions on viability or regeneration grounds, it is considered, meets the basic conditions.	Plan modified as recommended by Examiner
PNP19 Safeguarding open countryside	Safeguarding open Countryside. Modify Policy to refer to the NPPF and Policy C1 of the Local Plan. This creates more flexibility in the policy, but its overall thrust is largely retained.	To provide clarity and set out criteria for determining planning applications. pp 64-65.	The LPA agrees with the modified wording which refers to the NPPF and Policy C1 of the Local Plan.	Plan modified as recommended by Examiner
PNP20 Great Parks	Great Parks. Modify Policy to remove "restrictive" wording in the second paragraph.	p65 (general comment)	The LPA note that reference is made to the Masterplan supplementary advice.	Plan modified as recommended by Examiner
PNP21 White Rock	White Rock. Modify policy. The reference to encouraging major organisations (criteria b) has been removed. Similarly the penultimate	pp66-67 (general comments)	The LPA agrees the modified wording meets the Basic Conditions.	Plan modified as recommended by Examiner

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	point restricting expansion southwards (i.e out side of the plan area into the Brixham Peninsula NP area) has been removed. The final "restrictive" paragraph has been removed. The remainder of the Policy is retained.			
PNP22 Western Corridor	Western Corridor. Modify Policy. . The Policy is reworded to relate to planning applications. It is otherwise substantially unchanged apart from the removal of the final "restrictive" sentence. The Examiner has also referred to the Western Corridor Area (as shown on Figure 1.3 page 8 of the PNP) to provide clarity about the extent of Western Corridor.	Show policy area on a map and increase clarity (pp67-68)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP23 Yalberton to Blagdon Valley	Yalberton to Blagdon Valley The Examiner recommended that the Policy should be deleted and moved to a section on Community Aspirations.	Mostly not policy – but a list of community aspirations/projects (Report pages 25-26 and 68-69)	Paignton Neighbourhood Forum has argued land use matters would be lost and that the Policy should be retained in modified form. Whilst the Policy contains "restrictive elements", it is in general conformity with the Local plan and has regard to the NPPF. As reworded it contributes to the achievement of sustainable development and is able to be applied to planning	Policy PNP23 modified as shown in Table 2A (below) Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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			<p>decisions.</p> <p>The policy structure and wording have been modified using the approach endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway'). This also removes reference to designation of a conservation area.</p>	
PNP24 Collaton St Mary	Collaton St Mary. Modify the Policy. This policy has been significantly modified to reflect the Local Plan Future Growth Area (Policies SS2 and SDP3) and the adopted Supplementary Planning Document. These Modifications render the policy less restrictive of development. However, the list of matters that development should seek to achieve has been largely retained.	Make policy less restrictive and bring into general conformity with the Local Plan (pp70-71)	The modified policy requires regard to be had to the Adopted Masterplan Supplementary Planning Document. The list of considerations, as modified are in general conformity with the Local Plan. It is noted that there are other representations to the policy from the development industry. However the examiner indicates that these have been considered carefully.	Plan modified as recommended by Examiner
PNP25 Clennon Valley	Clennon Valley. Modify Policy: This Policy is retained unchanged except for the final (restrictive) sentence.	pp72 (general comment)	The LPA agrees with the modified wording	Plan modified as recommended by Examiner
PNP26 Clifton with Maidenway	Clifton with Maidenway. Modify Policy: This Policy is retained unchanged except for the final (restrictive) sentence.	pp72-3	The LPA agrees with the modified wording. It is noted that the policy recognises the tourism value of Clennon Valley and that the "restrictive" sentence	Plan modified as recommended by Examiner

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			has been removed.	
PNP27 Preston	Preston. The Examiner recommended that this is not a policy but a list of community aspirations and should be moved to a separate section of the Plan	Policy not a policy but a list of community aspirations (pp 73-74)	<p>The Neighbourhood Forum has made representations that a modified version of the Policy should be retained.</p> <p>The policy contains contentious sites including Oldway Mansion, Parkfield and (two sites at) Preston Down Road, which the LPA and TDA have made representations on. However the key issue likely to restrict development of Oldway Gardens and Parkfield is the Local green Space designation (see discussion above).</p> <p>The Policy has been revised in collaboration with the Forum using the policy structure and wording endorsed by the Examiner at Policy PNP6 (Station Square 'Gateway')</p> <p>It has been further modified to include a reference to the need for a viable use for Oldway Mansion. In the LPA's view this brings the modified Policy PNP28 into general conformity with the Basic Conditions .i.e. has regard to the NPPF,</p>	Policy PNP27 modified as shown in Appendix 3 and agreed with the Paignton Neighbourhood as the Qualifying Body that submitted the Plan.

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			is in general conformity with the strategic policies of the Local Plan, contributes to the achievement of sustainable development and able (as modified) to be applied to planning decisions).	
Section 5: Conclusions and recommendations	Pages 75-76 (N.B These issues have been addressed elsewhere but are repeated her for completeness).			
5.1	The Paignton Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes.	P75	Noted and agreed.	As above.
5.2	The Neighbourhood Plan does not deal with County matters, nationally significant infrastructure etc.	Page 75	Noted and agreed.	Noted.
5.3	The Paignton Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Development Plans in place within the Neighbourhood Area	Page 75	Noted and agreed.	Noted
5.4	The Sustainability Appraisal meets the EU	Detailed rationale	The Council, as competent authority	LPA concurs that SA

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>obligations regarding Strategic Environmental Assessment.</p> <p>The Examiner is satisfied that the Plan meets the Basic Conditions in respect of Habitats Regulations Assessment, including the implications of the "People over Wind" decision</p>	<p>set out on Page 75 The Paignton Neighbourhood Plan does not make any site allocations and the examiner concurs with Torbay Council's statement of 4th May 2018.</p>	<p>under the Habitats Regulations is empowered to require the Qualifying Bodies to provide sufficient information to enable it to be satisfied in HRA terms. It has therefore reviewed the associated Neighbourhood Plan HRAs, and in the context of the above (notwithstanding any other representations on sites/specific elements) considers that the Assessment and Mitigation Measures set out in all three NP HRA 'Screening Stages' substantively meet the requirements.</p> <p>For absolute clarity, the LPA considers this could be made clearer through a minor re-formatting to set out the same in an 'Appropriate Assessment' Stage. The LPA (as competent authority), has accordingly drafted this amended Appropriate Assessment work to meet the HRA regulations."</p>	<p>SEA and HRA requirements have been met.</p>
5.5	<p>The Paignton Neighbourhood Plan is supported by a Sustainability Appraisal. Examiner is satisfied that the policies and plans in the Paignton Neighbourhood Plan, subject to the recommended modifications</p>	<p>pp75 and see 7.4 above</p>	<p>Noted and agreed. Detailed comments are contained above.</p>	<p>LPA concurs that SA/SEA requirements have been met</p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	would contribute to achieving sustainable development. Subject to modification they have regard to national policy and to guidance, and generally conform to the strategic policies of the Torbay Local Plan adopted in 2015			
5.6	Due to the number of modifications made to the policies within the plan, Torbay Council should make any necessary modifications (including to plans and supporting text) to ensure that there is consistency of numbering etc.	To ensure there is consistency of numbering etc.	Update of the following: <ul style="list-style-type: none"> • Cover page wording; • Preface wording • Footer title; • Contents page listings; • Diagrams and boundary maps where amended; • Paragraphs 2.4, and 6.126 (2nd bullet point); • NPPF references clarified to be the 2012 edition; • Include an overall Policies Map as an Appendix 4. Reason – to ensure clarity, consistency and ease of use.	All updates shown in Appendix 3 have been agreed with the Paignton Neighbourhood Forum as the Qualifying Body that submitted the Plan.
5.7	Recommend that the plan submitted for referendum includes a Policies Map.	For ease of interpretation and clarity.	The LPA support this recommendation. the format and content of the policies map have been agreed with Paignton Neighbourhood Forum as qualifying	Plan submitted for referendum to include a Policies Map.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			body.	
5.8	The Paignton Neighbourhood Plan subject to the recommended modifications can proceed to Referendum		Noted and accepted.	Agree.

Annex 2A Revised Policy Wording where significantly different to examiner’s recommendation (Note that minor changes/additions are indicated in schedule 2A and the track change Plan at Appendix 3).

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Preface	<p>Insert at end of Preface:</p> <p><u>The Plan has been through several stages of formal consultation and has been examined by an Independent Examiner appointed by Torbay Council.</u></p> <p><u>If approved by those eligible to vote at the Referendum, it will then become part of the statutory development plan which the Council has a legal duty to have regard to when deciding planning applications.</u></p>
PNP1	<p>Area Wide Development will not be supported where:</p> <p><u>f) The proposal would result in an adverse impact on a European protected site.</u></p> <p>f<u>g</u>) the provision of houses in multiple occupation....</p>
PNP1(c)	<p>Design Principles</p> <p>4 Local Food Production Capacity</p> <p>xii) protect and increase food growing spaces to reflect the orchard and food production heritage of the area. <u>The protection and enhancement of orchards will be supported, and consideration should be given to creating edible hedgerows which serve a biodiversity and recreational function”.</u></p>
PNP1 (g)	<p>Designing out Crime</p> <p>All developments will be expected to show how crime and the fear of crime <u>and wider security threats</u> have been taken into account in the proposals submitted having regard “Designing out Crime” Guidance. <u>In particular they should have regard to:</u></p>

	<p><u>1) Access and movement - places with well-defined and well used routes with spaces and entrances that provide convenient movement without compromising security;</u></p> <p><u>2) Structure - places that are structured so that different uses do not cause conflict;</u></p> <p><u>3) Surveillance - places where all publically accessible spaces are overlooked;</u></p> <p><u>4) Ownership - places that promote a sense of ownership, respect, territorial responsibility and community;</u></p> <p><u>5) Physical protection - places that include necessary, well designed security features;</u></p> <p><u>6) Activity - places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times; and</u></p> <p><u>7) Management and maintenance - places that are designed with management and maintenance in mind, to discourage crime.</u></p>
<p>PNP11</p>	<p><u>Old Town</u></p> <p><u>Improvement of the Old Town area shown on the inset plan (Fig. 6.7 page 42) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance the public realm;</u></p> <p><u>b) encourage regeneration where sympathetic to heritage features and uses in the area;</u></p> <p><u>c) provide financial contributions where appropriate that enable implementation to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>d) retain shop and building fronts of importance to the area. Replacement frontages should conserve or enhance the character and</u></p>

	<p><u>appearance of the area having regard to Policy PNP1(c). Where possible, historic features such as building lines, window patterns and material should be reinstated;</u></p> <p><u>e) enable 'Old Town' signage and historic information at key interchanges for tourists and other users of the area to make it easier to find and enjoy;</u></p> <p><u>f) improve pedestrian, cycle and public transport connections and access from the transport hub and seafront;</u></p> <p><u>g) support use of the highway and Palace Avenue Gardens for local markets and events;</u></p> <p><u>h) encourage specialty shops in Winner Street and improvement of residential amenity in Well Street;</u></p> <p><u>i) support provision of a Heritage Centre use within the area;</u></p> <p><u>j) support use of the Palace Theatre and Palace Avenue Garden as key facilities.</u></p>
PNP12	<p><u>Getting Around</u></p> <p><u>Improvement of the Town Centre and seafront area shown on the inset plan (Fig. 6.3 page 42) will be encouraged and proposals supported where they will:</u></p> <p><u>a) make it easier to use sustainable transport;</u></p> <p><u>b) provide financial contributions where appropriate that enable implementation to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that better the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) improve integrated transport connections having regard to the hierarchy of sustainability;</u></p> <p><u>d) improve pedestrians connections and the way that traffic uses in the area interact with pedestrians;</u></p>

	<p><u>e) provide safe, continuous, separated cycling and pedestrian pathways to schools, employment and tourist sites;</u></p> <p><u>f) complete Paignton’s missing links in the National Cycle Route Network in support of Local Plan Policy SS6;</u></p> <p><u>g) help public transport better meet user needs;</u></p> <p><u>h) de-clutter the town centre to make it easier to move around;</u></p> <p><u>i) improve surfaces for pedestrians, including disabled people;</u></p> <p><u>j) ensure that town centre parking for cycles, motorcycles and cars supports town centre viability;</u></p> <p><u>k) bring different forms of transport closer together wherever possible.</u></p>
PNP23	<p><u>Yalberton to Blagdon Valley</u></p> <p><u>Improvement of the Yalberton to Blagdon Valley area shown on the inset plan (Fig. 6.12 page 59) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance tourism and attraction of the area to visitors;</u></p> <p><u>b) provide financial contributions where appropriate that enable implementation of the following measures to be achieved.</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) enhance the landscape character in accordance with PNP19;</u></p> <p><u>d) enhance biodiversity and safeguard the Valley’s caves, lime kilns and underground karst system in support of Torbay Local Plan Policy NC1;</u></p> <p><u>e) protect the unspoilt ‘Devon Green Lane’ known as Lidstone Lane or Whitehill Lane that runs from Lower Yalberton to Byter Mill, Stoke Gabriel, to the south;</u></p> <p><u>f) enhance buildings, orchards, and structures of heritage importance in the area;</u></p>

	<p><u>g) encourage small scale food growing, rearing and horticulture and protection of the Valley's extensive network of species-rich mature traditional hedges and large number of mature and veteran trees;</u></p> <p><u>h) enable separated cycling facilities through and into the area with 'pinch points' where possible at either end of Long Road to discourage vehicles of more than 3.5 tonnes in total weight.</u></p>
PNP27	<p><u>Preston</u></p> <p><u>Improvement of the Preston area shown on the inset plan (Fig. 1.2 page 9) will be encouraged and proposals supported where they will:</u></p> <p><u>a) enhance the public realm;</u></p> <p><u>b) enhance tourism facilities and community uses;</u></p> <p><u>Subject to other policies of the plan, improvement of the area will be supported that betters the function, amenity and public enjoyment by design detail that will:</u></p> <p><u>c) support appropriate and viable reuse of Oldway Mansion (including the Rotunda) and Parkfield House (including the Stables;</u></p> <p><u>d) improve the seafront area shown on the inset plan (Fig.6.8 page 46) with uses that support:</u></p> <p><u>i) public toilet facilities at Seaway Lane;</u></p> <p><u>ii) a barbeque area on the seafront;</u></p> <p><u>iii) creation of surfing opportunities where possible</u></p> <p><u>e) enable mixed use café, hotel and other tourist facilities where appropriate at Hollicombe;</u></p> <p><u>f) support provision of a community café, allotments and orchard space for community use where appropriate in the top part of Preston.</u></p>

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Appendix 2:

Decision Statement Table: Torquay Neighbourhood Plan

Assessment of Examiner's Report

Background

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

All written representations were provided to the Examiner along with the submitted plan and associated documents. As part of the examination, Mr McGurk held a public hearing at the Imperial Hotel, Parkhill Road, Torquay on 14th May 2018. The final report was received by the Council on 10th July 2018. The report was published on the Council's website.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

Submitted Plan Reference (i.e. policy, supporting text, paragraph, section or other matter contained within the plan)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Neighbourhood Plan period	Throughout the Plan, change any references to the time period to take account that it should reflect 2012-2030, in common with the Local Plan. (See Report page 6)	For clarity and precision.	<u>Decision</u> – As per the Examiner's recommended modification. Change time period references to reflect the period of the plan throughout the document, including but not limited to the front cover and the introductory section. <u>Reason</u> – As per the Examiner's stated reason.	All time period references within the Plan now reflect and/or take account of the period covered by the plan, which is the same as the Local Plan (2012-2030).
Neighbourhood Area boundary	Provide the Appendix 1 plan (Neighbourhood Area boundary) contained in the Basic Conditions Statement within the Neighbourhood Plan. (See Report page 15)	To satisfy Section 61G(1) of the Town & Country Planning Act 1990 (as amended).	<u>Decision</u> – As per the Examiner's recommended modification, add boundary map of designated area. <u>Reason</u> – As per the Examiner's stated reasoning.	Neighbourhood Area boundary map now shown within the Introduction section on page 4 of the modified Plan.
Introductory Section	Amend wording of 'Foreword' and page 4; Delete page 7 'Glossary';	For clarity and precision and to have regard to recommendations elsewhere in the report.	<u>Decision</u> – As per the Examiner's recommended modifications except for: - para 74 of the Examiner's Report, the recommended modification has been substituted for an alternative	All amendments included in the 'post examination Plan with modifications'.

	<p>Amend and delete wording on pages 8 & 9;</p> <p>Add suffix "T" to all Policy numbers (as in this Statement).</p> <p>(Report pages 19-21)</p>	<p>To distinguish the Torquay Neighbourhood Plan policy numbering from the adopted Torbay Local Plan numbering.</p>	<p>minor change to have regard to modifications made elsewhere in the Plan as set out in this Decision Statement.</p> <ul style="list-style-type: none"> - Para 78 of the Examiner's Report, the recommended modification is made plus with further minor alterations to account for modifications made elsewhere in the Plan as set out in this Decision Statement with regards to the retention of Community Partnership Statements within an Appendix. <p><u>Reason</u> – To meet the Basic Conditions requirement for there to be clarity and precision.</p>	
<p>Policy TS1: The Presumption in Favour of Development</p>	<p>Delete policy and supporting text.</p> <p>(Report pages 22-23)</p>	<p>Vague and inappropriate wording that seeks to direct the LPA and does not have regard to NPPF154. Incorrect information contained within supporting text.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Now appears as TS1 – Sustainable Development</p>

			<p><u>Reason</u> – In order to overcome conflict with the Basic Conditions and correct errors, including as identified by the Examiner. This includes providing clarity on how a decision maker should react to a development proposal within the Neighbourhood Area and setting a positive framework for sustainable development, having regard to national guidance.</p> <p>Note that NPPF154 specifically applies to Local Plans, not Neighbourhood Plans. However, the principles also apply to Neighbourhood Plans as set out in Para 041 (PPG ID 41-041) of the Planning Practice Guidance (PPG).</p>	
Policy TS2: Definitions of Greenfield and Brownfield land	Delete policy, supporting text and Glossary heading. (Report page 24)	Definition proposed, conflicts with national policy without justification and no substantive evidence to test impact would not harm delivery of sustainable development	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p>Specifically, relate definition of brownfield</p>	<p>Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'</p> <p>Modified policy appears as TS4 Support for Brownfield and Greenfield Development</p>

			<p>land in the supporting text to that which is directly specified in the NPPF. Provide modified policy which retains the intent of the policy that brownfield development should be supported in preference to greenfield development,</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
<p>Policy TS3: Master Plans</p>	<p>Delete policy and supporting text. (Report page 25)</p>	<p>Confusing when considered against the supporting text and contains unlawful elements.</p>	<p><u>Decision</u> - Retain the policy with modified wording and supporting text to provide clarity. It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions and correct errors, including as identified by the Examiner.</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'</p> <p>Modified policy appears as Policy TS2 – Master Plans</p>

Policy TS4: Community led planning	Amend policy title, number and wording. Amend supporting text. (Report page 26)	To accord with a consultation approach that has regard to national guidance and law.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> - As per the Examiner's stated reasoning.	Modified policy wording and supporting text included in the 'post examination Plan with modifications' Modified policy appears as Policy TS4 - Community led planning
Policy TH1: Allocation of housing sites and revisions to the Local Plan	Amend policy wording; delete one housing site Provide a new Table and plan of sites allocated by the Neighbourhood Plan. Amend page 12 supporting text. (Report pages 27-29)	The policy is confusing and not wholly consistent with national policy and guidance Not the role of a Neighbourhood Plan to allocate land already allocated. Delete 'Kwik Fit' site as it is unavailable for development.	<u>Decision</u> – As per the Examiner's recommended modification plus further minor amendments of policy title, supporting text and table to reflect those changes, wider plan modifications and correct minor errors in numbering and site name classifications within table. Decision was taken not to provide a further map within the written document of the housing sites as these are already shown with clarity on the Policies Maps. <u>Reason</u> - to provide clarity and precision having regard to national guidance (PPG ID 41-042)	All amendments included in the 'post examination Plan with modifications'. Modified policy appears as TH1 - Housing Allocations
Policy TH2: Designing out crime	Amend policy wording. (Report page 30)	As worded the policy appears vague and ambiguous.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> - As per the Examiner's stated reasoning plus to provide clarity having regard to national guidance (PPG ID41-042)	Policy retained with amended policy wording in the 'post examination Plan with modifications'. Modified policy appears as Policy TH2 – Designing out crime
Policy TH3:	Delete policy and related text.	Wording conflicts with NPPF173 and Local Plan Policy H2 in regard to viability and also does	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting	Modified policy title, wording and supporting text included in the 'post

<p>Future Growth Area viability exclusions</p>	<p>(Report page 31)</p>	<p>not contribute to the achievement of sustainable development.</p>	<p>this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Including to contribute to the achievement of sustainable development and be consistent with national policy and be in general conformity with the Local Plan.</p> <p>NPPF173 relates to deliverability in terms of viability of a Local Plan but PPG ID41-005 makes it clear that this also applies to neighbourhood planning</p>	<p>examination Plan with modifications’.</p> <p>Modified policy appears as TH3 – Future Growth Area viability priorities</p>
<p>Policy TH4: Affordable homes from Greenfield developments</p>	<p>Delete policy; Amend supporting text. (Report page 32)</p>	<p>Lack of substantive evidence to justify approach. Less clear than Local Plan and not in general conformity with Policy H2, Does not have full regard to national guidance</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and amending the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated</p>	<p>Modified policy wording and supporting text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH4 – Affordable</p>

			<p>supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	homes from greenfield developments
Policy TH5: Affordable housing occupancy restrictions	<p>Delete policy and supporting text;</p> <p>Delete 'Community Aspiration'.</p> <p>(Report page 33)</p>	Fails to contribute to achievement of sustainable development.	<p><u>Decision</u> - As per the Examiner's recommendation.</p> <p><u>Reason</u> - As per the Examiner's stated reasoning.</p>	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH6: Sustainable later life homes	<p>Delete policy.</p> <p>(Report page 34)</p>	Appears restrictive and a risk to achieving sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as</p>	<p>Modified policy, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TH5 – Sustainable later life homes</p>

			<p>amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p> <p>Encouraging sustainable locations for accommodation designed for needs of the elderly or who are frail has regard to national policy, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	
Policy TH7: Retirement and assisted living	Delete policy and supporting text; (Report page 35)	As worded it creates a presumption in favour of potentially inappropriate development that would not contribute to achievement of sustainable development and is not in general conformity with the Local Plan	<p><u>Decision</u> - As per the Examiner's recommended modification but some supporting text retained.</p> <p><u>Reason</u> – As per the Examiner's recommended modification. Some supporting text retained to support the retained Policy TH6 Sustainable later life homes</p>	Policy and some associated supporting text deleted and does not appear in the 'post Examination Plan with modifications'.
Community Infrastructure Levy (Page 16)	Amend presentation and wording of these stated 'Community Aspirations'. (Report page 36)	Could be confused with Policies.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	All amendments included in the 'post examination Plan with modifications'.
Policy TH8:	Delete policy.	Not in general conformity with the Local Plan, lacks substantive	<u>Decision</u> - As per the Examiner's recommended modification.	Policy and associated text deleted and does

Prioritisation of Town Centre redevelopment and Brownfield sites	(Report page 37)	evidence, and without due regard to the NPPF,	<u>Reason</u> - As per the Examiner's stated reasoning.	not appear in the 'post Examination Plan with modifications'
Policy TH9: Homes for Torbay residents	Delete policy. (Report page 38)	Lack of evidence provided to support such restrictive requirements which would exceed national and local policy requirements. Fails to contribute to the achievement of sustainable development.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH10: Gateway sustainable community planning	Delete policy and amend text. (Report page 39)	As worded, fails to contribute towards achieving sustainable development and is not in general conformity with the Local Plan	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Positively encouraging consideration of the	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'. Modified policy appears as TH10 – Gateway sustainable community planning

			wider area has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.	
Homes from former Tourism properties (page 18)	Delete heading and policy list. (Report page 40)	Detracts from clarity.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	Section deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH11: Minimum bedrooms	Delete policy. (Report page 41)	Imprecise and ambiguous. Lacks due regard to national policy.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	Policy deleted and does not appear in the 'post Examination Plan with modifications'.
Policy TH12: HMO's	Delete policy and supporting text. (Report page 42)	Not compliant with NPPF173 regarding viability. No substantive evidence.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.	Policy deleted and does not appear in the plan in Appendix 3 Modified policy appears as TH7 - HMOs

			<p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. NPPF173 relates to deliverability in terms of viability of a Local Plan but PPG ID41-005 makes it clear that this also applies to neighbourhood planning.</p>	
Policy TH13: Established Architecture	<p>Modify the policy wording. (Report page 43)</p>	<p>To provide for a more balanced consideration and to avoid ambiguity.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that modifying this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modification to the policy, better retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner. The policy as modified has the required due regard to NPPF58, is in general conformity with the Local Plan and better contributes to the achievement of sustainable development.</p>	<p>Policy amended and contained within the 'post Examination Plan with modifications'.</p> <p>Modified policy appears as TH8 – Established architecture</p>
Policy TH14 Parking facilities	<p>Delete policy and supporting text. (Report page 44)</p>	<p>Lack of evidence to support policy, and would not have due regard to national policy (NPPF173 and NPPF204). Not in general conformity with the</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner,</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p>

		Local Plan.	<p>would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Ensuring an appropriate provision of parking for residential development has regard to national guidance, contributes to the achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	Modified policy appears as TH9 – Parking facilities
Policy TH15: Sites excluded from development	Delete policy and supporting text. (Report page 45)	Unduly restrictive.	<p><u>Decision</u> - As per the Examiner’s recommended modification but move some modified supporting text to the support text section of TH1.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning. Text moved to TH1 in order to reflect that the Neighbourhood Plan chose not to allocate two potential housing sites contained in the Local Plan. Adds clarity to the plan.</p>	All amendments included in the ‘post examination Plan with modifications’.

Policy TH16: Protection of the historic built environment	Delete policy and supporting text. (Report page 46)	Does not have regard to national policy and fails to contribute to the achievement of sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Appropriate protection of heritage assets through plan policy has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TH10 Protection of the historic built environment</p>
Policy TH17: Rural village buffer zones	Delete policy. (Report page 47)	Restrictive approach not justified by evidence, does not have regard to national policy, not in general conformity with the Local Plan and fails to contribute to the achievement of sustainable development.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'
Policy TH18:	Delete policy and	Wording does not have regard	<u>Decision</u> - It is agreed that the submitted	Modified policy wording

Rural Village Conservation areas	supporting text. (Report page 48)	to national policy.	<p>plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging development proposals that would enhance a designated Conservation Area has regard to national policy, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>and supporting text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH11 – Rural village conservation areas</p>
Policy TH19: Maidencombe area	<p>Amend policy wording; Amend supporting text and title;</p> <p>Replace village envelope diagram on page 64.</p> <p>(Report pages 49-51)</p>	To avoid conflict with national policy, the Local Plan, contribute to sustainable development and provide clarity for decision making	<p><u>Decision</u> – Policy wording changed as per the Examiner’s recommended modification but further detail added to re-emphasise the unique landscape character and setting of Maidencombe, which better retains the intent of the submitted policy and better meets the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). This includes making</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TH12 – Maidencombe area</p>

			<p>reference to the context of the Local Plan (C1, C2 and SS2) with regards to the intent of the policy. Further information added in supporting text to link to Landscape Character Assessment evidence undertaken as part of the Local Plan evidence base and already referenced within the Torquay NP submission documents.</p> <p>The boundary of the Village Envelope which is retained as specified in the Plan. In addition, supporting text retained and amended to reflect modification002E</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Proposed amended village envelope boundary retained on the basis of being in general conformity with the Local Plan (including Policy C1) and evidence being sufficient to support proposed changes. Changes to supporting text add clarity to the plan.</p>	
Policy TH20: Cockington village and Country Park	Delete policy and supporting text. (Report page 52)	Blanket presumption approach inappropriate.	<p><u>Decision</u> - Retain policy with modified wording to overcome the issue raised.</p> <p><u>Reason</u> – providing clear guidance for development in the historic area involved has regard to national policy, contributes to achieving sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Revised policy and text included in Appendix 3 and agreed with the Torquay neighbourhood Forum as the Qualifying Body that submitted the Plan.</p> <p>Modified policy appears as TH13 – Cockington Village and Country Park</p>
Policy TJ1:	Delete policy and	Content imprecise and unclear.	<u>Decision</u> - It is agreed that the submitted	Modified policy title

<p>Designated Employment Sites and minimum employment space</p>	<p>supporting text; Delete all employment sites from policies maps, (Report pages 53-54)</p>		<p>plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. This applies not just to this employment policy but also to policies TJ2, TJ3, TJ5 and TJ6. It is considered that these policies perform related functions and have common aims. It is considered that a modified, single policy and associated supporting text can be introduced which would retain the policies general intent (TJ1, TJ2, TJ3, TJ5, TJ6) and that this would enable a single policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, provide a new policy to replace the employment policies already listed together with amended supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner (also see reasons identified for Policy TJ2, TJ3, TJ5 and TJ6).</p>	<p>(TJ1), wording and supporting text included in the 'post examination Plan with modifications'. Modified policy appears as TJ1 - Employment</p>
<p>Policy TJ2: Gateway Employment Sites</p>	<p>Delete policy and supporting text. (Report page 55)</p>	<p>Highly restrictive, not in general conformity with the Local Plan.</p>	<p><u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1)</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	<p>Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with</p>

				modifications'
Policy TJ3: Retention of existing purpose built B Class employment sites	Delete policy and supporting text. (Report page 56)	Not clear or flexible, not in general conformity with the Local Plan.	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1) <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with modifications'
Policy TJ4: Home Based Enterprises	Modify policy wording. (Report page 57)	To remove ambiguity.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	All amendments included in the 'post examination Plan with modifications'. Modified policy appears as TJ2 – Home based enterprises
Policy TJ5: Change of use for unsustainable businesses	Delete policy and supporting text. (Report page 58)	Confusing and does not contribute to the achievement of sustainable development.	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1) <u>Reason</u> - As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post Examination Plan with modifications'
Policy TJ6: Support for certain existing Employment Sites	Delete policy and supporting text. (Report page 59)	Policy cannot direct LA to grant or refuse planning permission	<u>Decision</u> - As per the Examiner's recommended modification (though note new Policy TJ1) <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted (though note new Policy TJ1 which seeks to retain some of its intent) and does not appear in this form within the 'post

				Examination Plan with modifications'
Policy TJ7: Commercial street scenes	Modify policy wording. (Report page 60)	To have regard to national policy.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	All amendments included in the 'post examination Plan with modifications'. Modified policy appears as TJ3 – Commercial street scenes
Policy TJ8	No policy or recommendation attributed to this number.	N/A	N/A	N/A
Policy TJ9: Prevention of crime through design	Delete policy and supporting text. (Report page 61)	Repetitive of policy TH2.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear within the 'post Examination Plan with modifications'
Tourism 'Community Aspiration' (page 25)	Delete 'Community Aspiration' and related text. (Report page 62)	Reads as a Policy and detracts from clarity. Places obligations on the Council and is confusing.	<u>Decision</u> - Retain with modified wording to make it clear it is not a policy. <u>Reason</u> – Community expression of aspirations in the Plan is allowed if they are not able to be confused with policy statements.	All amendments included in the 'post examination Plan with modifications'.
Policy TT1: Limited period for Change of Use of Tourism Properties within a CTIA	Delete policy and supporting text. (Report page 63)	Fails to contribute to sustainable development and lacks evidence to justify.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'

<p>Policy TT2: Change of Use constraints within an established tourism area or CTIA</p>	<p>Modify policy title and wording. (Report page 64)</p>	<p>To avoid imprecision and be in general conformity with the Local Plan.</p>	<p><u>Decision</u> – It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that modifying this policy, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modification to the policy could be made could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions whilst also better retaining the original intent. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, further amend policy wording to meet Basic Condition requirements. Specifically this includes the provision of change of use outside as well as inside CTIAs (capturing the intent of established tourism areas within the submitted policy).</p> <p>Also modify policy to incorporate some of the original intent of TT3 (see further below)</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning plus better capture the full intent of the submitted policy in way which meets the Basic Conditions.</p>	<p>Modified policy title and wording included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TT1 – Change of use constraints within and outside a CTIA</p>
<p>Policy TT3: Permitted Change of Use of Tourism</p>	<p>Delete policy. (Report page 65)</p>	<p>Restrictions are unduly placed on development without evidence to support an assessment of impact. Does not</p>	<p><u>Decision</u> – Agree partly with Examiner’s modification but some elements could be retained in a modified form and have been</p>	<p>Policy deleted but some elements incorporated into TT1.</p>

Properties outside CTIA's		contribute to the achievement of sustainable development.	incorporated within TT1 (see above). As per the Examiner's recommended modification. <u>Reason</u> – Because the modified reasoning meets the basic conditions in terms of meeting the basic conditions and is in particular in general conformity with Local Plan tourism policies.	
Policy TT4: Change of Use in Conservation Areas and Listed Buildings	Delete policy and supporting text; Amend 'Community Aspirations'. (Report page 66)	The presumption in favour of change of use does not have regard to national policy. The policy lacks clarity and precision. The 'Community Aspirations' read as requirements.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	Policy deleted and does not appear in the 'post Examination Plan with modifications'. Community aspirations amended in the modified plan. Modified policy appears as TT2 – Change of Use in Conservation Areas and Listed Buildings.
Policy TT5: Change of use constraints on Babbacombe Downs CTIA	Delete policy. (Report page 67)	Not in general conformity with Local Plan Policy TO1 and wording imprecise.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording to meet Basic Condition	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'. Modified policy appears as TT3 – Change of use constraints on Babbacombe Downs CTIA

			requirements. <u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner.	
Policy TT6: Oddicombe Beach	Delete policy and supporting text; Delete and amend various 'Community Aspirations'. (Report page 68)	Policy not sufficiently precise. The 'Community Aspirations' exceed their remit.	<u>Decision</u> - As per the Examiner's recommended modification with regards to TT6. In relation to the Community Aspirations, retain all with appropriate introductory text to make to ensure they are aspirations and not requirements placed on the Council. <u>Reason</u> – As per the Examiner's stated reasoning plus policy is not consistent with the Local Plan in terms of reflecting flood risk at Oddicombe Beach.	Policy deleted and does not appear in the 'post Examination Plan with modifications'. All other amendments to community aspirations included in the 'post examination Plan with modifications'.
Policy TE1: Protection of SSSI	Delete policy; Amend supporting text. (Report page 69)	Not in general conformity with the Local Plan and inflexible.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'. All other amendments included in the 'post examination Plan with modifications'.
Policy TE2: Protection of the Countryside and Undeveloped Coastal Areas	Delete policy; Delete supporting text. (Report page 70)	Not in general conformity with the Local Plan and not supported by any substantive evidence.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning.	Policy and associated text deleted and does not appear in the 'post Examination Plan with modifications'.

<p>Policy TE3: Tourism Accommodation on Greenfield sites</p>	<p>Delete policy; Delete supporting text. (Report page 71)</p>	<p>Does not have regard to national policy and no evidence to indicate it would contribute to sustainable development.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. As modified the policy has regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE1 – Tourism Accommodation on Brownfield Sites</p>
<p>Policy TE4: Local Green Spaces</p>	<p>Modify the policy wording: Delete Nightingale Park as does not meet the required criteria; Provide Table and Map of all other sites confirmed and reference as LGS1-99;</p>	<p>To accord with national guidance. To provide clarity and precision.</p>	<p><u>Decision</u> – As per the Examiner's recommended modifications except for amendments to table numbering/reference and the provision of an indicative plan to show location of each site. Further line added regarding allowing minor improvements to access and community facilities consistent with the intent of the policy and consistent with NPPF policy for managing Local Green Space (in accordance with Green Belt). Amendment</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TE2 – Local Green Spaces</p>

	<p>Amend boundary of LGS at Teignmouth Road.</p> <p>Amend supporting text on pages 31-32.</p> <p>(Report pages 72-75)</p>		<p>to table to correct error with name of TLGSM18 to reference King George playing Fields.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning but with regards to presentation modifications it is considered that this is unnecessary in terms of providing additional clarity. The policy, maps and table are sufficiently clear. To correct errors.</p>	
Policy TE5: Green Infrastructure Delivery Plan	<p>Replace the policy with a ‘Community Aspiration’</p> <p>(Report page 76)</p>	<p>The Green Infrastructure Delivery Plan is guidance (not planning policy or SPD) only and it is unclear and not supported by evidence why those requirements should be placed upon development.</p>	<p><u>Decision</u> - As per the Examiner’s recommended modification.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning.</p>	<p>The Policy (as revised to a Community Aspiration) has been incorporated into the ‘post examination Plan with modifications’.</p>
Policy TE6: Development on Established Woodland	<p>Modify policy wording;</p> <p>Delete 2 ‘Community Aspirations’ below Policy TE6 and single paragraph of supporting text.</p> <p>(Report page 77)</p>	<p>(No clear reason given for the policy wording change.)</p> <p>Both ‘Community Aspirations’ deleted because they read as Policy requirements.</p>	<p><u>Decision</u> - As per the Examiner’s recommended modification.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning.</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TE3 – Development on Established Woodland</p>
Policy TE7: Green Corridors	<p>Modify policy wording;</p> <p>Amend supporting text.</p> <p>(Report page 78)</p>	<p>Confusingly worded and vague.</p>	<p><u>Decision</u> - As per the Examiner’s recommended modification.</p> <p><u>Reason</u> – As per the Examiner’s stated reasoning.</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TE4 – Green</p>

				Corridors
Policy TE8: Protected species habitats and biodiversity – general	Delete policy. Report page 79).	Conflicting wording that does not contribute to achievement of sustainable development.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.	Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'. Modified policy appears as TE5 – Protected species habitats and biodiversity
Policy TE9: European Protected species	Replace policy wording; Amend supporting text. (Report page 80)	Taking account of European obligations.	<u>Decision</u> - As per the Examiner's recommended modification but with additional line to reference all stages of construction process in order to retain original intent of submitted plan and also meet the basic conditions. <u>Reason</u> – As per the Examiner's stated reasoning and to meet the basic conditions.	All amendments included in the 'post examination Plan with modifications'. Modified policy appears as TE6 – European protected species
Policy TE10:	Delete policy and supporting text.	Not a land use planning matter.	<u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic	Modified policy title, wording and supporting

Marine Management Planning	(Report page 81)		<p>Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. In this instance the modification can ensure that only land use matters are included,</p> <p><u>Reason</u> – to ensure only land use matters are involved in the policy proposed in accordance with Basic Conditions.</p>	<p>text included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as TE7 – Marine Management Planning</p>
Policy THW1: Travel Plans	<p>Delete policy.</p> <p>Amend ‘Community Aspirations’.</p> <p>(Report page 82)</p>	<p>The policy unduly imposes conditions and obligations on the local planning authority and its Councillors.</p> <p>‘Community Aspirations’ read as policies.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as</p>	<p>All amendments included in the ‘post examination Plan with modifications’.</p> <p>Modified policy appears as THW1 – Travel Plans</p>

			<p>amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements. Some aspects of the policy which were deleted (e.g. Ward Councillors) retained in the form of a Community Aspiration.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
<p>Policy THW2: Community Food Production and high quality agricultural land</p>	<p>Modify policy title and wording: Amend supporting text. (Report page 83)</p>	<p>Insufficient information provided for a blanket protection as proposed.</p>	<p><u>Decision</u> - Modify policy and associated 'Community Aspiration' wording to meet the Basic Conditions. It is noted that modifying this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modified policy, retaining more of the policy's general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions.</p> <p><u>Reason</u> – preventing the loss of allotments has full regard to national guidance, supports achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.</p>	<p>Modified policy title, wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as Policy THW2 – change of use of allotments and retention of food production areas</p>
<p>Policy THW3: Community Hub Facilities</p>	<p>Modify policy title and wording; Amend supporting text; Delete second 'Community Aspiration'.</p>	<p>To accord with national policy, in the absence of substantive evidence for a more onerous requirement.</p>	<p><u>Decision</u> - Retain submitted title with further revised policy wording, supporting text and amended wording of the 'Community Aspiration'</p> <p><u>Reason</u> – Encouraging the provision of new residential development that is served by supporting facilities has full regard to</p>	<p>Policy wording, supporting text and amendment of 'Community Aspiration' text as further modified is included in the 'post examination Plan with modifications'</p>

	(Report page 84)		national guidance, contributes towards the achievement of sustainable development and is in general accordance with the strategic policies of the Local Plan.	Modified policy appears as THW3 – Community facilities
Policy THW4: Outside Space Provision	Modify policy wording; Amend supporting text. (Report page 85)	Insufficient justification for exempting flats from the requirement where they are near green space or the coastline and does not contribute to sustainable development.	<u>Decision</u> - Modify policy and associated supporting text to meet the Basic Conditions. It is noted that modifying this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a further modified policy, retaining more of the policy's general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions. <u>Reason</u> – to ensure development contributes to achievement of sustainable development having regard to national policy.	Policy wording and amendment of text as further modified is included in the 'post examination Plan with modifications'. Modified policy appears as THW4 – Outside Space Provision
Policy THW5: Access to sustainable transport	Delete policy. (Report page 86).	As worded would prevent sustainable growth and development.	<u>Decision</u> - Amend policy wording to meet the Basic Conditions. It is noted that deleting this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced to instead replace the submitted policy and that this would enable the policy, as modified, to meet the Basic Conditions. <u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging sustainable	Policy wording and amendment of text as further modified is included in the 'post examination Plan with modifications'. Modified policy appears as THW5 – Access to Sustainable Transport

			transport has full regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan.	
Policy THW6: Cycle Storage and Changing Facilities	Modify policy wording. (Report page 87)	Does not provide a decision maker with clarity.	<u>Decision</u> - As per the Examiner's recommended modification. <u>Reason</u> – As per the Examiner's stated reasoning. To provide the decision maker with clarity having regard generally to national guidance.	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'. Modified policy appears as THW6 – Cycle storage and changing facilities
Policy TSL1: Alpine Ski Facility	Modify policy wording; Amend supporting text; Amend 'Community Aspirations' pages 39 and 40. (Report pages 88-89)	Imprecise and confusing.	<u>Decision</u> - As per the Examiner's recommended modifications. <u>Reason</u> – As per the Examiner's stated reasoning, to improve clarity for application by the decision maker having regard to national guidance.	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'. All other amendments included in the 'post examination Plan with modifications'.
Policy TSL2: Sport and Leisure – Nightingale Park	Delete policy (Report page 90).	Confusing, lack of evidence provided to justify and not in conformity with Local Plan.	<u>Decision</u> - Modify to address concerns raised by Examiner in respect of meeting the Basic Conditions. It is noted that deleting this policy and the associated text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy, retaining the policies general intent, could be introduced to instead replace the submitted policy and that this would enable	Policy wording and amendment of text as modified is included in the 'post examination Plan with modifications'

			<p>the policy, as modified, to meet the Basic Conditions.</p> <p><u>Reason</u> – To be in conformity with the Local Plan, better contribute to the achievement of sustainable development and add clarity.</p>	
Policy TSL3: Sport and Leisure	<p>Combine with TSL4 (below) and modify policy wording;</p> <p>Provide a plan showing the facilities protected.</p> <p>(Report page 91)</p>	Imprecise on areas intended to be protected and inflexible.	<p><u>Decision</u> - As per the Examiner's recommended modification except show plan within Policies Maps not within written document.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning. For clarity.</p>	<p>All amendments included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TSL3 Sport and Leisure – Sports grounds and facilities</p>
Policy TSL4: Sport and Leisure – Sports grounds and facilities	See TSL3 above.	See TSL3 above	See TSL3 above	See TSL3 above
Policy TTR1: Access to primary schools	<p>Delete policy and supporting text.</p> <p>(Report page 92)</p>	Does not have regard to national guidance and harms the delivery of sustainable development.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TTR1 - Access to primary schools</p>

			<p>requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> - In order to overcome conflict with the Basic Conditions, as identified by the Examiner.</p>	
<p>Policy TTR2: Sustainable Communities</p>	<p>Delete policy and supporting text. (Report page 93)</p>	<p>As worded, would prevent sustainable growth.</p>	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Encouraging sustainable transport has full regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the</p>	<p>Modified policy wording and supporting text included in the 'post examination Plan with modifications'.</p> <p>Modified policy appears as TTR2 - Sustainable Communities</p>

			Local Plan.	
Policy TTR3: Potential Park and Ride or Helipad facility	Delete policy. (Report page 94)	Does not meet Basic Conditions including having regard to national guidance in respect of viability and deliverability and tests for planning conditions.	<p><u>Decision</u> - It is agreed that the submitted plan, in this regard, does not meet the Basic Conditions and it is understood that deleting this policy and the associated supporting text, as recommended by the Examiner, would allow the plan to meet the Basic Conditions. However, it is considered that a modified policy and associated supporting text, retaining the policies general intent, could be introduced and that this would enable the policy, as modified, to meet the Basic Conditions. It is considered that the proposed modification would meet the requirements of Section 61E of the Town and Country Planning Act 1990 (as amended). For this reason, amend policy wording and supporting text to meet Basic Condition requirements.</p> <p><u>Reason</u> – In order to overcome conflict with the Basic Conditions, as identified by the Examiner. Minimising the effect of development on landscape quality has regard to national guidance, contributes to achievement of sustainable development and is in general conformity with the strategic policies of the Local Plan (including SS6 and C1).</p>	Modified policy wording and supporting text included in the 'post examination Plan with modifications'.
'Community Aspirations' (pages 42-44)	Remove boxes; Amend wording (Report page 94-95)	To distinguish from being policies.	<p><u>Decision</u> - As per the Examiner's recommended modification.</p> <p><u>Reason</u> – As per the Examiner's stated reasoning.</p>	All amendments included in the 'post examination Plan with modifications'.

Art Culture and Community Partnership Statements and all Appendices (pages 44-72)	Delete all pages 45-72. (Report page 96)	The section detracts from the clarity and precision of the Plan. Moving the section to Appendices would transfer confusing and potentially misleading information from one place to another.	<u>Decision</u> - Amend wording of these pages to enable their retention in a manner that meets the Basic Conditions and clearly identify them as an appendix separate but supplementary to the main plan. Add additional text to make clear that the appendix has no land use planning policy status. <u>Reason</u> – To be consistent with national guidance as set out in PPG ID41-004	All amendments included in the ‘post examination Plan with modifications’.
Policies Maps	Provide within the Plan (currently in a separate document) and amend where indicated. (Report pages 96-97)	Not expressly given but assumed for clarity and ease of use by decision makers.	<u>Decision</u> - All recommendations agreed. <u>Reason</u> – to meet the Basic Conditions requirements.	All amendments included in the ‘post examination Plan with modifications’.
Contents page, Tables, Plans, page/policy numbering.	Update taking into account the recommendations of the Report. (Report page 97)	Not expressly given but assumed for clarity and ease of use by decision makers.	<u>Decision</u> - All agreed. In addition, minor editorial changes associated with typos/grammar/presentation within the submitted Torquay Neighbourhood Plan have been made. <u>Reason</u> – for clarity (consistent with national guidance) and to ease the practical application of the Plan as a legible, clear document	All amendments included in the ‘post examination Plan with modifications’.

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Revised Appendix 2

Decision Statement Table: Brixham Peninsula Neighbourhood Plan

Assessment of Examiner's Report

Background

This Appendix provides a more detailed officer assessment of the Examiner's Modifications and the LPA's Decision Statement.

Mrs Deborah McCann was appointed through the National Planning Independent Examiner Referral Service (NPIERS) as the Independent Examiner in March 2018. This appointment was consented to by the Neighbourhood Forum. Mrs McCann, an experienced examiner, is independent of the Council and Neighbourhood Forum, possesses appropriate qualifications and has no interest in any land within the Torquay area. Whilst she had previously been employed by Torbay Council in the 1990s, this was considered by the Monitoring Officer not to represent a conflict of interest because of the significant passage of time.

All written representations were provided to the Examiner along with the submitted plan and associated documents. The final report was received by the Council on 26th July 2018 and is published on the Council's website.

The conclusion of the report was that the Plan should proceed to referendum, with modifications recommended by the Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy Document: - Front cover; and - page 8, para 1.8.	Modify wording by deleting reference to 'and beyond' regarding the period of the plan. (Report, page 8, top)	<i>"It is intended that the Brixham Peninsula Neighbourhood Development Plan will cover the period 2012-2030, to align with the Torbay Local Plan, reference to 'and beyond' should be removed to align with the Torbay Local Plan"</i> . (Report, page 8, top)	Modify wording by deleting reference to 'and beyond' as recommended. <u>Reason:</u> LPA would also add reasons that this will add clarity Note: The Planning and Compulsory Purchase Act 2004, as amended by the Localism Act 2011, requires at Section 38B (1.) (a.) "A neighbourhood development plan... specify the period... it is to have effect". Accordingly, the reference to 'and beyond' requires deletion to comply with Basic Conditions.	Policy document modified as recommended by the Examiner where relevant and as shown in Appendix 3 Clarify Plan Period (2012-2030) and remove 'beyond'
Employment policies to create jobs (J)				
Policy J1: Employment land – proposed, retained and refurbished (BPNP pages 25 to 28)	Modify policy wording: - At J1.1 to clarify scope of support for employment development is that ' <i>appropriate to meet the local and strategic needs set out in the Torbay Local Plan</i> '. (Report, page 27, middle);	For clarity and to meet Basic Conditions. The Examiner's comments note a Habitats Regulations Assessment (HRA) issue She goes on to comment: <i>'However, the neighbourhood plan does not allocate these sites but identifies them'</i> The Examiner also notes that ' <i>the Council expresses concern that the employment sites are "identified" rather than allocated and therefore fail to be in general conformity with</i>	Agree: Modification meets BC Additional LPA Modification to Examiner's Modification of J1.1 - add additional text to give clarity that 'need' relates to the Neighbourhood Plan Area only (i.e. SDB1 area in Torbay Local Plan) <u>Reason:</u> Employment sites are 'identified' and not 'allocated'.. Therefore, additional wording to be in general conformity with the strategic Local Plan SDB Polices (SS5) and for clarity.	Policy Modified as recommended by Examiner with additional change and additional glossary/footnote for clarity <i>'..appropriate to meet the local and strategic needs set out in the Torbay Local Plan SDB1 area'.</i> Footnote: 'identified' J1 employment sites: These are not allocated sites and do not have policy weight but recognise a potential development site for consideration through the development management process primarily for employment investment subject to other policies in the Development Plan

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Page 103		<p><i>Policy SS5 and SDB1 of the Torbay Local Plan.'</i></p> <p>(Report, page 27, middle and Section 12.7 page 21 in relation to J1.2 and HRA</p>	<p>LPA further Modification to add supporting text/glossary definition of BPNP 'identified sites' does not have the full force of a site allocation.</p> <p>Note: The LPA HRA Appropriate Assessment concludes J1 sites are acceptable with Mitigation Measures.</p>	<p><i>Committed J1 employment sites Have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration.</i></p> <p><i>Footnotes also added to Policies Map Key.</i></p>
	<p>- At J1.2 Table 1 to references to Oxen Cove and Freshwater Quarry site <i>J11-2 Oxen Cove and Freshwater Quarry (identified site) 2,000</i></p> <p>(Report, page 28, top); and and Section 12.7 page 21</p>		<p>Re J1.2 do not modify policy. Reason: Modified references to reference Oxen Cove and Freshwater are errors by the Examiner.</p>	<p>This part of Policy not modified as recommended by Examiner.</p> <p>Reinstate J1.1 as submitted</p>
	<p>- At J1.3, to delete a 'viability' definition and refer to LP Policy SS5 "<i>on grounds of viability and in accordance with Policy SS5 of the Torbay Local Plan</i>".</p> <p>(Report, page 28, top).</p>		<p>Agree with some of the Modification but include part of original text as a further LPA modification :</p> <p>Re J1.3, modify policy to address issues raised, but retain core 'viability' definition within Policy rather than referring to Local Plan Policy SS5</p> <p>Reason: The LPA wording has been agreed in collaboration with the Forum (BTC) Retention of core viability definition provides</p>	<p>This part of Policy partially modified as recommended by Examiner LPA partially re-instated Policy as submitted Plan</p> <p><i>J1.3A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.</i></p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			clarity; reflects policy intent; and follows approach of Examiner at Modified Policy TO1.2 and as modified, policy meets Basic Conditions.	
Policy J2: Provision of information and communication technology (BPNP page14)	No comment made. (Report, page 28, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner.
Policy J3: Local employment – training and skills (BPNP pages15 and 16)	No comment made. (Report, page 28 and 29, top)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner.
Policy J4: Local employment – increased employment and local amenity (BPNP pages16 and 17)	No comment made. (Report, page 29, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy J5: Sustaining a vibrant harbour-side economy (BPNP pages 17 and 18)	Include a policies map. (Report, page 30, middle)	For clarity. (Report, page 30, middle)	Agree: Include the 'Brixham Harbour area' on the Policies Maps. <u>Reason</u> Inclusion of area referred to in policy maps adds clarity.	Policy Map modified as recommended by Examiner. New Policy Map boundary provided covering Brixham Harbour and environs. Note: A small part of this area is outside the approved Neighbourhood Plan Area.
	Modify policy wording.	To meet Basic Conditions. (Report, page 30, middle)	Agree: Modify policy as recommended.	Policy Modified as recommended by Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
	<p>J5.2 Second sentence 'will comply' to 'should be in conformity' with Local Plan Policies T01 (Tourism, events and culture), ... (Report, page 30, middle)</p> <p>Modify last sentence relating to maintenance-preservation or enhancement of the Brixham Town Conservation Area in the development plan</p>		<p><u>Additional Reason</u> Modified language better reflects requirements and general conformity with Torbay Local Plan. As modified, policy meets Basic Conditions.</p>	<p>J5.2 'will comply' to 'should be in conformity' with Local Plan Policies T01 (Tourism, events and culture)</p> <p>maintenance-preservation or enhancement of the Brixham Town Conservation Area in the development plan</p>
<p>Policy J6: Redevelopment of the Town Centre Car Park BPNP pages 18 and 19 (see F05)</p>	<p>Include a 'more detailed' policy map. (Report, page 30 and 31, top)</p>	<p>For clarity. (Report, page 31, top)</p>	<p>Disagree: Retain maps as submitted in the Policy Maps (i.e., site: J1.1 & H3.1 Town Centre Map boundary) and the Employment Site Assessment. LPA add minor justification text to cross refer to Policy BH3 and BH3-11 for clarity. <u>Reason</u> Whilst the BPNP Planning Brief refers to a wider area than that shown by J1.1. In consultation with the Forum the Maps in submitted Neighbourhood Plan are considered sufficient and no additional modification is necessary. Officers consider that the extent of the Map boundary meets the Basic Conditions and is therefore lawful but will limit the Policy to the area shown.</p>	<p>Policy Map not modified as recommended by Examiner existing site boundaries retained as J1.1.</p> <p>Additional LPA change for clarity. Supporting text change to 3.2.4 <i>The development is to include a mix of retail premises, a hotel, affordable housing (see also Policy BH3-11 for 25 units), multi-level car parking....</i></p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy J7: Oxen Cove and Freshwater Quarry (BPNP pages 19 to 20)	Modify justification at 3.2.8 to emphasise development will be ' <i>Subject to any environmental constraints...</i> ' at project (i.e., planning permission) stage. (Report, page 31 and 32, top)	Examiner Considers Greater Horseshoe Bats (HRA) concerns unresolved. Examiner clear that sites have not been allocated, therefore ' <i>any potential shortfall in evidence in relation to the HRA can be adequately addressed should planning application come forward</i> '. i.e. at project stage. (Report, page 31, bottom and Section 12.7 page 21 on HRA issue)	Agree: Modify justification at para 3.2.8 as recommended. <u>Reason</u> Justification needs to reflect policy and HRA Matters. Policy does not allocate employment land. Policy correctly provides that development can only come forward when planning application/project stage HRA 'safeguards' are met. Note: BPNP AECOM HRA Report screened out Policy J7 and LPA HRA Appropriate Assessment of J1-2 and BH3-I6 sites concludes an allocation would be acceptable with mitigation measures. <u>LPA Additional modification to supporting text.</u> LPA minor additional modification to cross reference to justification text to cross refer to Policy BH3-I6 for clarity in para 3.2.11 and in 3.2.8 cross reference to LPA modification footnote in Policy J1 'identified' definition/status for clarity. Notes that development to meet environmental constraints para 3.2.10 for clarity.	Supporting Policy Text amended in accordance with Examiner's Recommendation. Additional LPA modification minor cross reference to Policy BH3.I6): New para 3.2.11 <i>The land at Freshwater Quarry and Oxen Cove is also allocated for residential development in Policy BH3-I6.</i> Para 3.2.7 ' <i>An area of 2,000 sqm has been identified for employment at Oxen Cove,...</i> (see Policy J1 and footnote defining 'identified' status) primarily marine related,... <p>Para 3.2.10 <i>Proposals will be subject to any environmental constraints. More specific information and</i></p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Page 107	Include a policies map. (Report, page 32, top)	For clarity. (Report, page 32, top)	Disagree: Retain maps as submitted in the Policy Maps (i.e., site J1.2 and BH3.I6 Town Centre Map) and the Employment Site Assessment. <u>Reason</u> Whilst the BPNP Planning Brief refers to a wider area than shown by J1-I2. The Forum considers the maps in submitted Neighbourhood Plan are sufficient and that no additional modification is appropriate. Officers consider that the extent of the Map boundary meets the Basic Conditions and is therefore lawful but will limit the Policy to the area shown.	Policy Map not modified in accordance with Examiner's Recommendation. Existing site boundaries retained as per Policy J1-I2.
	Modify policy wording to delete reference to <i>'the evolving Town Centre Master Plan</i> at J7.2. (Report, page 32, top)	To meet Basic Conditions. (Report, page 32, top)	Disagree: Only modify policy wording to reflect issue raised by deleting word 'evolving' and adding 'Brixham'. <u>Reason</u> The 'Town Centre Master Plan' is referenced in related Policy J1 and this site covers the same area as J1-I2. The Masterplan forms a supporting document to the submitted Neighbourhood Plan and it is no longer 'evolving'. Modification reflects policy intention. As modified policy meets Basic Conditions.	Change made to Policy Document, This part of Policy has not modified as recommended by Examiner. <i>J7.2 Design and development options should be informed by the Port Master Plan and the evolving Brixham Town Centre Master Plan and have regard to...</i>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy J8: Employment in Churston, Galmpton and Broadsands (BPNP page 21)	No comment made. (Report, page 32, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made as recommended by the Examiner.
Housing policies (BH)				
Policy BH1: Affordable housing (BPNP page 22 and 23) Page 108	Modify policy wording. BH1.2 to: <i>An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision...</i> (Report, pages 32 33, middle)	For clarity and to meet Basic Conditions. (Report, page 33, middle)	Agree: Modify policy as recommended. <u>Additional LPA modification</u> of policy title to ' <i>Policy BH1: Affordable housing site allocations</i> '. <u>Reason</u> Modification adds clarity. Modified policy title adds further clarity relating to the allocation of affordable housing as distinct from affordable housing eligibility of occupation in Policy BH2. As modified, policy meets Basic Conditions.	Policy Modified as recommended by Examiner with additional LPA modification of title for clarity. <i>BH1.2 to: An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision..</i> <i>Title: Policy BH1: Affordable housing site allocations</i>
Policy BH2: Allocation of new affordable homes (BPNP page 23 and 24)	Modify policy wording to limit policy scope to <i>new affordable houses</i> only (BH1.1), delete 'key workers' from awarding criteria, and BH2.2 default to the Torbay Council waiting list if no local occupants can be found. (Report, page33 and 34, bottom)	For clarity and to meet Basic Conditions. <i>"I am satisfied that Neighbourhood Plans can introduce local occupancy conditions in relation to <u>new</u> (my emphasis) affordable housing units."</i> <i>"...and that there is a default to the Torbay Council waiting list"</i> (Report, page 34, middle)	Agree in part: Modify policy to limit policy scope to <i>new</i> affordable homes only (BH2.1) as recommended and default to Torbay Housing Waiting list where persons cannot be found (Bh2.2) LPA Disagree with the Examiner that that 'key workers' need to be deleted to meet the BC and therefore 'key workers' from within award criteria retained.	Policy partially modified as recommended by Examiner LPA partially retained submission Policy as submitted Plan with additional LPA minor modification to title change for clarity. <i>'Title: Policy BH2: Occupation of new affordable homes.</i> <i>BH2.1 New affordable homes in the (retain 'key worker' criterion)</i> <i>BH2.2 Where persons cannot be found to meet these criteria, affordable housing may</i>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
			<p>LPA additional Modification to policy title to '<i>Policy BH2: Allocation Occupation of new affordable homes.</i>'</p> <p><u>Reason:</u> Modification to limit policy scope to <i>new</i> affordable homes only required to meet Basic Conditions. Deletion of 'key workers' is not required to meet Basic Conditions, so no modification made. LPA additional Modification to policy title adds clarity and BH2.1...to <i>affordable 'homes'</i></p> <p>As modified, policy meets Basic Conditions.</p>	<p><i>be occupied by people and their dependents whose housing needs are not met by the market identified on the Torbay Housing Waiting List...</i></p>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy BH3: Delivery of new homes (and Table 2 Allocated housing sites) (BPNP pages 25 to 26)	Modify policy wording to state support for ... <i>housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, including affordable housing.</i> (Report, pages 35 and 36, bottom and 19 to 23 regarding HRA matters)	To ensure that the policy supports that strategic development needs of the Torbay Local Plan and in order to meet Basic Conditions. Examiner's comments considered " <i>potential of a shortfall in the overall numbers that will be delivered from the allocations in Table 2</i> ". Modifications " <i>ensure that this policy supports that strategic development needs of the Torbay Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework)</i> ". (Report, page 36, middle, 4th para)	Disagree: Retain this part of Policy as submitted. <u>LPA additional modification</u> to include the Examiner's wording in justification with minor alterations <u>Reason:</u> The identified 'expectation' of the neighbourhood area of 660 homes is met numerically by the (at least) housing sites allocated in Table 2. Examiner raises concerns regarding delivery of housing in BH3. However the LPA is now broadly satisfied that the BPNP is in general conformity with Policy SDB1 and that the level of housing allocation will meet the 660 target (Policy BH3). To ensure the plan meets the basic conditions the inclusion of the Examiner's text within the justification is necessary.	This part of Policy not modified as recommended by Examiner. Modified text as recommended by Examiner with additional LPA modification moved to justification para 4.7. 4.7 The Brixham Neighbourhood Plan supports housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, Policy SDB1, including affordable housing. Local Plan...

	<p>Accept all sites in Table 2 as allocated for residential development, except for Waterside Quarry (Report, page 36, bottom, amendment of Policy BH3)</p> <p>(Report, pages 35 and 36, bottom and 19 to 23 regarding HRA matters in Section 12)</p>	<p>The Examiner Comments: <i>The adequacy or otherwise of the environmental assessment of the site in the light of the PoW case and whether or not the site as a result of this and other site constraints is developable.</i> <i>My conclusion is that I am not satisfied that the HRA assessment of the site as submitted is adequate.</i></p> <p>(Report, page 36, top, 1st para)</p> <p>Reasoning also provided on pages 19 to 23 regarding HRA matters)</p>	<p>Agree: Delete Waterside site in Table 2.</p> <p><u>LPA additional modification</u> Modify footnote 17 (affordable housing for Jewson BH3.I8) and 18 (assisted living St Kilda BH3.I3) by switching text around. Text at footnotes 17 and 18 needs rearranging to be consistent with Housing Site Assessment (at page 34 and page 50), as there is an error in the Submitted Plan.</p> <p><u>LPA additional modification for clarity</u> add footnote to define Housing ‘allocated’, ‘identified’, ‘committed’ and ‘windfall sites’ particularly as a different definition is used for ‘identified’ sites in Policy J1.</p> <p><u>Reason:</u> The LPA has no evidence to overturn the Examiner’s recommendation for Waterside site deletion. The LPA HRA (AA) confirms that the site cannot demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of the SH SAC; as required in accordance with the basic condition as prescribed in Schedule 2 Paragraph 1 of the Neighbourhood Planning Regulations 2012.</p>	<p>Policy Table 2 modified as recommended by Examiner (Waterside Quarry Site BH3.I10 deleted). Additional LPA modification to footnotes for clarity. (giving a Table 2 total allocation of 685) and footnotes modified as shown in Appendix 3 with consequential numerical changes to figures in supporting text 4.7 and 4.8.</p> <p>LPA additional modifications: Modify footnote 17 (affordable housing for Jewson BH3.I8) and 18 (assisted living St Kilda BH3.I3) by switching text around.</p> <p>Add footnote to define ‘allocated’, ‘identified’, ‘committed’ and ‘windfall sites’</p> <p>Footnote to Table 2 : <i>‘Identified’ BH3 housing sites: These sites have been identified by the Forum (Brixham Town Council) and are allocated housing sites.</i></p> <p><i>Committed housing sites: These sites have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site’s planning history is likely to be a material consideration.</i></p> <p><i>Windfall Sites” are sites which are usually not identified or allocated within the development plan but that are still required to be considered on the basis of the Development Plan unless material considerations indicate otherwise. The figure in table 2 refers specifically to windfall sites of 5 or fewer new dwellings.</i></p> <p>Footnotes also added to Policies Map Key.</p>
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<p>Policy BH3: Delivery of new homes (and Table 2 Allocated housing sites) continued... (BPNP pages 25 to 26)</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 112</p>	<p>Modify policy wording to require <i>“Appropriate Ecology surveys as set out in the Plan’s accompanying HRA will need to be undertaken at the project stage for any planning application as set out in the HRA”</i></p> <p>(Report, page 36, bottom, amendment of Policy BH3)</p> <p>Detailed consideration 19-26 entitled 11.4 Habitats Regulations Assessment</p>	<p>‘Plan level’ HRA concerns also need resolution at ‘project stage’ as <i>“There are also concerns that some allocated sites have not demonstrated that the constraints can be overcome, and sites or number of units indicated can be delivered as set out in the Housing Assessment Document 3”</i></p> <p>(Report, page 35, top, 2nd para)</p> <p>Detailed consideration 19-26 entitled 11.4 Habitats Regulations Assessment.</p>	<p>Agree</p> <p>Modify policy to address issues raised using different wording to that proposed by Examiner. <u>LPA further modification</u> to clarify and meet BC explicit HRA concerns.</p> <p><u>Reason:</u> The Examiner's suggested modification supports the approach in the Torbay Local Plan and in the submitted Neighbourhood Plan Policy E8, by making it clear allocations are where appropriate, subject to analysis at the project level too.</p> <p>However, it is considered clarity can be added by additional and amended wording recommended. Policies should focus on the planning outcome and not the methodology to achieve that outcome. (For example, as drafted the policy does not state what happens if surveys highlight a problem). Hence the policy should refer to the Habitats Regulations requirement i.e. <i>“ Proposals either alone or in combination should not adversely affect the integrity of the SACs.. this wording is additional to that proposed by the Examiner to achieve this. As modified, the policy meets Basic Conditions.</i></p>	<p>This part of Policy partially modified as recommended by Examiner with additional LPA modification.</p> <p><i>The sites listed in Table 2 are allocated for residential development. Proposals will need to demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of European sites; where appropriate ecology surveys will need to be undertaken at the project stage.</i></p>

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Policy BH4: Brownfield and greenfield sites (BPNP pages 26 and 27)	Modify policy title and wording (BH4.1) to limit policy scope to 'residential' development only and (BH4.3) to refer to Torbay Local Plan in criteria. <i>...greenfield sites will be considered in the context of TLP Policy C1 and Exception Site development that may meet Local Need through self-build and local affordable housing Provision (BH9)</i> (Report, page 37, middle)	Examiner states: <i>This policy does not directly refer to housing but as sits within the housing section it is assumed that it is only intended to relate to housing development. It is also assumed that BH4.3 is intended to refer to rural exception site development.</i> For clarity and to meet Basic Conditions. (Report, page 37, middle)	Agree: Modify policy wording and title to address issues raised. Clarify policy scope relates 'residential' development only and include reference to Torbay Local Plan C1 in criteria. <u>LPA additional further modification</u> to refer to BH9 Exception Sites Policy and modify reference to self-build within the scope of affordable housing Examiner's reference to self-build. <u>Reason:</u> Minor modification uses clearer language and as modified policy meets Basic Conditions Additional further modification to cross reference Policy BH9 exception site policy	Policy partially modified as recommended by Examiner with additional LPA modification <i>Policy BH4:Housing Development - brownfield (previously developed) and greenfield (not previously developed) sites</i> BH4.1... <i>residential</i> development on brownfield BH4.3 ...greenfield sites <i>will be considered in the context of Torbay Local Plan Policy C1 and Exception Site development that may meet Local Need through local affordable housing (including self- build) provision (BH9)</i>
Policy BH5: Good design and the town and village Design Statements (BPNP pages 27 to 29)	Modify Policy wording by deleting BH5.4 relating to 'not permitting' badly designed developments. (Report, pages37 to 39, middle)	<i>'Paragraph BH5.4 lacks sufficient clarity to allow a decision maker can "apply it consistently and with confidence when determining planning applications". It repeats elements in other paragraphs in the policy and uses the word" permitted".... decision on any planning applications is made by the Local Planning Authority therefore delete BH5.4</i> (Report, page 39, top) To meet Basic Conditions. (Report, page 39, middle)	Agree/Disagree: Deletion of BH5.4 as submitted however <u>LPA make further additional modification</u> by retaining BH5.4 but re-wording to address issues raised. Add reference to Landscape Character Assessment, Urban Fringe Documents in supporting Text para4.11 and retain footnotes 22 and 23 as reference 'lost' in reworded Policy section BH5.4 <u>Reason:</u> Modified text accords with policy intention. Note: The	Policy modified but not as recommended by Examiner LPA modification <i>BH5.4 Planning permission will not be granted for development of poor design that fails to take opportunities available for improving local character and quality of an area and the way it functions.</i> <i>.4.11 .favoured by our communities. Further evidence on landscape character and appearance is also set out in the Landscape Character Assessment of Torbay²² and the Brixham Urban Fringe Landscape Study²³.</i>

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			Further Modified text is in Exeter St James Neighbourhood Plan Policy D1: Good Quality Design, was a Locality 'model policy' example. As modified, policy meets Basic Conditions.	
Policy BH6: Roofscape and dormer management (BPNP pages 29 to 30) Page 11	Modify Policy wording to limit policy scope to <i>To protect local amenity, where planning permission is required, dormers will only be approved where they will only be approved where they:</i> (Report, 39 to 40 ;Recommendation page 40, top)	Policy should reference that in certain circumstances planning permission will not be required by the development this policy seeks to control. (Report, page 40, top)	Agree: intention of modification however <u>LPA propose further modification</u> to address issues raised. <u>Reason:</u> Intent of modification adds clarity, and further modification to Examiner's modification adds further clarity all roofscape alterations that require planning permission. As modified, policy meets Basic Conditions.	Policy modified but not as recommended by Examiner LPA modification <i>Policy BH6 Roofscape and dormer management</i> To protect local amenity, where planning permission is required: BH6.1 dormers will only be approved where they:...
Policy BH7: Sustainable construction (BPNP page 30)	No comment made. (Report, page 40, bottom)	As submitted, policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy BH8: Access to new dwellings (BPNP Pages 31 and 32)	Modify Policy wording to refer to existing ' <i>adopted standards</i> ' and make compliance with standards a requirement. (Report, pages 40 to 41; recommendation on page 41, top)	Examiner not been provided with any evidence to support a variance the standards (in Manual for Street and Torbay Highway Design Guide). For clarity and to meet Basic Conditions. (Report, pages 40 and 41; Reason page 41, top)	Agree: Modify policy wording as recommended. Set out what the 'adopted standards' are and where they can be found. and supporting text 4.16 to 18 to accord with Policy change. <u>Reason:</u> Modifications add clarity. As modified policy meets Basic Conditions.	Policy modified as recommended by Examiner additional supporting text amendment to 4.17 and delete paragraph 4.18 BH8 Access to new developments should comply with the relevant adopted standards. <i>4.17 ...bring it up to the standard required for adoption by the Local Highways Authority (see Torbay Highways design guide</i>

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				for new developments and Torbay Council Highways development control standing advice) 4.18 DELETE
Policy BH9: Exception sites (BPNP page 33 to 34)	Modify justification wording at 4.19. (Report, 41 to 43; recommendation on page 42, middle)	To reflect NPPF definition of rural exception sites exception sites and the modification of the policy. (Report, page 42, middle)	Agree Modify justification wording at para 4.9 as recommended, except regarding inserting extraneous words at end of paragraph. <u>Reason:</u> Modification adds clarity. Inserting extraneous words at end of paragraph would introduce errors. <u>LPA Additional Modification</u> to BH3 supporting text para 4.9 for consistency with policy modifications to BH9	Policy supporting text modified partially as recommended by Examiner partially LPA modification minor deletion of text. <i>Para 4.19 Policy BH9 (Exception Sites) is intended to deliver affordable, older person, and disabled person housing on "small " sites that otherwise could not come forward including houses for older person, and disabled persons. It is for the Local planning Authority to determine what constitutes a "small" site however a proposal for 20 homes could not be considered small. In the Regulation 14 consultation a proposal was brought to attention which it appears could deliver on a policy compliant basis 20 homes, or more a rural exception site, subject to community consultation. Accordingly, through Policy BH9 it is expected that more homes than set out above will come forward.</i> BH3 supporting text 4.9 Policy BH9 (Exception Sites) is intended to deliver affordable (including older person, and disabled person) housing on sites that otherwise could not come forward.

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Page 116	<p>Modify Policy wording.</p> <p>Modify criterion 'a.' to delete</p> <ul style="list-style-type: none"> • <i>purpose-built accommodation for older people (with a minimum age of 60); or</i> • <i>purpose built accommodation for the disabled;</i> <p>replace 'e.' with new criterion to read '<i>does not constitute major development in the AONB</i>'.</p> <p>delete 'f.'</p> <p>(Report, page 42 and 43)</p>	<p>Rural exception sites are defined in the NPPF: <i>Rural exception sites: Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community.</i></p> <p>It may be that a development coming forward will include provision of older and disabled people, but Examiner considers this cannot be a requirement of the policy. Therefore, paragraph f) should be deleted</p> <p>For clarity and to meet Basic Conditions. Paragraph e is unnecessary.</p> <p>(Report, page 42, bottom)</p>	<p>Agree: Modify policy wording as recommended by Examiner.</p> <p><u>Further LPA modifications</u> To remove grammar errors introduced by Examiner at criterion 'a' and 'c'. To mirror justification wording 4.19 in policy wording after criterion 'e' by inserting criterion f is considered to be a small sites .</p> <p><u>Reason:</u> Modifications add clarity and remove errors. LPA further modification as criterion e. as modified by the Examiner would restrict 'major development' <i>in</i> the AONB but not <i>outside</i> the AONB. For clarity and to align with supporting text in 4.19 as amended by the Examiner.</p> <p>As modified policy meets Basic Conditions.</p>	<p>Policy text modified partially as recommended by Examiner partially LPA modification.</p> <p>Paragraph e amended to read <i>does not constitute major development if within the AONB; and</i></p> <p>Paragraph f added <i>is considered to be a small site; and</i></p>
	<p>The natural environment (E)</p> <p>Policy E1: Landscape beauty and protected areas (BPNP pages 35 to 37)</p>	<p>Modify policy wording at E1.3 and E1.4. Delete E1.5. (Report, page 44, top)</p>	<p>Examiner notes existing statutory framework for the protection of AONBs that does not need to be repeated in a neighbourhood plan. There can be no requirement to comply with policies, objectives or</p>	<p>Agree Modify policy wording as recommended by Examiner in E1.4, <u>LPA recommended further modifications</u> at E1.1 to correct factual error as not all</p>

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Page 117		guidance as stated. For clarity and to meet Basic Conditions policy to be modified and E1.5 deleted as it is duplicating protection covered under existing policy. (Report, page 44, top)	designations are landscape designations. E1.3 Partly as recommended by Examiner but retaining submitted text, explicit NPPF wording for clarity. LPA re-instate E1.5 in re-worded form. <u>Reason:</u> LPA further modifications add clarity and further modifications add further clarity. Re-worded E1.5 reflects policy intention and uses wording from Torbay Local Plan policy SS8 and AONB Management Plan. As modified policy meets Basic Conditions.	E1.3 partly as recommended by Examiner and Partly retained text. <i>E1.3 Development within or impacting on the AONB must demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty and must comply with the requirements of the National Planning Policy Framework and other statutory documents including the AONB Management Plan.</i> E1.4 as per Examiner's Recommended modification. <i>E1.5 Development should not harm protected landscape characteristics including dark night skies and tranquility.</i>
	Policy E2: Settlement boundaries (BPNP page 38 to 41)	Modify justification wording at para 5.10. to reflect Policy Modification to E2.3 i.e. criteria for acceptable development in Local Plan Policy C1 (Report, pages 44 to 45; recommendation page 45, middle) Modify wording at E2.3. i.e. criteria for acceptable development in Local Plan Policy C1 (Report pages 44 and 45; recommendation , page 45, middle)	To reflect the policy modification. (Report, page 45, middle) For clarity and to meet Basic Conditions. E2.3 covers development already controlled by policy C1 of Torbay Local Plan. (Report, page 45, middle)	Agree: Modify justification wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity. Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> E2.3 is similar too (but not the same as) Policy C1 of Torbay Local Plan. Modification adds clarity. As modified, policy meets Basic Conditions.

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Policy E3 Settlement Gaps (BPNP pages 41 to 42)	Support all settlement gaps shown in ellipses, except "first ellipse of 2" (Report pages 45 to 17; recommendation, page 46, middle)	Ellipses provide adequate description of the area of the settlement gap. But not agreed "first ellipse of 2" is not located within what could reasonably be considered a settlement gap (Report, page 46, middle)	Agree: Support all settlement gaps shown in ellipses and remove first ellipse of 2 (i.e., Galmpton Common, area adjacent to view receptor shown) as recommended by Examiner. <u>LPA additional modification</u> to accord with Deletion of ellipse 2 where relevant. On Policy Map and supporting text. <u>Reason:</u> Ellipses provide adequate description of the area of the settlement gap. First ellipse of 2 (i.e., Galmpton Common area adjacent to view receptor shown) has different characteristic to other areas shown	Policy and policies map modified as recommended by Examiner Delete first ellipse of 2 (and arrow) at Galmpton add Policy Maps Note: For Policy E3: Settlement Gaps, arrows show principle viewpoints as per photographs in the Policy Document, Appendix 3. add note to Map Key relating to E3 Photos Removal of Aerial Map in Appendix 3 added E3 reference to Photographs changed introductory text The following photographs show Settlement Gaps from principle viewpoints. The photograph numbers shown correspond to the numbers on the Policy Maps"
	Modify policy wording E3.1 and E3.2 (Report, page 47, top)	As currently worded a decision maker cannot apply it consistently and with confidence and addresses development covered by other policies. For clarity and to meet Basic Conditions. (Report 45 and 46; recommendation , page 46, bottom)	Agree Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Incorporation of all lengthy criteria in para E3.2 of submitted plan in single sentence of modified policy is clearer.	Policy Modified as recommended by Examiner
Policy E4: Local Green Spaces (BPNP pages 41 to 55 and	Accept all 16 Local Green Space sites, except for the LGS which covers the 1st and 18th of Churston Golf Course, including the clubhouse as identified as BPNPH2 in the Torbay Local Plan.	Most of the Local Green Spaces do meet all of the tests set out in paragraphs 76/77 of the National Planning Policy Framework (2012)	Agree/Disagree: Modify the boundary of the Churston Golf Course LGS (E5-13) <u>Additional LPA modification 1)</u>	Policy (and Policies Map) partly modified as recommended by Examiner. Area of club house and car park are excluded from the Local Green Space designation on Policy Map.

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Galmpton-Brockenbury Policies Map	(Report pages 47 to 49, recommendation page 49, middle, 4th para)	<p>Concerns relating to the proposed boundary of the proposed Churston Golf Course LGS and conclusions on the housing policies and their ability to deliver the level of housing growth identified. To overcome these and meet the basic conditions the boundary of the Churston Golf Course LGS (E5-13) should be modified to exclude the area which covers the 1st and 18th hole of Churston Golf Course, including the existing club house.</p> <p>(Report, page 49, middle, 4th para and page 48, bottom, final para).</p>	<p>Modify boundary to exclude only the club house and car park area, maintaining the 1st and 18th holes.</p> <p><u>Additional LPA modification 2)</u></p> <p>Modify second sentence of Policy: "<i>Having regard to the NPPF, these Local Greenspace Designations are considered to be capable of enduring beyond the end of the Plan period.</i>"</p> <p><u>Reason:</u> The LPA considers the Examiner has correctly applied the tests in para 76 and 77 NPPF (2012) and that the area of concern meets the tests of para 77 but not 76 because it would constrain local planning of sustainable development.</p> <p>As modified it provides for some flexibility in the future, beyond the end of the plan period which would not otherwise have been explicitly possible, to consider the site through the plan making process as part of the local planning of sustainable development.</p> <p>For the avoidance of doubt the removed part of the site is not</p>	<p>Modify second sentence of Policy <i>Having regard to the NPPF, these Local Greenspace Designations are considered to be capable of enduring beyond the end of the Plan period.</i></p>

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			<p>allocated for housing development.</p> <p><u>Reason:</u> The LPA considers this Sentence does not correctly reflect para 76 NPPF (2012) 99 NPPF (2018)</p>	
<p>Policy E5: Public Open Spaces PNP page 55</p>	<p>Modify policy wording to incorporate specific criteria at NPPF para 74. in E5.1 (delete E5.2) (Report, page 50, bottom)</p>	<p>Incorporate NPPF Criteria. For clarity and to meet Basic Conditions. (Report, page 50, middle)</p>	<p>Agree: Modify policy wording as recommended by Examiner. (modify E5.1 and delete E5.2) <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Use of specific criteria in NPPF para 74 accords with policy intention and gives greater regard to national guidance.</p> <p><u>LPA additional modification</u> to add list of E5 open spaces to supporting text para 5.25 for clarity.</p>	<p>Policy modified as recommended by Examiner. With additional LPA supporting text modification to add list of sites to para 5.25 E5.1<i>identified as Open Spaces and should not be built on unless:</i></p> <ul style="list-style-type: none"> ● <i>an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or</i> ● <i>the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or</i> ● <i>the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.</i> <p>Add list of sites from Appendix 4.</p>

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Policy E6: Views and vistas (BPNP pages 56 to 57)	Modify policy wording. (Report, page 51, middle)	For clarity and to meet Basic Conditions. (Report, page 51, middle)	Agree: Modify policy wording <u>LPA additional modification</u> to further modify final sentence of policy. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions. Modifications correctly focus policy on planning outcome not planning application documents using text from Torbay Local Plan Policy SS8.	Policy modified as recommended by Examiner with additional LPA modification. ...Proposals for developments which affect these views and vistas should demonstrate that landscapes are safeguarded with their importance and be accompanied by...
Policy E7: Protecting semi-natural and other landscape features (BPNP pages 57 to59)	Modify policy wording. Delete first sentence of Policy. (Report pages 51 to 52; recommendation, page 52, top)	For clarity and to meet Basic Conditions. (Report, page 52, top)	Agree: Modify policy wording both as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner. Delete first sentence of Policy
Policy E8: Internationally and nationally important ecological sites (BPNP 59 to 64)	Modify policy wording at E8.1 and at E8.2. Delete E8.3 (Report, page 54, top and Section 12.2 pages 16 to 23contextual HRA)	For clarity and to meet Basic Conditions. Existing regulatory regime. Other policies already exist and there is potential for confusion from " <i>policy which reflects but in part paraphrases this existing policy incorrectly</i> ". (Report, page 53, bottom)	Agree: Modify policy to address issues raised <u>LPA additional modifications</u> using different wording to that proposed by Examiner. <u>Reason:</u> Re E8.1, it is agreed a modification to the wording of the submitted plan adds clarity. However, the wording	Policy text modified as combination of Examiner and LPA modifications. <i>E8.1 Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally</i>

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			<p>recommended by the Examiner is not considered appropriate. LPA also note in E8.2 there is an error that the Conservation of Habitats and Species Regulations Habitats and Species Regulations 2017 replaced the as amended 2010 Habitats Regulations referred to in the policy. Where this factual error occurs, the LPA considers it appropriate to modify.</p> <p>Re E8.3 the submitted policy incorrectly focused on a planning methodology (i.e., submission of documents) not planning impacts and outcomes.</p> <p>E8 should reflect the policy intention, and outcome with being moved to the policy justification. As modified, policy E8 meets Basic Conditions.</p> <p><u>LPA additional Modification</u> Policy justification modified to reflect policy modifications and for accuracy and clarity in 5.37 to 5.51</p>	<p>protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the following:</p> <ul style="list-style-type: none"> • South Hams Special Area of Conservation (SAC) • Lyme Bay and Torbay Marine SAC <p>E8.2 Nationally important sites and species will be protected. Development on or likely to have an adverse effect on nationally important sites and species will not normally be permitted. Development proposals should have regard to the National Planning Policy Framework and be in conformity with policy NC1 of the Torbay Local Plan (2012-2030). Nationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) and species include the following:</p> <ul style="list-style-type: none"> • Sites of Special Scientific Interest (SSSI), including Berry Head to Sharkham Point and Saltern Cove; • National Nature Reserves, including Berry Head; • Torbay Marine Conservation Zone (MCZ), which includes coastal waters around Torbay from Babbacombe to Sharkham Point; • recommended Dart Estuary Marine Conservation Zone (MCZ), which includes the upper waters of the River Dart to below Dittisham; and • the Cirl Bunting and its habitat and territories.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
				Policy justification modified to reflect policy modifications and for accuracy and clarity in 5.37 to 5.51 see Appendix 3
The built environment (BE)				
Policy BE1: Heritage assets and their setting (BPNP page 67) Page 12	Modify policy wording BE1.1 and BE1.2. (Report, page 55, top) Note: typographical error deleted policy title also	For clarity and to meet Basic Conditions, by reflecting national planning policy and guidance. (Report, page 55, top)	Agree: Agree to modify policy wording as recommended modifying BE1.1 and deleting BE1.2 LPA additional modification to correct typographical error and reinstate policy title <u>Reason:</u> Deletion of policy title is an error by the Examiner. Remaining modifications add clarity and as modified, policy meets Basic Conditions.	Policy text modified as recommended by Examiner and corrected by LPA. BE1 <i>Heritage Assets and their setting</i>
Transport (T)				
Policy T1: Linking of new developments to travel improvements (BPNP pages 70 to71)	Modify policy wording T1.2 and T1.3 (Report, page 55, bottom)	For clarity and to meet Basic Conditions. (Report, page 55, bottom)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy text modified submitted Policy as recommended by Examiner. Policy text T1.2 and T1.3 modified.
The health and wellbeing (HW) of the community				
Policy HW1: Retention of current health and social care estates (BPNP75 to 76)	No comment made (Report, page 56, middle)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy HW2: Operational space for voluntary	Modify policy wording. (Report, page 56, bottom)	<i>Examiner Comments: ..."it is not drafted with sufficient clarity that a decision maker can apply it consistently and with</i>	Agree Modify policy wording both as recommended by Examiner.	Policy text modified as recommended by Examiner.

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
support organisations (BPNP Page 76)		<i>confidence when determining planning applications and is in part community aspiration.</i> " .For clarity and to meet Basic Conditions. (Report, page 56, bottom)	<u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	
Education and learning for all (L)				
Education and learning for all (L) Introductory Text.	No comment made	N/A	LPA additional modification last sentence of introductory text 9.3.3. <u>Reason:</u> Text goes beyond NPPF and legal requirements.	Introductory text last sentence 9.3.3. modified <i>9.3.3. education provision must be high on everybody's list of priorities. Hence there is a need for adequate provision of educational facilities for children of all ages to ensure that sufficient capacity has been provided in time for any extra demand created by new developments.</i>
Policy L1: Protection of existing educational facilities	No comment made (Report, page 57, top)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy L2: Matching educational provision to local need	No comment made (Report, page 57, middle)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Policy L3: Providing for 16–18 years and beyond	No comment made (Report, page 57, bottom)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner
Tourism (TO)				

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy TO1: Support for tourism	Modify policy wording. (Report, page 58)	For clarity and to meet Basic Conditions. (Report, page 58)	Agree: Modify policy wording as recommended by Examiner. <u>LPA additional modification</u> at para TO1.3 to reflect BH9 modification in cross reference <u>Reason:</u> Modification adds clarity. As modified, policy meets Basic Conditions.	Policy text modified as recommended by Examiner and additional LPA modification to reflect modified BH9, i.e. removing "disabled or older person"
Sport and leisure (S&L)				
Policy S&L1: Increase available space for outdoor sport and leisure (PNP pages 88 to 89)	No comment made (Report, page 59)	Policy meets Basic Conditions. (Report, page 5, para 2.4)	Agree: Retain as submitted policy. LPA additional modification to correct typographical error to accord with Policy title of Policy E5 <i>S&L 1.1 Notwithstanding areas already designated as Local Green Spaces or Public Open Spaces of Public Value,</i> <u>Reason:</u> As submitted, policy meets Basic Conditions.	No change made to submitted Policy as recommended by Examiner <i>S&L 1.1 Notwithstanding areas already designated as Local Green Spaces or Public Open Spaces,</i>

Submitted Plan Reference (Policy / supporting text paragraph)	Examiner's Recommended Modification (Note: only summarised below, see Examiner's report for more information)	Examiner's Reason(s) (Note: only summarised below, see Examiner's report for more information)	Council Decision and Reason (Required action to take in respect of Examiner's recommended modification and reason)	Outcome to Submitted Plan (Note: only summarised below, all outcomes are incorporated in full into the post examination plan with modifications in Appendix 3)
Policy S&L2: Sport and recreational facilities in new developments (BPNP page 89) Part 9	Modify policy wording to refer to existing 'adopted standards' and make compliance with standards a requirement. (Report, page 60, top)	For clarity and to meet Basic Conditions. (Report, page 60, top)	Agree: Modify policy wording as recommended by Examiner. <u>LPA Additional modification</u> to modify justification to highlight what the 'adopted standards' are and where they can be found (Torbay Council Planning Contributions SPD) <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner. Justification text modified to provide link to adopted standards in para 11.5 11.7 Public open space, sports and recreational standards are set out in the Torbay Council Planning Contributions and Affordable Housing Supplementary Planning Document (2017). Wherever possible Section 106 or CIL monies will be sought through the planning process to provide high-quality equipment or resources for such purposes.
Art and culture (A&C)				
Policy A&C1: Promotion and protection for the arts and local culture (BPNP Page 91)	Modify policy wording where arts and local culture assets are defined. (Report, page 60, bottom)	For clarity. (Report, page 60, bottom)	Agree: Modify policy wording as recommended by Examiner. <u>Reason:</u> Modification adds clarity and as modified, policy meets Basic Conditions.	Policy modified as recommended by Examiner.
General comments 13.1.2 page 25	<i>Were modification has been made to a policy the supporting text/justification should be modified accordingly.</i>	General Recommendation to update supporting text/justification where relevant.	<u>LPA additional modifications</u> For clarity, accuracy and consistency	Footer Post Examination November 2018 Note NPPF 2012 and 2018 page 2 Note Torbay Local Plan page 2 Note on Policy Document and Policy Maps page 2 Updates to Policy Maps

Record of Decision

Elected Mayor's Response to the Objection to Corporate Asset Management Plan

Decision Taker

Elected Mayor on 8 November 2018

Decision

That the Elected Mayor disagrees with the Council's objection and confirms that no changes should be made to the Corporate Asset Management Plan.

Reason for the Decision

The Corporate Asset Management Plan is a strategic document which sets out how the Council will manage its assets. It is therefore not appropriate to single out Nightingale Park to be specifically referenced as land which should be prioritised for community and shared use within this Policy Framework document. Any proposals relating to the use of this site will be considered on their merits alongside all relevant policies in place at the time including the Local Plan.

Implementation

The Elected Mayor's response to the Council's objections will be considered at the Council meeting on 5 December 2018.

Information

At the meeting of Council held on 18 October 2018, the Council formally objected to the current Corporate Asset Management Plan on the basis that:

"That the Council notes the aspirations within the emerging Torquay Neighbourhood Plan set out below in relation to Nightingale Park:

"Community Aspiration Services and Facilities. The former tip area adjacent to Browns Bridge Road named as Nightingale Park should continue to be protected for sports and leisure as identified in Torbay's Playing Pitch Strategy and the adopted Torbay Local Plan. Detailed plans should be developed in accordance with the consultation report published in June 2016 "Nightingale Park Establishing Community Preferences". It is proposed that a 'sports and leisure masterplan' should be developed to properly plan and maximise the area's potential for sport, leisure which could include woodland walkways and a circuitous route around the park. Wild meadowland could also be included. New development within the area covered by the Gateway Masterplan must be supported by adequate community facilities which should include a new primary school and community health facilities."

Therefore the Council formally objects to the current Corporate Asset Management Plan on the basis that Nightingale Park is not specifically referenced as land which should be prioritised for community and shared use.

In accordance with the Constitution at F4.9, the Council therefore requires the Mayor to

consider this objection by 16 November 2018:

- a) submit a revision of the Corporate Asset Management Plan with the reasons for any amendments to the Council for its consideration; or
- b) inform the Council of any disagreement that the Executive has with any of the Council's objections and the Executive's reasons for any such disagreement."

The Elected Mayor considered the recommendations of the Council and his proposed response is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

No

Does the call-in procedure apply?

No

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

None

Published

8 November 2018

Signed: _____
The Elected Mayor of Torbay

Date: 8 November 2018



Meeting: Council

Date: 5 December 2018

Wards Affected: All Wards

Report Title: Heart of the South West Joint Committee Update

Is the decision a key decision? No

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

Council's Representative on the Joint Committee Contact Details: Councillor David Thomas, david.thomas@torbay.gov.uk

Supporting Officer Contact Details: Kate Spencer, Overview and Scrutiny Lead, (01803) 207014, kate.spencer@torbay.gov.uk

1. Proposal and Introduction

- 1.1 In January 2018, the Heart of the South Weston (HotSW) Joint Committee was formally established by the councils and organisations involved since 2015 in the devolution partnership. The Committee is tasked with improving productivity across the HotSW area in collaboration with the HotSW LEP and other organisations as necessary.
- 1.2 The Committee has met formally three times in 2018, in March, June and October. In addition to this the management structure that sits behind the Committee and involves Chief Executives and senior officers from across the partnership has met regularly to drive the business of the Committee. The Committee is chaired by Cllr David Fothergill, Leader of Somerset County Council and the Vice-Chair is Cllr John Tucker, Leader of South Hams District Council.
- 1.3 This report summarises the progress made by the Committee over recent months in key areas of activity and sets out actions proposed in the coming months. As part of this report there are specific recommendations for the constituent authorities to consider.

2. Reason for Proposal and associated financial commitments

- 2.1 It is essential that the local authorities contribute to the development and approval of the Local Industrial Strategy (LIS) working in collaboration with the LEP. The LIS will be a natural development of the Productivity Strategy and Delivery Plan for which the Joint Committee already has delegated authority, and therefore it would seem appropriate to formally extend this authority to the development and approval of the LIS to the Joint Committee on behalf of the constituent authorities.

- 2.2 It is important that the constituent authorities are kept up to date on the Committee's budget situation and make provision for the 2019/20 budget commitment. It is also important that the Budget and Cost Sharing Agreement is formally agreed by the constituent authorities as part of the Committee's governance arrangements.
-

3. Recommendation(s) / Proposed Decision

- 3.1 That the progress report setting out the work of the Heart of the South West (HotSW) Joint Committee since its establishment in March 2018 be noted.
- 3.2 That the development and endorsement of the Heart of the South West (HotSW) Local Industrial Strategy (LIS) be delegated to the HotSW Joint Committee (noting that final approval of the HotSW LIS rests with the HotSW Local Enterprise Partnership (LEP) and the Government).
- 3.3 That the Budget statement for 2018/19 set out in Appendix B to the submitted report be noted and that in accordance with the decisions taken at the time the Committee was established the Council will be asked to make an annual budgetary provision to meet the support costs of the Joint Committee in line with the 2018/19 contribution. Final clarification on any additional 2019/20 budget requirement will be provided following the completion of the review of the Joint Committee's role, function and management support arrangements and development of its work programme for 2019/20.
- 3.4 That the Budget and Cost-sharing Agreement set out in Appendix B to the submitted report be approved.

Appendices

- Appendix A: Heart of the South West Partnership's key strategic asks of Government
Appendix B: BUDGET STATEMENT – 2018/19

Background

1. Key achievements

- 1.1 At each of our meetings the Committee has been briefed on recent inward investment successes achieved through the work of the local authorities and the LEP and it is these successes that we wish to add to through the work of the Joint Committee.
- (a) Influencing government
The partnership's original focus in 2015 was to explore opportunities on offer through devolution to improve productivity. Since the Committee was created the influencing role has continued to be central to the work of the Joint Committee and recent months have seen successes in this area. Government policy changes and Brexit have required the partnership to be flexible to present a united front to Government and respond to the changes.

As an example, the Government has increasingly moved away from its devolution policy approach of 2015 and the partnership is now engaged in more flexible and targeted dialogues with Government. This approach is proving successful so demonstrating the benefits of presenting a single compelling partnership vision between the business and public sectors. The Committee is keen to demonstrate its ability to deliver Government objectives as well as local priorities so accessing help beyond our boundaries is critical to the success of the partnership. It is already apparent that the Joint Committee / LEP Partnership carries a critical mass that the Government is responding to through policy announcements and on-going dialogue with Government officials. The most significant announcement is the recent inclusion of the HotSW LEP area in wave 2 of developing Local Industrial Strategies (LIS). This success is due in large part to the close alignment of the Joint Committee and the LEP on the Productivity Strategy [see (b) below]. Much of the activity detailed below has resulted directly from discussions with Government.

(b) Approval of the HotSW Productivity Strategy

- (i) In March the Committee and the LEP Board agreed a challenging HotSW Productivity Strategy which set an ambition of “Doubling the size of the Heart of the South West’s economy over 20 years” with a vision of “Productivity and prosperity for all”.
- (ii) The Strategy identifies three strategic themes to improve productivity by strengthening and developing:
 - a. the leadership and ideas within businesses in our area.
 - b. the housing, connectivity and infrastructure our people and businesses rely on for living, moving goods, accessing jobs and training, and exploiting new opportunities.
 - c. the ability of people in our area to work, learn and improve their skills in a rapidly changing global economy, and to maximise their economic potential.
- (iii) In addition, there are three cross-cutting themes, referred to throughout the Strategy:
 - a. Inclusive growth for our people, communities and places.
 - b. Capitalising on our distinctive assets.
 - c. Maximising the potential from digital technology.

The Strategy can be viewed at:

<https://heartofswlep.co.uk/about-the-lep/how-we-work/productivity-strategy/>

- (c) Endorsement of the Delivery Plan. This document is key to the delivery of the Productivity Strategy and will be further developed as explained below. It is a live action plan that will be used to track performance locally and may also form the basis of annual progress reports to Government, as required under the recent national review of LEPs. It is broadly divided into two sections – a ‘core offer’ focussing on programmes that deliver Business Support and Employment and Skills, as well as ‘enablers’ including housing delivery, transport, and other infrastructure that is essential to support economic growth. These activities apply across the whole of the HotSW area. A further section focuses on programmes of activity linked to the agreed set of ‘opportunities’ that are specific to the HotSW area. The Plan incorporates current as well as future, planned activity, and is being produced in stages depending on how well developed the programmes of

activity for each theme are. The current version features the opportunities that are at the most advanced stage, namely: Digital (Photonics); Advanced Engineering (marine and nuclear); High Value Tourism; Farming, Fishing and Food. By spring 2019 it will be expanded to include: Healthy Ageing; further Digital (Creative and Big Data); Advanced Engineering (aerospace); Construction; and Defence. Place markers have also been included for inclusive growth and natural capital to be developed as part of the next phase of work. The current version of the Delivery Plan can be viewed at: <http://www.hotswjointcommittee.org.uk/wp-content/uploads/2018/10/HotSW-Draft-Delivery-Plan-October-2018.pdf>

- (d) An Opportunities Prospectus has been extracted from the Delivery Plan and will be used with local MPs, Ministers and senior Government officials as part of continuing to raise the profile of the HotSW area at a critical time ahead of the 2019 Spending Review and the anticipated launch of the UK Shared Prosperity Fund towards the end of 2019. The document will be circulated to MPs prior to the Chancellor's autumn statement as part of the influencing approach. To ensure that the Prospectus document has some longevity, the key strategic 'asks' of Government have been set out in a covering letter, jointly signed by the Chairs of the Joint Committee and the LEP. As we develop the Delivery Plan, further asks will emerge and be submitted to Ministers. The list of asks submitted in October is attached as Appendix A to this report. The Prospectus document can be viewed at: <http://www.hotswjointcommittee.org.uk/wp-content/uploads/2018/10/HotSW-Opportunities-Prospectus-October-2018.pdf>
- (e) Housing is a key enabling opportunity for the Joint Committee. Following a housing audit to gauge Local Plan progress on targets and delivery rates, a HotSW Housing Summit was held in September with key agencies including Homes England. The outcome of this successful event was an agreement to work closely with Homes England to develop a bespoke package of offers and asks with Government which will help us to successfully deliver the ambitious housing programmes we have across our area. A Housing Sector Task Force of strategic leaders and officers has been established to develop our proposition to Government and to work with Homes England which will report to the Joint Committee.
- (f) National Infrastructure Commission (NIC)
The Joint Committee is seeking to secure a growth corridor study following helpful discussions with the NIC. Initial discussions with the Chair of the Commission were well received and the Joint Committee was encouraged to submit a business case to the Chancellor who will ultimately make a decision as to whether to fund a study. A proposal was submitted to the Chancellor in October. The study would be similar to the one conducted by the NIC for Cambridge-Milton Keynes-Oxford. It would help the HotSW partnership to better understand the constraints to higher levels of productivity by highlighting where investment in strategic infrastructure could unlock faster growth over the long term. The initial focus for the study would be along the A38/M5 transport spine, recognising that investment would have benefits for the whole of the HotSW area and wider south west.
- (g) Brexit Resilience Opportunities Group. The Joint Committee has consistently lobbied Government that any powers that move back from the

EU under Brexit must not stop at Whitehall. This senior officer group was established by the Joint Committee to research and advise on the opportunities and risks to the HotSW. The Group has been collating evidence on some of the key risks and opportunities for our unique economy and has conducted research in the following areas: workforce, construction industry, agriculture and land management; food and farming, fisheries and post Brexit funding to support the economy. The Group is also collating the risk and impact analysis of Brexit on local government such as service delivery and community resilience. The Group has fed directly into the Local Government Association briefing papers and to key Government departments to raise the profile of the area. With the Brexit departure date looming and several 'deal' scenarios still possible, this work has become ever more important. A Brexit Joint Regional Sounding Board event planned, as part of the 12 November LEP Conference, will be an opportunity for business and public sector to engage with Government representatives from Defra, BEIS, and MHCLG on preparedness. The Group is working with Cornwall on issues of mutual interest and concern.

- (h) Sub-National Transport Body. Linked to the Joint Committee's work on infrastructure is the imminent establishment of a South West Peninsula Shadow Sub-National Transport Body (covering Somerset, Devon, Cornwall, Plymouth and Torbay) which will develop a sub-national Transport Strategy to work with Government to deliver investment in our major transport infrastructure. In the short-term this will be an informal partnership, however a current 'ask' of Government is that they endorse the creation of a statutory Sub-National Transport Body for the Peninsula, and a separate body for the South West around the east of the region. These two new transport bodies will provide a platform for strategic discussions with Government on priorities for the region over the long term.

1.2 **Next steps:**

In addition to what is outlined above, the Joint Committee / LEP partnership will:

- (a) Develop an Investment Framework for the Delivery Plan so that priorities for delivery and project opportunities can be delivered via investment from a range of sources.
- (b) Review the roles and functions of both bodies through a governance review to acknowledge the revised and enhanced focus given to LEPs by the Government. This work will include a review of the management support arrangements. The Joint Committee and the LEP will continue to share responsibilities across the Productivity Strategy and the Delivery Plan with the LEP leading on areas closely linked to the LIS and the Joint Committee leading on other areas such as housing and infrastructure. The need for close collaboration between the two has never been more important as we look to further influence Government policy and actions over the next 12 months and beyond.

2. **Local Industrial Strategy**

- 2.1 The inclusion of the HotSW LEP area in the second wave of areas to benefit from working with the Government to develop their Local Industrial Strategies (LIS) is a

considerable achievement for the Joint Committee and the LEP. The first wave 'trailblazers' were the urban conurbations of Greater Manchester, the West Midlands and Cambridge-Milton Keynes-Oxford. The partnership had been pushing to be in the second wave and had raised the ask with Government Ministers and officials over a number of months. It was therefore very welcome that HotSW was announced in July as being part of wave 2.

- 2.2 By working closely with Government to develop our Local Industrial Strategy we will be able to jointly agree the long term transformational opportunities that will help deliver the asks specific to our area and influence wider Government policy and delivery.
- 2.3 Local Industrial Strategies will focus on the foundations of productivity and identify transformational opportunities with partners across Ideas, People, Infrastructure, Business Environment and Place. The Strategy will be led by local people and businesses, allowing local leaders to harness the strengths of their own areas; ensure that the benefits of growth are realised by all; and provide the right conditions for improving the prosperity of communities throughout the area.
- 2.4 Ultimate approval of the LIS rests with the LEP in collaboration with the Government. The LIS guidance requires the LEP to collaborate on the development of the LIS with a range of stakeholders including the local authorities and other partners.
- 2.5 The LEP's proposed timetable is to have the final LIS agreed between the LEP and the Government by June 2019. Fortunately, HotSW partners are better placed than many areas to meet this timetable as the work done by the Joint Committee and the LEP to build and test the evidence base for the Productivity Strategy and Delivery Plan has set the foundation; the LIS will be a natural extension of this.
- 2.6 The Joint Committee is ideally placed to provide both collective and council level input into the development of the LIS, although final approval rests with the LEP. The validity and positioning of the document would be immeasurably strengthened by the involvement and general endorsement of all the constituent authorities, and by other partners including the business community. To enable the development of the LIS to be taken forward at pace, and to demonstrate alignment with partners across the area, it is proposed that local authority input is developed, coordinated and signed off by the Joint Committee. The powers of (and delegations to) the Committee are tightly focussed around the Productivity Strategy under the current governance arrangements, so approval needs to be sought from the constituent authorities to formally delegate the Council's responsibilities for contributing to and signing off the HotSW Local Industrial Strategy (LIS) to the Joint Committee. The recommendations provide the opportunity for the Council to influence and shape the LIS as well as provide content. To ensure that there is wide buy-in to the development of the LIS across the constituent authorities, a portfolio holder engagement event is planned for 23 November 2018.

3. Budget and Cost Sharing Agreement

- 3.1 The Joint Committee has been kept informed of its budgetary position to provide assurance that it is operating within its budget. This section of the report includes:

- (a) a summary of the Committee's current budget position for 2018/19 - Appendix B.
 - (b) a Budget and Cost Sharing Agreement (B&CSA) which is a development of the Inter-Authority Agreement agreed by the constituent authorities at the time the Committee was established – Appendix B.
 - (c) An indicative budget request for 2019/20 to the constituent authorities.
- 3.2 Appendix B also summarises the position on the operating and support budget of the Committee. It shows a variation of the income for 2018/19 expected at the time of the Committee's establishment with a larger than anticipated underspend carried forward from the work on devolution during the 2015 to 2018 period. This together with the contributions agreed by the constituent authorities have given the Committee a larger than anticipated budget for 2018/19.
- 3.3 In terms of the anticipated spend for 2018/19 the current position suggests that the Committee will be able to operate within budget and should achieve an underspend to be carried forward to 2019/20 to help offset the future budget requirement for the Joint Committee. The current underspend is around £40k. It should be noted however that not all commitments for 2018/19 have yet been identified.
- 3.4 At the time of the Committee's establishment the Inter Authority Agreement referred to the development of a B&CSA and included some headings to be included within it. Appendix B sets out the draft B&CSA. It is a relatively simple document proportionate to the small size of the budget and the limited financial risk to each constituent authority. It explains the role of the administering authority as well as the responsibilities of the constituent authorities. The Joint Committee has approved the B&CSA and all Section 151 Officers of the constituent authorities have been consulted on its contents. The document now requires the formal approval of the constituent authorities.
- 3.5 In terms of the Joint Committee's budget for 2019/20 the work programme is unknown at this stage although a busy year is expected for the Committee to respond to Government policy initiatives and to support the Delivery Plan. To assist the constituent authorities to plan budget commitments for 2019/20, the minimum contribution levels for 2019/20 are set out below and are at the same level as for 2018/19. These contributions will generate sufficient budget to cover the costs of the administering authority to service the Joint Committee and leave a small surplus. Dependent on the underspend carried forward from the current year and the outcome of the review of the management support arrangements, this may not be sufficient to fully cover any additional work, for example secondments, or externally commissioned work. The funding requirements will be clarified, as far as is possible, in advance of the 2019/20 financial year following the governance review and through a costed work programme and applied on a pro-rata basis.
- County Councils - £10,500
 - Unitary Councils - £4,000
 - District Councils and National Parks £1,400

Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>The Council needs to approve and note a number of areas as set out in paragraph 3 (Recommendations) to this report.</p>
2.	<p>What is the current situation?</p> <p>In January 2018, the HotSW Joint Committee was formally established by the councils and organisations involved since 2015 in the devolution partnership. The Committee is tasked with improving productivity across the HotSW area in collaboration with the HotSW LEP and other organisations as necessary.</p> <p>This report summarises the progress made by the Committee over recent months in key areas of activity and sets out actions proposed in the coming months. As part of this report there are specific recommendations for the constituent authorities to consider.</p>
3.	<p>What options have been considered?</p> <p>None</p>
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> • Use reducing resources to best effect • Reduce demand through prevention and innovation • Integrated and joined up approach <p>Targeted actions:</p> <ul style="list-style-type: none"> • Working towards a more prosperous Torbay • Ensuring Torbay remains an attractive and safe place to live and visit
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>There is no direct impact on looked after children in the proposed recommendations.</p>

6.	<p>How does this proposal tackle deprivation?</p> <p>There is no direct impact on deprivation in the proposed recommendations, however the work undertaken by the Joint Committee will have a positive impact on deprivation in a number of areas.</p>
7.	<p>How does this proposal tackle inequalities?</p> <p>There will be no adverse impact on any protected groups.</p> <p>There are no direct public health impacts of these recommendations. However, public health considerations will be an important consideration in the development of the LIS recognising that there is a strong correlation between economic prosperity and health of the population.</p>
8.	<p>How does the proposal impact on people with learning disabilities?</p> <p>There will be no adverse impact on any people with learning disabilities.</p>
9.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>n/a</p>
10.	<p>How will you propose to consult?</p> <p>n/a</p>

Section 2: Implications and Impact Assessment

11.

What are the financial and legal implications?

Legal considerations:

The HotSW Joint Committee is a Joint Committee of the local authorities across Devon and Somerset that comprise the HotSW area and established under Sections 101 to 103 of the Local Government Act 1972 and all other enabling legislation to undertake the following:

The key purpose of the Joint Committee is to be the vehicle through which the HotSW partners will ensure that the desired increase in productivity across the area is achieved.

The Committee is a single strategic public sector partnership providing cohesive, coherent leadership and governance to ensure delivery of the Productivity Strategy for the HotSW area. The specific objectives of the Joint Committee are to:

- Improve the economy and the prospects for the region by bringing together the public, private and education sectors;
- Increase our understanding of the economy and what needs to be done to make it stronger;
- Improve the efficiency and productivity of the public sector;
- Identify and remove barriers to progress and maximise the opportunities/benefits available to the area from current and future government policy.

Financial considerations:

The direct costs to the constituent authorities are set out above and in Appendix B. In addition to this the constituent authorities and partners continue to input considerable amounts of officer time into the partnership on an 'in kind' basis. The LEP continues to make a significant contribution to the work of the Committee and has met some direct costs.

The constituent authorities are reminded that the Joint Committee continues to provide a relatively low-cost option to meet the partnership's objectives compared to the Combined Authority alternative.

12.

What are the risks?

Given the participation in the Joint Committee as one of the constituent Local Authorities, the main risks are around failing to participate actively in this or any other related process, thus manifesting a failure of sub-regional or regional awareness of the Council's specific economic and productivity concerns. The risk from failing to participate is most likely to be a loss of the Council's influence at regional level and an inability to draw attention to the area's economic needs (across such areas as productivity, skills,

	infrastructure and related inward investment). It would also weaken the wider partnership proposition, so affecting the ability of the HotSW partnership to speak with one voice and influence Government policy for the benefit of the wider area and including our residents, businesses and visitors.
13.	Public Services Value (Social Value) Act 2012 Not applicable.
14.	What evidence / data / research have you gathered in relation to this proposal? Not applicable.
15.	What are key findings from the consultation you have carried out? Not applicable.
16.	Amendments to Proposal / Mitigating Actions Not applicable.

Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			There is no differential impact
People with caring Responsibilities			There is no differential impact
People with a disability			There is no differential impact
Women or men			There is no differential impact
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
Religion or belief (including lack of belief)			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

	Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			There is no differential impact
16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None		
17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None		

APPENDIX A

Heart of the South West Partnership's key strategic asks of Government

As part of the partnership's increased lobbying with MPs and with reference to the Great South West Partnership several 'policy asks' of Government have been identified to coincide with party conferences and the Autumn Budget. These will be socialised over the next few months and are:

1. Recognition of the Great South West Partnership in the Autumn Budget Statement together with a commitment to co-design a Rural Deal - a 'Rural Productivity Partnership' with GSW following publication of Rural Productivity Commission Report earlier in the year
2. Strategic Connectivity
 - a. Confirmation of Sub National Transport Body/ (ies)
 - b. Peninsula Rail priorities – e.g. commitment for funding Dawlish
 - c. Funding commitment for A303 improvements
 - d. Superfast Broadband and 5G trials
 - e. Joint working with the National Infrastructure Commission on an A38/M5 corridor study to explore how we can unlock our full potential and accelerate growth to transform our region.
3. Transforming Cities and Strength in Places bids agreed
4. EU Fisheries underspend proposal: an offer to work with Government to develop a proposal to utilise the projected underspend in the current EU Fisheries budget.
5. Nuclear Sector Deal (and others specifically Maritime and Defence) to have clear place-based elements/funding, recognising the HotSW opportunities.
6. Local Industrial Strategy specific: encourage joint working with WECA on Wave 2 Local Industrial Strategies particularly around connectivity and Smart specialisations e.g. Nuclear and Aerospace.

APPENDIX B

BUDGET STATEMENT – 2018/19

Costs

At the time the Joint Committee was established it was estimated that its operating and support **costs** for 2018/19 (and to cover the remainder of 2017/18) would be £89,000 - excluding in-kind officer support. This estimate comprised:

1. £25,000 for work the Joint Committee would wish to commission to support the delivery of its work programme
2. £24,000 for the Brexit Resilience and Opportunities Group Secretariat
3. £40,000 for the Administering Authority to undertake its duties.

Budget

Current budget position summary:

18/19 Budget = <u>£117k</u> (an increase of £25k over the original estimate)	18/19 Expenditure - <u>£76.4k</u> (as at 24/10/18)
<ol style="list-style-type: none"> 1. £67k - devolution budget carry forward (as against the estimate of £42k) – transferred from PCC to SCC 2. £50k - funding contributions from the constituent authorities 	<ol style="list-style-type: none"> 1 £40k - for Administrative Authority costs including: direct meeting costs (including refreshments); staffing costs directly relating to HotSW meetings; JC communications and marketing; micro-site development 2 £11.3k - support costs of the Brexit Resilience Opportunities Group (BROG) including seconded part-time officer support (against an original budget allocation of £24k) 3 £6k – costs of Housing Summit 4 £9.8k – housing consultancy support 5 £9.3k – national corridor infrastructure corridor consultancy support

BUDGET AND COST SHARING AGREEMENT

As part of the new Joint Committee working arrangements, the following clause was agreed in relation to the costs of operation of the Joint Committee. This clause was in the Inter-Authority Agreement.

4.0 JC Finance

4.1 The JC's budgetary arrangements shall be detailed in a budget and cost sharing agreement to be agreed by all the Constituent Authorities annually on the recommendation of the JC and in advance of the financial year. The only exception to this will be in the JC's first year of operation when the JC shall recommend a budget and cost sharing agreement to the Constituent Authorities for approval at the first opportunity following its establishment.

4.2 The budget and cost sharing agreement shall cover:

- (a) The responsibilities of the Constituent Authorities for providing funding for the JC
- (b) The anticipated level of expenditure for the JC for the year ahead
- (c) The cost sharing mechanism to be applied to the Constituent Authorities
- (d) Details of how the budget will be set and agreed each year
- (e) Who is to be responsible for maintaining financial records on behalf of the JC (the 'accountable body');
- (f) What financial records are to be maintained;
- (g) What financial reports are to be made, to whom and when;
- (h) What arrangements and responsibilities are to be made for:
 - auditing accounts;
 - insurance including ensuring all partners have sufficient cover;
- (i) How any financial assets held by the JC on behalf of the Constituent Authorities will be redistributed to the CAs in the event of the dissolution of the JC or in the event of a CA formally withdrawing from the CA.

How is the budget set and agreed each year?

In the February preceding each financial year, in consultation with the Somerset County Council Finance Advisory Team, the SCC Strategic Manager - Partnership Governance on behalf of the PMO will detail a budget plan for the JC income and expenditure. This will establish estimated amounts for that financial year and the timing of those financial transactions. This will be submitted by the administering authority to the Joint Committee for recommendation to the Constituent Authorities (CA) for approval.

Each CA will pay their agreed contribution to the Administering Authority (AA) in a timely manner on receipt of invoice details.

Who is to be responsible for maintaining financial records on behalf of the JC?
SCC Finance Advisory Team – Ian Tier, Finance Manager.

What financial records are to be maintained?

Financial records, i.e. orders for supplies and services, payments made, invoices raised and receipts, will be kept electronically on the SCC financial system. This incorporates purchase orders, invoice scans, cashiers receipts and sales invoices.

What financial reports are to be made, to whom and when?

SCC Finance Advisory will present a quarterly income and expenditure report to the SCC Strategic Manager – Partnership Governance. This will be reported to the CEx Advisory Group for information. An income and expenditure report will be presented to the JC for information on at least an annual basis.

What arrangements and responsibilities are to be made for?

Auditing Accounts: The AA's accounts and audit arrangements will apply to JC business.

Insurance:

Each CA will ensure that it has sufficient insurance cover in place to provide protection for their members and officers participating in the work of the JC and in their capacity as officers or members of that authority. The AA will ensure that it has sufficient insurance cover in place to cover the AA role.

How any financial assets held by the JC on behalf of the CA will be redistributed to the CAs in the event of the dissolution of the JC or in the event of a CA formally withdrawing from the CA?

Itemised records of contributions made by each of the CAs will be kept over the life of the JC. In the event of the dissolution of the JC or in the event of a CA formally withdrawing from the CA having given the required notice, financial assets will be returned to the CA or CAs on a proportionate basis.



Meeting: Council

Date: 5 December 2018

Wards Affected: All Wards

Report Title: Proposed Council Tax Support Scheme 2019/20

Is the decision a key decision? Yes

When does the decision need to be implemented?

Executive Lead Contact Details: Richard Haddock, Executive Lead for Customer Services, Telephone 01803 207115, email, Richard.haddock@torbay.gov.uk

Supporting Officer Contact Details: Alison Whittaker, Head of Customer Services, Revenue & Benefits Telephone 01803 207221, email, Alison.whittaker@torbay.gov.uk

1. Proposal and Introduction

- 1.1 This report provides members with the background of the current scheme and recommendations for the 2019/20 local Council Tax Support scheme.
- 1.2 Schedule 1A of the Local Government Finance Act 2012 requires local authorities to annually review their local scheme.

2. Reason for Proposal and associated financial commitments

- 2.1 The Council has a statutory duty to provide a local Council Tax Support Scheme for working-age households within its area. Pension age households are subject to statutory provisions determined on a national basis that must be incorporated within each authority's local scheme.

The Council must approve the final scheme by 11 March 2019 for operation by 1 April 2019. The scheme cannot be changed mid-financial year.

- 2.2 It is proposed that Personal Allowances and Premiums are uprated from 1 April 2019 in line with the prescribed Pensioner scheme and national working-age benefits, which are both set by the Government.

Failure to make this change would result in a cut in entitlement should there be an increase in household income.

3. Recommendation(s) / Proposed Decision

- 3.1 That Personal Allowances and Premiums, used to calculate Council Tax Support, are uprated from 1 April 2019 in line with the prescribed Pensioner scheme and national working-age benefits, which are both set by the Government.
- 3.2 That the Chief Finance Officer be given delegated authority, in consultation with the Elected Mayor and the Executive Lead for Customer Services, to make any further adjustments required to the Exceptional Hardship Policy and fund.
- 3.3 That Council notes that as a result of the introduction of Universal Credit full service from 5 September 2018, there will be a full review of the current scheme. This will commence from January 2019, where extensive financial modelling will be undertaken to provide potential options for a brand new scheme to be implemented from April 2020, with consultation on the same being undertaken in 2019.

Appendices

Appendix 1: Proposed 2019/20 schemes for other Devon Authorities

Appendix 2: Current scheme - <http://www.torbay.gov.uk/media/11073/council-tax-reduction-scheme.pdf>

Background Documents

None

Section 1: Background Information

1.

What is the proposal / issue?

The current Council Tax Support scheme was approved by members at Full Council in December 2016.

For each financial year, the Council must consider whether to revise its scheme or to replace it with a replacement scheme. It must make any revision to its scheme, or any replacement scheme, no later than 11 March for the subsequent financial year.

Entitlement to Council Tax Support is based on a means test, by taking into consideration a person's income and comparing this with any personal allowances, premiums and disregards to which they may be entitled.

The current scheme needs to be updated to take into account the inflationary increase in the personal allowances used to calculate entitlement to Council Tax Support - these allowances represent a households basic living needs.

This will ensure the scheme is compliant with the Prescribed Requirements for all local schemes, determined by the Department for Communities and Local Government and also aligned to national working-age benefits, determined by the Department for Work and Pensions.

2.

What is the current situation?

The scheme that will be adopted for 2019/20 is the same as the scheme that was adopted for 2018/19. The reasons for this are it:

- is based on the previous scheme and involves no additional new risk;
- does not disproportionately affect any particular group – disabled persons, single parents, etc;
- presents a very low risk of legal challenge.

For people of working age, the current scheme has the following key elements:

- All awards are based on 70% of the Council Tax charge for the property. This means that the maximum a working age household can receive is 70% of the Council Tax due. These households have to pay a minimum of 30% of the Council Tax due;
- Second Adult Rebate for working age households is not available;

	<ul style="list-style-type: none"> • No entitlement if working age households have savings over £6,000; • Restrict working age households to the equivalent of a Band D property charge and apply the 70% restriction detailed above; • A hardship fund is provided for within the scheme and is available to households should they be experiencing hardship as a result of their Council Tax Support award. <p>Under the current scheme pensioners are protected and the level of entitlement for them must remain. Protection will be achieved by keeping in place the existing national rules, with eligibility and rates defined in the Prescribed Pensioners scheme.</p> <p>The components used to calculate Council Tax Support consist of the following:</p> <ul style="list-style-type: none"> • Personal Allowances - the basic amounts of money the government says a claimant needs to live on. The level depends on the claimant's age and whether they are part of a couple. There are additional allowances for dependent children. • Premiums - additional amounts added to the personal allowance because of claimant's personal circumstances. The government recognises that it is more expensive to live with a family or if someone has a disability or caring responsibilities. Extra amounts are added to income based benefits to account for this. • Disregards - the amount of earnings not taken into account when calculating entitlement to benefits. There are standard earnings disregards for singles, couples and lone parents. People in certain groups, such as carers and people with disabilities are eligible for a higher disregard. • Non Dependant Deductions - the amount that is deducted for other people who are 18 or over and live in the household. The deduction rates for non-dependants are set according to their income, as it is assumed that they can make a financial contribution to the household.
3.	<p>What options have been considered?</p> <p>None for the purpose of this report.</p>
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The council's Corporate Plan for 2015-2019 sets the direction and priorities for the years ahead. It is based on the following principles:</p>

	<ul style="list-style-type: none"> • Use reducing resources to best effect • Reduce demand through prevention and innovation • Integrated and joined up approach <p>The scheme continues to support work incentives and avoids disincentives for those moving into work.</p> <p>Torbay's most vulnerable groups will continue to be protected as the scheme will retain the current scheme characteristics.</p> <p>The continuation of the hardship scheme will also help cushion the effect of the changes and should mitigate any adverse impacts where possible.</p>
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>The scheme provides further financial support to care leavers on low incomes after their 25th birthday, through a reduction in their council tax liability.</p> <p>It will assist those who only had the support of the council in reducing barriers of living in the community, where there is a risk of falling into debt, particularly with their council tax.</p>
6.	<p>How does this proposal tackle deprivation?</p> <p>Council Tax Support provides proportioned financial assistance to low income households.</p> <p>The exceptional hardship fund also provides additional financial assistance for households that are most in need.</p>
7.	<p>How does this proposal tackle inequalities?</p> <p>The scheme is being amended in line with statutory requirements and uprating the financial allowances. There is no change to the way the existing scheme operates so no equality impact assessment has been undertaken.</p> <p>To mitigate the impact of the scheme an Exceptional Hardship Fund is available that supports the most vulnerable residents on a case by case basis.</p>
8.	<p>How does the proposal impact on people with learning disabilities?</p> <p>The scheme is being amended in line with statutory requirements and uprating the financial allowances. There is no change to the way the existing scheme operates so no equality assessment has been undertaken.</p> <p>The current scheme has the same characteristics as Council Tax Benefit, where additional premiums and income disregards are applied within the</p>

	calculation of the Applicable Amount when certain state benefits are received.
9.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>This proposal will affect all working age households receiving Council Tax Support from 1 April 2019 to 31 March 2020.</p> <p>There are no requirements to undertake additional public consultation as the scheme remains unchanged.</p>
10.	<p>How will you propose to consult?</p> <p>As there are no significant changes to the 2019/20 scheme a public consultation is not necessary.</p>

Section 2: Implications and Impact Assessment

11.	<p>What are the financial and legal implications?</p> <p>The Council's requirement to review its Council Tax Support scheme annually must consider both the application of the scheme itself and to take into account the financial implications of its administration.</p> <p>Financial Implications</p> <p>This report is integral to the revenue budget and Council Tax setting process for 2019-20. The financial and resource implications and underlying assumptions are dealt with in that report.</p> <p>Legal Implications</p> <p>Schedule 1A of the Local Government Finance Act 2012 requires local authorities to consider whether to revise or to replace its scheme each year. Any revisions or a replacement scheme must have been considered and agreed no later than 11 March 2019 for operation by 1 April 2019.</p> <p>There are no requirements to undertake a public consultation should the scheme remain unchanged.</p>
12.	<p>What are the risks?</p> <p>The council continues to face the financial risk of receiving less Council Tax income than budgeted due to:</p> <ul style="list-style-type: none"> Any significant increase in caseload during the year, not provided for when the Council Tax taxbase is set;

	<ul style="list-style-type: none"> • A greater than anticipated impact of the wider welfare reform changes on the level of Council Tax Support awarded; • A reduction in the level of Council Tax collection, not provided for when the Council Tax taxbase is set. <p>By maintaining existing levels of support it is not anticipated that there will be any legal challenge to the council's scheme.</p>
13.	<p>Public Services Value (Social Value) Act 2012</p> <p>The procurement of services or provision of services is not relevant for this report.</p>
14.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>Prior to April 2013 the national Council Tax Benefit scheme was available to taxpayers on low incomes to assist them with their Council Tax.</p> <p>The Government announced the abolition of Council Tax Benefit as part of the Spending Review 2010, with the intention to replace it with a localised support scheme from 1 April 2013.</p> <p>Torbay's scheme was prepared as part of a Devon wide approach, where the overarching principle was to develop a cost neutral scheme. However, it was unlikely that each authority's scheme would be identical, or produce the same end result for residents across the county, because of the different local demographics and the constraints placed on the design of local schemes by the government.</p> <p>Appendix 1 provides details of the proposed 2019/20 schemes in Devon. With the exception of South Hams and West Devon Council, none of the Devon Councils are proposing any additional changes apart from uprating of allowances and premiums.</p>
15.	<p>What are key findings from the consultation you have carried out?</p> <p>Not applicable for this proposal.</p>
16.	<p>Amendments to Proposal / Mitigating Actions</p> <p>Not applicable for this proposal.</p>

Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people	If Personal Allowances and Premiums were not uprated in line with the prescribed pensioner scheme and national working-age benefits residents would effectively have a cut in their entitlement should their income increase.		
	People with caring Responsibilities			Protection for those receiving a carers allowance is in line with the old Council Tax Benefit scheme.
	People with a disability			Protection for disabled people is in line with the old Council Tax Benefit scheme. Disability benefits, such as Disability Living Allowance, will continue to be fully disregarded as well as the associated personal allowances and premiums that are currently awarded to people with disabilities.
	Women or men			Although this information is recorded, there is no adverse impact on the grounds of gender. Torbay's scheme is open to applications from persons of any gender and there are no aspects of the scheme which impact in any way on the availability of support

			to claimants based solely on gender.
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
Religion or belief (including lack of belief)			This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
People who are lesbian, gay or bisexual			This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
People who are transgendered			This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in

			respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
	People who are in a marriage or civil partnership		This information is not collected as part of the administration of the Council Tax Support Scheme however there is no record of having received any comments or complaints or challenges regarding this particular group in respect of the design and operation and administration of the Torbay Council Tax Support Scheme.
	Women who are pregnant / on maternity leave		There is no differential impact
	Socio-economic impacts (Including impact on child poverty issues and deprivation)		There is no differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)		There is no differential impact
16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	Not applicable for this proposal.	

17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	Not applicable for this proposal.
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Supporting Information

Service / Policy:	Council Tax Support Scheme 2019/20
Executive Lead:	Richard Haddock
Director / Assistant Director:	Bob Clark

Version:	1	Date:	1 November 2018	Author:	Alison Whittaker
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Section 1: Background Information
<p>Devon's Proposed Schemes 2019/20</p> <p>All are based on their current 2018/19 local schemes with the uprate of Personal Allowances, Premiums and Non Dependant deductions in line with national welfare benefits.</p> <p>East Devon District Council There are no other changes.</p> <p>Exeter City Council There are no other changes.</p> <p>Mid Devon District Council There are no other changes.</p> <p>North Devon District Council There are no other changes.</p> <p>Teignbridge District Council There are no other changes.</p> <p>Torrige District Council There are no other changes.</p> <p>Torbay Council There are no other changes.</p> <p>Plymouth City Council There are no other changes.</p> <p>South Hams & West Devon Council Proposing to implement a banded scheme.</p>



Meeting: Council

Date: 5 December 2018

Wards Affected: All

Report Title: Gambling Act 2005 'Statement of Principles 2019' (Gambling Policy)

Is the decision a key decision? Yes

When does the decision need to be implemented? 30th January 2019

Executive Lead Contact Details:

Supporting Officer Contact Details: Steve Cox, Environmental Health Manager (Commercial), (01803) 208025, steve.cox@torbay.gov.uk

1. Proposal and Introduction

- 1.1 This report sets out the revised Statement of Principles (the Policy) for Torbay Council, relating to its responsibilities as Licensing Authority under the Gambling Act 2005 (the Act). It contains the principles under which the Licensing Authority will exercise its functions under the Act.
- 1.2 This Policy, once adopted, will replace the existing Statement of Principles and must be published on or before 30th January 2019. The Policy is attached at **Appendix 1** to this report.

2. Reason for Proposal and associated financial commitments

- 2.1 Section 349 (1) of the Act requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.
- 2.2 The draft revised Policy for 2019, was agreed in principle by Licensing Committee on 19th July 2018. There followed a statutory consultation, which took place between 21st August and 16th October 2018.
- 2.3 The Council has a statutory responsibility under the Act to complete this process of review of the Policy by 3rd January 2019 and for implementation of the final document on or before 30th January 2019, that being the date specified by the Secretary of State, as the 'relevant appointed date' under the Act.

- 2.4 The proposals contained in this report will commit the Council financially in respect of:

There are no additional implications as a result of agreeing the recommendations to this report. All functions will continue to be conducted under existing budgets and fees set at full cost recovery subject to the maximum permitted fees as provided under the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007.

3. Recommendation(s) / Proposed Decision

- 3.1 That the Statement of Principles 2019 (Gambling Policy), as set out in Appendix 1 of this report, be approved.

Appendices

Appendix 1: Statement of Principles 2019

Appendix 2: Record of Decision

Background Documents

None

Section 1: Background Information

1.	<p>What is the proposal / issue?</p> <p>Section 349 (1) of the Act requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.</p>
2.	<p>What is the current situation?</p> <p>The current Policy was published in January 2016. Under the terms of the Act, this will therefore expire in January 2019.</p> <p>Following a full revision and consultation of the Policy, the matter, which cannot be delegated to a Committee, must now be considered and agreed by Full Council.</p>
3.	<p>What options have been considered?</p> <p>There are no other options given that review and re-publication of the Policy is a statutory requirement.</p>
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The Gambling Policy promotes in the main, the protection of children and vulnerable adults. However, in facilitating best practice through the gambling industry and promoting close partnerships with partners and various stakeholders, it also supports the other key targets of the corporate plan by contributing to measures that promote the health, safety and prosperity of Torbay visitors and residents.</p>
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>One of the three objectives of the Act is to protect children and vulnerable adults. The Policy outlines (amongst other matters) principles that should be followed in order to meet responsibilities under this objective.</p>

6.	<p>How does this proposal tackle deprivation?</p> <p>Whilst the Act requires that the Licensing Authority should carry out its functions with a view to permitting gambling, all applicants and existing operators under the Act are required produce a Local Area Risk Assessment.</p> <p>The Local Area Risk Assessment should address any matters within the local area that should be considered in relation to the application or licence permission given. This consideration should include the nature of the local area, whether it is in a more deprived area, the general makeup of the area, whether it is near Schools, shelters e.g. homeless shelters etc.</p> <p>In assessing applications, the Licensing Authority would be looking to ensure that these matters have been considered and where appropriate, control measures have been put in place to address them.</p>
7.	<p>How does this proposal tackle inequalities?</p> <p>These matters are all considered under the Local Area Risk Assessment as outlined above.</p>
8.	<p>How does the proposal impact on people with learning disabilities?</p> <p>These matters are all considered under the Local Area Risk Assessment as outlined above.</p>
9.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>Section 349 (3) of the Act specifies those persons and authorities that must be consulted. These are:</p> <ul style="list-style-type: none"> i) The Chief Officer of Police ii) Gambling business operators and persons representing the interests of such operators iii) Persons who appear to represent the interests of those likely to be affected by gambling <p>This Policy will affect every operator of, or applicant in respect of a gambling business. It lays out their roles and responsibilities under the Act and identifies how the Licensing Authority will carry out its own functions in this regard. Therefore, all business operators and any representatives of such operators were consulted.</p> <p>Gambling premises are frequented by members of the public and it is essential that their interests are considered. Targeted consultation therefore took place with key gambling support groups and charities as well as being published on the Council website in order to enable general comment. In support of the full public aspect of the consultation, messages were placed on social media to advise the public of the consultation, affording opportunity for them to comment.</p> <p>The Police and other Responsible Authorities were also consulted.</p>

10.	<p>How will you propose to consult?</p> <p>Consultation was by way of an online questionnaire, direct email to Responsible Authorities, Charity and Support Groups and promotion on social media sites.</p>
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Section 2: Implications and Impact Assessment	
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11.	<p>What are the financial and legal implications?</p> <p>This is a statutory function and as such legal implications are more likely were the Policy review not to be agreed. Failure to agree and publish a Policy on time, would undermine the power of the Licensing Authority, which in turn could have financial implications, which may stem from legal challenge.</p> <p>Staff costs and time resources will be met from existing budgets, fees are charged (subject to a maximum ceiling) at full cost recovery and as such there are no further perceived financial implications.</p>
12.	<p>What are the risks?</p> <p>As above</p>
13.	<p>Public Services Value (Social Value) Act 2012</p> <p>No</p>
14.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The proposal is in line with statutory requirements, it follows best practice guidance and has been reviewed and assessed by the Gambling Commission.</p>
15.	<p>What are key findings from the consultation you have carried out?</p> <p>Following consultation, there was one response received. This was despite promoting the consultation on social media as well as direct contact with key consultees. Whilst the response answered only three of the consultation questions it was in strong agreement with the revisions made to the Policy.</p> <p>Whilst they did not submit an official consultation response, the Policy review was conducted in consultation with the Gambling Commission. The Commission reviewed the Policy with a view to legal compliance and best</p>

	practice and were in full support of the draft document. For this reason they made no official response.
16.	Amendments to Proposal / Mitigating Actions None

Equality Impacts

17.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	GA05 – Requirement for local area risk assessments, so Gambling business need to evaluate local risk. This has been extended to include Unlicensed Family Entertainment Centres (amusement arcade premises), where they link to a Licensed Premises (UFEC's are otherwise not required to complete a Local Area Risk Assessment.		
People with caring Responsibilities			The Gambling Act 2005 underwent a full impact assessment at Central Government level prior to the Act being passed and receiving Royal assent. This Policy follows the full principles of the Act and associated guidance and the impact is therefore neutral.
People with a disability			As above
Women or men			As above
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			As above
Religion or belief (including lack of belief)			As above

	People who are lesbian, gay or bisexual			As above
	People who are transgendered			As above
	People who are in a marriage or civil partnership			As above
	Women who are pregnant / on maternity leave			As above
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			As above
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			As above
16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None		
17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None		



Appendix 1

**STATEMENT OF PRINCIPLES 2019-2021
GAMBLING ACT 2005**

FORWORD

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This 'Statement of Principles 2019-2021' was approved and adopted by Torbay Council on 5th December 2018

PART A ~ OVERVIEW

1 THE LICENSING OBJECTIVES

1.1 In exercising its functions under the Gambling Act 2005 (hereinafter referred to as 'the Act'), the Licensing Authority will have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

Ensuring that gambling is conducted in a fair and open way.

Protecting children and other vulnerable persons from being harmed or exploited by gambling.

[The Act defines a 'Child' as an individual aged 15 years or under; and defines a 'Young Person' as an individual aged 16 to 17 years].

1.2 In making decisions in relation to premises licences the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks that use will be:

In accordance with any relevant code of practice issued by the Gambling Commission.

In accordance with any relevant guidance issued by the Gambling Commission.

Consistent with the Licensing Objectives (subject to the above).

In accordance with Torbay Council's 'Statement of Principles', issued under the Act (subject to the above).

2 INTRODUCTION

2.1 Torbay is situated on the South Devon coast, on the south west peninsular of England and comprises the three towns of Torquay, Paignton and Brixham. Torbay is an outstanding coastal destination, including 22 miles of coastline, which was recognised as a Global Geopark in 2007. The Council area is mainly urban, comprising the three bay towns of Torquay, Paignton, and Brixham; please refer to a map of the Torbay area in the Local Area Profile.

2.2 Under the Act, The Licensing Authority must publish a statement of the principles which it intends to apply when exercising its functions under the Act, and that statement must be published at least every three years.

2.3 The Licensing Authority has consulted widely upon a 'Draft Statement of Principles 2019-2021', before approving and publishing the finalised 'Statement of Principles 2019-2021'.

The draft version of this 'Statement of Principles 2019-2021' was published for a statutory consultation from 21st August 2018 to 16th October 2018 via the Torbay Council website and copies of the document were also made available for public inspection during that time, at the public libraries located in Torquay, Paignton and Brixham. A consultation document was also published on the Council website.

A list of those persons consulted is provided in Appendix 1 to this 'Statement of Principles 2019-2021'

- 2.4 This 'Statement of Principles 2019-2021' was approved at a meeting of the Full Council on the 5th December 2018 and was published via the Torbay Council website thereafter.
- 2.5 It should be noted that this 'Statement of Principles 2019-2021' will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each application will be considered on its own merits and in accordance with the statutory requirements of the Act.

3 DECLARATION

- 3.1 In producing this 'Statement of Principles 2019-2021', The Licensing Authority declares that it has had regard to the Licensing Objectives of the Act, the current version of the 'Guidance to Licensing Authorities' issued by the Gambling Commission, any responses received from those who were consulted on the 'Draft Statement of Principles 2019-2021' and any representations submitted by any interested party, person, body or organisation in response to the publication of the 'Draft Statement of Principles 2019-2021'.

4 INTERESTED PARTIES

- 4.1 'Interested Parties' can make representations to the Licensing Authority, in respect of an application for a 'Premises Licence', or in respect of an application for a 'Provisional Statement', submitted to the Licensing Authority by an applicant, under the Act.
- 4.2 Interested parties can also initiate, (or make representation in respect of), a review of a Premises Licence, the detail of which is outlined at Section 28 of this 'Statement of Principles' on Page 28, under the heading of 'Reviews'.
- 4.3 The Act states that a person is an 'Interested Party', if in the opinion of the Licensing Authority, that person:
- Lives sufficiently close to the premises to be likely to be affected by the authorised activities;
 - Has business interests that might be affected by the authorised activities, or
 - Represents persons who satisfy the criteria at paragraph a) or b).
- These persons include trade associations, trade unions, and residents' and tenants' associations. However, the Licensing Authority will not generally view these bodies as interested parties, unless they have a member who satisfies the criteria in paragraphs a) or b) above; and they have written Authority of representation.
- 4.4 'Interested Parties' can also be persons who are democratically elected, such as Councillors, (including Town Councillors), and Members of Parliament. In such circumstances, no specific evidence of being 'asked' to represent an interested person will be required, provided the relevant Elected Member represents the ward or town likely to be affected.

- 4.5 In respect of any application for the grant of a small casino premises licence the Act provides that at Stage 1 of the consideration procedure, each competing applicant is an *'Interested Party'* in relation to each of the other competing applications.
- 4.6 The Licensing Authority will apply the following principles in determining whether a person or body is an interested party for the purposes of the Act:
Each case will be decided upon its own merits subject to the Licensing Objectives and to any requirements imposed by the Act.
The Licensing Authority will not apply a rigid rule to its decision making.
The Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the status and interpretation of 'Interested Parties'.
- 4.7 In respect of any representation made by an interested party, the Licensing Authority will make a determination as to whether or not the representation is relevant.
The following are examples of grounds which may be considered by the Licensing Authority, to be irrelevant, (*this list is indicative only and is not exhaustive*):
- Representations which are inconsistent with Section 153 of the Act.
 - Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this 'Statement of Principles'.
 - Representations which relate to the objection to gambling activity generally; for instance on moral or ethical grounds.
 - Representations in relation to the demand or unmet demand for gambling premises.
 - Representations in relation to planning matters.
 - Public Safety issues.
 - Traffic congestion issues.
 - Public Nuisance.
- 4.8 The Licensing Authority may disregard a representation which it considers to be:
Frivolous
Vexatious
Insignificant; to such an extent, that it would be wholly unreasonable for the Licensing Authority to refuse the grant of the licence, or remove/attach conditions to the licence, on the basis of such representation or will certainly not influence the Licensing Authority's determination of the application.

5 EXCHANGE OF INFORMATION

- 5.1 The Licensing Authority will act in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission; this includes a provision that the General Data Protection Regulations will not be contravened. The Licensing Authority will also have regard to Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant Regulations issued by the Secretary of State under the powers provided in the Act.

6 ENFORCEMENT

- 6.1 The main enforcement and compliance role for the Licensing Authority in terms of the Act is to ensure compliance with the Premises Licences and other permissions which it authorises.
- 6.2 The Gambling Commission is the enforcement body for operating and personal licences, they also deal with concerns about manufacture, supply and repair of gaming machines and are responsible for all remote 'on-line' gambling.
- 6.3 This Authority adopts a graduated approach to enforcement and when seeking to resolve or address issues the general expectation of the Authority is that operators promptly work alongside the Licensing Authority in taking remedial action. However where a serious issue is identified, it is likely that the Authority will immediately initiate some form of enforcement action.
- 6.4 In discharging its responsibilities under the Act with regard to inspection and enforcement regimes, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and Torbay Council's 'Enforcement and Prosecution Policy' and will endeavour to be:
- Proportionate: the Licensing Authority will only intervene when it is deemed necessary and remedies will be appropriate to the risk posed; costs will be identified and minimised.
- Accountable: the Licensing Authority will ensure that it can justify decisions and will provide facilities for the public scrutiny of decisions taken.
- Consistent: the Licensing Authority will ensure that rules and standards are 'joined up' and implemented fairly.
- Transparent: the Licensing Authority will be open and will endeavour to keep regulations simple and user friendly.
- Targeted: the Licensing Authority will endeavour to focus on the problem, minimise side effects and avoid duplication with other regulatory regimes.
- 6.5 The Licensing Authority has adopted and implemented a risk-based/intelligence led inspection programme, based on;
- The Licensing Objectives.
- Relevant codes of practice.
- Guidance issued by the Gambling Commission.
- The principles set out in this 'Statement of Principles 2018-2021'.
- Regulators Code.
- Departmental and Partner Agency intelligence.

7 LICENSING AUTHORITY FUNCTIONS

- 7.1 The Licensing Authority has a duty under the Act to:
- Issue '*Premises Licences*' where gambling activities are to take place.
- Issue '*Provisional Statements*' where gambling activities may take place.

Regulate *'Members Clubs'* that wish to undertake certain regulated gaming activities via issuing *'Club Gaming Permits'* or *'Club Machine Permits'*.

Issue *'Club Machine Permits'* to *'Commercial Clubs'*.

Grant *'Permits'* for the use of certain lower stake gaming machines at *'Unlicensed Family Entertainment Centres'*.

Receive *'Notifications'* from premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), for the use of up to two gaming machines on the premises.

Grant *'Licensed Premises Gaming Machine Permits'* for premises licensed under the Licensing Act 2003, (for the sale and consumption of alcohol on the premises), where there are more than two machines on the premises.

Register *'Small Society Lotteries'* below prescribed thresholds.

Issue *'Prize Gaming Permits'*.

Receive and endorse *'Temporary Use Notices'*.

Receive *'Occasional Use Notices'*.

Provide information to the Gambling Commission.

Maintain registers of the permits and licences issued.

PART B ~ PREMISES LICENCES

8 GENERAL PRINCIPLES

8.1 In exercising its functions under the Act in relation to premises licences, the Licensing Authority will have regard to the provisions of the Act, Regulations drafted under the Act, the mandatory and default conditions and any guidance or codes of practice issued by the Gambling Commission.

8.2 The Licensing Authority may:

Exclude default conditions from the premises licence if it does not adversely affect the Licensing Objectives.

Attach additional licence conditions, if it is deemed necessary to do so to promote the Licensing Objectives.

9 GUIDING PRINCIPLES

9.1 The Licensing Authority will treat each Licensing objective with equal importance.

9.2 The Licensing Authority will have regard to its responsibilities under Section 17 of the Crime and Disorder Act 1998 and within the strategic aims of the Community Safety Partnership Strategic Assessment 2017-2020, to do all that is reasonable to prevent crime and disorder in Torbay.

9.3 The Licensing Authority will have regard to its responsibilities under the European Convention on Human Rights, set out by the Human Rights Act 1998, and its statutory role as a Local Authority to fulfil the duties and responsibilities vested in it.

9.4 The Licensing Authority will have regard to its responsibilities under the Equalities Act 2010.

- 9.5 Torbay Council's Constitution states that the Licensing Committee shall be comprised of 15 Elected Members of the Council; with a quorum of 5, and the Licensing Sub Committee shall be comprised of 3 Elected Members of the Council; with a quorum of 3.
- 9.6 The Chair of Torbay Council's Licensing Committee will be elected at the annual meeting of the Council.
- 9.7 Torbay Council will ensure that Members and Officers are appropriately trained to carry out their duties under the Act and in accordance with Torbay Council's constitution. No Member of Torbay Council shall sit upon the Licensing Committee or Sub-Committee unless they have received appropriate training.
- 9.8 The Licensing Authority considers that effective Licensing can only be achieved by recognising the value of all contributors and will work in partnership with the Police and other statutory services, local businesses, local people, professionals involved in child protection and all others who can contribute positively, to the successful promotion of the three Licensing Objectives.
- 9.9 Torbay Council considers that the decisions of the Licensing Authority can be a key factor of the Council effectively discharging its duties under the Section 17 of the Crime and Disorder Act 1998. Whilst the Licensing Authority will not use Licensing conditions to control anti-social behaviour by patrons once they are away from licensed premises, licensees will be expected to demonstrate that they have taken appropriate action to minimise the potential impact of that behaviour, within the general vicinity of the licensed premises.
- 9.10 The Licensing Authority will ensure that any conditions attached to a licence will relate to matters within:
- The control of the licensee, or,
 - The control of other persons who may have relevant licences or authorisations, in respect of the subject premises, or adjacent premises.
 - In determining any such conditions the Licensing Authority will have regard to the Act, any guidance or codes of practice issued by the Gambling Commission and this 'Statement of Principles'.
- 9.11 Torbay Council will ensure that decisions made in relation to planning and building control legislation will be made independently of those made in respect of the Act. The Licensing Authority will not have regard to the likelihood of obtaining consents under planning or building legislation in considering any application for a premises licence, made under the Act.
- 9.12 The Licensing Committee will receive reports, compiled six-monthly, on decisions made by Officers under the provisions of the scheme of delegation.
- 9.13 The Licensing Authority will, where relevant to its functions under the Act, have regard to and promote Torbay Council's Economic Strategy 2017-2022, which forms part of the Council's Policy Framework.
- 9.14 Section 156 of the Act requires Licensing authorities to maintain a register of the premises licences that it has issued. The register must be made available, at any reasonable time, to the public who may request copies of the entries. The

Licensing Authority achieves this requirement through the use of an online register which is accessible via the Council's website.

10 DECISION MAKING PROCESS

- 10.1 In making decisions about premises licences the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant code of practice issued by the Gambling Commission.
 - In accordance with any relevant guidance issued by the Gambling Commission.
 - Consistent with the Licensing Objectives (subject to the above).
 - In accordance with the Licensing Authority's 'Statement of Principles 2019-2021' (subject to the above).
- 10.2 In determining a premises licence application, the Licensing Authority shall not have regard to any objections which are deemed to be raised on moral or ethical grounds, nor will it be concerned with matters of sufficiency of, or unmet demand for, gambling facilities.

11 DEFINITION OF PREMISES

- 11.1 In deciding if parts of a given building constitute premises in their own right, the Licensing Authority will have due regard to the definition of 'premises' within the Act, any guidance issued by the Gambling Commission and any decisions handed down by the Courts.
- 11.2 The Act allows for a single building to be subject to more than one premises licence, provided those premises licences are for different parts of the building, and the different parts of the building can reasonably be regarded as being 'different premises'. This provision exists to allow large multiple unit premises, such as a pleasure park, pier, track or shopping mall, to obtain separate premises licences. However, this does not mean that a premises cannot be the subject of a separate licence for example the basement and ground floor, if they are configured to a standard approved by the Licensing Authority. The Licensing Authority does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises.
- 11.3 The Licensing Authority will pay particular attention to premises licence applications and applications for permits, such as UFEC's, where access to the proposed licensed premises, can only be made by passing through other premises; being other premises which may or may not have the benefit of licences in their own right.
- 11.4 The Licensing Authority will also take particular care in considering applications for multiple licences for a building and/or those relating to a separate part of a building used for other (non-gambling) purposes. In particular, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable, so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area.

- 11.5 Where access to the proposed licensed premises or an area covered by a permit such as a UFEC, cannot be made directly from the public highway the Licensing Authority will consider specific issues before granting such applications, for example:
- The general access arrangements of the premises.
 - The structural integrity and nature of any premises separation.
 - Whether persons under 18 years of age can gain access to or have sightlines into the premises.
 - The compatibility of adjacent establishments.
 - Supervision and monitoring systems.
 - The nature and legitimacy of any unlicensed areas providing separation of licensed premises.
 - The overall ability to comply with the requirements of the Act, specifically but not exhaustively, the mandatory and default Licensing conditions

12 PROVISIONAL STATEMENTS ~ PREMISES NOT YET READY FOR GAMBLING

- 12.1 Where there is an intention on the part of an applicant, to provide gambling facilities at premises:
- which they expect to be constructed, or
 - which they expect to be altered, or
 - for which they do not yet have the right to occupy the premises,
 - then an application may be made to the Licensing Authority for a 'Provisional Statement'.
- 12.2 The Licensing Authority will issue 'Provisional Statements' in accordance with the provisions of the Act, any guidance or codes of practice issued by the Gambling Commission and the principles contained within this 'Statement of Principles'.
- 12.3 'Interested Parties' and 'Responsible Authorities' can make representations to the Licensing Authority, in respect of an application for a 'Provisional Statement' in accordance with the procedures outlined at Section 4 of this 'Statement of Principles'. Following the grant of a 'Provisional Statement', no further representations from Relevant Authorities or Interested Parties can be taken into account unless:
- The representations concern matters which could not have been addressed at the 'Provisional Statement' stage.
- The representations reflect a change in the applicant's circumstances.
- 12.4 The Licensing Authority may refuse the grant of a Premises Licence, or grant the licence on terms different to those which may have been attached to the 'Provisional Statement', only by reference to matters which:
- Could not have been raised by objectors at the 'Provisional Statement' stage
 - In the Licensing Authority's considered opinion, reflect a material change in the operator's circumstances

13 PREMISES LOCATION

- 13.1 The Licensing Authority must be satisfied that the potential location of a premises intended for gambling is suitable for the purposes of the required gambling activity. In considering matters of location the Licensing Authority will have particular regard

to the Licensing Objectives, Local Area Profile and the Local area Risk assessments. It may also consider matters outside of direct gambling legislation, where there may be an adverse impact on gambling activities, such as for example, if the premises is situated in a cumulative impact zone as implemented under the Licensing Act 2003.

14 DUPLICATION WITH OTHER REGULATORY REGIMES

14.1 The Licensing Authority will endeavour to avoid any duplication with other statutory and regulatory regimes in discharging its functions under the Act, unless the Licensing Authority believes such duplication is necessary for the promotion of, and compliance with, the Licensing Objectives.

14.2 In considering an application for a premises licence the Licensing Authority will not take into account matters which lie beyond the remit of the Licensing Objectives. Although this is not an exhaustive list, this would include issues such as:

Whether the premises which is the subject of the licence application, is likely to be awarded planning permission or building consent.

Whether the premises is safe for the intended use, (e.g. the structure, the means of escape, fire precaution provisions, etc).

Whether the use of the premises under the licence may cause any public nuisance (e.g. to residents within the vicinity).

The above matters will be addressed by other regulatory regimes.

15 LICENSING OBJECTIVES

15.1 The Licensing Authority will endeavour to ensure that any premises licences granted will be consistent with the Licensing Objectives.

The Licensing Objectives are:

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

Ensuring that gambling is conducted in a fair and open way.

Protecting children and other vulnerable persons from being harmed or exploited by gambling.

15.2 Licensing Objective a): *Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.*

The Gambling Commission will take a lead role in preventing gambling from becoming a source of crime. However, the Licensing Authority will endeavour to promote this objective in the delivery of its responsibilities. For instance, in considering applications for premises licences the Licensing Authority will have particular regard to the following:

- Where an area has known high levels of organised crime the Licensing Authority will consider carefully whether gambling premises should be located in the proximity of that area.
- Whether additional licence conditions may be appropriate, such as the provision of Security Industry Authority (SIA), registered door supervisors.
- Whether additional security measures should be installed at the premises, such as monitored CCTV.

- The likelihood of any violence or public order issues if the licence is granted.
- The design and layout of the premises.
- The training given to staff in crime prevention measures appropriate to those premises, for example, the detection and prevention of money laundering.
- Physical security features installed in the premises. This may include matters such as the positioning of cash registers and the standard of any CCTV system.
- If premises are to be subject to age restrictions; the procedures in place to conduct age verification checks.
- The premises local risk assessment.

15.3 Licensing Objective b): *Ensuring that gambling is conducted in a fair and open way.*

The Licensing Authority will not generally be concerned with ensuring that gambling is conducted in a fair and open way, (as that is the remit of the Gambling Commission), unless the gambling facilities are being provided at a Track; see Section Page 25 –‘However, the fair and open principle will be considered as an integral part of any inspection carried out by this Authority’

15.4 Licensing Objective c): *Protecting children and other vulnerable persons from being harmed or exploited by gambling.*

This objective is concerned with protecting children from gambling, as well as restrictions upon advertising, to ensure that the commercial promotion of gambling is not targeted towards children, or portrayed as attractive to children. It is also concerned with protecting vulnerable people from being harmed or exploited by gambling. The Licensing Authority will therefore consider the local risk assessment and whether specific measures are required at particular premises, with regard to this Licensing objective, which may include the supervision of entrances, the supervision of machines and the appropriate segregation of high risk areas, the provision of a ‘chill out’ room or area free from gambling and alcohol facilities. For more information regarding Local Area Risk Assessments please see section 16.

15.5 In discharging its responsibilities with respect to this particular Licensing objective, the Licensing Authority will have regard to the current ‘Gambling Commission Codes of Practice’, insofar as they may apply to specific premises.

15.6 The Act does not offer a definition with regard to the term, ‘*vulnerable persons*’, however the Gambling Commission states the following.

- For regulatory purposes the Commission will assume that this group includes:
 - People who gamble more than they want to.
 - People who gamble beyond their means.
 - People who may not be able to make informed or balanced decisions about gambling, due to a mental impairment, alcohol, other relevant disability or drugs.

15.7 The Torbay & Southern Devon Health & Care NHS Trust, (*Safeguarding Adults Section*), refers to a vulnerable adult as an Adult at Risk. The Care Act 2014 defines an adult at risk as someone who:-

- Has needs for care and support (whether or not the local Authority is meeting any of those needs) and;

- Is experiencing, or at risk of abuse or neglect; and
- As a result of those care needs is unable to protect themselves from the risk of, or the experience of abuse or neglect.

15.8 Torbay Council defines a vulnerable person (or Adults at Risk) in the following terms:

Persons aged 18 years and over who may be unable to independently care for themselves; speak out for themselves and/or protect themselves against abuse or exploitation, and may depend on other people or a service to support or care for them.

15.9 The Licensing Authority will have regard to the definitions of an Adult at Risk as provided by the Gambling Commission, by the Torbay Care Trust and Torbay Council, in discharging its responsibilities under the Act.

Problem gambling, particularly with the young, can sometimes be an indication of other issues that are of concern to the Licensing Authority, such as anti-social behaviour problems. When the Licensing Authority is made aware of issues associated with problem gambling and vulnerable people, the Licensing Authority will seek to work closely with the gambling premises operator, the Gambling Commission and other relevant sections of the Council, including the Children, Schools and Family Directorate and the Housing and Adult Social Care Directorate.

15.10 This Authority places social responsibility as a high priority. As such, it will when exercising its statutory powers, have due regard, where relevant to its statutory functions, to the need to:

- Prevent gambling related problems in individuals and groups at risk of gambling addiction;
- Promote informed and balanced attitudes, behaviours and policies towards gambling and gamblers by both individuals and by communities; and
- Protect vulnerable groups from gambling related harm.

The Licensing Authority will work with operators and other public agencies to encourage a commitment to social responsibility including responsible design, delivery, promotion and use of product. The end goal will be to reduce the incidence of high-risk and problem gambling. The Licensing Authority will consider, in relation to any particular premises whether any special considerations apply to the protection of vulnerable persons. Such considerations need to be balanced by the Authority's objective to aim to permit the use of premises for gambling.

16 Local Area Risk Assessments

16.1 With effect from 6 April 2016, the Gambling Commission's Social Responsibility Code (Licence Conditions and Codes of Practice (LCCP) 10.1.1) requires licensees to assess the local risks to the Licensing Objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this Policy statement.

16.2 Licensees will be are required to undertake local risk assessment when applying for a new premises licence. Their risk assessment will also need to be updated:

- When applying for a variation of a premises licence.

- To take account of significant changes in local circumstances, including those identified in this Policy.
- When there are significant changes at a licensee's premise that may affect the level of risk or the mitigation of those risks. This includes any changes to the interior layout of the premises. Significant changes will require a variation to the premises licence.

16.3 The Social Responsibility Code provision is supplemented by the LCCP: Ordinary code 10.1.2 and requires licensees to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Licensing Authority.

16.4 Whilst there are no plans to request that licensed premises share their risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licensee share a copy of its risk assessment. The risk assessment will set out the measures the licensee has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.

16.5 In some circumstances, it may be appropriate for the Licensing Authority to offer a licensee the opportunity to volunteer specific conditions that could be attached to the premises licence. Where this is appropriate, the Licensing Authority will liaise with the licensee directly.

16.6 The Code Social Responsibility Code (LCCP 10.1.1) requires the Licensing Authority to set out in its Statement of Policy matters which they expect an operator to take in to account when considering their own risk assessment. As such, an operator shall take the following matters in to account :-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Gaming trends that may mirror days for financial payments, such as pay days or benefit payments
- Proximity to schools, commercial environment or other factors affecting footfall
- Range of facilities in proximity to the licensed premises, such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.
- Potential for money laundering

16.7 Matters relating to vulnerable adults, including;

- Information held by the licensee regarding self-exclusions
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments

- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Proximity of premises which may be frequented by vulnerable people, such as hospitals, residential care homes, medical facilities, doctor's surgeries, Council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate, etc.
- Other issues that may be considered could include:
- Proximity of premises which may be frequented by large numbers of people including sports stadiums, leisure centres, places of worship.
- Staffing levels at different times of the year (e.g. the peak summer school holidays).
- This list is not exhaustive and other factors not in this list that are identified must be taken into consideration. The Risk Assessment must be kept on the premises to which it relates and available for inspection by an authorised officer of the Licensing Authority or Gambling Commission.

16.8 Significant changes in local circumstances:

The following lists set out some examples of what the Licensing Authority considers to be significant changes in local circumstances. The list is not exhaustive and each premise will be considered on its own merits. Operators must consider whether any change in the locality of their premises is one that may be considered significant

The local area is classified or declassified by the Licensing Authority as being an area of heightened risk within its Local Area Profile

Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors. For example, where premises are converted to a local supermarket or a new office building is constructed nearby

Any new pay day loan establishment or pawn brokers open in the local area

Relevant changes are made to the provision, location and/or timings of public transport in the local area, such as a bus stop which is used by children to attend school is moved to a location in proximity to gambling premises

Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment

The local area is identified as a crime hotspot by the police and/or Licensing Authority

Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable groups are opened in proximity to gambling premises e.g. additional homeless hostels or gambling or mental health care/support facilities in the local area

A new gambling premises opens in the local area

Operators must consider what is happening within their premises and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment. A significant change can be temporary and any temporary changes should be considered and adjustments made to the risk assessment if necessary.

16.9 Unlicensed Family Entertainment Centres (UFEC) are not required to undertake a Local Area Risk Assessment unless the UFEC is situated adjacent to an Adult Gaming Centre and therefore the Licensing Authority will expect the UFEC activities to be taken into account.

16.10 The Authority will expect applicants to have regard to the Local Area Profile (LAP) which will assist in identification of local gambling risks.
Hyperlink to be added to the document when available.

17 Local Area Profile (LAP)

17.1 The Licensing Authority will produce a profile of the areas within the Authority which will assess the local environment and identify local concerns and risks. This will be available from January 2019.

17.2 The profile will take account of a wide range of factors, data and information held by the Licensing Authority and its partners. Responsible authorities and other relevant organisations will be invited to take part in the preparation of the profile. The profile will enable operators to clearly identify the risks and concerns in the community when completing their risk assessment.

17.3 The Local Area Profile is a separate document to this Policy and will be made publically available. It will be reviewed and amended as and when required taking into account changes in the local area.

18 LICENCE CONDITIONS

18.1 Any additional conditions attached to licences will only be imposed where there is evidence of a risk to the Licensing Objectives and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility.
- Directly related to the premises (including the locality and any identified local risks) and the type of licence applied for.
- Fair and proportionate, related to the scale and type of premises.
- Reasonable in all other respects.

18.2 Decisions upon individual conditions will be made on a case by case basis, although there are a number of control measures that the Licensing Authority can utilise, such as the use of supervisors or the use of appropriate signage for adult only areas. The Licensing Authority will also expect the applicant to identify local risks and control measures ensuring the Licensing Objectives can be met effectively and promoted. For example, local issues associated with a high crime rate may put a premises at risk of not being consistent with the Licensing Objectives, and specific conditions may be necessary to address the risk.

18.3 The Licensing Authority may require additional control measures in respect of buildings which are the subject of multiple premises licence applications, in order to ensure the promotion of the Licensing Objectives.

Such requirements may relate to the supervision of entrances, the segregation of gambling areas from non-gambling areas which may be frequented by children and the supervision of gaming machines in non-adult gambling specific premises.

The Licensing Authority will have regard to any guidance issued by the Gambling Commission in determining any such additional measures.

- 18.4 Where there are risks associated with a specific premises or class of premises, the Licensing Authority may consider it necessary to attach specific conditions to the licence to address those risks, taking account of the local circumstances.
- 18.5 The Licensing Authority will ensure that, where category A to C machines are made available on premises to which children have access that:
- All such machines are located in an area of the premises that is separated from the remainder of the premises by a physical barrier and which is effective to prevent access, other than through a designated entrance.
- Only adults have access to the area where these machines are located.
- Access to the area where the machines are located is adequately supervised.
- The area where these machines are located is arranged so that it can be observed by the staff or the licence holder.
- At the entrance to and inside any such areas notices are prominently displayed, indicating that access to the area is prohibited to persons under 18 years of age.
- 18.6 Tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. In discharging its functions in relation to tracks, the Licensing Authority will consider the impact upon the Licensing objective that refers to the 'protection of children'. The Licensing Authority will specifically require that the entrances to each part of a premises are distinct and that children are effectively excluded from gambling areas to which entry is not permitted.

19 Buildings divided into more than one premises.

- 19.1 Part 7, paragraph 7.5 of the Gambling Commissions Guidance states that "there is no reason in principle why a single building could not be subject to more than one premises licence; provided they are for different parts of the building, and the different parts of the building can be reasonably regarded as being different premises". Examples are given of multiple unit premises, such as pleasure parks, tracks, or shopping malls. It is also possible for licensed premises to be located next to each other, as long as there are no restrictions regarding direct access between these premises imposed on that category of gambling premises from its mandatory conditions. The Licensing Authority will follow this guidance.
- It will be for the Licensing Authority to determine whether premises are genuinely separate, and not artificially created from that which is readily identifiable as a single premises. Prior to making an application, Applicants are encouraged to discuss with the Licensing Authority their premises layout and intended applications.

19.2 In considering whether different areas of a building are genuinely separate premises, the Licensing Authority will take into account factors which may include: whether there are separate registrations for business rates in place for the premises, whether the premises are owned or operated by the same person, and whether the premises are operated independently of each other.

20 Access to premises

20.1 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007 restrict access to different types of licensed gambling premises. In considering proposals to divide a building into different premises, the Licensing Authority will have to be satisfied that proposals to divide buildings are compatible with the mandatory conditions which relate to access between premises.

20.2 The Commission Guidance at paragraph 7.22 states “There is no definition of ‘direct access’ in the Act or Regulations, but Licensing authorities may consider that there should be an area separating the premises concerned, for example a street or café, which the public go to for purposes other than gambling, for there to be no direct access.”

20.3 In particular, where premises are not accessed from the street, the Licensing Authority has sought to define the nature of the area which must separate licensed premises and through which the premises are accessed, so as to prevent direct access between premises in order to comply with the provisions of the Act and Regulations.

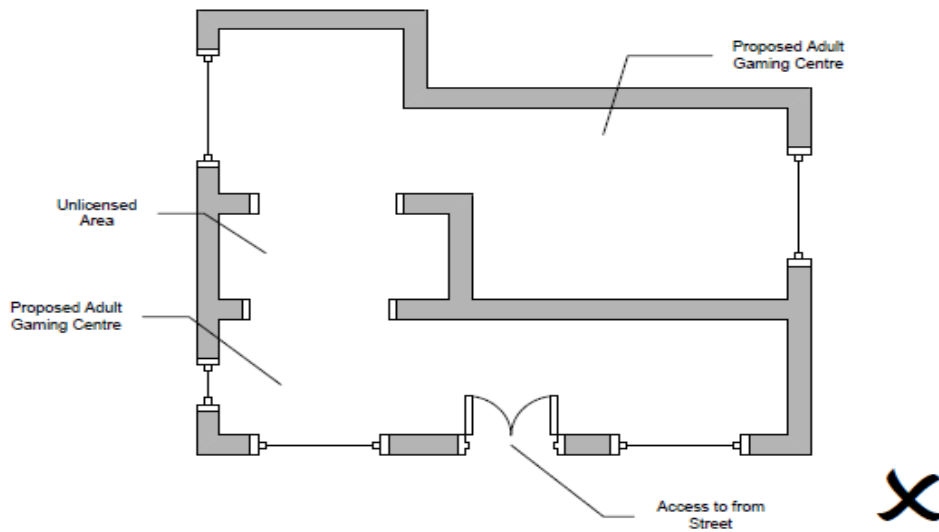
20.4 The Licensing Authority does not consider that provisions which prohibit direct access between licensed premises are satisfied where licensed premises are separated by an area created artificially within a building principally for members of the public attending the licensed premises, irrespective of whether this area is unlicensed or provides non-gambling facilities, for example refreshments or ATMs.

20.5 Where the Licensing Authority is satisfied that a building can be divided into separate premises and properly satisfy the statutory provisions, the Licensing Authority will expect applicants to ensure that:

- Premises are configured so that children are not invited to participate in, have accidental access to, or closely observe gambling to which they are prohibited from taking part,
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not ‘drift’ into a gambling area. In this context it should be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers must be able to participate in the activity named on the premises licence.
- This is not an exhaustive list and the Licensing Authority will consider other aspects based on the merits of the application.

20.6 Applications to place two licensed premises in one premises with an unlicensed area separating them, (see figure 1) will not meet this Policy because of the artificial nature of the premises, access, and likely use issues which will arise.

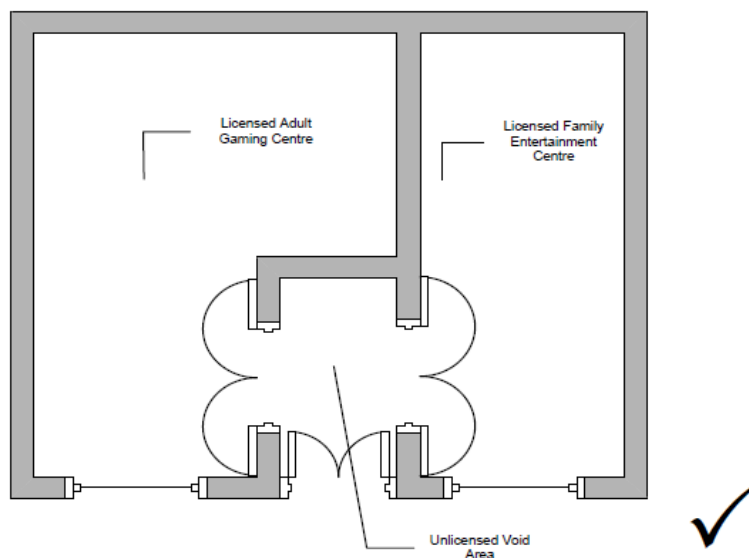
Figure 1



20.7

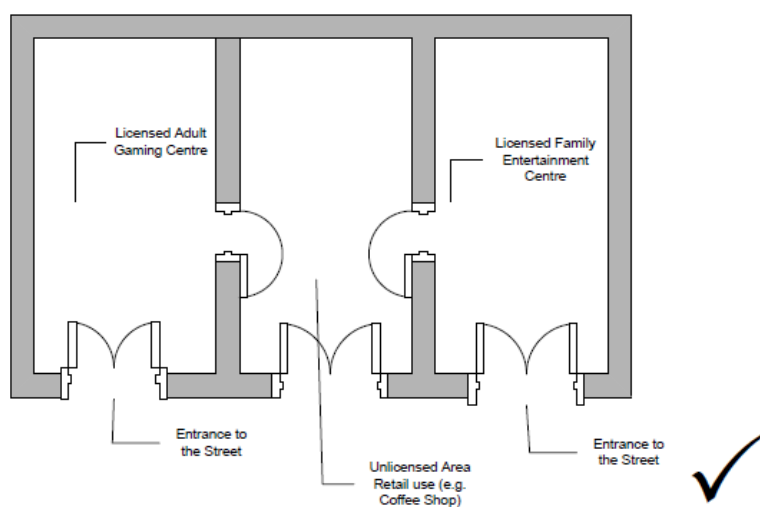
It is possible to have an unlicensed foyer area which separates one licensed premises from another if the foyer is accessed from the street. See Figure 2. The Licensing Authority would expect as a minimum that the area should be used for non-gaming purposes such as an information point, a coffee shop or similar but must not contain any gambling information or literature promoting gambling activities. The size of the unlicensed area is matter for each application but the Licensing Authority will not consider this configuration if the foyer is not of sufficient size to be a useable space.

Figure 2



20.8 It may also be acceptable if a premises is separated by another non-licensed premises that has access to both licensed premises from it. An example of this could be in the form of a coffee shop which has a main entrance to the street. The coffee shop may have access to an Adult Gaming Centre on one side and an entrance Family Entertainment Centre on the other side, see figure 3. Where a member of the public not using the gambling premises is likely to use the coffee shop it may be considered that there is no direct access between the two licensed premises.

Figure 3



20.9 The provisions of this revised statement of Principles 2019 come into force on 30th January 2019. From this date any new application for any type of Gambling Premises Licence, will be expected to fully comply with the terms and conditions as set out above. Existing licensed premises may continue to operate under the terms that have been granted by virtue of the licence that they currently hold, provided that the Licensing Objectives continue to be fully promoted at all times. Any application to vary however, will be subject to the full terms as outlined above.

21 MATERIAL AMENDMENTS TO THE PREMISES

21.1 The Authority will have regard to the principles as set out in s.153 of the Act in determining variation applications. However applications will be careful scrutinised to ensure the Licensing Objectives are not undermined.

21.2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times and any *typical* gaming machines arrangements will be considered a material change regardless of the category of machine. For example 'the installation of any screening would require a variation application including an updated local risk assessment to evidence that any risks presented have been recognised and mitigated.

22 ADULT GAMING CENTRES`

22.1 In respect of adult gaming centres the Licensing Authority will have specific regard to the Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the premises.

22.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes and the display of information regarding self-exclusion schemes.
- Provision of information leaflets and helpline numbers for organisations such as 'Gamcare'
- Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section 13.4 above.

23 (LICENSED) FAMILY ENTERTAINMENT CENTRES

23.1 In respect of (Licensed) Family Entertainment Centres, (FEC's), the Licensing Authority will have specific regard to the Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling. The applicant will be expected to satisfy the Licensing Authority that there will be sufficient measures and procedures in place, to ensure that persons under 18 years of age do not have access to the 'adult only' gaming machine areas on the premises.

23.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.

- Measures/training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate, as identified in section.

23.3 In determining an application for a licensed family entertainment centre, the Licensing Authority will have regard to any guidance issued by the Gambling Commission and any mandatory or default conditions deemed to have a positive effect. The Licensing Authority will have particular regard to any guidance or direction on how the separation and/or delineation of the 'adult only' machine areas of the premises should be achieved. Please refer to section 19 for more information regarding separation of premises.

24 SMALL CASINO PREMISES LICENCE OVERVIEW

24.1 On 15 May 2008 the Categories of Casino Regulations 2008 and the Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 were approved. This specified which Licensing Authorities could issue Large and Small Casino Licences. Torbay Council was one of the authorities authorised to issue a Small Casino Premises Licence.

24.2 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue a premises licence. A decision to pass such a resolution will be taken by the Authority as a whole and will not be delegated to the Licensing Committee (a resolution not to issue casino premises licences will only affect new casinos). In passing such a resolution the Authority may take into account any principle or matter, not just the Licensing Objectives. The Authority may revoke the resolution by passing a counter resolution.

24.3 At the time a counter resolution is passed the principles in Appendix 2 will be applied.

25 BINGO PREMISES LICENCE

25.1 The Licensing Authority considers that if persons under 18 years of age are allowed to enter premises licensed for bingo, it is important that they do not participate in gambling, other than on category D machines. Where category C or above machines are available on premises to which persons under 18 years of age have access, the Licensing Authority will require that:

- All such machines are located in an area of the premises separated from the remainder of the premises by a physical barrier, which is effective to prevent access other than through a designated entrance.
- Only adults are admitted to the area where the machines are located.
- Access to the area where the machines are located is adequately supervised.
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder.
- At the entrance to and inside any such area there are notices prominently displayed, indicating that access to the area is prohibited to persons under 18.

- No under 18s may play bingo on this premises' must be displayed at each entrance to the bingo premises.

25.2 The Licensing Authority will expect applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas.
- Physical separation of areas.
- Location of entry.
- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures/training for staff on how to deal with suspected truant school children on the premises.
- Provision of information leaflets and helpline numbers for organisations such as Gamcare
- Identify local risks, such as proximity to schools or in an area high crime rate as identified in section above.

25.3 In determining any application for a Bingo Premises Licence, the Licensing Authority will have regard to any guidance issued by the Gambling Commission with regard to the suitability and general layout of Bingo Premises.

26 **BETTING PREMISES LICENCE**

26.1 The Licensing Authority is responsible for the issue of premises licences for all betting establishments, including casinos, bookmaker's offices and tracks. It is illegal for persons under 18 years of age to enter upon licensed betting premises and bet, but they may gain entry to tracks.

26.2 A betting premises licence gives the holder the entitlement to up to 4 Cat B2 machines. S169 of the Act gives the LA the power to apply conditions in specific circumstances, in such cases the Licensing Authority will have regard to the following:

- The size of the premises.
- The number of counter positions available for person-to-person transactions.
- The ability of staff to monitor the use of the machines by persons under 18 years of age or vulnerable persons.

26.3 The Licensing Authority expects applicants to offer their own measures and must be included in the local risk assessment to meet the Licensing Objectives; however appropriate measures and/or licence conditions may cover issues such as: *(this list is indicative only and is not exhaustive)*

- Proof of age schemes.
- Closed Circuit Television Systems, (CCTV).
- Supervision of entrances and machine areas
- Physical separation of areas.
- Location of entry.

- Appropriate notices and signage.
- Specific opening hours.
- Self-exclusion schemes.
- Measures / training for staff on how to deal with suspected truant school children on the premises
- Provision of information leaflets and helpline numbers for organisations such as Gamcare.
- Identify local risks, such as proximity to schools or in an area with a high crime rate.

26.4 In determining any application for a Betting Premises Licence, the Licensing Authority will have regard to any guidance or codes of practice issued by the Gambling Commission concerning primary gambling activity, as well as any subsequent case law.

26.5 The Authority will require a full premises licence variation application when premises are intending to apply screening and/or a booth to any category of gaming machines.

27 TRACK PREMISES LICENCE

27.1 General:

Tracks are sites, (including horse racecourses and dog tracks), where races or other sporting events take place. Betting is a primary gambling activity on tracks, both in the form of pool betting, (often known as the 'Totalisator' or 'Tote'), and also general betting, often known as 'Fixed-Odds' betting. In discharging its functions with regard to Track Betting Licences the Licensing Authority will have regard to any guidance issued by the Gambling Commission in that respect.

27.2 There is no special class of betting premises licence for a track, but the Act does contain rules which apply specifically to a 'Premises Licence' granted in respect of a track.

27.3 Applicants for a Premises Licence made in relation to a track, will not be required to hold an Operating Licence issued by the Gambling Commission, unless the applicant intends to offer pool betting or general betting facilities himself; in which case an Operating Licence will be required.

The betting that is provided upon the track will not generally be provided by the applicant, but will be provided by other operators who attend the track to provide betting facilities. These 'On-Course Operators' will require the necessary operating licences, therefore the Act allows the track operator to obtain a Premises Licence without the requirement to hold an Operating Licence. This 'Track Premises Licence' then authorises anyone upon the premises to offer betting facilities, provided they already hold a valid Operator's Licence.

27.4 The Licensing Authority is aware that tracks are different from other premises in that there may be more than one premises licence in effect, each covering a specified area of the track. The Licensing Authority will especially consider the impact of the Licensing objective of the protection of children and vulnerable persons with regard to this category of licence. specific considerations in this respect may include:

The need to ensure entrances to each type of premises are distinct.

That children are excluded from gambling or betting areas that they are not permitted to enter.

27.5 The Licensing Authority will expect the premises licence applicant(s) to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.

27.6 Children are legally permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines, (other than category D machines), are provided.

27.7 Appropriate measures and / or licence conditions which may be applied to a track premises licence by the Licensing Authority, in order to promote the Licensing Objectives, (particularly the objective with regard to children and vulnerable persons), may include:

(This list is indicative; it is not mandatory or exhaustive)

- Proof of age schemes.
- CCTV.
- Door supervisors.
- Supervision of entrances/machine areas.
- Physical separation of areas.
- Location of entry.
- Notices / signage.
- Specific opening hours.
- Self-barring schemes.
- Provision of information leaflets / helpline numbers for organisations such as Gamcare.

Identify local risks, such as proximity to schools or in an area with a high crime rate.

27.8 Gaming Machines at Tracks

Applicants for Track Premises Licences will need to demonstrate within their applications, that where the applicant holds a 'Pool Betting Operating Licence' and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded and that such areas are suitably operated.

27.9 Betting Machines at Tracks

The Licensing Authority has an express power under the Act, to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching licence conditions to a betting premises licence.

27.10 The potential space available for betting machines at a track may be considerable, bringing with it significant problems in relation to:

- The proliferation of such machines.
- The ability of track staff to supervise the machines if they are dispersed around the track.

- The ability of the track operator to comply with the law and prevent children betting on the machines.

27.11 In considering whether or not it is appropriate to restrict the number of betting machines made available at a track, by way of licence condition, the Licensing Authority will have regard to the following:

- The size of the premises.
- The ability of staff to monitor the use of the machines by children or by vulnerable people.
- The number, nature, location and circumstances of the betting machines that an operator intends to make available for use.

27.12 Conditions on Rules being Displayed at Tracks

The Licensing Authority will attach a condition to Track Premises Licence requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or made available to the public by some other means, such as being included in the race-card or issued as a leaflet.

27.13 Applications and Plans for Tracks

The following information should be submitted with the application:

- Detailed plans for the track and the area that will be used for temporary “on-course” betting facilities (often known as the “Betting Ring”).
- In the case of dog tracks, horse racecourses, fixed and mobile pool betting facilities, (whether operated by the tote or the track operator), and any other proposed gambling facilities; the plans should make clear what is being sought for authorisation under the Track Betting Premises Licence.
- Details of any other areas of the track, which may be the subject of a separate application, for a different type of premises licence.

27.14 Self-Contained Premises on Tracks

The Licensing Authority will generally require that all ‘self-contained premises’ operated by off-course betting operators on track, be the subject of a separate Premises Licence. This will ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the track premises.

28 TRAVELLING FAIRS

28.1 Travelling fairs do not require any permit to provide gaming machines, but must comply with the legal requirements as to the way the machines operate. They may provide an unlimited number of Category D gaming machines and/or equal chance prize gaming machines, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.

28.2 A given area of land may, by statute, only be used on 27 days per calendar year for the purposes of accommodating a fair. The statutory maximum of 27 days calendar use, applies to the land on which the fairs are held and that use is cumulative, regardless of whether it is the same fair or a procession of different travelling fairs.

28.3 The Licensing Authority will monitor fairs, (whether travelling or otherwise), which provide category D gaming machines or equal chance prize gaming machines

within Torbay, to ensure that the provision of gambling is ancillary to the amusement provided at the fair and to ensure that the statutory limits upon the annual use of the land, are not exceeded.

- 28.4 The Licensing Authority will work with its neighbouring Licensing Authorities to ensure that any inter-authority sites which may be used for the provision of fairs, are appropriately monitored to ensure due compliance with statutory requirements.

29 REVIEWS

- 29.1 An 'Interested Party' or a 'Responsible Authority' can make an application to the Licensing Authority at any time, requesting that the Licensing Authority review a licence that it has granted; the Licensing Authority may also initiate a review of a licence itself.

The list of Responsible Authorities can be viewed at www.torbay.gov.uk

Interested Parties are defined at Section 4 of this 'Statement of Principles'.

- 29.2 Should the Licensing Authority receive an application requesting the review of a licence, the Licensing Authority will make a determination as to whether or not the review is to be carried out. In making this determination the Licensing Authority will consider whether the request for the review is relevant to the matters listed below:

- In accordance with any relevant Code of Practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- Consistent with the Licensing Objectives.
- In accordance with Torbay Council's 'Statement of Principles'.

- 29.3 The Licensing Authority will also make a determination as to whether or not the application for the licence review is made on relevant grounds; the following are examples of grounds which may be considered by the Licensing Authority, to be irrelevant, (*this list is indicative and is not exhaustive*):

- Representations which are inconsistent with Section 153 of the Act.
- Representations that are inconsistent with any guidance or codes of practice issued by the Gambling Commission, or with this 'Statement of Principles'.
- Representations which relate to an objection to gambling activity generally; for instance on moral grounds.
- Representations in relation to the demand or unmet demand for Gambling Premises.
- Representations in relation to planning matters.
- Public Safety Issues.
- Traffic Congestion issues.

- 29.4 The Licensing Authority will not initiate a licence review if it considers that the grounds upon which the review is being sought are:

Frivolous

Vexatious

Substantially the same as representations made at the time that the application for a premises licence was considered; the Licensing Authority will not normally review a licence to re-visit issues which were considered at the time of the grant.

Substantially the same as the grounds cited in a previous application for review, relating to the same premises, and a sufficient or reasonable period of time has not elapsed since that previous application was made.

Insignificant; to such an extent, that it would be wholly unreasonable for the Licensing Authority to revoke or suspend the licence; or to remove, amend or attach conditions to the licence, on the basis of such representation.

- 29.5 Should the Licensing Authority determine that an application for a licence review, (which has been duly submitted by an 'Interested Party' or a 'Responsible Authority'), is valid or should the Licensing Authority decide to initiate a licence review of its own volition; then that licence review will be undertaken and progressed to conclusion, in accordance with the requirements of the Act, any guidance or codes of practice issued by the Gambling Commission and this 'Statement of Principles'.

PART C - PERMITS / TEMPORARY AND OCCASIONAL USE NOTICES

30 UNLICENSED FAMILY ENTERTAINMENT CENTRE, (UFEC)

- 30.1 Unlicensed Family Entertainment Centres (UFEC's), are premises commonly located at seaside resorts, on piers, at airports or at motorway service stations. These establishments cater for families, including unaccompanied children and young persons and, subject to the grant of a permit from the Licensing Authority, operators can provide an unlimited number of Category D gaming machines, upon the premises.
- 30.2 Where a premises does not have the benefit of a premises licence issued under the Act, but the applicant wishes to provide Category D gaming machines; an application may be made to the Licensing Authority for an unlicensed family entertainment centre permit. The applicant must satisfy the Licensing Authority that the premises will be 'wholly or mainly' used for making gaming machines available for use.
- 30.3 The Licensing Authority will require as part of the application form, a plan to scale, clearly defining the area covered by the UFEC and including the layout of machines. UFEC permits will only be granted for areas which complies with section 238 of the Gambling Act in that the area specified is wholly or mainly used for making gaming machines available for use. As such it is not permissible for permits to be granted to entire complexes such as leisure centres, shopping centres and motorway service areas or similar.
- 30.4 The Licensing Authority will issue permits for unlicensed family entertainment centres in accordance with the following principles:
- The Licensing Objectives.
 - Any relevant regulations or codes of practice.
 - Any guidance issued by the Gambling Commission.
 - The principles set out in this 'Statement of Principles'.

- 30.5 The Licensing Authority will only grant a permit if satisfied that the premises will be used as a UFEC and that the Devon and Cornwall Police have been consulted in relation to the application; applicants will also be required to demonstrate to the Licensing Authority:
- That the applicant has a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre.
- That staff are suitably trained and have a full understanding of the maximum stakes and prizes permissible in an unlicensed family entertainment centre.
- That the applicant has no convictions, which may have been identified as 'relevant convictions', for the purposes of the Act.
- 30.6 The Licensing Authority will expect the applicant to show that they have policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. Such measures may include:
- Enhanced criminal record checks for staff.
- Appropriate measures/training for staff as regards suspected truant school children on the premises.
- Appropriate measures/training for staff as regards unsupervised very young children being on the premises and children causing perceived problems on/or around the premises.
- 30.7 The Licensing Authority can grant or refuse an application for an unlicensed family entertainment centre permit; however it cannot attach conditions to a permit.
- 30.8 The Licensing Authority encourages applicants for UFEC Permits to consider adopting the British Amusement Catering Trade Association (BACTA) voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility, and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

31 ALCOHOL LICENSED PREMISES ~ GAMING MACHINE PERMITS

- 31.1 There is an automatic entitlement to provide a maximum of 2 Category C and/or D gaming machines, on premises that are licensed under the Licensing Act 2003, for the sale and consumption of alcohol on the premises. Subject only to the proviso, that the premises licence holder must serve notice of intention upon the Licensing Authority in respect of those machines.
- 31.2 The Licensing Authority can remove the '*Licensing Act 2003 Automatic Entitlement*' in respect of any particular premises if:
- The provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives.
- The licensee has breached the requirements of the Act.
- An offence under the Act has been committed on the premises.
- The premises are mainly used for gaming.

31.3 The premises must comply with the Code of Practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission, which may be accessed through the following link.

<http://www.gamblingcommission.gov.uk/PDF/Code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>

All gaming machines situated on the premises must be located in a place within the premises so that their use can be supervised, either by staff whose duties include such supervision (including bar or floor staff) or by other means.

31.4 The provision of gaming machines, on premises licensed for the sale and consumption of alcohol, in excess of the automatic two machine entitlement, can only be authorised by way of a permit issued by the Licensing Authority.

31.5 In considering any application for a permit to authorise the provision of more than two machines, on premises licensed under the Licensing Act 2003, for the sale and consumption of alcohol; the Licensing Authority will have regard to the following:

- 1) The requirements of the Act.
- 2) The Licensing Objectives.
- 3) Any guidance issued by the Gambling Commission.
- 4) Any Code of Practice issued by the Gambling Commission.
- 5) The principles within this 'Statement of Principles'.
- 6) Any other matters that the Licensing Authority considers relevant.

31.6 The matters that the Licensing Authority considers relevant in point (6) above, will include but are not exclusive to:

Any consultation it considers relevant by The Police and the Children's Safeguarding Board;

Any relevant policies e.g. child protection from the applicant;

The percentage of gross turnover the gaming machines contribute to total gross turnover of the premises and this should not be significant;

The confidence The Licensing Authority has in the management of the premises.

31.7 In granting a permit the Licensing Authority can prescribe a different number of machines to that which was applied for, and can prescribe the particular category of machine(s) that may be permitted; however the Licensing Authority cannot attach conditions to a permit.

31.8 Applications for permits under this section cannot be made in respect of unlicensed non-alcohol areas of, (*Licensing Act 2003*), licensed premises. Such areas would need to be considered under the provisions relating to 'Family Entertainment Centres' or 'Adult Gaming Centres'.

32 PRIZE GAMING PERMITS ~ STATEMENT OF PRINCIPLES ON PERMITS

32.1 In considering any application for a prize gaming permit the Licensing Authority will have regard to the following:

- The type of gaming that the applicant is intending to provide.
- The requirements of the Act.
- The Licensing Objectives.

- Any guidance issued by the Gambling Commission.
- Any statutory and mandatory conditions.
- The principles within this ‘Statement of Principles’.

32.2 The Licensing Authority will expect the applicant to demonstrate that they understand the limits applicable to ‘stakes and prizes’ that are set out in Regulations; and that they are able to understand and ensure that the gaming to be provided is within the law.

32.3 There are statutory and mandatory conditions in the Act which the permit holder must comply with and the Licensing Authority cannot impose any additional conditions to the grant of a permit. The conditions in the Act are:

The limits on participation fees, as set out in regulations, must be complied with.

All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.

The prize for which the game is played must not exceed the amount set out in regulations (if a monetary prize), or the prescribed value, (if non-monetary prize).

Participation in the gaming must not entitle the player to take part in any other gambling.

33 CLUB GAMING PERMITS AND CLUB MACHINE PERMITS

33.1 Members Clubs may apply for a ‘Club Gaming Permit’ or a ‘Club Machine Permit’. Commercial Clubs may apply for a ‘Club Machine Permit’.

33.2 The grant of a ‘Club Gaming Permit’ by the Licensing Authority will enable the premises to provide gaming machines (3 machines of categories B, C or D, but only 1 B3A machine), equal chance gaming and games of chance as set out in regulations.

33.3 The grant of a ‘Club Machine Permit’ by the Licensing Authority will enable the premises to provide up to a maximum of three gaming machines of categories B, C or D.

NOTE: This maximum entitlement of three machines will include any machines provided by virtue of the Licensing Act 2003 entitlement; it is not in addition to that entitlement.

33.4 Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming; unless the gaming is permitted by separate regulations. This may cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A ‘Members’ Club’ must be permanent in nature, not established to make commercial profit, and controlled by its members in equal part. Examples would include ‘Working Men’s Clubs’, branches of the ‘Royal British Legion’ and clubs with political affiliations.

- 33.5 The Licensing Authority may only refuse an application for a 'Club Gaming Permit' or a 'Club Machine Permit' on the grounds that the applicant does not fulfil the statutory requirements for a members' club, a commercial club or a miners' welfare institute; and therefore is not entitled to receive the type of permit for which it has applied.
- The applicant's premises are used wholly or mainly by children and/or young persons.
 - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities.
 - A permit held by the applicant has been cancelled in the previous ten years.
 - An objection to the grant of a permit has been lodged by the Gambling Commission or the Police.
- 33.6 The Licensing Authority is aware that there is a fast track procedure for the issue of a permit to premises which hold a club premises certificate granted under the Licensing Act 2003. Under this fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police.
- 33.7 The 'fast track' process afforded to an applicant under the Licensing Act 2003 does not provide any statutory right to the issue of a permit and the Licensing Authority may resolve to refuse the grant of a 'fast track' application on the following grounds:
- That the club is established primarily for gaming, other than gaming prescribed under Schedule 12 of the Act, *that section relating to 'Club Gaming Permits' and 'Club Machine Permits'*.
 - That in addition to the prescribed gaming to be provided under the permit, the applicant provides facilities for other gaming on the same premises.
 - That a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 33.8 No child shall be permitted to use a Category B or C gaming machines on the premises and that the holder of the Premises Licence must comply with any code of practice relevant to the location and operation of gaming machines.

34 TEMPORARY USE NOTICES

- 34.1 There are a number of statutory limits as regards temporary use notices. The limits are set out in the Act as:

A set of premises may not be the subject of temporary use notification for more than 21 days in a period of 12 months.

A set of premises may be the subject of more than one temporary use notice in a period of 12 months; provided that the aggregate of the periods for which the notices have effect does not exceed 21 days.

- 34.2 The purposes for which a temporary use notice may be used are restricted by regulations, to the provision of facilities for equal chance gaming only, which must be provided by means other than 'machine gaming'.

'Equal Chance Gaming' is gaming where the participants are taking part in a gambling competition which is intended to produce a single, overall winner. An example of this would be a poker competition.

- 34.3 In considering whether to object to a temporary use notice the Licensing Authority will have particular regard to this 'Statement of Principles', and any guidance issued by the Gambling Commission, with regard to the nature and definition of a 'premises' or a 'place'. Should the Licensing Authority consider that 'Temporary Use Notices' are being employed at premises, (or for discreet parts of premises), to the extent where 'regular gambling' is thereby being provided within a given building or at a given place; then the Licensing Authority may object to the notice(s).

35 OCCASIONAL USE NOTICES

- 35.1 With regard to 'Occasional Use Notices' (OUN's) the Licensing Authority will ensure the following:

That the statutory limit of 8 days in a calendar year is not exceeded.

That the subject premises can reasonable and effectively be defined as a 'track'

That the applicant is permitted to avail himself/herself of the notice.

Further information on OUN's may be found on the Gambling Commission website:

<http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Betting/Occasional-Use-Notices-OUNs.aspx>

APPENDICES

Appendix 1 ~ Consultation

- 1.1 The Act requires that the following parties are consulted by Torbay Council prior to publication of the finalised 'Statement of Principles':
- The Chief Officer of Police.
- One or more persons who appear to the Licensing Authority to represent the interests of persons carrying on gambling businesses in the Authority's area.
- One or more persons who appear to the Licensing Authority to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act.
- 1.2 The finalised 'Statement of Principles' will be made following consultations with the following:
- Residents and businesses of Torbay
- Bodies representing existing gambling businesses in Torbay
- The Chief Officer of Devon and Cornwall Police
- The Chief Officer of Devon and Somerset Fire and Rescue Service
- Torbay & Southern Devon Health & Care NHS Trust and Local Health Providers
- Devon & Torbay Safeguarding Children Board
- Torbay Council : Planning, Community Safety and Highways Authorities
- Safer Communities Torbay
- Facilities in Torbay assisting vulnerable persons
- Faith groups; via Torbay Interfaith Forum and the Street Pastors
- Torbay Town Centres Company
- Brixham Town Council
- English Riviera Tourism Company
- Economic Development Agency
- 1.3 In determining the finalised 'Statement of Principles', The Licensing Authority will undertake to give appropriate weight to the views of those it has consulted. In determining what weight to give to a particular representation, the factors taken into account will include:
- Who is making the representation; (what is their expertise or interest?)
- What was the motive for their representation?
- How many other people have expressed the same or similar views?
- How far the representations relate to matters that The Licensing Authority should be including in its 'Statement of Principles'.
- 1.4 Torbay Council has designated the Torbay Safeguarding Children Board (*TSCB*), as the 'Competent Body' to advise the Council, with regard to the Licensing objective that protects children from being harmed or exploited by gambling.

Appendix 2 ~ Small Casino Licence

- 2.1 The Act provided for an increase in the number of casino premises permitted to operate in the United Kingdom and established that two new types of casino should be permitted; eight large and eight small casinos. The Secretary of State for Culture, Media and Sport was given the Authority under the Act to determine which Licensing authorities should be permitted to grant new casino premises licences.
- 2.2 The Secretary of State established a '*Casino Advisory Panel*' to recommend the most appropriate areas of the UK in which to site the 16 new casino premises and invited interested Local Authorities to submit proposals to the Panel; Torbay Council submitted a proposal to the panel in response to this invitation.
- 2.3 On 15th May 2008 the '*Categories of Casino Regulation 2008*' and the '*Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008*' were approved. The Order specified which Licensing Authorities could issue premises licences for both large and small casinos; Torbay Council's Licensing Authority was included in the Order and was authorised to issue one small casino premises licence.
- 2.4 On 26th February 2008 the Secretary of State for Culture, Media and Sport issued the '*Code of Practice on Determinations Relating to Large and Small Casinos*' (herein referred to as the Code of Practice). The Licensing Authority must comply with the Code of Practice which states:
- The procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Act.
- Matters to which the Licensing Authority should have regard in making those determinations.
- 2.5 Schedule 9 paragraph 5 to the Act states the following:
- This paragraph applies if a Licensing Authority determine under Paragraph 4 that they would grant a number of competing applications greater than the number which they can grant as a result of section 175 and the Order under it.
- The Authority shall then determine which of those applications to grant under section 163(1)(a).
- For that purpose the Authority -
- shall determine which of the competing applications would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area,
 - may enter into a written agreement with an applicant, whether as to the provision of services in respect of the Authority's area or otherwise,
 - may determine to attach conditions under section 169 to any licence issued so as to give effect to an agreement entered into under paragraph (b), and
 - may have regard to the effect of an agreement entered into under paragraph (b) in making the determination specified in paragraph (a).

- 2.6 Torbay Council, as the Licensing Authority, is aware that there may be a number of operators who may wish to apply for the small casino premises licence from Torbay Council.
- The Licensing Authority will therefore stage a statutory selection process, (*the 'small casino premises licence process'*), under Schedule 9 of the Act and will run the selection process in line with *'The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008'* and the said Code of Practice, issued by the Secretary of State.
- 2.7 In accordance with the above Regulations, Torbay Council's Licensing Authority will publish an invitation calling for applications for the 'small casino premises licence'.
- 2.8 Should the Licensing Authority receive more than one application for a small casino premises licence at Stage 1 of the 'small casino premises licence process' and should the Licensing Authority determine that it would grant more than one small casino premises licence, then subject to any and all appeals which may have been lodged at Stage 1 of the process being concluded, the Licensing Authority will:
- Make a 'Provisional Decision to Grant' in respect of those applicants deemed appropriate for the grant of a small casino premises licence.
- Implement Stage 2 of the 'small casino premises licence process'.
- Invite those applicants issued with a 'Provisional Decision to Grant' at Stage 1 of the 'small casino licence process', to participate in Stage 2 of the 'small casino premises licence process'.
- 2.10 Any 'Provisional Decision to Grant' issued to an applicant at Stage 1 of the 'small casino premises licence process', shall have no effect and shall not be used for the provision of casino gaming facilities upon the premises to which it relates. The 'Provisional Decision to Grant' merely confirms the Licensing Authority's determination, that the applicant satisfies the statutory requirements for the grant of a small casino premises licence; and afford the applicant the right to participate in Stage 2 of the 'small casino premises licence process' for Torbay.
- 2.11 It may be the case that at Stage 1 of the process, only one application may be submitted to the Licensing Authority for a small casino premises licence, or it may be the case that after due consideration of all the applications at Stage 1, the Licensing Authority considers that only one applicant satisfies the statutory requirements, in respect of a premises licence. In that instance, the Licensing Authority will not implement Stage 2 of the 'small casino Licensing process' and will, (subject to any and all appeals being concluded), grant a small casino premises licence to the 'only suitable applicant' determined under Stage 1 of the process.
- 2.12 If the Licensing Authority does not receive any applications for a small casino premises licence at Stage 1 of the 'small casino premises licence process', or should the Licensing Authority resolve to refuse the grant of any applications so made under Stage 1, then subject to any and all appeals being concluded:
- Stage 2 of the 'small casino premises licence process' will not be implemented, and, The Licensing Authority may re-publish an invitation calling for applications for a 'small casino premises licence'.

- 2.13 Section 166(1) of the Act states that a Licensing Authority may resolve not to issue a premises licence. A decision to pass such a resolution will be taken by the Authority as a whole and will not be delegated to the Licensing Committee (a resolution not to issue casino premises licences will only affect new casinos). In passing such a resolution the Authority may take into account any principle or matter, not just the Licensing Objectives. The Authority may revoke the resolution by passing a counter resolution.

SMALL CASINO PREMISES LICENCE ~ GENERAL PRINCIPLES

- 2.14 The Licensing Authority recognises that applicants may either apply for a 'Casino Premises Licence' or alternatively a 'Provisional Statement' in respect of the small casino premises licence.
- 2.15 Unless otherwise specified, any reference to the application and procedures for a 'Small Casino Premises Licence' in the 'Small Casino Premises Licence' sections of this 'Statement of Principles' shall also include the application and procedures for a 'Provisional Statement' for a small casino premises licence.
- 2.16 In making any decision under Stage 1 or Stage 2 of the 'small casino premises licence process', the Licensing Authority will have due regard to this 'Statement of Principles', the Act and to any Codes of Practice, Regulations and Guidance which may be issued by:
- The Secretary of State.
 - The Department for Culture, Media and Sport, (*DCMS*).
 - The Gambling Commission.
- 2.17 In making any decision in respect of a small casino premises licence application, made under the 'small casino premises licence process':
- the Licensing Authority shall not take into account whether or not an applicant is likely to be granted planning permission or building regulations approval; and
 - any decision taken in relation to the small casino premises licence application, shall not constrain any later decision by The Council, under the law relating to planning or building control; and
 - any conditions or agreements attached to any planning consents will normally fall outside of the Licensing process and will normally be disregarded by the Licensing Authority, in determining which applicant will bring the greatest benefit to the area of Torbay.
- 2.18 The Licensing Authority cannot consider unmet demand when considering applications for a small casino premises licence.
- 2.19 Torbay Council does not have a preferred location for the new small casino. Applicants can submit plans for any site or location within Torbay and each which will be judged on its own individual merits. Applicants, however, should have regard to the proposed location of the premises, with regard to meeting that Licensing objective which seeks to protect children and vulnerable persons from being harmed or exploited by gambling.

- 2.20 Where more than one 'Provisional Decision to Grant' is issued in accordance with Section 19.8 above, the Licensing Authority will implement Stage 2 of the 'small casino premises licence process'.
- 2.21 The Licensing Authority will ensure that any pre-existing contract, arrangements or other relationship it may have with a company or individual, does not affect the procedure so as to make it unfair (or appear unfair) to any applicant.

SMALL CASINO PREMISES LICENCE APPLICATION ~ STAGE 1

- 2.22 The 'small casino premises licence process' will be started by the Licensing Authority publishing an invitation calling for applicants to submit an application for a small casino premises licence.
- 2.23 An application for a small casino premises licence may be made at any time, however the Licensing Authority will not consider any such application, until a formal invitation to apply has been published and the appointed closing date for the submission of applications has passed. The appointed closing date shall be the final day of the three month period, duly advertised for Stage 1 applications.
- 2.24 The Licensing Authority will provide an application pack that will include a statement of the procedure and process it proposes to follow, in assessing applications for a small casino premises licence.
- 2.25 All applications for a small casino premises licence will be received through Stage 1 of the 'small casino premises licence process'. Should the Licensing Authority receive more than one application, then each application will be considered separately and on its own merits, with no reference being made to the other applications received.
- 2.26 At Stage 1 of the 'small casino premises licence process' any additional information submitted by an applicant, above that required by the statutory process, will be disregarded and returned to the applicant in accordance with Act and its Regulations. Additional information may be submitted by an applicant participating in Stage 2 of the 'small casino premises licence process'.
- 2.27 The Licensing Authority recognises that, should there be more than one small casino premises licence applicant, then each applicant is an 'Interested Party' in relation to the other, and therefore may make a representation. The term 'Interested Party' is defined in Section 4 at Page 6, of this 'Statement of Principles' and all representations will be considered carefully to ensure they meet the requirements set out therein.
- 2.28 It is recognised that any decision taken by the Licensing Authority under Stage 1 of the 'small casino licence application process' may be the subject of an appeal. The Licensing Authority will not proceed to Stage 2 of the 'small casino premises licence process' until any and all appeals, which may have been lodged at Stage 1 of the process, have been concluded.

SMALL CASINO PREMISES LICENCE APPLICATION ~ STAGE 2

- 2.29 Stage 2 of the 'small casino premises licence process' cannot commence until Stage 1 has been completed and all applications have been determined, including the conclusion of any and all appeals.
- 2.30 At Stage 2 of the 'small casino premises licence process', each of the second stage applicants will be required to state and demonstrate the greatest benefit they can bring to the local area of Torbay and how this will contribute to the wellbeing of the area.
- 2.31 Where more than one application is received for a small casino premises licence and where more than one application is the subject of a 'Provisional Decision to Grant', (in accordance with Section 19.8 at Page 18), the Licensing Authority will give due consideration to all applications and will grant the available licence, to the applicant that it considers will deliver the greatest benefit to the area of Torbay.
- 2.32 Any determination made under Stage 2 of the 'small casino premises licence process' will be judged on a wide range of criteria, which have been established by the Licensing Authority in consultation with the community of Torbay, under the terms of this 'Statement of Principles'.
- 2.33 The Licensing Authority may during Stage 2 of the 'small casino premises licence process' engage in discussions with each Stage 2 applicant, with a view to the application being refined, supplemented or otherwise altered so as to maximise the benefits to the area of Torbay.
- 2.34 The Licensing Authority will expect a Stage 2 applicant to sign a written agreement with Torbay Council relating to the benefits that the proposed development may bring to the area of Torbay. The Licensing Authority will take any such agreement into account, in determining which application would result in the greatest benefit to the area of Torbay. The Licensing Authority may attach conditions to the small casino premises licence to give effect to this agreement.
- 2.35 The following are the principles which will be used by the Licensing Authority to judge which proposal is likely to result in the greatest benefit to the area of Torbay and therefore, these are the matters to which applicants will be expected to address their Stage 2 application:
- How the proposals will directly assist with local economic benefit and regeneration, sustainable job creation, enhance existing tourism, training and youth unemployment; especially with regard to non-gambling related jobs.
 - How the proposal will deal with health and social responsibility, linking with local health care providers, including problem/fair gambling, protection of children and vulnerable persons; whether in the casino or in the wider community.
 - How the proposals will link with Torbay Council's Cumulative Impact Policy.
 - The provision that is made within the application for preventing gambling from becoming a source of crime or disorder, being associated with crime or disorder or being associated with crime or disorder.

The proposed location of the small casino premises development and other facilities, and how the selected site(s) along with the design and architecture, will regenerate the surrounding area as well as meeting the highest energy and environmental standards.

How the proposal will improve the environment with improved public realm, tackling poor buildings or the provision of new or repairing existing infrastructure, as well as enhancing the local environmental quality in the immediate vicinity of the development and on main routes to the venue.

The provision of a marketing Policy which explains how the development will promote Torbay, in line with Torbay Council's strategy to improve the quality and image of the area to increase visitor numbers and visitor spend.

Proposed contributions towards community schemes, such as improving the night-time economy, the local community, the voluntary sector and youth facilities.

Proposed contributions towards all year round arts and culture provision and recreational facilities for visitors and residents.

How the proposals will assess the social, economic and physical impact of the development and the commitment thereafter to mitigate any potential adverse effects.

Proposals regarding day/night access and travel arrangements to and from the small casino taking into consideration staff and customer travel requirements.

A financial contribution will accompany the application; what will be the purpose of the contribution and the form that this contribution will take.

2.36 At paragraph 22.7 above the Licensing Authority has set out matters which it will take into account in judging the competing applications at Stage 2 of the 'small casino premises licence process' and which are likely to receive the greatest weight in the evaluation process, but an operator is not debarred from putting forward other benefits which the Licensing Authority will take into consideration and weigh to the extent it considers them relevant.

2.37 The Stage 2 applicant will be expected to additionally submit the following:

A clear and detailed Business Plan.

The Licensing Authority will evaluate the Business Plan, especially with regard to the viability of any submitted proposals.

A signed 'Development Agreement' in a form that is acceptable to the Licensing Authority, committing the applicant, (in the event that they are granted a licence), to the entirety of the scheme they have put forward.

A timescale for implementation and completion of the proposed development works, (including any ancillary development), setting out the various stages of construction. This is to enable the Licensing Authority to be kept informed of when the project is likely to be completed and that the applicant is on target for final completion.

Evidence that there will be consultation with Statutory Bodies and Responsible Authorities, to ensure due compliance with any and all Statutory Regulations and Legislation, during the construction of the development; (e.g. health and safety, highway approvals, etc).

- 2.38 In assessing applications made under the ‘small casino premises licence process’ the Licensing Authority will give consideration to the likelihood of a casino actually being developed and additional weight shall be given to its deliverability.
- 2.39 The ‘small casino premises licence process’ will follow the DCMS Code of Practice; however, the Code of Practice leaves individual authorities to determine the detail of their own procedure.
- Therefore, (because it is recognised that the Licensing Authority does not necessarily have all the relevant expertise), the Licensing Authority might need to seek advice on an applicant’s proposal from Officers in other relevant Council departments; for example Planning, Highways, Finance, Regeneration and Legal. The Licensing Authority may also need to solicit independent expertise and advice from sources outside of the Council.
- For this purpose, the Licensing Authority intends to constitute a non-statutory panel to assist in the evaluation of the Stage 2 application process. This panel shall be called the ‘Advisory Panel’.
- 2.40 It is accepted that only the Licensing Authority will make the final decision on the successful applicant. The function of the Advisory Panel will be to evaluate the applications for the benefit of the Licensing Committee or Sub-Committee. The Advisory Panel will not be a decision-making body and while the Licensing Committee or Sub-Committee will take the Advisory Panel’s evaluations into account, with regard to the ‘small casino premises licence process’, it is not bound to follow them.
- 2.41 Members of the Advisory Panel will comprise of carefully selected, competent and suitably qualified individuals, who are not biased and whose personal interests would not compromise their independence. It will be for the Local Authority to determine the membership of the Advisory Panel.
- 2.42 A schedule detailing the Advisory Panel members and the Panel’s terms of reference will be included in the application pack. The terms of reference will include further details of the functions of the Advisory Panel and the procedures of the evaluation process, in order to ensure fairness and transparency to all applicants.
- 2.43 To ensure that there is fairness and transparency; applicants will be asked if they wish to object to any Member of the Advisory Panel. Should an applicant wish to raise any objection to a Member of the Advisory Panel; then:
- A formal objection must be served upon the Local Authority within 10 working days of the applicant requesting an application pack.
- The objection must clearly indicate the grounds upon which the objection is being made.
- It will be for the Local Authority to determine the validity of any objection and to determine if any member of the Advisory Panel should be replaced on the basis of the objection(s) raised.
- The formal procedure to be followed in the event of any objection being raised will be detailed within the ‘application pack’
- (The strict time constraints detailed at section a) above, are to ensure that in the event of an Advisory Panel Member being replaced as a result of an applicants’*

objection, all applicants can be given due notice and opportunity to object to any 'Replacement' Advisory Panel Member(s); and to prevent the potential frustration of the procedure in the latter stages of the 'small casino premises licence' determination process. Objections raised 'out of time' will only be considered if the applicant can satisfy the Local Authority, that the objection could not reasonably have been made within the stipulated period for objections).

- 2.44 It is important that the small casino premises licence application includes all documents and paperwork in support of the proposals, (hereinafter referred to as the 'bid documentation'). Once all the bid documentation has been submitted, the Advisory Panel will carry out a preliminary evaluation of each application. Following the preliminary evaluation, Officers of Torbay Council may liaise with applicants with a view to the application being refined, supplemented or altered so as to maximise the greatest benefit to the Torbay area.
- 2.45 Once the bid documentation is finalised, the Advisory Panel will evaluate each bid and the bids will be scored within definitive bands determined by the Local Authority. Once assessed, the Advisory Panel's draft evaluation report on each application will be sent to the applicant, in order to enable the relevant applicant to identify and address any factual errors that may have occurred. Thereafter no additional information may be submitted by the applicant, but any agreed factual errors will be amended.
- 2.46 The unsuccessful applicant(s) will be informed of the result and reasons for rejection as soon as is reasonably practicable.

Record of Decisions

Gambling Act 2005 'Statement of Principles 2019' (Gambling Policy)

Decision Taker

Elected Mayor on 22 November 2018

Decision

That the Council be recommended to approve the Gambling Act 2005 'Statement of Principles 2019' (Gambling Policy) as set out at Appendix 1 to this Record of Decision.

Reason for the Decision

This is a Policy Framework document which needs to be approved by the Council.

Implementation

The recommendation of the Elected Mayor will be considered at the Council meeting on 5 December 2018.

Information

Section 349 (1) of the Gambling Act 2005 requires that a Licensing Authority must prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. It further requires that it should be reviewed and re-published every three years.

The draft revised Policy for 2019, was agreed in principle by the Licensing Committee on 19 July 2018. There followed a statutory consultation, which took place between 21 August and 16 October 2018. The Licensing Committee considered the final draft Policy on 22 November 2018 and recommended that the Policy be approved.

As this Policy is a Policy Framework document it is for the Elected Mayor to formally propose any amendments to this document. The Elected Mayor has considered the recommendations of this Licensing Committee and his decision is set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

Yes – Reference Number: I039419

Does the call-in procedure apply?

No

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

Standards Committee)

None

Published

26 November 2018

Signed: _____
The Elected Mayor of Torbay

Date: 22 November 2018



Meeting: Council

Date: 5 December 2018

Wards Affected: All

Report Title: Thriving lives: Joint Health and Wellbeing Strategy

Is the decision a key decision? Yes

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Councillor Jackie Stockman, Executive Lead for Health and Wellbeing, Independent Berry Head with Furzeham Ward, 07968 979685

Supporting Officer Contact Details: Dr Caroline Dimond, Director of Public Health, 01803 207336, caroline.dimond@torbay.gov.uk

1. Proposal and Introduction

- 1.1 The Joint Health and Wellbeing Strategy (JHWBS) is a key strategic document for Torbay Council.
- 1.2 JHWBS steers the efforts of each organisation represented on the Health and Wellbeing Board. Purpose of the JHWBS is to facilitate collaboration to improve the health and wellbeing of the population of Torbay, and reduce inequalities in the population.
- 1.3 This JHWBS has been through more than 6 weeks full public consultation, ending October 2018. Consultation gathered 2 comments from members of the public, both of which were out of scope of the JHWBS.
- 1.4 The Elected Mayor has seen and approved this final version on 6 November 2018, a copy of his Record of Decision is set out at Appendix 2 to this report.

2. Reason for Proposal and associated financial commitments

- 2.1 Full Council is asked to read, discuss and adopt the JHWBS.
 - 2.2 There are no additional financial commitments in the JHWBS, other than those that exist already.
-

3. Recommendation(s) / Proposed Decision

- 3.1 That the Council adopts the Joint Health and Wellbeing Strategy set out at Appendix 1 to the submitted report.

Appendices

Appendix 1: Thriving lives: Joint Health and Wellbeing Strategy

Appendix 2: Record of Decision (Appendix 1 is the same as Appendix 1 attached to this report)

Background Documents

None

Section 1: Background Information	
1.	<p>What is the proposal / issue?</p> <p>Improving the health and wellbeing of the population is the responsibility of many agencies and sectors. The Health and Wellbeing Board brings those strategic partners together, and the Thriving Lives, Joint Health and Wellbeing Strategy, makes a statement of how partners will target their efforts to collaboratively do this.</p>
2.	<p>What is the current situation?</p> <p>Previous strategy needed refreshing in order to meet current priorities.</p>
3.	<p>What options have been considered?</p> <p>None, although the priorities described in the JHWBS were subject to debate, revision and public consultation.</p>
4.	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <ol style="list-style-type: none"> 1. Makes best use of collaborative efforts to reduce duplication and enhance outcomes 2. Promotes healthy lifestyles as an aspiration for everyone in Torbay 3. Describes the health and social care community's efforts to improve the way we protect and support vulnerable adults and families
5.	<p>How does this proposal contribute towards the Council's responsibilities as corporate parents?</p> <p>The JHWBS promotes prevention, in order to reduce demand on the Council's responsibility for <i>corporate parenting</i>.</p>
6.	<p>How does this proposal tackle deprivation?</p> <p>The JHWBS uses Public Health methodology to describe 7 joined up health and wellbeing priorities. Collaborative efforts are set out to improve the health and wellbeing of everyone in Torbay, but targeted efforts will be made for those who are the most deprived.</p>

7.	<p>How does this proposal tackle inequalities?</p> <p>The JHWBS uses Public Health methodology to describe 7 joined up health and wellbeing priorities. Collaborative efforts are set out to improve the inequalities of everyone in Torbay, but targeted efforts will be made for those who are most at risk of inequality.</p>
8.	<p>How does the proposal impact on people with learning disabilities?</p> <p>The JHWBS directly references people with learning disabilities and directs collaborative efforts to enhance each person's life chances.</p>
9.	<p>Who will be affected by this proposal and who do you need to consult with?</p> <p>The JHWBS has been through public consultation.</p>
10.	<p>How will you propose to consult?</p> <p>As above</p>

Section 2: Implications and Impact Assessment

11.	<p>What are the financial and legal implications?</p> <p>There are no additional financial or legal implications for the Council, other than those already in place. This document simply seeks to set out a set of priority areas where key strategic partners will focus their best efforts to improve things for the population of Torbay.</p>
12.	<p>What are the risks?</p> <p>If the JHWBS is not adopted by the Council, there is a risk to relationships and collaborative working of key strategic partners across Torbay. There is no document by which members of the Health and Wellbeing Board may hold each other to account for their priorities.</p>
13.	<p>Public Services Value (Social Value) Act 2012</p> <p>No procurement required.</p>
14.	<p>What evidence / data / research have you gathered in relation to this proposal?</p> <p>The policy is based on – and should be read with – the Joint Strategic Needs Assessment for Torbay, http://www.southdevonandtorbay.info/needs-assessment/jsna-narratives/.</p>
15.	<p>What are key findings from the consultation you have carried out?</p> <p>There were two responses from the consultation, both of which were from members of the public, and out of scope for this strategy.</p> <p>The Elected Mayor for Torbay offered colleagues and officers a steer, with recommendations that scope include Torbay’s areas of excellence and prosperity.</p>
16.	<p>Amendments to Proposal / Mitigating Actions</p> <p>The Elected Mayor’s advice was acted upon and a balanced tone achieved.</p>

17.	Identify the potential positive and negative impacts on specific groups			
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact	
Older or younger people	JHWBS describes collaborative efforts to meet the particular needs of both older and younger people			
People with caring Responsibilities	JHWBS describes collaborative efforts to meet the particular needs of carers of older people			
People with a disability	JHWBS describes collaborative efforts to meet the particular needs of those who live with a long term condition or disability – and to prevent long term condition or disability			
Women or men			No differential impact	
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			No differential impact	
Religion or belief (including lack of belief)			No differential impact	
People who are lesbian, gay or bisexual			No differential impact	
People who are transgendered			No differential impact	

	People who are in a marriage or civil partnership			No differential impact
	Women who are pregnant / on maternity leave	JHWBS describes collaborative efforts to meet the particular needs		No differential impact
	Socio-economic impacts (Including impact on child poverty issues and deprivation)	JHWBS describes collaborative efforts to meet the particular needs		No differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	JHWBS describes collaborative efforts to meet the particular needs		No differential impact
16	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	None identified		
17	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	None identified		



2018-2022

Thriving lives

Creating a healthy Torbay where individuals and communities can thrive

Torbay's Joint Health and Wellbeing Strategy

TORBAY Health & Wellbeing BOARD

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Foreword

Torbay's Strategic Partnership wants the people of Torbay to have an unrivalled quality of life, in one of the UK's most beautiful destinations. It wants to see a place where connectivity, culture and ambition are growing fast, creating opportunities for everyone who lives, works and enjoys being here.

This Joint Health and Wellbeing Strategy has been put together by partners within the health and wellbeing community in Torbay who work across the public and voluntary sectors and form the Health and Wellbeing Board. It is part of the Council's Policy Framework which is a suite of strategies and plans which cover the range of Council functions. Equally, it sits alongside the plans and strategies of NHS commissioners and providers in Torbay.



The Board wants to make a difference for the people that live and work in Torbay and its members are working together as a voice across organisations to agree the areas we all need to focus on if we are to make that real difference. Together, we need to address the wider economic, social, lifestyle and environmental factors which will improve the life chances for individuals. The Board has set its collective ambition **to create a healthy Torbay, where individuals and communities can thrive.**

We want to ensure our effort addresses what's important to people in their lives and what helps us all to enjoy life more, be that at home, at work or in our communities. We have a national and international reputation for our integrated working across health and social care but we know we need to go further if we are to meet our ambition. We need to put greater effort into tackling the inequalities we have across Torbay and into addressing the wellbeing of those who have challenging lives.

The priorities within this Strategy have been shaped and informed by listening to the people of Torbay, and by looking at our data and sharing our experiences. They reflect our common aim of shifting our effort towards prevention, early intervention and self-care and our common vision of a local health and wellbeing system where people are empowered and enabled to take greater control of their lives utilising the many assets we have in our communities. The priorities recognise that we must ensure children and young people grow up in environments where they are safe and that enable them to become healthy, happy and aspiring adults. Importantly they identify the pivotal importance of mental wellbeing to health, especially in our young people, and the importance of our environments and communities to health. Finally they acknowledge the wellbeing aspirations of adults as they age.

In Torbay, the costs of, and demands on, our many services are increasing at a time when our population is ageing and our budgets are under pressure. We need to find new and better ways of working together to address these challenges. This Strategy sets out an objective and set of priorities for a more sustainable future. It is underpinned by a commitment to partnership working by the Health and Wellbeing Board to maximise the utilisation of existing resources and to secure additional resources to improve our response to Torbay's challenges.

Only our collective efforts will turn the tide on the cycle of ever increasing demand and cost. This is the call to action for us to work together over the next five years to deliver a healthy Torbay and to send out the clear message that our people and our population matter.

Context

Torbay offers a great quality of life for individuals and families. With its natural environment, clean air, climate, location, excellent schools, growing arts and cultural sector, and wide range of outdoor activities, Torbay provides everyone the opportunity to live a healthy and fulfilled life.

Torbay covers an area of over 24 square miles, located in South Devon, known as the English Riviera. It is made up of the three towns of Torquay, Paignton and Brixham and comprises over 20 beaches and secluded coves along 22 miles of coastline located around the east facing natural harbour of Tor Bay.

With a population of over 133,000, Torbay is the second largest urban area within the Heart of the South West. It is a retirement destination for many fit, active, skilled and affluent older people which is reflected in the population structure.

Like many coastal areas, Torbay has its challenges. In some areas of Torbay, there are high levels of poverty and deprivation with not enough opportunities for young people. Overall productivity levels in Torbay remain amongst some of the lowest in the country partly due to the high levels of low paid employment in elements of the tourism and independent care sector, as well as the small percentage of our local population who are economically active. Our ageing population means that a higher proportion of diminishing public resource is spent on care.

Torbay's Economic Strategy seeks to build on local strengths, including a strong entrepreneurial culture, our growing reputation in photonics and electronics cluster and our established fishing, tourism and hospitality sectors. Efforts under Torbay's Economic Strategy will deliver economic growth, help tackle inequality and create change that benefits everyone who lives here. Torbay also has a national reputation for the ground breaking work that has led to integrated health and social care and, more recently, the integration of the acute and community NHS trusts. Integration of services lays the foundation for people to more easily access the health and care services they need, and reduces unnecessary duplication of service provision. Public sector organisations have close working relationships with the Torbay's extensive community and voluntary sector and many people who live in Torbay volunteer their time with local groups and charities.

Torbay's Joint Strategic Needs Assessment (JSNA) provides a suite of documents, web tools and presentations, which help to analyse the health needs of the local population. This data informs and guides the commissioning of health, wellbeing and social care services within Torbay. The JSNA enables local leaders to work together to understand and propose how to meet the needs of the local population. The Joint Health and Wellbeing Strategy can be read in conjunction with the JSNA for more detail and analysis.

What is life like for the people of Torbay?

- The population of Torbay is ageing more than other areas of the country – the number of people over 85 is set to double over next twenty years
- Levels of deprivation are increasing with 45% of residents living in an area in the top 20% most deprived in England
- Torbay is the most deprived local authority area in the South West and inequalities have been widening as relative deprivation worsens
- There are relatively high numbers of people with few qualifications, low earnings and claiming benefits
- House prices, on average, are £40,000 less than the England average but to buy a house in Torbay costs nearly seven times the average salary
- Housing conditions are of concern, with a higher percentage of private rented housing and significantly lower numbers of residents in social rented housing than national averages
- Homelessness and insecurity of tenure is rising with 24 people street homeless at the last count
- The violent crime rate is significantly higher than the England average
- Anti-social behaviour is significantly higher than England and other similar local

What is life like for children and young people?

- There is good early years educational achievement against the national standard, but a gap is emerging between poorer and better off students especially at secondary school
- 1 in 4 children live in poverty and there are issues of debt and food insecurity
- Almost 1 in 5 mothers smoke during pregnancy, low numbers of babies are breastfed and 1 in 3 children are overweight by age 11
- The rate of Children Looked after is high
- There are significantly worse rates of specific admissions to hospital for alcohol and higher prevalence of smoking for young people
- There are significantly higher numbers of admissions to hospital for self-harm
- There are high numbers of young people claiming benefits and high rates of first time entrants to the Youth Justice System

What is life like for adults?

- Smoking rates remain higher than the national average - 17% of over 16s smoke compared to 15% nationally
- The rate of physically activity is 66%, similar to national rate of 65%
- The hospital admissions rate for alcohol specific conditions is 79% - higher than the England rate
- Those classified as overweight or obese is 61% which is the same as for England
- There is high prevalence of a range of chronic conditions such as diabetes, depression, hypertension, cardio-vascular disease and Chronic Obstructive Pulmonary Disease - this has led to high levels of preventable admissions to hospital

What is life like for older adults?

- Many people chose to retire to Torbay and most live full and happy lives
- However, the numbers with more than one health condition is expected to rise by a third in the next ten years
- Frailty and dementia are also estimated to rise
- Age-related dependency and unpaid carer levels are significantly higher than nationally
- Rates of long-term support needs are significantly higher than England averages in relation to mental health and social isolation

This data paints of picture of a community where, despite a vibrant tourism industry, an environment that attracts many to make this their home and Torbay's offer of an active and fulfilling life, there are still many areas and many of its people who lead challenging lives. High levels of deprivation, a low wage economy, poor levels of qualification and poor housing have resulted in some children growing up in relative poverty where inequalities are evident in terms of their educational achievements, aspirations and health. This in turn leads to disparities in lifestyle choices, in illness and disability and ultimately in health and care needs and costs.

The stark fact is that a female living in the most deprived area of Torbay will live, on average 8.9 years less and a male 5.2 years less than a person in the least deprived area of the Bay.

The following table summarises the strengths that Torbay has together with the issues which we still need to address. To address these issues we need a response across all agencies in Torbay to maximise the range of opportunities that are available to us.

STRENGTHS	ISSUES	OPPORTUNITIES
<ul style="list-style-type: none"> ▪ Torbay has a long and successful history of partnership working especially between health and social care with an integrated organisation delivering acute and community healthcare and adult social care ▪ There is a vibrant Community and Voluntary Sector in Torbay which is actively engaged in the integration and prevention agenda ▪ Organisations in Torbay are committed to a common purpose to address inequalities, to work with communities and to bring a greater focus to prevention, early intervention and self-care and to the determinants of poor health. ▪ People are willing to do things differently and there is a culture of learning ▪ We have involved and listened to people and what they want and there are a number of forums for the local voice such as the Older People's Forum ▪ There is a desire to work to address the needs of people living with multiple complex needs ▪ There is a strong sense of community and some innovative community led initiatives in parts of Torbay such as the work on isolation in the over 50s ▪ Torbay has led the way ensuring planning decisions consider health and wellbeing 	<ul style="list-style-type: none"> ▪ Child poverty and levels of deprivation remain high in Torbay ▪ There are many families living in poor housing conditions ▪ There are high levels of violent crime, antisocial behaviour and domestic abuse ▪ Though educational outcomes in schools are generally good there are inequalities between and within schools which need addressing ▪ There are large numbers of people whose lifestyle is having an adverse effect on their health. Most important areas are smoking, obesity and physical activity ▪ Emotional well-being and mental health issues are of concern particularly amongst young people, there are concerning numbers of suicides and higher than national levels of self-harm ▪ Torbay has one of the highest rates of Children Looked After in the country with issues of underlying neglect linked to poverty and drivers of need ▪ There are higher proportions of older people especially over 85s in Torbay. Often these people have high levels of isolation and are carers ▪ There is a lack of resilience in primary care ▪ Though there are emerging pockets of innovative practice and a commitment to shift the focus, currently services still focus on treatment and illness rather than the promotion of well-being 	<ul style="list-style-type: none"> ▪ Expand the work around Healthy Torbay to ensure a focus on regeneration and skills development ▪ Deliver our Lifestyle Service at scale and with greater reach and impact. ▪ Work together to meet the needs of people with multiple complex needs ▪ Build on and expand our work on promoting exercise and addressing the growing levels of obesity ▪ Proactively work with partners to implement the Housing Strategy ▪ Devon-wide Emotional Health and Wellbeing Strategy is in place and links to the Torbay Children and Young People's Plan ▪ New Children and Young People's Plan is in place and will be delivered by the Children and Young People's Strategic Partnership ▪ Build on current local work such as the work in Brixham to find local solutions to promote and address mental health ▪ Support the Older People's Forum to work to enable people to age well ▪ The aims of the Prevention Board should be promoted to embed prevention, early intervention and self-care at all opportunities ▪ Create and deliver a training programme to "Make Every Contact Count" ▪ Consider how the workforce within primary care can be strengthened

Objectives and Priorities

Objective

The objective of the Health and Wellbeing Board and of this Joint Health and Wellbeing Strategy is:

To create a healthy Torbay where individuals and communities can thrive.

The Health and Wellbeing Board wants to see a Torbay where:

- All children born and raised in Torbay have the same life chances
- Children and young people have high aspirations and good employment opportunities
- Skill levels are raised and broadened and people are supported to access employment
- Everyone has housing which meets their needs and there are a variety of tenancies and housing opportunities in Torbay
- Mental and emotional health is given an equal focus alongside physical health
- People are enabled to make healthy lifestyle choices
- Services are based on what's important to people not what is the matter with people
- There is an integrated holistic service for those who live the most challenging lives
- Older people are supported to be as independent and socially connected as they can be and, if care is needed, it is of quality and compassionate

Priorities

Torbay has a long history of partnership working with a range of partnership bodies in place with their own plans. Many of the priorities of these partnerships overlap and seek to address the issues identified in the Joint Strategic Needs Assessment. The Joint Strategic Needs Assessment indicates the priorities for Torbay Council, South Devon and Torbay Clinical Commissioning Group and its partners – as a system – to address. The priorities form the 'golden threads' which should underpin all commissioning and service activity across the partnership.

Priority 1: Working together, at scale, to promote good health and wellbeing and prevent illness

Priority 2: Enable children to have the best start in life and address the inequalities in their outcomes

Priority 3: Build emotional resilience in young people

Priority 4: Create places where people can live healthy and happy lives

Priority 5: Support those who are at risk of harm and living complex lives, addressing the underlying factors that increase vulnerability

Priority 6: Enable people to age well

Priority 7: Promote good mental health



Priority 1: Working together, at scale, to promote good health and wellbeing and prevent illness

What do we want to achieve?

We will work with all sectors and organisations in Torbay to put an emphasis on keeping people well, preventing ill health and intervening early if they become ill.

What are our goals?

We want to see:

- more people choosing and enabled to live healthy lifestyles and fewer people unwell
- more people living independently in resilient communities
- people being supported to have the knowledge, skills and confidence to self-care and better manage their health conditions
- the health and care system ready and able to intervene early if necessary.

What are the specific outcomes that we want to see in Torbay by 2022?

There will be a shift to focus on prevention of ill health, self-care and early intervention across all services – prevention of ill health will feature in everybody's plans and the new model of care will optimise prevention within health and social care.

Services will take into account the underlying determinants of health in their day-to-day work and strategies, and we will build community resourcefulness to promote health and emotional wellbeing for all.

People's health literacy and ability to self-help and self-care will be improved, and staff will be given the opportunities and skills to work in a strengths-based way. Transformational models of service and care delivery will be developed with a greater emphasis on enablement and information sharing, in addition to support.

Priority projects will be those which bring the greatest impact. Services will deliver new ways of working that address what is important to people. These services will inform and empower people to lead healthier lives, to identify and address illness earlier and to enable individuals to manage their illness themselves or with the support of assets within their own community.

To make this happen we will:

- Work to encourage the use of the following enabling tools in front-line services:
 - MECC (Making Every Contact Count)
 - Directories of service
 - Social Marketing
 - Community Grants
 - Patient Activation
 - Social prescribing
 - Shared decision making
 - HOPE (Helping Overcoming Problems Effectively)
- Deliver work year-on-year across Torbay in specific project areas to bring early benefits. These project areas include improving access to lifestyle advice, health and lifestyle screening, improving ease of access into lifestyle services, early intervention when someone becomes ill, prevention of falls and frailty, mental health promotion and addressing gaps in how we prevent or control infection in the community and in care homes.

Priority 2: Enable children to have the best start in life and address the inequalities in their outcomes

What do we want to achieve?

We want all children in Torbay to grow up safe, happy and healthy in order that they can reach their full potential. Children and young people have said they want to have fun, to be safe, to be with friends, to be looked after by someone who cares for them, to have a good education, to eat healthy and nutritious food and to be encouraged and supported to do activities and exercises that interest them.

What are our goals?

We want to see:

- children having the best start in life
- the impact on children and families from domestic abuse, alcohol/substance misuse and all forms of child exploitation reduced
- improved education outcomes for all children and young people regardless of where in the Bay they live
- young people being healthy, making positive choices and influencing their own future.

What are the specific outcomes that we want to see in Torbay by 2022?

There will be an integrated service for 0-19 year olds focused on their strengths and needs and on prevention and early intervention. The service will deliver the Healthy Child Programme for all children and young people 0-19 years. Torbay Council's Economic Strategy will tackle child poverty and we will focus on addressing the underlying causes of deprivation in those communities most impacted.

There will be a multi-disciplinary model delivered through Family Hubs providing family support with embedded expertise around child development and health, substance misuse, domestic abuse and sexual violence, adult mental health and child and adolescent mental health. Services will be trauma-informed and take account of Adverse Childhood Experiences in the wider family.

We will drive improvements in attainment whilst ensuring services for vulnerable learners are of high quality to close the attainment gap. We will enable robust education and employment pathways to maximise opportunities for young people.

The emotional health and wellbeing of young children and young people will be improved through working with Play Torbay and the Youth Trust to ensure there are opportunities for young people when they need them most. Children and young people will be provided with opportunities which inspire them.

To make this happen we will...

- Support the formation of a Children and Young Peoples' Strategic Partnership to deliver the Children and Young People's Plan
- Make a Torbay-wide integrated service offer for 0-19 year olds
- Focus on addressing the causes and effects of child poverty
- Promote healthy lifestyles for all ages across the life course, and maintain a focus on keeping children, young people and families well.

Priority 3: Build emotional resilience in children and young people

What do we want to achieve?

We want all children and young people to experience good emotional health and wellbeing, to thrive and have the ability to build emotional resilience.

What are our goals?

We want to see more children and young people:

- experiencing good emotional health and wellbeing
- recovering from their emotional health and wellbeing needs
- having better physical health and better emotional health and wellbeing
- having a positive experience of care and support
- having access to high quality support, as close to home as possible.

And we want to see:

- more people having an understanding of emotional health and wellbeing.

What are the specific outcomes that we want to see in Torbay by 2022?

Families, schools, colleges, local communities and services will be able to develop and support emotional wellbeing and resilience using a model called the THRIVE framework and principles developed by the Anna Freud Centre.

Transitions between support services will be improved, ensuring that children and young people receive effective support when in crisis and provide support to prevent crisis occurring/re-occurring. Support from specialist mental health services will be there when it is needed. Services will be outcomes focused and evaluated.

There will be support for the emotional health and wellbeing needs of those who have experienced abuse (sexual, physical, emotional and/or neglect) and/or physical ill health. Similarly there will be support for those whose parent(s)/carer(s) experience mental ill health; those with Autistic Spectrum Disorder or learning disability; and those who are demonstrating challenging behaviour.

To make this happen we will:

- Support early years settings, schools and colleges through guidance, resources, training opportunities and service signposting via the Torbay Healthy Learning website and social media platform
- Promote and facilitate coordinated personal health and sex education (PHSE) delivery, training and peer support through the multi-agency Wellbeing Outcomes Network;
- Take a whole family approach
- Ensure our objectives are embedded in the 0-19 year integrated service and in the Child and Adolescent Mental Health Service
- Co-design and co-produce with children and young people who are part of the wider system.

Priority 4: Create places where people can live healthy and happy lives

What do we want to achieve?

We want Torbay to be a place where people can thrive, where the housing and infrastructure of the Bay promotes health and where people are engaged with wellbeing.

What are our goals?

We want to:

- get more people moving
- encourage people to reach maintain a healthy weight
- promote people drinking sensibly and becoming smoke free
- enable people to be a part of their community and live fulfilled lives
- ensure our planning and housing systems promote health.

What are the specific outcomes we want to see in Torbay by 2022?

Community resilience will be promoted and improved and there will be a focus on regeneration and skills development.

There will be “Health in All Policies” – the policies of organisations across our partnership will maximise opportunities to promote health and wellbeing in general and to tackle inequalities, in particular. The health and wellbeing of staff will be improved and they will promote wellbeing through their interactions with others.

Standards of accommodation in the private rented sector will be improved and individuals will be encouraged to express concerns, especially those who feel vulnerable or don't wish to act for fear of repercussions.

To make this happen we will...

- Extend the reach of our Healthy Torbay programme to better engage with communities
- Work to develop a Healthy Towns approach, connecting with a wide range of partners, and in particular the community and voluntary sectors, to engage people in their health and wellbeing. Develop partnerships with Councillors and community builders in deprived areas, as the initial phase
- Deliver the Healthy Weight Action Plan through the Healthy Weights Steering Group with an initial focus on infant feeding and a schools-based holiday hunger programme
- Through the multi-agency Physical Activity Steering Group, launch “Torbay on the Move”, and promote flagship projects for all ages across the life course including the “Run for your Life” challenge for primary schools
- Relaunch the Torbay Housing Partnership to provide leadership in progressing the aspirations set out in the Housing Strategy Action Plan. This will include action to address fuel poverty and to respond to poor housing issues
- Establish a Torbay Tobacco Alliance to support our residents and visitors to be smoke free.

Priority 5: Support those who are at risk of harm and living complex lives, addressing the underlying factors that increase vulnerability

What do we want to achieve?

We will work together with people and families who have multiple complex needs to provide an integrated system based on what's important to them. We will focus on prevention of ill health and intervening earlier. We will work with people to achieve improved wellbeing and social stability. We will work with people who have mental or physical health conditions, learning disability and/or autism, towards a goal of full independence.

What are our goals?

We want to:

- develop services for those most in need based on a “Housing First” approach
- redesign the system to have a more preventative strength-based approach and a greater ease of access to support
- ensure the specific needs of young people are considered as they transition into adult services
- ensure any future strategy considers the needs of those who are living with multiple needs
- support young adults with complex needs to live independently
- ensure people are supported by a quality workforce

What are the specific outcomes that we want to see in Torbay by 2022?

We will seek an end to street homelessness in Torbay. All people with complex needs will be offered a holistic assessment that is trauma-informed and considers the drivers of need, such as debt and housing.

There will be a quantifiable decrease in alcohol related admissions to hospital and a fall in emergency visits to hospital because of domestic abuse, sexual violence, self-harm or substance misuse.

There will be a decrease in isolation and improved emotional health for those who are most at risk.

There will be more adults with a learning disability, autism and/or mental health conditions in suitable settled accommodation, and in meaningful employment.

To make this happen we will...

- Invest in service re-design, including outreach, to resolve the issues for those with complex needs such as housing, mental health and drug or alcohol disorders
- Make an integrated support offer for those with complex lives, informed by and involving those with lived experience of complexity
- Implement a multi-agency project to focus on a permanent end to rough sleeping and to support those on the edge of homelessness
- Work to relocate those with the most complex learning disabilities and mental health needs closer to home through the Transforming Care Partnership
- Work with the Devon-wide Sustainability and Transformation Partnership to further integrate mental health and primary care into community settings
- Redesign holistic support for families with children, where there are parental difficulties with mental ill health and/or substance misuse.

Priority 6: Enable people to age well

What do we want to achieve?

We want all people living in Torbay, regardless of age, to feel valued, included and able to become involved in a growing and thriving community. We want Torbay to be a place where there is opportunity for all and where people can grow up, grow old and age well together.

What are our goals?

We want to:

- enable isolated older people to feel (re)connected with friends, their communities and where they live with an increased sense of 'neighbourliness' and engagement in a broader range of accessible and affordable activities
- enable older people feel their lives have value and purpose as life changes, being able to contribute their time, skills and knowledge to their community
- ensure older people have high personal, learning and service aspirations for later life facilitated by better information, advice and more integrated services
- ensure more local residents value older people, and that ageing is viewed positively
- enable older people to remain independent and, when care is needed, to receive support for ongoing needs that it is good quality and builds on their existing strengths.

What are the specific outcomes that we want to see in Torbay by 2022?

Our older people will feel their lives have value and purpose, through being supported to have a positive sense of identity as life changes and being able to contribute their time, skills and knowledge to their community. People in their middle years will view older age as an opportunity.

Our older people will have high personal and service aspirations for later life. Organisations will focus more on what matters to older people as they lead or contribute to decision-making in Torbay, knowing where and how to find information or support if required.

Our older people will feel connected with friends, their communities and where they live through an increased sense of 'neighbourliness'. They will have greater access to technology for information, leisure and social connection. There will be more opportunities to enjoy the outdoors and feel safe in their local environment through improved transport and access.

More of the local community will value older people, and ageing will be celebrated and viewed more positively by all. There will be increased opportunities for others to benefit from the skills and experience of older people and increased opportunities between generations to connect and have a greater understanding.

To make this happen we will...

- Review the benefits of the Ageing Well programme and mainstream those activities that have produced evidenced benefits
- Build more extra care and supported flexible accommodation to meet changing needs
- Shape the care home and care market by collaborative working and provide more dementia and nursing provision
- Test the technological solutions that enable people to stay at home and remain independent
- Support the independent care workforce to be "Proud to Care" and through other innovations including designing new roles that attract people into the sector
- Work to ensure creative housing solutions and changing care settings contribute to the regeneration and vision for our town centres.

Priority 7: Promote good mental health

What do we want to achieve?

We will improve, build on and link to community assets that promote mental wellbeing.

What are our goals?

We want to:

- improve access to services in the right place at the right time
- have a cohesive and joint strategic approach to all-age mental health
- identify and acknowledge the wider determinants that affect mental health and wellbeing
- give a strong focus to preventing mental ill health
- support individual resilience.

What are the specific outcomes that we want to see in Torbay by 2022?

Wellbeing and resilience across the population of Torbay will be improved using evidence based guidance and interventions that are designed to increase awareness and knowledge, reduce stigma and encourage positive behavioural changes.

There will be parity of esteem for mental health across major employers in Torbay. Opportunities will be provided for mental health to be discussed in many more areas than just healthcare settings.

There will be a consistent approach to managing the physical health of individuals with Serious Mental Illness to improve outcomes in relation to long term conditions and life expectancy. Appropriate housing and employment for people with mental illness will be provided.

Access to services will be improved with clear pathways into services, including self-referral, which are easy to use and seamless across organisational boundaries. There will be support within Primary Care settings, such as Health Navigators and specialist practitioners, who can support and signpost individuals, reducing the risk of escalation into secondary mental health services.

To make this happen we will...

- Roll out Making Every Contact Count (MECC) and Making Every Contact Count in Mental Health (Connect 5) training to front-line services and to the community and voluntary sector across Torbay
- Develop a menu of services, within the statutory and voluntary sector, which will support individuals with low level mental health difficulties, such as depression and anxiety, which will reduce the risk of escalation of acuity and crisis
- Run a 5 Ways to Wellbeing social marketing campaign, following the recommendations of the Public Mental Health Concordat
- Better engage with, and build on, the many examples of work in schools, workplaces and communities where communities and staff have begun to address issues around mental ill health within their own town or setting
- Ensure the learning from local ways of working (such as the community-led work in Brixham) is shared and makes a sustainable real difference
- Ensure we action the Torbay Multi-agency Suicide and Self-harm Prevention plan, to better understand, and prevent, suicide and self-harm locally.

Delivery and Oversight

The delivery of this Strategy will be overseen by the Health and Wellbeing Board. Health and Wellbeing Boards were established to:

- Agree the long-term strategy for improving the health and wellbeing of the people of Torbay
- Oversee the implementation of the Joint Health and Wellbeing Strategy
- Promote integration throughout the health and wellbeing system to ensure delivery against the Board's priorities.

However, the integration of health and social care in Torbay was well established before the requirement to appoint Health and Wellbeing Boards. Similarly, and as referenced earlier, many other partnerships have been in place in Torbay for a number of years.

It is also recognised that the system priorities cover many areas, and that these are being addressed by a number of already established organisations and partnership arrangements. These partnerships include:

- Devon-wide Strategic Transformation Partnership (STP)
- Torbay and South Devon Local Care Partnership
- Torbay and South Devon NHS Foundation Trust Prevention Board
- Children and Young People's Strategic Partnership
- Torbay Community Safety Partnership
- Healthy Torbay Steering Group
- Ageing Well Torbay.

The Health and Wellbeing Board (the Board) will seek assurance that issues are being addressed, and it will also identify areas where it can add value.

The work of the Board will be set out in an Annual Work Programme which will be determined by identifying:

- **Issues to Watch** – these are areas where the Board is interested but only needs to keep a watching brief on delivery, probably through oversight of key outcomes. The Board will trust that other organisations or partnerships are delivering the system priorities.
- **Issues to Sponsor** – these are areas that the Board will actively promote but leaves other organisations and partnerships to deliver, seeking only assurance of outputs and outcomes from this work. The Board will encourage integration and partnership working to deliver system priorities. There will normally be no more than four issues to sponsor each year.
- **Areas of Focus** – these are areas where the Board will have more direct involvement and debate to assure itself the detail of the delivery. The Board will be seeking a commitment to action from its partner members. There will normally be two areas of focus each year.

Each year, a review will be undertaken by the Board to agree which areas require which particular focus. The measures on the following page will be used to track progress against the priority areas.

Measure	Time period	Type	Torbay	Similar areas	Devon wide – STP	National	Trend
Early years good development	2016/17	%	71.7%	70.9%	69.8%	70.7%	
Child poverty	2015	%	20.2%	18.1%	14.6%	16.8%	
Attainment gap in schools	2017	%	23%				
Smoking in pregnancy rate	2016/17	%	15.2%	13.5%	12.5%	10.7%	
Adult smoking rate	2016	%	16.7%	16.0%*	14.1%	15.5%	
Physically active adults	2016/17	%	67.1%	65.5%*	69.5%*	66.0%	
Alcohol attributable admissions	2016/17	Per 100,000	2444	2504*	2188*	2185	
Children overweight or obese in year 6	2016/17	%	34.0%	34.8%	30.3%	34.2%	
Self-harm admissions	2016/17	Per 100,000	362.8	249.2*	285.2*	185.3	
Mortality rate from preventable conditions	2014-16	Per 100,000	187.4	202.5*	163.7	182.8	
Low happiness score	2016/17	%	10.0%	9.6%*	8.9%*	8.5%	
Suicide rate	2014-16	Per 100,000	14.1	11.6*	11.5	9.9	
Social connectedness							
Fuel poverty	2015	%	10.8%	11.0%	12.0%	11.0%	
Numbers of category 1 hazards							
Life expectancy gap in males	2014-16	Years	8.6	10.0*	7.5*	N/A	
Life expectancy gap in females	2014-16	Years	4.3	7.6*	4.9*	N/A	
Feel supported to manage own condition	2016/17	%	65.6%	66.1%*	66.9%*	64.0%	
Homelessness rates	2016/17	Per 1000 households	2.72	to be completed	to be completed	2.54	
Domestic abuse crimes and incidents	2017/18	Number	3533				
Successful drug treatment rates	2016	%	8.40%	6.34%	6.54%	6.70%	
Proportion of people who use services who reported they had as much social contact as they would like	2016/17	%	52.70%	48.11%	46.92%	45.40%	
Proportion of carers who reported they had as much social contact as they would like	2016/17	%	34.40%	36.58%	to be completed	35.50%	No trend

Record of Decision

Thriving lives: Joint Health and Wellbeing Strategy 2018-2022

Decision Taker

Elected Mayor on 22 November 2018

Decision

That the Council be recommended to approve the Thriving lives: Joint Health and Wellbeing Strategy 2018-2022 as set out at Appendix 1 to this Record of Decision.

Reason for the Decision

To enable the Joint Health and Wellbeing Strategy to be ratified and adopted by Torbay Council.

Implementation

The recommendation of the Elected Mayor will be considered at the Council meeting on 5 December 2018.

Information

At a workshop in February 2018, the Health and Wellbeing board agreed a set of priorities for the health and wellbeing system, as a whole, in Torbay. It was recognised there are a range of plans and strategies of a number of partnerships and organisations which aim to address these priorities.

The draft Thriving Lives: Joint Health and Wellbeing Strategy 2018-2022 appended to this Record of Decision collates the goals and outcomes of those plans and strategies, as they relate to Torbay, into one Strategy and was endorsed by the Health and Wellbeing Board at its meeting held 12 July 2018.

As part of Torbay Council's Policy Framework, the draft Strategy was subject to public consultation for at least 6 weeks. There were no 'in scope' comments received from the public during this time. The Elected Mayor received the final draft Strategy on 6 November 2018 and approved the contents and the process undertaken to date.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

Yes – Reference Number: I039285

Does the call-in procedure apply?

No

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

Standards Committee)

None

Published

22 November 2018

Signed: _____
The Elected Mayor of Torbay

Date: 22 November 2018



Meeting: Council

Date: 5 December 2018

Wards Affected: All wards in Torbay

**Report Title: Review of Constitution for Leader and Cabinet System of Governance
May 2019 – Constitution Working Party Recommendations**

Is the decision a key decision? No

When does the decision need to be implemented? May 2019

Supporting Officer Contact Details: Anne-Marie Bond, Director of Corporate Services,
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1. Proposal and Introduction

1.1 Following the Governance Referendum held in 2016, the Leader and Cabinet system of governance will be implemented after the all-out local elections in May 2019. This report sets out a provisional Constitution to enable the new the Leader and Cabinet system to be in place from May 2019. The new Council will be able to further review the Constitution once it is established following the elections.

2. Reason for Proposal and associated financial commitments

- 2.1 To ensure that the Constitution complies with the statutory requirements for a leader and cabinet system of governance.
- 2.2 The proposals contained in this report will not directly commit the Council financially.

3. Recommendation(s) / Proposed Decision

- 3.1 That the provisional Constitution, as appended to this report, be approved and to be effective from the commencement of the Council's new Leader and Cabinet governance arrangements from 5 May 2019. (A summary of key changes is outlined in Section 1, paragraph 3 below), with the newly elected Council (post May 2019) requested to consider and review the following:
- a) The Council's decision-making structure and terms of reference of committees etc. to reflect the Leader and Cabinet System of Governance;

- b) The Council's Local Choice Functions under the Leader and Cabinet system. Specific areas to consider:

- 15. Appointments to other bodies; and

- 17. Function of Harbour Authority (e.g. whether the Harbour Committee continues as a Council function or the Harbour function transfers to the Cabinet);

- c) The operation of Members' Questions at Council meetings;
- d) The scope of Notice of Motions for Council meetings;
- e) The Outside Body Reporting Protocol (E23.2 and Appendix 1); and
- f) The approach for appointments to outside organisations and the application of cross party principles (links to the review of Local Choice functions).

- 3.2 That the new Administration in May 2019 be recommended to prepare a new Policy Framework structure and hierarchy alongside the new Corporate Plan.
- 3.3 That the Chairman/woman and Vice-Chairman/woman of the Council be referred to as Ceremonial Mayor and Deputy Ceremonial Mayor from May 2019 onwards, to ensure the role is clear for the community.
- 3.4 That delegations are given to the Chief Executive on Executive Functions on grounds of urgency during circumstances where there is no appointed Leader by the Council (e.g. during the interim period of a Local Election and Annual Council to appoint the new Leader of the Council; or in absence of the Leader of the Cabinet and where no Deputy Leader is appointed and/or where the delegation arrangements by the Leader to Cabinet members are not in place; or during the period where the Council has removed the Leader of the Council by resolution and the new Leader is to be appointed at the subsequent Council.) (Para 1.20 of Chief Executive's specific delegations refers).
- 3.5 That delegated authority be given to the Monitoring Officer to make any further technical changes and/or changes to existing Constitution which apply changes to the provisional Constitution for May 2019, in consultation with the Chairman of the Constitution Working Party, prior to recommending the new Constitution for approval to the new Council in May 2019.
- 3.6 That the Independent Remuneration Panel (IRP) undertake its review of the Members' Allowances Scheme for the new Leader and Cabinet system and make recommendations to Council at its meeting on 31 January 2019. The IRP be recommended to make recommendations to Council that keep the Scheme within the current budget.
- 3.7 That the current Members' Allowances Scheme be extended to 5 May 2019.

Appendices

Appendices 1 to 55: Provisional Constitution for May 2019

Background Documents

Local Government Act 2000

Local Authorities (Functions and Responsibilities) (England) Regulations 2000

Local Authorities (Standing Orders) (England) Regulations 2001

Local Government and Public Involvement in Health Act 2007

Localism Act 2011

Section 1: Background Information

1.

Background

The Constitution Working Party met on 6 occasions to review the entire Constitution for the new system of governance. Membership over these meetings of the Working Party (including substitutions) included: Councillors Hill (Chairman), Bye, Darling (S), Ellery, Kingscote, Morey, Sanders, Stocks, Thomas (D), Tolchard, Tyerman.

The current Constitution is based on the model constitution arising from the Local Government Act 2000. In undertaking the review of Constitution for 2019, advice was sought from the LGA as to best practice, along with external legal advice on the practicalities of the Leader and Cabinet system of governance. A review of other councils' constitutions was also undertaken to establish best practice. The LGA advised that the Torbay's Constitution was a good and workable document. Other councils follow pretty much the same format. Therefore, it is proposed that the current Constitution is not changed significantly as it follows best practice and members and officers are familiar with its contents and layout.

The Working Party requested a particular focus on Council Standing Orders and the Civic/ceremonial role. Best practice obtained from other Councils, along with our current practice in Council meetings has been reflected in the revised Council Standing Orders. Also, a new Local Protocol for Civic and Ceremonial has been drafted.

2.

Outline of Leader and Cabinet Form of Governance and Role of the Leader

Following the governance referendum held in 2016, the Leader and Cabinet system of governance will be implemented at the next all out local elections in May 2019. The system comes into force on the third day after the day of the election (5 May 2019). The Elected Mayor's term of office ceases on 5 May 2019.

The full Council will elect a Leader from its membership of 36 councillors. The term of office of the Leader is dictated in legislation and will be for the four year term of office until the Annual Council meeting following the next all-Council election. An early Annual Council meeting following 5 May 2019 to elect the Chairman (Ceremonial Mayor) and Leader of the Council is recommended. In addition it is recommended the Chief Executive is given delegated authority to take any urgent Executive decisions after the local elections and before the appointment of the new Leader, along with other circumstances where a Leader is not in post and there are no other delegation arrangements in place.

The Leader (once appointed) has the same powers as an elected Mayor and is responsible for exercising all executive functions within the budget and policy framework approved by Council.

	<p>The Leader appoints a Cabinet of between 2 and 9 elected councillors and must appoint one of those as a Deputy Leader. The maximum number on the Cabinet is 10 (including the Leader). The Cabinet need <u>not</u> be politically balanced.</p> <p>The Leader is responsible for delegating individual or collective decision-making powers to the Cabinet members at his/her discretion. The Deputy Leader acts in the place of the Leader when the Leader is not available.</p> <p>The Council specifies in the Constitution how the Leader can be removed. The Leader can only be removed if there is a vote to do this which is supported by the majority of councillors at a Council meeting. If the Leader is removed another Leader must be elected at that Council meeting or the next Council meeting. Where the Leader is removed by the Council, his/her Cabinet is also deemed to be removed and a new Cabinet shall be appointed by the newly appointed Leader.</p> <p>As with the elected Mayor system of governance, some non-executive functions are reserved for committees (such as Planning or Licensing). The appointment of at least one overview and scrutiny committee is required under the Leader and Cabinet system.</p> <p>The Leader and his/her Cabinet must not include the ceremonial Chairman and Vice-Chairman of the Council (or proposed new name of Ceremonial Mayor and Ceremonial Deputy Mayor).</p> <p>A table at the foot of this report sets out main differences between the Council's current arrangements with a directly elected Mayor and the new form of Governance of a Leader and Cabinet.</p>
<p>3.</p>	<p>Summary of main changes to current Constitution</p> <p>The proposed provisional Constitution is appended to this report and reflects the new governance arrangements which will apply from May 2019. Throughout the provisional Constitution references to the Elected Mayor have been removed and replaced where appropriate with the Leader of the Council.</p> <p>Set out below are the most significant changes being proposed or required under statute for each major section of the Constitution. However, it is not an absolute list of all those changes and Members are requested to endeavour to read the entire updated Constitution that has been circulated.</p> <p>Part 1 – Introduction No major changes.</p> <p>The new Council (post May 2019) is recommended to review decision-making structure and terms of reference to reflect Leader and Cabinet system.</p> <p>Part 2 – Articles General updating to reflect Leader and Cabinet system, including appointment and removal of Leader of Council by the Council (Articles 4 and</p>

6). The removal of the Leader of Council by the Council results in Cabinet members and the Deputy Leader ceasing to be a member of the Cabinet.

The Council is recommended to consider renaming the Chairman/woman and Vice-Chairman/woman to Ceremonial Mayor and Deputy Ceremonial Mayor to ensure the role is clear and distinct from the current Elected Mayor and the role description is understandable for the community. (Note: If accepted by the Council, the references to Chairman/woman and Vice Chairman/woman will be updated throughout the new Constitution).

The Working Party reviewed the current provisions for the Chairman/woman not to be a member of any committee, sub-committee or working party or attend at any meeting as a substitute. For good governance, it was felt important for the Chairman/woman to maintain neutrality and have sufficient capacity to accommodate civic functions and therefore, the Working Party concluded that the current provisions should remain.

It is recommended the new Administration prepare a new Policy Framework structure and hierarchy alongside the new Corporate Plan.

The Forward Plan currently includes all key decisions for both the Executive and Council. Under the Leader and Council system this is not necessary and other authorities do not follow this practice. Therefore, to reflect best practice and efficient decision-making processes it is proposed that the new Constitution only requires Executive decisions to be published in the Leader of the Council's Forward Plan.

Part 3 – Responsibility for functions

General updating to reflect the Leader and Cabinet system.

The new Council is recommended to review the Council's Local Choice functions under the Leader and Cabinet system, specifically Appointments to other bodies and function of the Harbour Authority. The functions of the Harbour Authority are currently a Council function and delegated to the Harbour Committee. The new Council may wish to consider whether these functions are transferred to the Cabinet.

The new Council is also recommended to review the decision-making structure and terms of reference to reflect the Leader and Cabinet system.

New provisions are recommended for delegations to the Chief Executive to make decisions on Executive functions on grounds of urgency where there is no appointed Leader by the Council (Para 1.20 of Chief Executive's specific delegations refers). These circumstances include:

- during the interim period of a Local Election and Annual Council to appoint the new Leader of the Council; or
- in absence of the Leader of the Cabinet and where no Deputy Leader is appointed and/or where the delegation arrangements by the Leader to Cabinet members are not in place; or

- during the period where the Council has removed the Leader of the Council by resolution and the new Leader is to be appointed at the subsequent Council.)

Part 4 – Standing Orders and Financial Regulations

Overall general updating to reflect legislation for Leader and Cabinet system and current practice.

Council Standing Orders have been reviewed to reflect current and best practice, provide clarity and make general improvements to the running of Council meetings. Main changes include:

A1.2 – Election of Leader for four year term

A1.2 and A2.1 – Introduction of a 4 year calendar of meetings to assist with forward planning

A2 – Order of Business for Ordinary Meeting to be determined by Chairman/woman

A3.2 – Extraordinary meetings to only include business for the purpose for the meeting being called

A10.1 – Quorum will reduce to 9 members under Leader and Cabinet system

A11.1 – Duration of meeting includes adjourned meeting

A12 – Petitions moved to sit with Public Question Time, so public participation Standing Orders are together (Note: the Council Standing Orders to be renumbered and references updated throughout the rest of the Constitution once approved by Council.)

A13.10 – Responses to members questions to be published 1 hour before the meeting to reflect current practice

A13.10 – Member asking question not present at meeting to seek agreement from Chairman/woman for another member to present the question or the question will be withdrawn

A13.11 – Supplementary question introducing time limits to ensure 30 minutes allocated for members' questions is used effectively

A14.2(a)/A14.3 – Motions for Cabinet or Council Committee to be included on relevant agendas and without introductory speeches at Council meeting

A14.2(d) – If Motion includes financial implications for the Council it requires advice from Council's Chief Finance Officer, with provision for Motion to be deferred to a subsequent meeting to ensure sufficient time for officers to assess proposals

A16 – Clarification note that Rules of Debate are different for Licensing and Planning applications considered by Council meeting

A16.7 – Process for preparing amendments in advance of meeting

A16.10 – Clarification that the mover of the original motion retains the right of reply on substantive motions and new provision providing mover of amendment right of reply prior to mover of original motion

A16.11 – Explanatory notes moved to sit with list procedural motions for ease of reference

A16.12/A16.3 – Point of Order/Personal Explanation: clarification when these will be heard by the Chairman/woman

A16.14 – Introduction of briefings by officers during meeting in exceptional circumstances and with consent of the Chairman/woman

A18.1 – Clarification that this Standing Order does not to apply to decisions previously rescinded

A18.2 – Motion similar to one previously rejected updated to include amendments at meetings to apply (in line with A18.1 Motion to rescind a previous decision)

A19.1 – Chairman/woman will read out motion or amendment if complex and clarity is needed before voting

A19.7 – Party Whip: The Constitution Working Party reviewed options following Council's decision in February 2011 to introduce a restriction of party political whips at any decision making committee while the elected mayor system of governance was in use in Torbay. The Working Party recommends the removal of this Standing Order A19.7 in its entirety as it does not apply under the Leader and Cabinet system.

A21.1 – Governance Support taking attendance to reflect current practice

A24.1 – Public question updated to reflect current practice of the Chairman/woman accepting public questions/statements after deadline in exceptional circumstances with 2 clear working day deadline

A24.5 and A24.7 – Updated to reflect public statements do not get a response from the relevant member as this is not necessary

A25.7 – Members leaving during the meeting to be recorded in the minutes, to reflect current practice

A27.1 – live stream recordings on social media included

The Constitution Working Party recommend that the new Council reviews: the operation of Members' Questions at Council meetings; and the scope of Notice of Motions for Council meetings.

Cabinet Standing Orders have been updated to reflect the introduction of Cabinet meetings and working parties.

New Standing Order (B5) for Committee and Sub-Committee meetings has been introduced for Rules of Debate to reflect current practice.

Access to Information Standing Orders – the Constitution Working Party recommend that the new Council review the Outside Body Reporting Protocol.

(Note: Updating of application of Council Standing Orders to Standing Orders for Committees and Sub-Committees (B6), Cabinet (C13), Overview and Scrutiny (D15), Standing Orders for Health and Wellbeing Board (H9) and Local Protocol – Working Parties (para 9) to be completed once document approved by Council)

Part 5 – Codes and Protocols

General updating to reflect Leader and Cabinet system, minor improvements and current practice.

Member Code of Conduct includes reference to bias, predetermination and predisposition.

Local Protocol for Member and Officer Relations includes reference to: the Council's arms length companies; current practice with the member casework system; external advisors to political groups where officers are attending group meetings; guidance on complaints in respect of the Chief Executive; and references for breaching the Code of Conduct.

The Constitution Working Party reviewed the Local Protocol for Relations Between the Elected Mayor and Political Groups. This protocol was introduced in 2011 under the Mayoral system of governance. The Working Party considered that this protocol should continue under the Leader and Cabinet system as it promotes good practice between political groups and mirrors the Local Protocol for Member and Officer Relations. A number of minor changes are proposed to reflect the Leader and Cabinet system. Linking to references above to outside organisations, the Working Party recommend that the new Council be requested to review the approach for appointments to outside organisations and the application of cross party principles.

A complete review of the Local Protocol for Licensing Matters has been undertaken to ensure it is up to date and reflects current practice, along with removing duplication.

The Local Protocol for Gifts and Hospitality has been updated to strengthen integrity and further protect members in respect of the offer of gifts to the Council whereby they are referred to the Chief Executive or relevant Director for acceptance where appropriate.

The Local Protocol for Members IT will be updated once members' IT provision for 2019 has been confirmed. The recommended changes in the Protocol also strengthens the use of members' private emails addresses for Council business linking to members' Data Protection responsibilities (paragraph 11.8 refers).

	<p>The Local Protocol for DBS Checks for Members includes provision for the Leader of the Council to be informed of positive disclosures in respect of Cabinet members (so he/she is aware of any potential conflict with Cabinet member portfolios for children and adults).</p> <p>The Local Protocol for Members of the Harbour Committee includes the removal of the TDA External Advisor appointment as it is considered this appointment could generate a conflict of interest in respect of tendering processes.</p> <p>A new local protocol for Civic and Ceremonial is proposed by the Working Party. This new protocol provides clarity and a consistent approach in respect of civic and ceremonial events and ensures the correct etiquette is applied to the Council's civic function. The Protocol includes reference to the proposed naming of Ceremonial Mayor and Deputy Ceremonial Mayor throughout.</p> <p>Part 6 – Members' Allowances and Job Descriptions Minor updating has been made to these sections to reflect the Leader and Cabinet system and current practice.</p> <p>The Working Party considered the timing for the four yearly review of the Members' Allowances Scheme by the Independent Remuneration Panel. The Working Party recommend that: (a) the Independent Remuneration Panel undertake its review of the Members' Allowances Scheme for the new Leader and Cabinet system and make recommendations to Council at its meeting on 31 January 2019 (note the IRP be recommended to make recommendations to Council that keep the Scheme within the current budget); and (b) the current Members' Allowances Scheme be extended to 5 May 2019.</p>
<p>4.</p>	<p>What are the alternative options?</p> <p>Not to accept some or all of the suggested changes to the Constitution. However, Members will need to be aware that the majority of the changes are required by law.</p>
<p>5.</p>	<p>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</p> <p>The changes proposed to the Constitution for May 2019 arise from statutory requirements for a leader and cabinet system of governance. The revisions also assist with the Corporate Plan principle of using resources to best effect.</p>
<p>6.</p>	<p>What are the financial and legal implications?</p> <p>The Local Government Act 2000 (as amended by the Local Government and Public Involvement in Health Act 2007) requires the Council to have a constitution. The provisional Constitution set out in Appendix 1 to 55 reflects</p>

	<p>the new governance model of Leader and Cabinet due to be introduced in May 2019.</p> <p>There are no direct financial implications arising out this report. It is recommended the Independent Remuneration Panel recommend a new Members' Allowances Scheme encompassing the Leader and Cabinet model to the Council meeting on 31 January 2019, and this to be within existing budget.</p>
<p>7.</p>	<p>What are the risks?</p> <p>The risks associated with the recommendations are low. The majority of the proposed changes to the Constitution are required by law to reflect the Leader and Cabinet system of governance. The opportunity has been taken to review the whole Constitution and a number of changes have been made for clarity and to reflect best practice.</p>

The table below sets out the differences between the Council's current arrangements with a directly elected Mayor and the new form of Governance of a Leader and Cabinet:

Function	Current Elected Mayoral Executive Arrangements	New Leader and Cabinet System
Division of functions between Council and Executive	<p>Council sets Budget and Policy Framework. The Elected Mayor's Executive is responsible for implementing this and for other non-regulatory functions of the Council.</p> <p>The Elected Mayor submits budget or policy framework proposals. Council can then reject by 2/3rds majority vote after giving its objections to the Elected Mayor.</p>	<p>No change</p> <p>The Leader submits budget or policy framework proposals. Council can then reject by simple majority vote after giving its objections to the Leader.</p>
Election and term of office of Elected Mayor/Leader	Mayor is elected by Torbay's electors for a four year term at each Mayoral election.	Leader is elected by the Council from among the councillors for a four year term.
Removal of Elected Mayor/Leader	Elected Mayor cannot be removed by vote of Council. If Elected Mayor resigns during term, Mayoral election is triggered.	<p>The Constitution must provide for full Council to have power to remove the Leader by resolution.</p> <p>The Leader cannot be removed other than by resolution by full Council.</p> <p>If a Council passes a resolution to remove the Leader, a new Leader is to be elected at that meeting or at a subsequent meeting.</p>
Status	Elected Mayor is not a councillor.	Leader is a councillor and can only remain Leader if still a councillor.

Function	Current Elected Mayoral Executive Arrangements	New Leader and Cabinet System
Appointment of Executive/Cabinet Members	<p>Elected Mayor appoints two or more councillors to the Executive/Cabinet, not exceeding 10 including the Elected Mayor.</p> <p>Executive must not include Chairman/woman or Vice-Chairman/woman or Overview and Scrutiny Board members.</p>	<p>No change (Leader appoints)</p> <p>No change</p> <p>The Executive is referred to as the Cabinet under the Leader and Cabinet system.</p>
Allocation of Executive/Cabinet Portfolios	Elected Mayor allocates portfolios.	No change (Leader).
Appointment of Deputy Mayor/Deputy Leader	The Elected Mayor must appoint a Deputy Mayor who will be a member of the Executive and can exercise the Elected Mayor's functions if the Elected Mayor is unable to act. Deputy Mayor serves the same term as the Elected Mayor, but can be removed by the Elected Mayor.	No change (Leader).
Exercise of Executive functions	<p>All Executive powers are vested in the Elected Mayor.</p> <p>The Elected Mayor may exercise any Executive function personally or may delegate to the Executive, an Executive committee, Executive Member of an Officer.</p> <p>Executive members are accountable to the</p>	<p>No change (Leader).</p> <p>No change (Leader).</p> <p>Cabinet members are accountable to the</p>

Function	Current Elected Mayoral Executive Arrangements	New Leader and Cabinet System
	Elected Mayor who in turn is directly accountable for the discharge of Executive functions.	Leader who in turn is directly accountable to the Council for discharge of executive functions.
Role of Non-Executive Councillors	<p>Hold the Executive to account for decisions and participate in policy development via overview and scrutiny.</p> <p>Can call-in Executive decisions.</p>	No change.
Appointments to outside bodies	<p>Outside body appointments made by Council following all council election for a four year period (unless appointment is an Executive function or has been delegated by Council) in accordance with political balance.</p> <p>Chief Executive, in consultation with Mayor and Group Leaders, makes new appointments within 4 year term of office or may refer to Council for determination.</p>	<p>Appointments to Outside Bodies are a Local Choice Function.</p> <p>New Council to review.</p>
Civic role	Chairman/woman appointed at Annual Council. Chairs Council meeting and is first citizen undertaking civic role.	No change, except renaming and the Leader of the Council can not be the Chairman/woman of Council.

Introduction to the Constitution and how the Council operates

(References: Part 1A of the Local Government Act 2000; Localism Act 2011 (Commencement No.2 and Transitional and Saving Provisions) Order 2012/57)

The Borough of Torbay is situated on the south west coast of England and consists of three towns Brixham, Paignton and Torquay. Torbay is divided into 165 areas which are called wards.

Torbay Council's ambition, through its Corporate Plan, is for Torbay to be prosperous and healthy. This will be achieved through the following targeted actions:

- Protecting all children and giving them the best start in life;
- Working towards a more prosperous Torbay;
- Promoting healthy lifestyles across Torbay;
- Ensuring Torbay remains an attractive and safe place to live and visit; and
- Protecting and supporting vulnerable adults.

The Council's Constitution

~~On 14 July 2005 a referendum was held for the residents of Torbay to determine how the Council should be run. The referendum resulted in a "yes" vote for an elected mayor system of governance. The Council held a Governance Referendum on 5 May 2016 where Torbay's residents voted to change the governance arrangements from a mayor and cabinet to a leader and cabinet. The current elected mayor and cabinet arrangements will remain in place until May 2019.~~ The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.

What is in the Constitution?

The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules (called Standing Orders) and protocols at the end of the document.

Article 1 sets out the Council's priorities and describes the principles of decision-making.

Articles 2 – 15 explain the rights of local people and how the key parts of the Council operate. These are:

- a) Members of the Council (Article 2)
- b) Local people and the Council (Article 3)
- c) The Council (Article 4)
- d) Overview and Scrutiny (Article 5)
- e) The Leader~~Elected Mayor~~ and Executive Cabinet (Article 6)
- f) Regulatory and other committees (Article 7)
- g) Area committees (Article 8)

- h) Joint arrangements (Article 9)
- i) Officers (Article 10)
- j) Decision-making (Article 11)
- k) Finance, contracts and legal matters (Article 12)
- l) Review and revision of the Constitution (Article 13)
- m) Suspension, interpretation and publication of the Constitution (Article 14)
- n) Health and Wellbeing Board (Article 15)

How the Council operates

The Council comprises ~~the Elected Mayor and~~ 36 councillors. ~~The Mayor is elected every four years on the same day as the election for councillors.~~ The regular election of councillors is held on the first Thursday in May every four years. ~~The Elected Mayor will hold office until May 2019 when the Council will change to a leader and cabinet style of governance.~~ Councillors are democratically accountable to residents in their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. ~~The Elected Mayor represents the community of Torbay as a whole.~~

The ~~Elected Mayor and~~ councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Standards Committee oversees and promotes high standards of conduct by ~~the Elected Mayor and~~ councillors.

~~The Elected Mayor and a~~All councillors meet together as the Council. Meetings of the Council are usually open to the public. Here councillors decide the Council's overall policies and set a budget each year. The Council appoints the Leader of the Council at the first Council meeting after an all-Council election. The Leader of the Council appoints a Deputy Leader of the Council. The Leader and Deputy Leader hold office for the next four years. The Council also appoints an Overview and Scrutiny Co-ordinator and Overview and Scrutiny Lead Members, plus a number of regulatory and other committees.

The Leader of the Council ~~Elected Mayor~~ is responsible for appointing between two and nine councillors to be members of the Executive Cabinet and for deciding whether to allocate any areas of responsibility to these councillors.

A structure chart showing the relationship between the Council, the Leader of the Council ~~Elected Mayor~~ and Overview and Scrutiny and other committees can be found at the end of this document.

How decisions are made

~~The Elected Mayor~~Leader of the Council ~~appoints between two and nine councillors to his/her Cabinet~~Executive. The ~~Elected Mayor~~Leader of the Council and the Executive Cabinet are responsible for major decisions including key policy matters within a

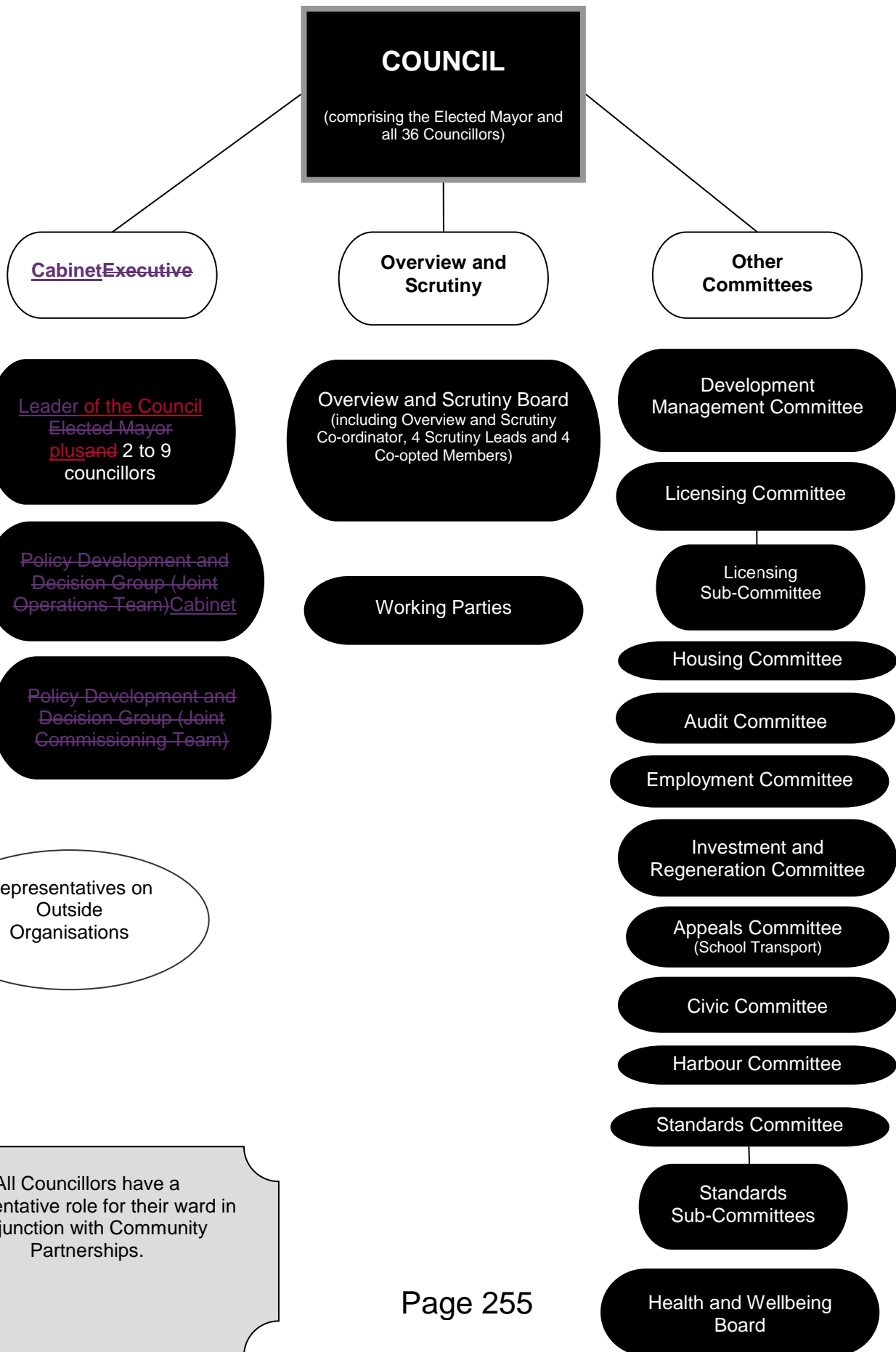
framework set by Full Council. These are ~~sometimes~~ referred to as “Executive Functions”. When major decisions are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. The ~~Mayor~~Leader of the Council usually takes most of his/her decisions at meetings of the ~~Policy Development and Decision Group (Joint Operations Team)~~ or the ~~Policy Development and Decision Group (Joint Commissioning Team)~~ Cabinet and these meetings will generally be open for the public to attend except where exempt or confidential matters are being discussed. The ~~Elected Mayor~~Leader of the Council and the ~~Cabinet~~Executive have to make decisions which are in line with the policies and budget set by Council. If they wish to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. The Council has an overview and scrutiny process which provides a ‘critical friend’ challenge to ~~executive~~cabinet policy makers and decision making.

The Council’s staff

The Council employs staff (called officers) to give advice, implement the ~~Elected Mayor~~Leader’s and Councillors’ decisions and manage the day-to-day delivery of its services. Officers make operational, day to day decisions in accordance with major policy guidelines and budget decisions made by the ~~Elected Mayor~~Leader of the Council and Councillors, following consultation with them when appropriate. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A local protocol governs the relationships between officers and members of the Council which can be found in Part 5 of the Council’s Constitution.

For further information on how the Council operates and the information set out in this Constitution, please contact Governance Support (telephone 01803 207087 or e-mail governance.support@torbay.gov.uk).

Decision Making Structure 2018 – New Council post May 2019 to review



Article 1 – The Constitution

(References: Section 37, Local Government Act 2000,
The Local Government Act 2000 (Constitutions) (England) Direction 2000)

1.01 The Constitution

This Constitution, and all its appendices, is the Constitution of the Council of the Borough of Torbay. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

1.02 Purpose of the Constitution

The Council aims to deliver efficient, transparent and accountable decision-making. In light of this, the purpose of this Constitution is:

- (i) To enable the Council to provide clear leadership to the community in partnership with local people and public, private, voluntary and community organisations.
- (ii) To support the active involvement of local people in the process of local authority decision-making.
- (iii) To help councillors represent their constituents more effectively.
- (iv) To enable decisions to be taken efficiently and effectively.
- (v) To create a powerful and effective means of holding decision-makers to public account.
- (vi) To ensure that no one will review or scrutinise a decision made by them directly or made by a body of which they were a member at the time the decision was made.
- (vii) To ensure that those responsible for decision-making are clearly identifiable to local people and that they explain the reasons for decisions.
- (viii) To provide a means of improving the delivery of services to the community.

1.03 Interpretation and review of the Constitution

Where the Constitution permits the Council to choose between different courses of action, the Council will always choose that option which it thinks is closest to the purposes stated above.

The Council will regularly monitor and evaluate the operation of the Constitution as set out in this Article and will take into account comments on its operation made to the Monitoring Officer who is responsible for maintaining and improving its effectiveness. Article 13 sets out further details of the review and revision of the Constitution.

Article 2 – Members of the Council ~~Appendix 3~~

(References: Part 1, Part VA and Sections 79 and 80, Local Government Act 1972, Section 18, Local Government and Housing Act 1989 and regulations thereunder, Section 7, Superannuation Act 1972 and regulations thereunder, Section 9H Local Government Act 2000 and regulations thereunder)

2.01 Composition and eligibility

(a) Composition

The Council ~~is comprised of the elected mayor (known as the Elected Mayor) and 36~~ members (otherwise called councillors). Councillors are elected by the registered voters of each ward in accordance with a scheme drawn up by the Electoral Commission and approved by the Secretary of State. ~~The Elected Mayor will be elected in accordance with the provisions of Article 2.02.~~

The Borough of Torbay is divided into ~~165~~ Wards with either one, two or three councillors elected to serve each ward.

(b) Eligibility

To be eligible to stand for election as a ~~Elected Mayor or~~ councillor a person must be over 18 years of age and a British or Commonwealth subject or a citizen of the Republic of Ireland or the European Union and either:

- (i) be registered to vote in Torbay;
- (ii) have occupied, as owner or tenant, any land or premises in the area of Torbay during the whole twelve months preceding the day on which he/she is nominated as a candidate;
- (iii) have resided in the area of Torbay during the whole twelve months preceding the day on which he/she is nominated as a candidate; or
- (iv) have his/her principal or only place of work in the area of Torbay in the twelve months preceding the day on which he/she is nominated as a candidate.

Disqualifications for the office of ~~Elected Mayor or~~ councillor (as set out in section 79 and 80 of the Local Government Act 1972) include:

- (i) ceasing to be a local government elector for the Borough when that was his/her sole qualifying criteria for election to office;
- (ii) holding a paid office by Torbay Council or politically restricted post elsewhere within the meaning of Part 1 of the Local Government and Housing Act 1989;
- (iii) bankruptcy;
- (iv) having been sentenced to a term of imprisonment of not less than three months during the five years preceding an election; or
- (v) being disqualified under any enactment relating to corrupt or illegal practices.

~~2.02 Election of Mayor and Term of Office~~

~~(a) The term of office for the Elected Mayor is four years. He/she will take office on the fourth day after his/her election and will continue in office until the fourth day after his/her successor is elected, unless he/she ceases to be the Elected Mayor.~~

~~(b) The elected mayor may at any time during his/her term of office resign by giving notice in writing to the Chief Executive. Upon receipt of written notice of resignation of the elected Mayor the Council will make arrangements for the holding of a mayoral election.~~

~~(c) The Elected Mayor will hold office until:~~

- ~~(i) he/she resigns from the office (by giving notice in writing to the Chief Executive); or~~
- ~~(ii) he/she is disqualified from being a member of the Council under Part III of the Local Government Act 2000; or~~
- ~~(iii) he/she is suspended from being a member of the Council under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or~~
- ~~(iv) he/she is no longer qualified to be an elected Mayor of the Council by virtue of Section 79 or Section 80 of the Local Government Act 1972 (see paragraph 2.01(b) above); or~~
- ~~(v) his/her term of office as the Elected Mayor expires; or~~
- ~~(vi) he/she dies.~~

2.023 Election and terms of councillors

The regular election of councillors will be held on the first Thursday in May every four years with the next election being in 20~~23~~¹⁹. The terms of office of councillors will start on the fourth day after the date of the election that they were elected and will finish on the fourth day after the date of the next regular election.

2.034 Vacation of Office by Failure to Attend Meetings

Section 85 of the Local Government Act 1972 requires (subject to exceptions) that a member of a local authority shall cease to be a member if he or she fails to attend ~~any~~ meeting of the Council or its committees or sub-committees or a meeting of the ~~Executive Cabinet~~ within 6 months of the date of his or her last attendance. The Council has resolved that periods when ~~the Elected Mayor or any~~ councillor is in receipt of a medical certificate, shall not be counted in the calculation of the period of six months for the purposes of Section 85 of the Local Government Act 1972.

The provisions in this Article 2.0~~3~~⁴ also relate to parent governor representatives on the Overview and Scrutiny Board by virtue of Regulation 7(5) of the Parent Governor Representatives (England) Regulations 2001 (SI 478/2001).

2.045 Roles and functions of ~~the Elected Mayor and~~ all councillors

The roles and duties of ~~the Mayor and~~ all councillors can be found in their job descriptions in Part 6 of this Constitution.

2.056 Political Groups

A political group shall be treated as constituted when written notification has been delivered to the Head of Governance Support in writing which:

- a) is signed by two or more members who wish to be treated as a political group;
- b) names the political group; and

- c) names one member of the group who has signed the notice to act as its leader and may name one other member who is authorised to act in the place of the leader when he is unable to act (the deputy leader).

The name of the group or the name of the person who is leader or deputy leader may be changed by a further notice in writing delivered to the Head of Governance Support and signed:

- a) in the case of a change in the name of the group or the deputy leader, the notice must be signed by the leader of the group or a majority of the members of the group;
- b) in the case of a change of the leader of the group, the notice must be signed by a majority of the members of the group.

Groups who are not aligned to a main political party or independent councillors that wish to include any element of a political party name within their description/name, shall not do so without written confirmation by the Party concerned being delivered to the Monitoring Officer.

A Member shall cease to be treated as a member of a political group when:

- a) they cease to be a member of the authority;
- b) they have notified the Head of Governance Support in writing that they no longer wish to be treated as a member of the group;
- c) there is delivered to the Head of Governance Support a notice under The Local Government (Committees and Political Groups) Regulation 1990 section 8 or 9(b) signed by the person whereby a new political group is constituted or he joins another political group; or
- d) when a notice in writing, signed by the majority of the members of the group, stating that they no longer wish the person/s to be treated as a member of that group is delivered to the Head of Governance Support.

2.07 Political Proportionality

In accordance with the Local Government and Housing Act 1989, local authorities are under a duty to ensure that the nominations to the seats on the Council's Committees are made in accordance with the size of each group, unless alternative arrangements are notified to all members and agreed without any member voting against them. The Council is required to observe the following principles as far as it is reasonably practicable:

- a) that not all seats on the body are allocated to the same group;
- b) that the majority of seats on the body are allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
- c) Subject to a) and b) above, that the number of seats on the ordinary committees of a relevant authority which area allocated to each political group bears the

same proportion to the total of all seats on the ordinary committees of that authority as is borne by the number of Members of that group to the membership of the authority; and

- d) Subject to paragraphs a) and c) above, that the number of seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of members of that group to the membership of the authority.

~~An elected mayor can be a member of a political group but is excluded for the purposes of the proportionality calculations for seats on the Council's Committees. The composition of the Mayor's Executive Cabinet and meetings of its committees, sub-committees or working parties the Mayor's Executive need not reflect the political balance of the Council as a whole (paragraph 6.04(a) of Article 6 provides further details as to the composition of the Cabinet Executive) and therefore is also excluded from the requirements of political proportionality.~~

2.08 Conduct

~~The Elected Mayor and e~~Councillors are subject to the Members' Code of Conduct and the Protocol on Member/Officer Relations (as set out in Part 5 of the Constitution).

2.09 Allowances

~~The Elected Mayor, e~~Councillors and co-opted members will be entitled to receive allowances in accordance with the Members' Allowances Scheme set out in Part 6 of this Constitution.

Article 3 – Local People/Organisations and the Council

3.01 The rights of local people and organisations

The rights of local people and organisations to information and to participate are explained in more detail in the Standing Orders in relation to Access to Information set out in Part 4 of this Constitution. However, in brief, local people have the following rights:

(a) Voting and petitions

Local people on the electoral roll for Torbay have the right to vote to elect ~~the Mayor~~ and their ward councillors and to sign a petition to request a referendum on whether to change the form of governance arrangements. A governance referendum was held on 5 May 2016 and residents chose to change the form of governance from an elected mayor and cabinet to a leader and cabinet. The next governance referendum cannot be held until 5 May 2026. These changes will come into effect from May 2019.

(b) Information

Local people have the right to:

- (i) attend meetings of the Council and its committees and ~~the~~ any decision making meetings of the ~~Executive Cabinet~~ except where confidential or exempt information is likely to be disclosed and the meeting is therefore held in private;
- (ii) find out from the Forward Plan what Key Decisions will be taken by the ~~elected Mayor~~ Leader of the Council and when;
- (iii) see reports, background papers and the record of decisions made by the Council, the ~~elected Mayor~~ Leader of the Council and the Overview and Scrutiny Board and other committees; and
- (iv) inspect the Council's accounts and make their views known to the external auditor.

(c) Participation

Local people have the right to participate in the Council's question time sessions ~~which are held before meetings of the Council~~. The rules governing these sessions are set out in the Standing Orders in relation to Council Meetings. Local people also have the right to contribute, by invitation, to investigations by the Overview and Scrutiny Board, its sub-committees and working parties. Local people will be encouraged to participate in the work of the Community Partnerships.

(d) Complaints

Local people have the right to complain to:

- (i) the Council itself under its complaints scheme;
- (ii) the Ombudsman after using the Council's own complaints scheme; and

- (iii) the Council's Monitoring Officer about a breach of the Members' Code of Conduct.

(Reference: Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)
Sections 3, 5, 245 and Schedule 2, Local Government Act 1972
Schedule 3, Local Government Act 2000)

4.01 Meanings

(a) Policy Framework *The new Administration in May 2019 is recommended to prepare a new Policy Framework structure and hierarchy alongside the new Corporate Plan.*

The Policy Framework consists of significant and overarching major plans and strategies and is made up of the following:

- (i) Communication, Engagement and Consultation Strategy;
- (ii) Corporate Asset Management Plan (approved annually as part of the budget setting process);
- (iii) Corporate Capital Strategy (approved annually as part of the budget setting process);
- (iv) Corporate Plan (incorporating equalities objectives);
- (v) Economic Regeneration Plan (incorporating the Tourism Strategy and Cultural Strategy);
- (vi) Housing Strategy (incorporating the Homelessness Strategy and Housing Allocations Policy);
- (vii) Gambling Act Policy/Statement of Principles;
- (viii) Investment Strategy;
- (ix) Joint Health and Wellbeing Strategy (incorporating the Children's and Young People's Plan);
- (x) Licensing Policy;
- (xi) Local Transport Plan (incorporating the Parking Strategy);
- (xii) Plans and Strategies which together comprise the Development Plan (incorporating the Port Master Plan);
- (xiii) Review of Reserves (approved annually as part of the budget setting process);
- (xiv) Strategic Agreement between Torbay and South Devon NHS Foundation Trust and Torbay Council/Torbay and South Devon Clinical Commissioning Group;
- (xv) TDA Business Plan;
- (xvi) Treasury Management Strategy (incorporating the Annual Investment Strategy and Minimum Revenue Provision Policy) (approved annually as part of the budget setting process);
- (xvii) Waste Management Strategy;

(xviii) such other plans and strategies which the Council may decide shall be added to the Framework in accordance with Regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirements, investments, its capital expenditure (including the funding of that expenditure as approved by Council) and the setting of virement limit.

4.02 Functions of the Council

Only the Council will exercise the following functions:

- (i) adopting and changing the Constitution,
- (ii) approving or amending the Policy Framework and the budget,
- (iii) subject to the urgency procedure contained in the Standing Orders in relation to Access to Information in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the budget,
- (iv) establishing and agreeing and/or amending the terms of reference for all Council committees (including the Overview and Scrutiny Board), deciding on their composition and making appointments to them,
- (v) appointing and removal of the Leader of the Council,
- (vi) appointing the Overview and Scrutiny Co-ordinator and any Overview and Scrutiny Lead Members,
- (vii) appointing representatives to outside organisations unless the appointment is an executive function or has been delegated by the Council,
- (viii) adopting a Members' Allowances Scheme (for the ~~Elected Mayor~~, members and co-opted members of the Council),
- (ixviii) changing the name of the area and conferring the title of Honorary Alderman, Honorary Freeman or Freedom of the Borough,
- (ix) confirming the appointment of the Head of the Paid Service, the Monitoring Officer, Section 151 Officer, the Director of Adult Services and the Director of Children's Services,
- (xi) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills,

- (xii) all local choice functions set out in Part 3 of this Constitution which the Council decides shall be undertaken by itself rather than the ~~Cabinet Executive~~, and
- (xiii) all other matters which, by law, must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

- (i) the annual meeting;
- (ii) ordinary meetings; and
- (iii) extraordinary meetings

and they will be conducted in accordance with the Standing Orders in relation to Council Meetings in Part 4 of this Constitution.

4.04 Responsibility for functions

Part 3 of this Constitution (Responsibility for Functions) gives details of which body or individual has responsibility for all of the Authority's functions.

4.05 Guiding Principles for Members

When carrying out functions they are responsible for, Members are expected to act as follows:

- ~~• accept the democratic mandate of the Elected Mayor;~~
- be clear about the limits of their role in developing policy;
- work collectively with the ~~Elected Mayor~~ Leader of the Council and the Cabinet Executive to help them develop the most coherent set of policies for the local people;
- enable officers to develop priorities into clear, costed plans of action which are shared and agreed with partners;
- adopt leadership styles which are open, inclusive, and engender trust from staff, other partners, and the public; and
- act as ambassadors for the Council in the wider area and with partners.

4.06 Role and function of the Chairman/woman of the Council

The Chairman/woman shall have precedence in the Borough as first citizen (but not so as to prejudicially affect Her Majesty's royal prerogative) and Section 3(4A) of the Local Government Act 1972 (as amended) shall apply. As first citizen of the borough, the Chairman/woman will perform the civic and ceremonial duties for the borough. ~~The Elected Mayor will perform these functions as the Council's representative where they relate to the promotion of the business of the Council or Torbay.~~ Any future change to these arrangements will be a matter for the Council to determine.

The Chairman/woman of the Council will be elected by the Council annually. ~~The Elected Mayor~~ Cabinet members are ~~is~~ not permitted to be the Chairman/woman of the Council.

The Chairman/woman of the Council shall not be a member of any committee, sub-committee or working party or attend any meeting as a substitute.

The Chairman/woman of the Council will carry out the roles laid down in the Chairman/woman's Job Description as set out in Part 6 of this Constitution.

4.07 The Vice Chairman/woman of the Council

The Vice Chairman/woman of the Council will be appointed annually by the Council. Cabinet members are not permitted to be the Vice-Chairman/woman of the Council. In the Chairman/woman's absence, the Vice Chairman/woman will have the roles and functions set out in the Chairman/woman's Job Description as set out in Part 6 of this Constitution.

The Vice Chairman/woman of the Council shall be permitted to be a member of any any Council appointed committee, sub-committee or working party or attend any meetings as a substitute.

Article 5 – Overview and Scrutiny

(References: Section 21 and Schedule 1 (paragraphs 7, 8, 10 and 11), Local Government Act 2000)

This Article sets out the principle, structure, role and functions of Overview and Scrutiny. Detailed information about the operation of Overview and Scrutiny is set out in the Standing Orders in relation to Overview and Scrutiny.

5.01 Principle of Overview and Scrutiny

Torbay Council aims to have an overview and scrutiny function which adheres to the Centre for Public Scrutiny's four principles of good scrutiny, as set out below.

Good public scrutiny:

1. provides “critical friend” challenge to executive policy-makers and decision-makers;
2. enables the voice and concerns of the public;
3. is carried out by “independent minded governors” who lead and own the scrutiny role; and
4. drives improvement in public services.

5.02 Overview and Scrutiny Bodies

The Council will appoint a committee known as the Overview and Scrutiny Board to perform the overview and scrutiny function which is the central element to the Constitution.

The Overview and Scrutiny Board may appoint a sub-committee known as the Health Scrutiny Board to perform the Council's functions in relation to health scrutiny.

The Overview and Scrutiny Board may appoint other sub-committees to perform its functions. In addition the committee and/or their sub-committees may appoint working parties to perform their functions.

Overview and scrutiny sub-committees and/or working parties may be known by other appropriate names.

5.03 Membership of overview and scrutiny bodies

The membership of the overview and scrutiny committee and its sub-committees will be as set out in the Standing Orders in relation to Overview and Scrutiny in Part 4 of this Constitution.

5.04 Overview and Scrutiny Co-ordinator

The Council will appoint a councillor who is a member of the Overview and Scrutiny Board to act as the Overview and Scrutiny Co-ordinator. The Overview and Scrutiny Co-ordinator will normally be the person elected as Chairman/woman of the Overview and Scrutiny Board. The role of the Overview and Scrutiny Co-ordinator will have equivalent status to the role of a Member of the Cabinet Executive and have special responsibility for leading the overview and scrutiny function. The Council may at any time remove the member from the post of Overview and Scrutiny Co-

ordinator.

5.05 Overview and Scrutiny Lead Members

The Council may appoint councillors as Overview and Scrutiny Lead Members with designated special responsibilities. Subject to the overall composition of the Overview and Scrutiny Board complying with the requirements of political balance, each Scrutiny Lead Member will also be a member of the Overview and Scrutiny Board. The Council may at any time remove any member from the posts of Overview and Scrutiny Leads.

5.06 General role of the Overview and Scrutiny Bodies

Within its terms of reference (and in accordance with Standing Orders in relation to Overview and Scrutiny or the Local Protocol on Working Parties as appropriate), the overview and scrutiny committee, its sub-committees and any working parties of the committee or its sub-committees may:

- (i) review and/or scrutinise decisions made or actions taken in respect of any functions which are the responsibility of the Council or the Leader of the Council ~~or the elected Mayor~~;
- (ii) make reports and/or recommendations to any relevant body in respect of any matter which affects Torbay or its inhabitants;
- (iii) make reports and/or recommendations to any joint or area committee in connection with the discharge of any of their functions;
- (iv) consider matters referred to it by the ~~elected Mayor~~ Leader of the Council or the ~~Executive Cabinet~~;
- (v) review and/or scrutinise matters relating to the health service within Torbay and make reports and/or recommendations on such matters;
- (vi) review and/or scrutinise matters relating to crime and disorder within Torbay and make reports and/or recommendations on such matters; and
- (vii) exercise the right to call-in, for consideration, decisions made, but not yet implemented, by the ~~elected Mayor~~ Leader of the Council, the ~~Executive Cabinet~~, a Committee of the ~~Cabinet Executive~~, individual members of the ~~Cabinet Executive~~ and/or any joint or area committee (in respect of the executive functions only) or by officers (in respect of Key Decisions only).

The Overview and Scrutiny Board or, if relevant and appointed, the Health Scrutiny Board may consider any Councillor Calls for Action referred to it in accordance with the Standing Orders in relation to Overview and Scrutiny.

However, the overview and scrutiny committee, its sub-committees or any working parties of the committees or their sub-committees will not normally scrutinise individual decisions in relation to development management, licensing, registration, consents or other permissions. The overview and scrutiny function will not be an alternative to normal appeals procedures.

5.07 Specific functions of the overview and scrutiny committees

(a) Policy development and review

The overview and scrutiny bodies may:

- (i) assist the Council and ~~elected Mayor~~Leader of the Council in the development of the Council's Budget and Policy Framework by in-depth analysis of policy issues;
- (ii) consider matters referred to them by the ~~elected Mayor~~Leader of the Council, the ~~Cabinet~~Executive, committees of the ~~Cabinet~~Executive and members of the ~~Cabinet~~Executive;
- (iii) conduct research and consultation (with the community and others) in the analysis of policy issues and possible options;
- (iv) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (v) question the ~~elected Mayor~~Leader of the Council, members of the ~~Cabinet~~Executive, members of any committee and officers about their views on issues and proposals affecting the area; and
- (vi) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

(b) Scrutiny

The overview and scrutiny committees may:

- (i) review and scrutinise the decisions made by, and the performance of, the ~~elected Mayor~~Leader of the Council, the ~~Cabinet~~Executive and any committees over time;
- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and particular service areas;
- (iii) question the ~~Leader of the Council~~elected Mayor, members of the ~~Cabinet~~Executive, members of any committee, members who have power delegated to them under section 236 of the Local Government and Public Involvement in Health Act 2007 and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time or in relation to particular decisions, initiatives or projects;
- (iv) make recommendations to the ~~Leader of the Council~~elected Mayor, the ~~Cabinet~~Executive, any committees or the Council arising from the outcome of the scrutiny process;
- (v) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the relevant overview

and scrutiny committee and local people about their activities and performance; and

(vi) question and gather evidence from any person (with their consent).

(c) Finance

The Overview and Scrutiny Board may exercise overall responsibility for any finances made available to it and the other overview and scrutiny committees.

(d) Annual report

The Overview and Scrutiny Board must report annually (on behalf of all the overview and scrutiny committees) to the Council on the workings of overview and scrutiny at Torbay and make recommendations for the future work programme for the Overview and Scrutiny Board (including the other overview and scrutiny committees, their sub-committees and any working parties) and amended working methods if appropriate.

(e) Other Functions

The Overview and Scrutiny Board may consider any matters that are required by law or good practice to be considered by the Board.

5.08 Proceedings at overview and scrutiny committees

Meetings of the overview and scrutiny committees and its sub-committees will be held in accordance with the appropriate Standing Orders set out in Part 4 of this Constitution. Meetings of the working parties of the committees or their sub-committees will be held in accordance with the Local Protocol on Working Parties as set out in Part 5 of this Constitution. ~~A Good Practice Guide in relation to overview and scrutiny has been prepared as supplementary guidance to this Constitution.~~

Article 6 – The Elected Mayor Leader of the Council and Cabinet Executive

(References: Section 9C, 9E and Schedule A1 (paragraphs 1, 2 and 3), Local Government Act 2000
Sections 44 and 67, Local Government and Public Health Involvement Act 2007)

6.01 Membership and Composition of the Cabinet Executive

The Cabinet Executive will consist of a maximum of ten members including:

- (i) the Leader of the Council~~Elected Mayor~~; and
- (ii) at least two but no more than nine councillors appointed to the Cabinet Executive by the Leader of the Council~~Elected Mayor~~.

Only councillors may be appointed to the Cabinet. There may be no co-optees, deputies nor substitution of Cabinet members. Neither the Chairman/woman nor Vice-Chairman/woman of the Council may be appointed to the Cabinet. Members of the Cabinet may not be members of the Audit Committee and the Overview and Scrutiny Board or its sub-committee(s).

6.02 Role of Cabinet Executive

The Cabinet Executive ~~and its members (including the Elected Mayor)~~ are ~~is~~ at the heart of the day-to-day decision-making process and have a key role in proposing the budget and policy framework to the Council (having taken into account the views of the Overview and Scrutiny Board or any of its committees). The Executive Cabinet leads the implementation of Council policy within the Council's budget and policy framework and carries out all the Local Authority's functions which are not the responsibility of any other part of the Authority, whether by law or under this Constitution.

The Cabinet Executive will lead the Council's corporate priority setting ~~community planning process and the search for Best Value~~ with input from the Overview and Scrutiny Board and other appropriate persons. It will be the focus of forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.

6.03 The Leader of the Council~~Elected Mayor~~

- (a) Roles and Functions

The Leader of the Council~~Elected Mayor~~ will carry out the roles laid down in the Elected Mayor's~~Leader of the Council's~~ Job Description as set out in Part 6 of this Constitution.

- (b) ~~Elected Mayor~~ Term of office

~~The Leader of the Council as a member of the Council will be a councillor elected by the Council at the first annual meeting following the date of whole council elections. If the Council fails to elect the Leader of the Council at the annual meeting following the date of the whole council elections, the Leader is to be elected at a subsequent meeting of the Council. The Leader of the Council's term of office starts on the day of his/her election as Leader, continues for a four year term and ends on the day of the next annual meeting of the Council following the next whole council elections, unless:~~

- ~~(i) he/she is removed from office by an ordinary resolution of the Council following the receipt of a Notice of Motion; or~~
- ~~(ii) he/she resigns from the office (by notice in writing to the Chief Executive); or~~
- ~~(iii) he/she ceases to be a councillor; or~~
- ~~(iv) they are no longer qualified to be a member of the Council by virtue of Section 79 or Section 80 of the Local Government Act 1972 (see Article 2, paragraph 2.01(b)).~~

~~The Elected Mayor will be treated as a councillor unless the law or context requires otherwise.~~

~~In particular, the Elected Mayor:~~

- ~~(i) is subject to the same rules about qualification and disqualification as any other councillor;~~
- ~~(ii) must follow the rules about disclosure of interests and comply with the Code of Conduct for Members set out in Part 5 of this Constitution;~~
- ~~(iii) may be a member of, attend and speak at any meeting of the Council, its committees and sub-committees, except the Overview and Scrutiny Board and its sub-committees (the Elected Mayor may only speak at a meeting of the Overview and Scrutiny Board or its sub-committees or Standards Committee when invited to do so and may not vote at those meetings);~~
- ~~(iv) will not be taken into account when calculating seat allocations on committees and sub-committees;~~
- ~~(v) is subject to the Members' Allowances Scheme set out in Part 6 of the Constitution; and~~
- ~~(vi) is subject to the same rules about casual vacancies as apply to all councillors.~~

~~(c) Title of Elected Mayor~~

~~The title of Elected Mayor may only be used by the elected mayor.~~

~~(d) The Elected Mayor and Civic/Ceremonial Precedence~~

~~Paragraph 4.06 of Article 4 sets out the Council's arrangements for first citizen and civic and ceremonial precedence.~~

~~(a)~~ Composition

~~Only councillors may be appointed to the Executive. There may be no co-optees, deputies nor substitution of Executive members. Neither the Chairman/woman nor Vice-chairman/woman of the Council may be appointed to the Executive. Members of the Executive may not be members of the Overview and Scrutiny Board or its sub-committee(s).~~

~~(ab)~~ Term of Office

Members of the Cabinet Executive will hold office until ~~the earliest of the following:~~

- (i) their appointment is terminated by the Leader of the Council~~Elected Mayor~~ (in accordance with paragraph ~~(cd)~~ below); or
- (ii) the Leader of the Council is removed from office by an ordinary resolution of the Council; or
- (iii) they resign from the Cabinet Executive (by notice in writing to the Chief Executive and copied to the Leader of the Council~~Elected Mayor~~); or
- ~~(iii) the Elected Mayor's term of office comes to an end (for whatever reason); or~~
- (iv) they cease to be a councillor; or
- (v) they are no longer qualified to be a member of the Council by virtue of Section 79 or Section 80 of the Local Government Act 1972 (see Article 2, paragraph 2.01(b)).

~~(be)~~ Appointment by the ~~Elected Mayor~~Leader of the Council

The size and composition of the Cabinet Executive will be solely a matter for the Leader of the Council~~Elected Mayor~~ to decide. He/she may choose to appoint councillors from any political group on the Council or those not in a political group. The Cabinet Executive need not reflect the political balance of the Council as a whole. The Leader of the Council~~Elected Mayor~~ will give written notice to the Chief Executive of the appointments he/she makes to the Cabinet, the date on which they take effect, any portfolios of functions which have been allocated and which Cabinet member has been appointed as the lead member for Children's Services. ~~The Leader of the Council Executive and~~ will report these appointments to the Council as and when they are made.

~~(cd)~~ Removal from office

The ~~Elected Mayor~~Leader of the Council may remove members from the Cabinet Executive as he/she sees fit. He/she will give written notice to the Chief Executive of any changes to the Cabinet Executive, the date on which they take effect, and will report these changes to the Council as and when they are made.

(e) Inability for the whole Cabinet Executive to act

If all the members of the Cabinet Executive are unable to act for any reason, then the Council will appoint an interim Cabinet Executive to discharge the relevant executive functions.

6.05 Deputy Leader Mayor

(a) Appointment

The Leader of the Council~~Elected Mayor~~ is required to appoint one of the members of the Cabinet Executive to act as Deputy Mayor Leader. The ~~Elected Mayor~~Leader of the Council will give written notice of such appointment to the Chief Executive and will report this appointment to the Council as and when it is made.~~the appointment to the next meeting of the Council.~~

(b) Term of office

The Deputy Leader Mayor will hold office until:

- (i) the end of the Elected MayorLeader of the Council's term of office unless the Deputy Leader Mayor is no longer a member of the Authority or the Cabinet Executive; or
- (ii) he/she is removed by the Leader of the Council from the office of Deputy Leader (in accordance with paragraph (d) below); or
- (iii) the Leader of the Council is removed from office by an ordinary resolution of the Council; or
- ~~(iiiiv)~~ he/she resigns as Deputy Leader Mayor (by notice in writing to the Chief Executive and copied to the Leader of the Council~~Elected Mayor~~); or
- ~~(ivii)~~ he/she ceases to be a councillor; or
- ~~(iv)~~ he/she is removed by the Elected Mayor from the office of Deputy Mayor (in accordance with paragraph (d) below); or
- ~~(vi)~~ he/she is no longer qualified to be a member of the Council by virtue of Section 79 or Section 80 of the Local Government Act 1972 (see Article 2, paragraph 2.01(b)).

(c) Duties of the Deputy Leader Mayor

If for any reason the Elected MayorLeader of the Council is unable to act, or the office of ~~elected mayor~~Leader of the Council is vacant, the Deputy Leader Mayor will act in his/her place until a new leader mayor is elected or again able to act. If the Elected MayorLeader of the Council and Deputy Mayor Leader are unable to act or both their offices are vacant then ~~then~~ the remaining members of the Cabinet Executive must act in the Elected MayorLeader of the Council's place, or arrange for a member of the Executive Cabinet to do so.

(d) Removal from office

The Elected MayorLeader of the Council may remove the Deputy Leader Mayor from office as he/she sees fit. He/she will give written notice to the Chief Executive of any changes to the office of Deputy Leader, the date on which it takes effect.~~Mayor~~ and will report these changes to the Council as and when they are made.

6.06 Responsibility for functions

The Leader of the Council~~Elected Mayor~~ will maintain the list in Part 3 of this Constitution setting out whether the Executive Cabinet itself or which individual members of the Cabinet Executive, committees of the Cabinet Executive (if any), area committees (if any) of the Authority, officers or joint arrangements (if any) are responsible for the exercise of particular executive functions.

6.07 Committees of the Executive Cabinet and Working Parties

The Executive Cabinet may appoint committees of three or more members of the Executive Cabinet and may, where they have the power to do so, delegate powers to those committees. The Cabinet Executive may appoint working parties comprising members of the Cabinet Executive, other councillors, officers and other persons with relevant knowledge and experience to advise the Cabinet Executive.

Article 7 – Regulatory and Other Committees

7.01 Regulatory and other committees

The Council will appoint the committees set out in Schedule 4 of Part 3 of this Constitution. The terms of reference of those committees will be as described in that Schedule.

7.02 Meetings of regulatory and other committees

Meetings of the regulatory and other committees in this Article will be held in accordance with the Standing Orders in relation to Access to Information and with the programme decided by the Council at its annual meeting. Extraordinary meetings of these committees may be called in accordance with the Standing Orders in relation to Council Meetings.

Article 8 – Community Involvement

(References: Part VA, Local Government Act 1972
 Section 13, Local Government and Housing Act 1989
 Regulations 4, 5 and 16A, Local Government (Committees and Political Groups) Regulations 1990
 Section 18, Local Government Act 2000
 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000)

8.01 Area Committees

The Council may appoint area committees as it sees fit, if it is satisfied that to do so will ensure:

- (i) improved service delivery in the context ~~of Best Value~~ of delivering the Council's corporate priorities; and
- (ii) more efficient, transparent and accountable decision-making.

The Council will consult with Brixham Town Council when considering whether and how to establish area committees within Brixham.

8.02 Community Partnerships

The Council ~~has agreed to support~~ recognises the roles of the Community Partnerships in Torbay to increase the involvement of local people in their and communities ~~in the way in which the Council works~~. The membership of each Community Partnership will be recommended to be open to all people living or working, or organisations operating, within the boundary of the Community Partnership or anyone else invited by the Community Partnership to become a member of that body.

8.03 Area Committees ~~and Community Partnerships~~ – Access to information

Area committees will comply with the Standing Orders in relation to Access to Information in Part 4 of this Constitution.

~~Community Partnerships are responsible for their own governance arrangements.~~

8.04 ~~Cabinet~~ Executive members on Area Committees ~~/Community Partnerships~~

A member of the ~~Executive Cabinet~~ may be appointed by the Council to serve on an area committee ~~or community partnership if otherwise eligible to do so as a councillor~~.

~~The Elected Mayor~~ The Leader of the Council may be appointed by the Council as a member of one or more area committees.

Article 9 – Joint Arrangements

(References: Sections 9EA, Local Government Act 2000 S101, Local Government Act 1972, The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000)

9.01 Arrangements to promote well-being

The Council or the ~~Executive~~Cabinet, in order to promote the economic, social or environmental well-being of its area, may:

- (i) enter into arrangements or agreements with any person or body;
- (ii) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (iii) exercise on behalf of that person or body any functions of that person or body.

9.02 Joint arrangements

The Council may establish joint arrangements with one or more local authorities ~~and/or their Executives~~ to (a) exercise functions which are not executive functions in any of the participating authorities or (b) advise the Council. Such arrangements may involve the appointment of a joint committee with those other local authorities.

The ~~Cabinet~~Executive may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with those local authorities.

Except as set out in paragraph 12 of the Local Authorities (Arrangements for the Discharge of functions) (England) Regulations 2012, the ~~Cabinet~~Executive may only appoint ~~Cabinet~~Executive members to a joint committee and those members need not reflect the political balance of the Local Authority as a whole.

Details of any joint arrangements including any delegations to joint committees will be set out in Part 3 of this Constitution.

9.03 Access to information

The Standing Orders in relation to Access to Information set out in Part 4 of this Constitution apply to joint committees.

If all the members of a joint committee are members of the ~~Cabinet~~Executive in each of the participating authorities then its access to information regime is the same as that applied to the ~~Cabinet~~Executive.

If the joint committee contains members who are not on the Executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972 will apply.

9.04 Delegation to and from other local authorities

The Council may delegate non-executive functions to another local authority ~~where the relevant function is also a function of the other authority. or, in certain circumstances, the Executive/Cabinet of another local authority.~~

The ~~Cabinet~~Executive may delegate executive functions to another local authority ~~where the relevant function is also a function of the other authority. or the Executive/Cabinet of another local authority. in certain circumstances.~~

The decision whether or not to accept such a delegation from another local authority shall be reserved to the Council, where all or any of such functions are the responsibility of the Council and reserved to the Leader of the Council~~Elected Mayor~~ where they are the responsibility of the Cabinet~~Executive~~.

9.05 Contracting out

The Council (for functions which are not executive functions) or the Cabinet (for executive functions) ~~Executive~~ may contract out, to another body or organisation, functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision-making.

(References: Sections 112 and 151, Local Government Act 1972
Sections 4, 5 and 5A, Local Government and Housing Act 1989
Paragraph 5, Schedule A1, Local Government Act 2000)

10.01 Management Structure

(a) General

The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Officers have a responsibility to the Council as a whole rather than to any one part of the Authority.

Officers will comply with the Code of Conduct for Employees and the Protocol on Member/Officer Relations set out in Part 5 of this Constitution.

The recruitment, selection and dismissal of officers will comply with Human Resources Policy and relevant Standing Orders set out in Part 4 of this Constitution.

(b) Chief Officers

The Council has posts of Chief Executive and ~~three~~ ~~and two Assistant~~ ~~Directors~~. These persons are designated chief officers.

All chief officers will participate fully in the corporate leadership and management of the Council as a whole and in the determination of the Council's strategic vision. In addition they will oversee and manage such Business Units as determined from time to time by the Chief Executive.

One of the chief officers will be designated by the Chief Executive as Deputy Chief Executive to act in his/her absence.

The Chief Executive is appointed as the Head of the Paid Service and will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

(c) Head of the Paid Service, Monitoring Officer and Chief Financial Officer

The Council will appoint the Head of Paid Service, Monitoring Officer and Section 151 Officer (Chief Finance Officer).

The Chief Executive shall always be the Head of the Paid Service and cannot be the Monitoring Officer. The Monitoring Officer and Chief Finance Officer may not necessarily be chief officers but, regardless of their status, it is necessary that they have access, as required; to meetings and that members consult them regularly.

The duties of the Monitoring Officer and Chief Finance Officer (apart from the administration of the financial affairs of the Council) must be carried out personally, but can be carried out by a deputy nominated by them in cases of absence or illness. It is the function of the Monitoring Officer and Chief Finance Officer, not the Council nor any other officer, to appoint their deputies.

These posts will have the functions described in Article 10.02-10.04 below.

(d) **Group Assistants ~~and the elected Mayor's Assistant~~**

The Council may engage ~~one assistant for the elected Mayor (Mayor's Assistant)~~ ~~and~~ one Group Assistant for each qualifying political group (up to a maximum of three qualifying political groups) where the budget is allocated for such appointments. ~~The elected Mayor's Assistant will be appointed in accordance with paragraph 5 of Schedule A1 to the Local Government Act 2000 (including the Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulation 2002.~~ Any Group Assistants appointed to the qualifying political groups will be appointed in accordance with the provisions of Section 9 of the Local Government and Housing Act 1989.

The role of the ~~elected Mayor's Assistant and~~ Group Assistants is to provide assistance to ~~the elected Mayor and~~ the members of their respective political groups rather than to the Authority as a whole, and they will comply with the Local Protocol on ~~the elected Mayor's Assistant and~~ Group Assistants set out in Part 5 of this Constitution.

10.02 Functions of the Head of the Paid Service

(a) **Discharge of functions by the Council**

The Head of the Paid Service will report to Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.

(b) **Restrictions on functions**

The Head of the Paid Service may not be the Monitoring Officer, but may hold the post of Chief Finance Officer if he/she is a qualified accountant.

10.03 Functions of the Monitoring Officer

(a) **Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to members, officers and the public.

(b) **Ensuring lawfulness and fairness of decision-making**

After consulting with the Head of the Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council (or to the [Cabinet Executive](#) in relation to an executive function) if he/she considers that any proposal, decision or omission would give rise to unlawfulness, or if any decision (or omission) has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Supporting the Standards Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through the provision of support to the Standards Committee and its sub-committees.

(d) **Advising whether executive decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework in consultation with the Chief Finance Officer.

(e) **Providing advice**

The Monitoring Officer will, with the Head of Paid service and the Chief Finance Officer, provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to ~~the elected Mayor and~~ all councillors.

(f) **Restrictions on posts**

The Monitoring Officer cannot be the Chief Finance Officer or the Head of the Paid Service.

10.04 Functions of the Chief Finance Officer

(a) **Ensuring lawfulness and financial prudence of decision-making**

After consulting with the Head of the Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Council (or the Executive Cabinet in relation to an executive function) and the Council's external auditor if he/she considers that any proposal, decision or course of action:

- (i) will involve incurring unlawful expenditure; or
- (ii) is unlawful and is likely to cause a loss or deficiency; or
- (iii) if the Council is about to enter an item of account unlawfully.

(b) **Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

(c) **Contributing to corporate management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

(d) **Providing advice**

The Chief Finance Officer, with the Head of Paid service and the Monitoring Officer, will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to ~~the elected Mayor,~~ all councillors and will support and advise ~~the elected Mayor,~~ councillors and officers in their respective roles.

(e) **Giving financial information**

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

10.05 Duty to provide sufficient resources to the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer

The Council will provide the Head of the Paid Service, the Monitoring Officer and the Chief Finance Officer with such officers, accommodation and other resources as are, in the officers' opinion, sufficient to allow their duties to be performed.

11.01 Responsibility for decision-making

The Council will issue and keep up to date a record of which part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

11.02 Principles of decision-making

All decisions by the ~~elected Mayor~~Leader of the Council, individual members, officers and of decision-making bodies and recommendations of all Council bodies (including working parties) will be made in accordance with the following principles:

- (i) Decision makers will consider any suggested and reasonable alternatives and, wherever reasonably possible, provide the public the opportunity to make representations.
- (ii) Decision makers must understand the legal requirements regarding the decision-making power and observe them.
- (iii) Decision makers will take into account all relevant matters, both general and particular, and ignore irrelevant matters.
- (iv) Decision makers will act for a proper purpose and for the public good.
- (v) Decision makers will observe the rules relating to local government finance.
- (vi) Decision makers will act with procedural propriety and in accordance with the rules of fairness and natural justice.
- (vii) Decision makers will ensure they are properly authorised to take decisions.
- (viii) Decision makers will act in accordance with the European Convention on Human Rights.
- (ix) Decision makers will be responsible for their decision and be prepared to account for them to councillors and the public.
- (x) Decision makers will have regard to the Code of Conduct and relevant protocols as set out in this Constitution.
- (xi) [Decision makers will have regard to officer professional advice.](#)

Subject to 11.08 below, all meetings will be held in accordance with the appropriate Standing Orders as set out in Part 4 of this Constitution.

11.03 Types of decision

(a) Decisions reserved to the Council

Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.

(b) Key decisions and the content of the Forward Plan

(i) The Regulations define a key decision as a decision in relation to an Executive function which is likely to:

- (1) result in incurring expenditure or making of savings which are significant; or
- (2) be significant in terms of its effects in communities living or working in the area.

A proposed decision shall be regarded as a Key Decision by way of “incurring expenditure or making of savings which are significant” if any one or more of the following apply:

- (1) In the opinion of the Section 151 Officer (Chief Finance Officer), there is likely to be a budget variation (other than one within a Business Unit) of more than £250,000;
 - (2) In the opinion of the Chief Finance Officer, it is likely to result in capital expenditure above that provided for in the capital programme and it is likely to involve an additional call on the Council’s internal resources of more than £250,000;
 - (3) In the opinion of the relevant Director, the decision is likely to have a material effect on Council services, including where:-
 - an existing service will be reduced by more than 10 per cent or will cease all together;
 - a service which is currently provided in house will be outsourced (or vice versa); or
 - a partnership will be entered with a third party which is likely to involve a material element of risk transfer to the Council;
 - (4) The proposal involves the acquisition or disposal of land having a value estimated by the Chief Finance Officer to be likely to exceed £250,000;
 - (5) The proposal involves the disposal of a capital asset (other than land) having a value estimated by the Chief Finance Officer to be likely to exceed £250,000;
 - (6) Where in the opinion of the Director Corporate Services the proposal is likely to result in compulsory redundancies or major changes to the terms and conditions of employment of 100 or more employees across the Council’s functions;
- (ii) Decisions taken by the Chief Finance Officer under delegated authority in connection with Treasury Management shall not be regarded as key decisions irrespective of the value of the transactions involved.
- (iii) A proposed decision shall be regarded as a Key Decision by way of being “significant in terms of its effects in communities living or working in the area” if the relevant Director or Assistant Director, in consultation with the relevant Executive Cabinet member, considers that it ought to be included in the

Forward Plan having regard to all the circumstances including the following principles:

- (1) A decision may affect a great number of people, or a number of wards, but not significantly and these decisions shall **not** normally be regarded as key;
 - (2) A decision that has a significant impact on communities living or working in only one ward will normally be treated as a key decision e.g. a school closure or the introduction or amendment of traffic calming measures;
 - (3) Where a decision is only likely to have a significant impact on a very small number of people in one ward it will **not** normally be key. But the people affected shall be informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision-making process;
 - (4) Consideration shall be given to the level of public interest in the decision. The higher the level of interest the more appropriate it is that the decision shall be considered to be key.
- (iv) The Forward Plan is published monthly and contains brief details of key decisions that are anticipated to be made.
- (v) The Council will also include in the Forward Plan the following:-
- (1) Any decision that forms part of the development of or a change to the Policy Framework;
 - (2) Any decision that is, in the opinion of the Chief Finance Officer, not in accordance with the Council's Budgetary Framework. This shall include any decision which has financial implications not provided for within the revenue budget, capital programme or under the virement rules;
 - ~~(3) All decisions to be taken by the Council, any Council Committee or Sub-Committee or any officer that would, if they were an Executive decision, be regarded as a key decision.~~
 - (34) A brief description of any relevant risks associated with all proposed decisions.

Article 12 – Finance, Contracts and Legal Matters

(references: Sections 135,151, 223 & 234, Local Government Act 1972
Part VIII, Local Government Finance Act 1988)

12.01 Financial management

The management of the Council's financial affairs will be conducted in accordance with the Standing Orders in relation to the Budget and Policy Framework and the Financial Regulations set out in Part 4 of this Constitution.

12.02 Legal proceedings

The Director Corporate Services is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where he/she considers that such action is necessary to protect the Council's interests.

12.03 The Common Seal

- (a) The Common Seal of the Council will be kept in a safe place in the custody of the Director Corporate Services or another officer authorised in writing by him/her.
- (b) A decision of the Council, or any part of it (including a decision by the Chief Executive, Directors, Assistant Directors or Executive Heads), will be sufficient authority for sealing any document necessary to give effect to the decision.
- (c) The Common Seal will be affixed to those documents which in the opinion of the Director Corporate Services shall be sealed. The affixing of the Common Seal will be attested by the Director Corporate Services or any other responsible officer duly authorised by the Director Corporate Services in writing.

12.04 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director Corporate Services or other person authorised by him/her, unless any enactment otherwise authorises or requires or the Council has given requisite authority to some other person.

Article 13 – Review and Revision of The Constitution

(references: Sections 9MF and 9K, Local Government Act 2000)

13.01 Duty to monitor and review the Constitution

The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

- (i) observe meetings of different parts of the member and officer structure;
- (ii) undertake an audit trail of a sample of decisions;
- (iii) record and analyse issues raised with him/her by ~~the elected Mayor,~~ members, officers, the public and other relevant stakeholders; and
- (iv) compare practices within Torbay Council with those in comparable authorities or national examples of best practice.

13.02 Changes to the Constitution

(a) Role of Monitoring Officer

The Monitoring Officer will keep the Constitution under review and is authorised to make changes which are required for technical or legal reasons. The Monitoring Officer is also authorised to make other changes to the Constitution that he/she believes are in the best interests of the Council and/or local people provided they are made in consultation with the ~~elected Mayor~~ Leader of the Council and Group Leaders; if any of them object, the Monitoring Officer will report the matter to Council for decision.

(b) Changes to the Constitution not affecting Executive arrangements

Changes to the Constitution which, in the opinion of the Monitoring Officer, do not in any way affect the operation of Executive arrangements (including overview and scrutiny) may be approved by the Monitoring Officer and brought into effect immediately (or at such other time as the Monitoring Officer shall determine) subject to (a) above.

(c) Changes to Executive arrangements

- (i) The Council may draw up proposals for the operation of Executive arrangements (“different Executive arrangements”) which differ from the existing Executive arrangements in any respect.
- (ii) Where the proposed “different Executive arrangements” involve a different form of Executive (i.e. leader and cabinet) the Council must take reasonable steps to consult the Borough’s electors and other interested persons in the area and must hold a referendum (the outcome of which supports the proposed change) before implementing the “different Executive

arrangements”. A referendum can not usually be held more than once in any 10 year period.

~~(Note: The Localism Act (Commencement No 2 and Transitional and Saving Provision) Order 2012 applies Part 2 of the Local Government Act 2000 to the referendum held by Torbay in 2005.)~~

- ~~(iii) — Where the proposed “different Executive arrangements” do not involve a different form of Executive the Council may not implement the proposals without the prior written consent of the elected Mayor (but this consent shall not be required if the proposed “different Executive arrangements” only affect the operation and functions of one or more overview and scrutiny committee(s) (or sub-committee(s)). Changes to the Constitution under this paragraph (iii) shall come into immediate effect upon the elected Mayor’s written consent being given to the Monitoring Officer or (in the case of changes not requiring the elected Mayor’s consent) immediately or at such other time as has been determined by Council.~~

Article 14 – Suspension, Interpretation and Publication of the Constitution

14.01 Suspension of the Constitution

(a) **Limit to suspension**

The Articles of this Constitution may not be suspended. The Standing Orders specified below may be suspended by the Council to the extent permitted within those Standing Orders and the law.

(b) **Procedure to suspend**

A motion to suspend any Standing Order will not be moved without notice unless at least half of the whole number of councillors are present.

(c) **Standing Orders capable of suspension**

The specific Standing Orders which may be suspended in accordance with Article 14.01 are set out in the Standing Orders in relation to Council meetings.

14.02 Interpretation

The ruling of the Chairman/woman of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

Interpretation of the application of this Constitution outside of any meeting of the Council is reserved to the Monitoring Officer and his/her determination is final.

14.03 Publication

The Head of Governance Support will ensure ~~that a printed copy of~~ the Constitution is available to all Members electronically placed in the elected Mayor's office and each of the Group rooms.

The Head of Governance Support will ensure that copies are available for inspection at Torquay Town Hall by electronic means and hard copies can be purchased by members, members of the local press and the public on payment of a reasonable fee. The Constitution is available on the Council's website (www.torbay.gov.uk).

Article 15 – Health and Wellbeing Board

(References: Health and Social Care Act 2012 and
The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013)

15.01 Establishment of the Health and Wellbeing Board

The Council will establish a Health and Wellbeing Board for its area. The Board will be a committee of the local authority.

15.02 Purpose of the Torbay Health and Wellbeing Board

To agree the long-term strategy for improving the health and wellbeing of the people of Torbay.

To oversee the implementation of the Joint Health and Wellbeing Strategy.

To promote integration throughout the health and wellbeing system to ensure delivery against the Board's priorities.

15.03 Membership of the Health and Wellbeing Board

(As set out in the Health and Social Care Act 2012)

(a) The Health and Wellbeing Board must include:

At least one member of Torbay Council (nominated by the [Leader of the Council](#)~~elected Mayor~~)

Director of Adult Social Services

Director of Children's Services

Director of Public Health

A representative of Healthwatch Torbay

A representative of South Devon and Torbay Clinical Commissioning Group

(b) The ~~elected Mayor~~[Leader of the Council](#) may be a member of the Board.

(c) The National Health Service Commissioning Board must appoint a representative to join the Health and Wellbeing Board for the purpose of participating in its preparation of the Joint Strategic Needs Assessment and the Health and Wellbeing Strategy.

(d) In considering a matter that relates to the exercise (or proposed exercise) of the commissioning functions of the NHS Commissioning Board within Torbay and if the Health and Wellbeing Board so requests, the NHS Commissioning Board must appoint a representative to join the Health and Wellbeing Board for the purpose of participating in its consideration of the matter.

(e) The person appointed under sections (c) and (d) above may, with the agreement of the Health and Wellbeing Board, be a person who is not a member or employee of the NHS Commissioning Board.

(f) After consultation with the Health and Wellbeing Board, Torbay Council may appoint such additional persons to be members of the Board as it thinks appropriate.

(g) The Health and Wellbeing Board may appoint such additional persons to be members of the Board as it thinks appropriate.

15.04 Functions of the Health and Wellbeing Board

- (a) For the purpose of advancing the health and wellbeing of the people (especially vulnerable children and adults) in its area, to encourage those who arrange for the provision of any health or social care services in the area to work in an integrated manner.
- (b) In particular, to provide such advice, assistance and support as it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 (Arrangements between NHS bodies and local authorities) of the National Health Service Act 2006 in connection with the provision of such services.
- (c) To encourage those who arrange for the provision of health-related services in its area to work closely with the Health and Wellbeing Board.
- (d) To encourage those who arrange for the provision of any health or social care services in its area and those who arrange for the provision of any health-related services in its area to work closely together.
- (e) To exercise the functions of Torbay Council and South Devon and Torbay Clinical Commissioning Group under sections 116 (Health and social care: joint strategic needs assessments) and 116A (Health and social care: joint health and wellbeing strategy) of the Local Government and Public Involvement in Health Act 2007, namely:
 - Preparation of a Joint Strategic Needs Assessment; and
 - Preparation of a Joint Health and Wellbeing Strategy
- (f) In accordance with regulations, to assess needs for pharmaceutical services in Torbay and publish a statement of its first assessment and of any revised assessment.
- (g) To give the Council its opinion on whether the local authority is discharging its duty under section 116B (Duty to have regard to assessments and strategies) of the Local Government and Public Involvement in Health Act 2007.
- (h) In accordance with Section 10 of the Children Act 2004, to exercise the statutory duty to promote co-operation between Torbay Council, its relevant partners and other partners or bodies as the Council considers appropriate, to improve the well-being of children in the area
- (i) In accordance with the “Working Together” Guidance, to consider the annual report of the Torbay Safeguarding Children’s Board.

15.05 Proceedings at the Health and Wellbeing Board

Meetings of the Health and Wellbeing Board will be held in accordance with the appropriate Standing Orders set out in Part 4 of Torbay Council’s Constitution.

Schedule 1 – Description of Executive Arrangements

The following parts of this Constitution constitute the Torbay Council's executive arrangements:

1. Article 2 in relation to political proportionality not applying the Cabinet~~the election of the Mayor and his/her term of office.~~
2. Article 5 (Overview and Scrutiny) and the Standing Orders in relation to Overview and Scrutiny.
3. Article 6 (The Leader of the Council~~electd Mayor~~ and Cabinet~~Executive~~) and the Standing Orders in relation to the Cabinet~~Executive~~.
4. Article 8 (Community Involvement) – so far as area committees may have executive functions delegated to them.
5. Article 9 (Joint Arrangements) – so far as joint committees may have executive functions delegated to them.
6. Article 11 (Decision-making) and the Standing Orders in relation to Access to Information.
7. Part 3 (Responsibility for Functions).

Responsibility for Functions

(References: The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and Section 13, Local Government Act 2000)

1. Section 13 of the Local Government Act 2000 (“the 2000 Act”) provides for the discharge of the Council’s functions by an “Executive” of the authority unless those functions are specified in the Act (or in Regulations) as functions that are not to be the responsibility of the Executive. Torbay Council has adopted the Mayor Leader and Cabinet style of Executive and the phrase ‘Cabinet’ in this Constitution means the Leader of the Council and their Cabinet. ~~The Mayor has chosen to call his Cabinet the “Executive” and it is referred to as the Executive throughout this Constitution.~~
2. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) (“the Functions Regulations”) give effect to section 13 of the 2000 Act. The Functions Regulations specify which functions are **not** to be the responsibility of the Executive Cabinet, which functions may (but need not) be the responsibility of the Executive Cabinet (“the Local Choice Functions”) and which functions are only the responsibility of the Executive Cabinet to a limited extent. **All other functions not so specified are the responsibility of the Executive Cabinet and are known as “Executive functions”.**
3. Those functions that are **not** the responsibility of the Cabinet Executive are referred to as “non-executive functions” or “Council functions”.
4. Executive functions may be exercised by the Leader of the Council Mayor personally, or may be delegated in accordance with the Standing Orders in relation to the Executive Cabinet and exercised by the Executive Cabinet collectively, a committee of the Executive Cabinet, individual members of the Executive Cabinet, area committee, joint committees and officers.
5. ~~As indicated, the Standing Orders in relation to the Executive govern the delegation of Executive Functions. In addition, t~~The Council has delegated many Council functions to committees, sub-committees and officers.
6. Schedule 1 below sets out the Local Choice Functions and whether they are the responsibility of the Council or the Cabinet Executive.
7. Schedule 2 sets out those functions that the Functions Regulations specify must not be Executive Functions: i.e. that must be performed by the Council or (unless prohibited) delegated to a committee, sub-committee or officer.
8. Schedule 3 sets out the circumstances when functions are not the responsibility of the Executive Cabinet. However, special rules (contained in the Standing Orders in relation to the Budget and Policy Framework) apply in cases of urgency.
9. Schedule 4 sets out the terms of reference of the committees and sub-committees with delegated responsibility for exercising Council functions.
10. Schedule 5 sets out the Scheme of Delegation of Executive functions.
11. Schedule 6 sets out the Officer Scheme of Delegation. Where functions are delegated to specific officers those officers may (unless prohibited by law) further delegate (in writing) to other officers the responsibility for performing those functions.

Schedule 1 – Responsibility for Local Choice Functions – New Council post May 2019 recommended to review

Function	Executive or Council Function?
1. The determination of an appeal against any decision made by or on behalf of the authority	Council function.
2. The making of arrangements pursuant to section 94 (1), <u>(1A)</u> and 94 (4) of, and Schedule 24 to, the School Standards and Framework Act 1998 (admission appeals)	Council function.
3. The making of arrangements <u>in relation to appeals against the exclusion of pupils from maintained schools pursuant to section 67(1) of, and Schedule 18 to, the School Standards and Framework Act 1998 (appeals against exclusion of pupils)</u>	Council function.
4. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the School Standards and Framework Act 1998 (appeals by governing bodies in relation to children to whom section 87 of the Act applies)	Council function.
5. The making of arrangements under section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of Devon and Cornwall Police Authority in accordance with section 20 of the Police Act 1996.	Council function.
6. The making of appointments to under paragraphs 2 to 4 (appointment of members by relevant councils) of Devon and Cornwall Police Authority and other bodies under paragraphs 2 to 4 of Schedule 2 (police authorities established under section 3) of the Police Act 1996.	Council function.
57. Any function relating to contaminated land under Part IIA of the Environmental Protection Act 1990 and subordinate legislation under that Part.	Executive function.
68. The discharge of any function relating to the control of pollution or the management of air quality <u>under Pollution Prevention and Control Act 1999, Part IV of the Environment Act 1995, Part 1 of the Environmental Protection Act 1990 and the Clean Air Act 1993.</u>	Executive function.

Function	Executive or Council Function?
<p>79. The service of an abatement notice in respect of a statutory nuisance under Section 80(1) of the Environmental Protection Act 1990.</p>	<p>Executive function.</p>
<p>840. The passing of a resolution that Schedule 2 of the Noise and Statutory Nuisance Act 1993 shall apply in the authority’s area under Section 8 of the Noise and Statutory Nuisance Act 1993.</p>	<p>Executive function.</p>
<p>944. The inspection of the authority’s area to detect any statutory nuisance under Section 79 of the Environmental Protection Act 1990.</p>	<p>Executive function.</p>
<p>1042. The investigation of any complaint as to the existence of a statutory nuisance under Section 79 of the Environmental Protection Act 1990.</p>	<p>Executive function.</p>
<p>113. The obtaining of information under section 330 of the Town and Country Planning Act 1990 as to interests in land.</p>	<p>Executive function.</p>
<p>124. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.</p>	<p>Executive function.</p>
<p>135. The appointment (or revocation of any such appointment) of any individual to:</p> <ul style="list-style-type: none"> (a) any office other than an office in which he is employed by the authority; (b) any body other than the authority or a joint committee of two or more authorities; or (c) any committee or sub-committee of such a body. 	<p>Council function (Note: the Council’s Protocol on relations between the Mayor Leader of the Council and Political Groups provides that normally where the Outside Body requests a specific role that Council should accede to the request other than in exceptional circumstances such an appointment relates predominantly to an Executive function the appointment will be offered to the elected Mayor Leader of the Council or relevant Executive Cabinet member).</p>

Function	Executive or Council Function?
<p>146. The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.</p>	<p>Executive function.</p>
<p>157. Any function of a local authority in their capacity as a harbour authority (to the extent that the function does not fall within paragraph (1)above17 below)</p>	<p>Council function.</p>
<p>168. The making of agreements for the execution of highway works under Section 278 of the Highways Act 1980, substituted by the New Road and Street Works Act 1991 Section 23.</p>	<p>Executive function.</p>
<p>179. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended by the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2001).</p>	<p>Executive function.</p>
<p>18. Functions relating to local area agreements under sections 106, 110, 111, 113 of the Local Government and Public Involvement in Health Act 2007.</p>	<p>Executive function.</p> <p><i><u>(Note: whilst Local Area Agreements have been disbanded by the Government, this legislation is still live)</u></i></p>

Schedule 2 – Responsibility for Council Functions

Function	Provision of Act or Statutory Instrument
A. Functions relating to town and country planning and development management	
1. Powers and duties relating to local development documents which are development plan documents.	Sections 20 to 23 and 25, 26 and 28 of the Planning and Compulsory Purchase Act 2004. <i>Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929</i>
2. Power to agree to establish a joint committee to be, for the purposes of Part 2 of the Planning and Compulsory Purchase Act 2004, a local planning authority.	Section 29 of the Planning and Compulsory Purchase Act 2004 <i>Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929</i>
3. Power to agree to confer additional functions on a joint committee.	Section 30 of the Planning and Compulsory Purchase Act 2004 <i>Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929.</i>
4. Power to request the dissolution of a joint committee.	Section 31 of the Planning and Compulsory Purchase Act 2004 <i>Removed by the Local Authorities (Functions and Responsibilities) (Amendment) (No. 2) (England) Regulations 2005/929</i>
5. Power to determine application for planning permission or permission in principle .	Sections 59A(1)(b) , 70(1)(a) and (b) and 72 of the Town and Country Planning Act 1990
6. Power to determine applications to develop land without compliance with conditions previously attached.	Section 73 of the Town and Country Planning Act 1990
7. Power to grant planning permission for development already carried out.	Section 73A of the Town and Country Planning Act 1990
8. Power to decline to determine application for planning permission.	Section 70A of the Town and Country Planning Act 1990
9. Duties relating to the making of determinations of planning applications.	Sections 69, 76 and 92 of the Town and Country Planning Act 1990 and Articles 8, 10 to 13, 15 to 22 and 25 and 26 of the Town and

Function	Provision of Act or Statutory Instrument
	Country Planning (General Development Procedure) Order 1995 (SI 1995/419) and directions made thereunder.
10. Power to determine application for planning permission (or permission in principle) made by a local authority, alone or jointly with another person.	Section 316 of the Town and Country Planning Act 1990 and the Town and Country Planning General Regulations 1992 (SI 1992/1492)
11. Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights.	Parts 6, 7, 11, 17, 19, 20, 21 to 24, 26, 30 and 31 of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 1995 (SI 1995/418)
12. Power to enter into agreement regulating development or use of land.	Section 106 of the Town and Country Planning Act 1990
13. Power to issue a certificate of existing or proposed lawful use or development.	Sections 191(4) and 192(2) of the Town and Country Planning Act 1990
14. Power to serve a completion notice.	Section 94(2) of the Town and Country Planning Act 1990
15. Power to grant consent for the display of advertisements.	Section 220 of the Town and Country Planning Act 1990 and the Town and Country Planning (Control of Advertisements) Regulations 1992 (SI 1992/666)
16. Power to authorise entry onto land.	Section 196A of the Town and Country Planning Act 1990
17. Power to require discontinuance of a use of land.	Section 102 of the Town and Country Planning Act 1990
18. Power to serve a planning contravention notice, breach of condition notice or stop notice including a temporary stop notice.	Sections 171C, 171E, 187A and 183(1) of the Town and Country Planning Act 1990
18A. Power to issue a temporary stop notice.	Section 171E of the Town and Country Planning Act 1990

Function	Provision of Act or Statutory Instrument
19. Power to issue an enforcement notice.	Section 172 of the Town and Country Planning Act 1990
20. Power to apply for an injunction restraining a breach of planning control.	Section 187B of the Town and Country Planning Act 1990
21. Power to determine applications for hazardous substances consent, and related powers.	Sections 9(1) and 10 of the Planning (Hazardous Substances) Act 1990
22. Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites, or mineral permissions relating to mining sites, as the case may be, are to be subject.	Paragraph 2(6)(a) of Schedule 2 to the Planning and Compensation Act 1991, paragraph 9(6) of Schedule 13 to the Environment Act 1995 and paragraph 6(5) of Schedule 14 to that Act
23. Power to require proper maintenance of land.	Section 215(1) of the Town and Country Planning Act 1990
24. Power to determine application for listed building consent, and related powers.	Sections 16(1) and (2), 17, 27(2) and 33(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
25. Power to determine applications for conservation area consent.	Section 16(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990, as applied by section 74(3) of that Act <i>Removed by Enterprise and Regulatory Reform Act 2013 (Abolition of Conservation Area Consent) (Consequential and Saving Provision) (England) Order 2013/2146</i>
26. Duties relating to applications for listed building consent and conservation area consent.	Sections 13(1) and 14(1) and (4) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990 and regulations 3 to 6 and 13 of the Town and Country Planning (Listed Buildings and Buildings in Conservation Areas) Regulations 1990 and paragraphs 8, 15 and 22 of the Department of the Environment Circular <i>01/0144/97</i>

Function	Provision of Act or Statutory Instrument
27. Power to serve a building preservation notice, and related powers.	Sections 3(1) and 4(1) of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
28. Power to issue enforcement notice in relation to demolition of un listed building in conservation area.	Sections 38 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990.
29. Powers to acquire a listed building in need of repair and to serve a repairs notice.	Sections 47 and 48 of the Planning (Listed Buildings and Buildings in Conservative Areas) Act 1990
30. Power to apply for an injunction in relation to a listed building.	Section 44A of the Planning (Listed Buildings and Buildings in Conservation Areas Act 1990
30A. Power to authorise stopping up or diversion of highway.	Section 247 of the Town and Country Planning Act 1990
31. Power to execute urgent works.	Section 54 of the Planning (Listed Buildings and Buildings in Conservation Areas) Act 1990
B. Licensing and registration functions (in so far as not covered by any other paragraph of this Schedule)	
1. Power to issue licences authorising the use of land as a caravan site (“site licences”).	Section 3(3) of the Caravan Sites and Control of Development Act 1960.
2. Power to license the use of moveable dwellings and camping sites.	Section 269(1) of the Public Health Act 1936.
4. Power to license drivers of hackney carriages and private hire vehicles.	Sections 51, 53, 54, 59, 61 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
5. Power to license operators of hackney carriages and private hire vehicles.	Sections 55 to 58, 62 and 79 of the Local Government (Miscellaneous Provisions) Act 1976.
6. Power to register pool promoters.	Schedule 2 to the Betting, Gaming and Lotteries Act 1963 <u>(-as</u>

Function	Provision of Act or Statutory Instrument
	<u>saved for certain purposes by Article3(3)(c) of the Gambling Act Order)</u>
7. Power to grant track betting licences.	Schedule 3 to the Betting, Gaming and Lotteries Act 1963 <u>(as saved for certain purposes by article 3(3)(d) and (4)of the Gambling Act Order)</u> :-
8. Power to license inter-track betting schemes.	Schedules 5ZA to the Betting, Gaming and Lotteries Act 1963. <u>(as saved for certain purposes by article 3(3)(e) of the Gambling Act Order)</u>
9. Power to grant permits in respect of premises with amusement machines.	Schedule 9 to the Gaming Act 1968. <u>(as saved for certain purposes by article 4(2)(1) and (m) of the Gambling Act Order)</u>
10. Power to register societies wishing to promote lotteries.	Schedule 1 to the Lotteries and Amusements Act 1976. <u>(as saved for certain purposes by article 5(2)(a) and (3) of the Gambling Act Order)</u>
11. Power to grant permits in respect of premises where amusements with prizes are provided.	Schedule 3 to the Lotteries and Amusements Act 1976 <u>(as saved for certain purposes by article 5(2)(d) and (5)of the Gambling Act Order)</u> :-
12. Power to issue cinema and cinema club licences (this provision will cease to have effect from 24 th November 2005 by virtue of the Licensing Act 2003).	Section 1 of the Cinema Act 1985. <u>(this provision ceased to have effect from 24th November 2005 by virtue of the Licensing Act 2003).</u>
13. Power to issue theatre licences (this provision will cease to have effect from 24 th November 2005 by virtue of the Licensing Act 2003).	Sections 12 to 14 of the Theatres Act 1968. <u>(this provision ceased to have effect from 24th November 2005 by virtue of the Licensing Act 2003).</u>
14. Power to issue entertainments licences (this provision will cease to have effect from 24 th November 2005 by virtue of the Licensing Act 2003).	Section 12 of the Children and Young Persons Act 1933, section 79 of the Licensing Act 1964, sections 1 to 5 and 7 of, and Parts I and II of the Schedule to, the Private Places of Entertainment (Licensing) Act 1967 and Part I of, and Schedules 1 and 2 to, the Local Government (Miscellaneous Provisions) Act 1982:-

Function	Provision of Act or Statutory Instrument
	<u>(this provision will cease to have effect from 24th November 2005 by virtue of the Licensing Act 2003).</u>
14A Functions relating to licensing. <u>Any function of a licensing authority</u>	Sections 5 to 8 of the Licensing Act 2003 <u>Licensing Act 2003 and any regulations or orders made under that Act</u>
14AA. Duty to comply with requirement to provide information to Gambling Commission	Section 29 of the 2005 Act
14AB Functions relating to exchange of information.	Section 30 of the 2005 Act
14AC Functions relating to occasional use notices	Section 39 of the 2005 Act.]
14B Power to resolve not to issue a casino premises licence.	Section 166 of the Gambling 2005 Act.
14C Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises.	Section 304 of the 2005 Act.
14CA. Power to make order disapplying section 279 or 282(1) of the 2005 Act in relation to specified premises	Section 284 of the 2005 Act
14D Power to institute criminal proceedings for offences under section 342 of the 2005 Act.	Section 346 of the 2005 Act.
14E Power to exchange information.	Section 350 of the 2005 Act.
14F Functions relating to the determination of fees for premises licences.	The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (S.I. 2007/479).
14G Functions relating to the registration and regulation of small society lotteries.	Part 5 of Schedule 11 to the 2005 Act.
15. Power to license sex shops and sex cinemas.	The Local Government (Miscellaneous Provisions) Act 1982, section 2 and Schedule 3.
16. Power to license performances of hypnotism.	The Hypnotism Act 1952.
17. Power to license premises for acupuncture, tattooing, ear-piercing	Sections 13 to 17 of the Local Government (Miscellaneous

Function	Provision of Act or Statutory Instrument
and electrolysis.	Provisions) Act 1982.
18. Power to license pleasure boats and pleasure vessels.	Section 94 of the Public Health Acts Amendment Act 1907.
19. Power to register door staff	The Local Government (Miscellaneous Provisions) Act 1982 <i><u>This power ceases to exist.</u></i>
20. Power to license market and street trading.	Part III of, and Schedule 4 to, the Local Government (Miscellaneous Provisions) Act 1982. <u>Part III of the London Local Authorities Act 1990 and section 6 of the London Local Authorities Act 1994</u>
21. Power to license night cafes and take-away food shops (this provision will cease to have effect from 24 th November 2005 by virtue of the Licensing Act 2003).	Section 2 of the Late Night Refreshment Houses Act 1969, <u>(this provision will cease to have effect from 24th November 2005 by virtue of the Licensing Act 2003).</u>
22. Duty to keep list of persons entitled to sell non-medicinal poisons.	Sections 3(1)(b)(ii), 5, 6 and 11 of the Poisons Act 1972. <i><u>This power ceases to exist.</u></i>
23. Power to license dealers in game and the killing and selling of game.	Sections 5, 6, 17, 18 and 21 to 23 of the Game Act 1831; sections 2 to 16 of the Game Licensing Act 1860, section 4 of the Customs and Inland Revenue Act 1883, sections 12(3) and 27 of the Local Government Act 1874, and section 213 of the Local Government Act 1972.
24. Power of register and license premises for the preparation of food.	Section 19 of the Food Safety Act 1990.
25. Power to license scrap yards.	Section 1 of the Scrap Metal Dealers Act 1964.
26. Power to issue, amend or replace safety certificates (whether general or special) for sports grounds.	The Safety of Sports Grounds Act 1975.

Function	Provision of Act or Statutory Instrument
27. Power to issue, cancel, amend or replace safety certificates for regulated stands at sports grounds.	Part III of the Fire Safety and Safety of Places of Sport Act 1987.
28. Power to issue fire certificates.	Section 5 of the Fire Precautions Act 1971.
29. Power to license premises for the breeding of dogs.	Section 1 of the Breeding of Dogs Act 1973 and section 1 of the Breeding and Sale of Dogs (Welfare) Act 1999.
30. Power to license pet shops and other establishments where animals are bred or kept for the purposes of carrying on a business.	Section 1 of the Pet Animals Act 1951; section 1 of the Animal Boarding Establishments Act 1963; the Riding Establishments Acts 1964 and 1970; section 1 of the Breeding of Dogs Act 1973, and sections 1 and 8 of the Breeding and Sale of Dogs (Welfare) Act 1999.
31. Power to register animal trainers and exhibitors.	Section 1 of the Performing Animals (Regulation) Act 1925.
32. Power to license zoos.	Section 1 of the Zoo Licensing Act 1981.
33. Power to license dangerous wild animals.	Section 1 of the Dangerous Wild Animals Act 1976.
34. Power to license knackers' yards.	Section 4 of the Slaughterhouses Act 1974. See also the Animal By-Products Order 1999 (S.I. 1999/646).
35. Power to license the employment of children.	Part II of the Children and Young Persons Act 1933, byelaws made under that Part, and Part II of the Children and Young Persons Act 1963.

Function	Provision of Act or Statutory Instrument
<p>37. Power to register common land or town or village greens, except where the power is exercisable solely for the purpose of giving effect to:</p> <p>(a) an exchange of lands effected by an order under section 19(3) of, or paragraph 6(4) of Schedule 3 to, the Acquisition of Land Act 1981 or</p> <p>(b) an order under section 147 of the Inclosure Act 1845</p>	<p>Regulation 6 of the Commons Registration (New Land) Regulations 1969 (S.I. 1969/1843).</p>
<p>38. Power to register variation of rights of common.</p>	<p>Regulation 29 of the Commons Registration (General) Regulations 1966 (S.I. 1966/1471).</p>
<p>39. Power to license persons to collect for charitable and other causes.</p>	<p>Section 5 of the Police, Factories etc. (Miscellaneous Provisions) Act 1916 and section 2 of the House to House Collections Act 1939.</p>
<p>40. Power to grant consent for the operation of a loudspeaker.</p>	<p>Schedule 2 to the Noise and Statutory Nuisance Act 1993.</p>
<p>41. Power to grant a street works licence.</p>	<p>Section 50 of the New Roads and Street Works Act 1991.</p>
<p>42. Power to license agencies for the supply of nurses.</p>	<p>Section 2 of the Nurses Agencies Act 1957.</p>
<p>43. Power to issue licences for the movement of pigs.</p>	<p>Article 12 of the Pigs (Records, Identification and Movement) Order 1995 (S.I. 1995/11).</p>
<p>44. Power to license the sale of pigs.</p>	<p>Article 13 of the Pigs (Records, Identification and Movement) Order 1995.</p>
<p>45. Power to license collecting centres for the movement of pigs.</p>	<p>Article 14 of the Pigs (Records, Identification and Movement) Order 1995.</p>
<p>46. Power to issue a licence to move cattle from a market.</p>	<p>Article 5(2) of the Cattle Identification Regulations 1998 (S.I. 1998/871).</p>

Function	Provision of Act or Statutory Instrument
46A Power to grant permission for provision, etc. of services, amenities, recreation and refreshment facilities on highway, and related services.	Sections 115E, 115F and 115K of the Highways Act 1980
47. Power to permit deposit of builder’s skip on highway.	Section 139 of the Highways Act 1980.
47A Duty to publish notice in respect of proposal to grant permission under section 115E of the Highways Act 1980	Section 115G of the Highways Act 1980
48. Power to license planting, retention and maintenance of trees etc. in part of highway.	Section 142 of the Highways Act 1980.
49. Power to authorise erection of stiles etc. on footpaths or bridleways.	Section 147 of the Highways Act 1980.
50. Power to license works in relation to buildings etc. which obstruct the highway.	Section 169 of the Highways Act 1980.
51. Power to consent to temporary deposits or excavations in streets.	Section 171 of the Highways Act 1980.
52. Power to dispense with obligation to erect hoarding or fence.	Section 172 of the Highways Act 1980.
53. Power to restrict the placing of rails, beams etc. over highways.	Section 178 of the Highways Act 1980.
54. Power to consent to construction of cellars etc. under street.	Section 179 of the Highways Act 1980.
55. Power to consent to the making of openings into cellars etc. under streets, and pavement lights and ventilators.	Section 180 of the Highways Act 1980.
56. Power to sanction use of parts of buildings for storage of celluloid.	Section 1 of the Celluloid and Cinematograph Film Act 1922.
57. Power to approve meat product premises.	Regulations 4 and 5 of the Meat Products (Hygiene) Regulations

Function	Provision of Act or Statutory Instrument
	1994 (S.I. 1994/3082).
58. Power to approve premises for the production of minced meat or meat preparations.	Regulation 4 of the Minced Meat and Meat Preparations (Hygiene) Regulations 1995 (S.I. 1995/3205).
59. Power to approve dairy establishments.	Regulations 6 and 7 of the Dairy Products (Hygiene) Regulations 1995 (S.I. 1995/1086).
60. Power to approve egg product establishments.	Regulation 5 of the Egg Products Regulations 1993 (S.I. 1993/1520).
61. Power to issue licences to retail butchers' shops carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready-to-eat foods.	Schedule 1A to the Food Safety (General Food Hygiene) Regulations 1995 (S.I. 1995/1763).
62. Power to approve fish products premises.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998 (S.I. 1998/994).
63. Power to approve dispatch or purification centres.	Regulation 11 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
64. Power to register fishing vessels on board which shrimps or molluscs are cooked.	Regulation 21 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
65. Power to approve factory vessels and fishery product establishments.	Regulation 24 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
66. Power to register auction and wholesale markets.	Regulation 26 of the Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
67. Duty to keep register of food business premises.	Regulation 5 of the Food Premises (Registration) Regulations 1991 (S.I. 1991/2828).
72. Functions relating to the registration of common land and town or	Part 1 of the Commons Act 2006 (c.26) and the Commons

Function	Provision of Act or Statutory Instrument
village greens.	Registration (England) Regulations 2008 (S.I. 2008/1961)
C. Functions relating to health and safety at work	
Functions under any of the "relevant statutory provisions" within the meaning of Part I (health, safety and welfare in connection with work, and control of dangerous substances) of the Health and Safety at Work etc. Act 1974, to the extent that those functions are discharged otherwise than in the authority's capacity as an employer.	Part I of the Health and Safety at Work etc. Act 1974.
D. Functions relating to elections	
1. Duty to appoint an electoral registration officer.	Section 8(2) of the Representation of the People Act 1983.
2. Power to assign officers in relation to requisitions of the registration officer.	Section 52(4) of the Representation of the People Act 1983.
3. Functions in relation to parishes and parish councils.	Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.
4. Power to dissolve small parish councils.	Section 10 of the Local Government Act 1972.
5. Power to make orders for grouping parishes, dissolving groups and separating parishes from groups.	Section 11 of the Local Government Act 1972.
6. Duty to appoint returning officer for local government elections.	Section 35 of the Representation of the People Act 1983.
7. Duty to provide assistance at European Parliamentary elections.	<u>Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978. Section 6/(7) and (8) of the European Parliamentary Elections Act 2002</u>

Function	Provision of Act or Statutory Instrument
8. Duty to divide constituency into polling districts.	Sections 18A to 18E of, and Schedule A1 to , the Representation of the People Act 1983.
9. Power to divide electoral divisions into polling districts at local government elections.	Section 31 of the Representation of the People Act 1983.
10. Powers in respect of holding of elections.	Section 39(4) of the Representation of the People Act 1983.
11. Power to pay expenses properly incurred by electoral registration officers.	Section 54 of the Representation of the People Act 1983.
12. Power to fill vacancies in the event of insufficient nominations.	Section 21 of the Representation of the People Act 1985.
13. Duty to declare vacancy in office in certain cases.	Section 86 of the Local Government Act 1972.
14. Duty to give public notice of a casual vacancy.	Section 87 of the Local Government Act 1972.
15. Power to make temporary appointments to parish councils.	Section 91 of the Local Government Act 1972.
16. Power to determine fees and conditions for supply of copies of, or extracts from, elections documents.	<i>Removed by the Local Authorities (Functions and Responsibilities) (England) (Amendment no. 4) Regulations 2007 No.2593</i>
17. Power to submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000.	Section 10 of the Representation of the People Act 2000.
18. Duty to consult on change of scheme for elections.	Sections 33(2), 38(2) and 40(2) of the Local Government and Public Involvement in Health Act 2007 (the 2007 Act)-
19. Duties relating to publicity.	Sections 35, 41 and 52 of the Local Government and Public

Function	Provision of Act or Statutory Instrument
	Involvement in Health Act 2007.
20. Duties to give notice to Electoral Commission.	Section 36 and 42 of the Local Government and Public Involvement in Health Act 2007.
21. Power to alter years of ordinary elections of Parish Councillors.	Section 53 of the Local Government and Public Involvement in Health Act 2007.
22. Functions relating to change of name of electoral area.	Section 59 of the Local Government and Public Involvement in Health Act 2007.
E. Functions relating to name and status of areas and individuals	
1. Power to change the name of the county or district.	Section 74 of the Local Government Act 1972.
2. Power to change the name of a parish.	Section 75 of the Local Government Act 1972.
3. Power to confer title of honorary alderman or to admit to be an honorary freeman.	Section 249 of the Local Government Act 1972.
4. Power to petition for a charter to confer borough status.	Section 245b of the Local Government Act 1972.
EB. Functions relating to community governance	
1. Duties relating to community governance reviews.	Section 79 of the 2007 Act.
2. Functions relating to community governance petitions.	Sections 80, 83 to 85 of the 2007 Act
3. Functions relating to terms of reference of review.	Sections 81(4) to (6)
4. Power to undertake a community governance review.	Section 82 of the 2007 Act

Function	Provision of Act or Statutory Instrument
5. Functions relating to making of recommendations.	Sections 87 to 92 of the 2007 Act
6. Duties when undertaking review.	Section 93 to 95 of the 2007 Act
7. Duty to publicise outcome of review	Section 96 of the 2007 Act
8. Duty to send two copies of order to Secretary of State and Electoral Commission.	Section 98(1) of the 2007 Act
9. Power to make agreements about incidental matters.	Section 99 of the 2007 Act
F. Power to make, amend, revoke or re-enact byelaws	Any provision of any enactment (including a local Act), whenever passed, and section 14 of the Interpretation Act 1978.
FA. Functions relating to smoke-free premises, etc	
1. Duty to enforce Chapter 1 and regulations made under it.	Section 10(3) of the Health Act 2006 (the 2006 Act)
2. Power to authorise officers.	Section 10(5) of, and paragraph 1 of Schedule 2 to, the 2006 Act
3. Functions relating to fixed penalty notices.	Paragraphs 13, 15 and 16 of Schedule 1 to the 2006 Act. Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007 (S.I. 266/760)
4. Power to transfer enforcement functions to another enforcement authority	Smoke-free (Premises and Enforcement) Regulations 2006 (S.I. 2006/3368)
G. Power to promote or oppose local or personal Bills.	Section 239 of the Local Government Act 1972.
H. Functions relating to pensions etc.	
1. Functions relating to local government pensions, etc.	Regulations under section 7, 12 or 24 of the Superannuation Act 1972.

Function	Provision of Act or Statutory Instrument
<p>2. Functions under the Fireman's <u>Fire-fighters'</u> Pension Scheme relating to pensions, etc. as respects persons employed as members of fire brigades maintained pursuant to section 4 of the Fire Services Act 1947. <u>by fire and rescue authorities pursuant to section 1 of Fire and Rescue Services Act 2004</u></p>	<p>Section 26 of the Fire Services Act 1947. <u>Sections 34 and 36 of the Fire and Rescue Services Act 2004</u></p>
<p>I. Miscellaneous functions</p>	
<p>Part I: functions relating to public rights of way</p>	
<p>1. Power to create footpath or bridleway by agreement.</p>	<p>Section 25 of the Highways Act 1980.</p>
<p>2. Power to create footpaths and bridleways.</p>	<p>Section 26 of the Highways Act 1980.</p>
<p>3. Duty to keep register of information with respect to maps, statements and declarations.</p>	<p>Section 31A of the Highways Act 1980.</p>
<p>4. Power to stop up footpaths and bridleways.</p>	<p>Section 118 of the Highways Act 1980.</p>
<p>5. Power to determine application for public path extinguishment order.</p>	<p>Sections 118ZA and 118C(2) of the Highways Act 1980.</p>
<p>6. Power to make a rail crossing extinguishment order.</p>	<p>Section 118A of the Highways Act 1980.</p>
<p>7. Power to make a special extinguishment order.</p>	<p>Section 118B of the Highways Act 1980.</p>
<p>8. Power to divert footpaths and bridleways.</p>	<p>Section 119 of the Highways Act 1980.</p>
<p>9. Power to make a public path diversion order.</p>	<p>Sections 119ZA and 119C(4) of the Highways Act 1980.</p>

Function	Provision of Act or Statutory Instrument
10. Power to make a rail crossing diversion order.	Section 119A of the Highways Act 1980.
11. Power to make a special diversion order.	Section 119B of the Highways Act 1980.
12. Power to require applicant for order to enter into agreement.	Section 119C(3) of the Highways Act 1980.
13. Power to make an SSSI diversion order.	Section 119D of the Highways Act 1980.
14. Duty to keep register with respect to applications under sections 118ZA, 118C, 119ZA and 119C of the Highways Act 1980.	Section 121B of the Highways Act 1980.
15. Power to decline to determine certain applications.	Section 121C of the Highways Act 1980.
16. Duty to assert and protect the rights of the public to use and enjoyment of highways.	Section 130 of the Highways Act 1980.
17. Duty to serve notice of proposed action in relation to obstruction.	Section 130A of the Highways Act 1980.
18. Power to apply for variation of order under section 130B of the Highways Act 1980.	Section 130B(7) of the Highways Act 1980.
19. Power to authorise temporary disturbance of surface of footpath or bridleway.	Section 135 of the Highways Act 1980.
20. Power temporarily to divert footpath or bridleway.	Section 135A of the Highways Act 1980.
21. Functions relating to the making good of damage and the removal of obstructions.	Section 135B of the Highways Act 1980.
22. Powers relating to the removal of things so deposited on highways as to be a nuisance.	Section 149 of the Highways Act 1980.

Function	Provision of Act or Statutory Instrument
23. Power to extinguish certain public rights of way.	Section 32 of the Acquisition of Land Act 1981 (c. 67).
24. Duty to keep definitive map and statement under review.	Section 53 of the Wildlife and Countryside Act 1981.
25. Power to include modifications in other orders.	Section 53A of the Wildlife and Countryside Act 1981.
26. Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Countryside Act 1981.	Section 53B of the Wildlife and Countryside Act 1981.
27. Duty to reclassify roads used as public paths.	Section 54 of the Wildlife and Countryside Act 1981.
28. Power to prepare map and statement by way of consolidation of definitive map and statement.	Section 57A of the Wildlife and Countryside Act 1981.
29. Power to designate footpath as cycle track.	Section 3 of the Cycle Tracks Act 1984.
30. Power to extinguish public right of way over land acquired for clearance.	Section 294 of the Housing Act 1981 (c. 68).
31. Power to authorise stopping-up or diversion of footpath or bridleway.	Section 257 of the Town and Country Planning Act 1990.
32. Power to extinguish public rights of way over land held for planning purposes.	Section 258 of the Town and Country Planning Act 1990.
33. Power to enter into agreements with respect to means of access.	Section 35 of the Countryside and Rights of Way Act 2000.
34. Power to provide access in absence of agreement.	Section 37 of the Countryside and Rights of Way Act 2000.

Function	Provision of Act or Statutory Instrument
Part II: other miscellaneous functions	
35. Functions relating to sea fisheries.	Sections 1, 2, 10 and 19 of the Sea Fisheries Regulation Act 1966.
36. Power to make standing orders.	Section 106 of, and paragraph 42 of Schedule 12 to, the Local Government Act 1972.
37. Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal).	Section 112 of the Local Government Act 1972.
38. Power to make standing orders as to contracts.	Section 135 of the Local Government Act 1972.
39. Duty to make arrangements for proper administration of financial affairs etc.	Section 151 of the Local Government Act 1972.
40. Power to appoint officers for particular purposes (appointment of "proper officers").	Section 270(3) of the Local Government Act 1972.
41. Power to make limestone pavement order.	Section 34(2) of the Wildlife and Countryside Act 1981.
42. Power to make closing order with respect to take-away food shops.	Section 4 of the Local Government (Miscellaneous Provisions) Act 1982.
43. Duty to designate officer as the head of the authority's paid service, and to provide staff, etc.	Section 4(1) of the Local Government and Housing Act 1989.
44. Duty to designate officer as the monitoring officer, and to provide staff, etc.	Section 5(1) of the Local Government and Housing Act 1989.
44A Duty to provide staff, etc. to person nominated by monitoring officer.	Sections 82A(4) and (5) of the Local Government Act 2000
44B Powers relating to overview and scrutiny committees (voting rights	Paragraphs 12 and 14 of Schedule 1 to the Local Government Act

Function	Provision of Act or Statutory Instrument
of co-opted members)	2000
45. Duty to approve authority's statement of accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be).	The Accounts and Audit Regulations 1996 (S.I. 1996/590).
46. Powers relating to the protection of important hedgerows.	The Hedgerows Regulations 1997 (S.I. 1997/1160).
47. Powers relating to the preservation of trees.	Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 (S.I. 1999/1892).
47A Powers relating to complaints about high hedges.	Part 8 of the Anti-Social Behaviour Act 2003
48. Power to make payments or provide other benefits in cases of maladministration etc.	Section 92 of the Local Government Act 2000.
49. Power to make a designation order prohibiting the consumption of alcohol in public places. <u>Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption</u>	Section 13 <u>(2)</u> of the Criminal Justice and Police Act 2001
50. Power to make or revoke an order designating a locality as an alcohol disorder zone.	Section 16 of the Violent Crime Reduction Act 2006
51. Power to apply for an enforcement order against unlawful works on common land.	Section 41 of the Commons Act 2006
52. Power to protect unclaimed registered common land and unclaimed town or village greens against unlawful interference.	Section 45(2)(a) of the Commons Act 2006
53. Power to institute proceedings for offences in respect of unclaimed registered common land and unclaimed town or village greens-	Section 45(2)(b) of the Commons Act 2006

Function	Provision of Act or Statutory Instrument
J. Ancillary functions	
<p>1. (a) Imposing any condition, limitation or other restriction on an approval, consent, licence, permission or registration granted:</p> <p style="padding-left: 40px;">(i) in the exercise of a function specified above in column (1) of this Schedule; or</p> <p style="padding-left: 40px;">(ii) otherwise than by the Executive in the exercise of any function under a local Act; and</p> <p>(b) Determining any other terms to which any such approval, consent, licence, permission or registration is subject.</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 2.</p>
<p>2. Determining whether, and in what manner, to enforce:</p> <p style="padding-left: 40px;">(a) any failure to comply with an approval, consent, licence, permission or registration granted as mentioned in paragraph 1(a) immediately above;</p> <p style="padding-left: 40px;">(b) any failure to comply with a condition, limitation or term to which any such approval, consent, licence, permission or registration is subject; or</p> <p style="padding-left: 40px;">(c) any other contravention in relation to a matter with regard to which the function of determining an application for approval, consent, licence, permission or registration would not be the responsibility of the Executive</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 2</p>
<p>3. (a) Amending, modifying or varying any such approval, consent, licence, permission or registration as is mentioned in</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 2</p>

Function	Provision of Act or Statutory Instrument
<p>paragraph 1(a) above, or any condition, limitation or term to which it is subject; or</p> <p>(b) Revoking any such approval, consent, licence, permission or registration.</p>	
<p>K. Other functions</p>	
<p>1. Making any scheme authorised or required by regulations under section 18 (schemes for basic, attendance and special responsibility allowances for local authority members) of the Local Government and Housing Act 1989, or of amending, revoking or replacing any such scheme</p> <p>Note: The Council’s functions mentioned in this paragraph may not be delegated.</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 2</p>
<p>2. Subject to any provision of regulations under section 20-9EB (joint exercise of functions) of the Local Government Act 2000, the function of:</p> <p>(a) making arrangements for the discharge of functions by a committee or officer under section 101(5) of the Local Government Act 1972; and</p> <p>(b) making appointments under section 102 (appointment of committees) of that Act.</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 2</p>
<p>3. Any function of a local authority which, by virtue of any enactment (including an enactment contained in a local Act or comprised in subordinate legislation) passed or made before 19 October 2000, may be discharged only by an authority (unless otherwise</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 2</p>

Function	Provision of Act or Statutory Instrument
<p>provided by The Local Authorities (Functions and Responsibilities) (England) Regulations 2000)</p>	
<p>4. (1) In connection with the discharge of the function:</p> <p>(a) of formulating or preparing a plan or strategy of a description specified in column (1) of Schedule 3 below;</p> <p>(b) of formulating a plan or strategy for the control of the authority's borrowing or capital expenditure <u>or for determining the authority's minimum revenue provision</u>; or</p> <p>(c) of formulating or preparing any other plan or strategy whose adoption or approval the Council has determined is to be a matter for the Council</p> <p>the following actions</p> <p>(i) the giving of instructions requiring the Executive to reconsider any draft plan or strategy submitted by the Executive for the authority's consideration;</p> <p>(ii) the amendment of any draft plan or strategy submitted by the Executive for the authority's consideration;</p> <p>(iii) the approval, for the purposes of public consultation in accordance with regulation 10 or 22 of the Town and Country Planning (Development Plans) (England) Regulations 1999, of draft proposals associated with the preparation of alterations to, or the replacement of, a development plan</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 4</p>

Function	Provision of Act or Statutory Instrument
<p>(iv) the approval, for the purpose of its submission to the Secretary of State or any Minister of the Crown for his/her approval, of any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; and</p> <p>(v) the adoption (with or without modification) of the plan or strategy.</p> <p>(2) The function of amending, modifying, <u>revising</u>, varying, <u>withdrawing</u> or revoking any plan or strategy of a description referred to in paragraph (1) above, save to the extent that the making of the amendment, modification, <u>revision</u>, variation, <u>withdrawal</u> or revocation is:</p> <p>(i) required for giving effect to requirements of the Secretary of State or a Minister of the Crown in relation to a plan or strategy submitted for his/her approval, or to any part so submitted; or</p> <p><u>(ii) authorised by a determination made by the authority when approving or adopting the plan or strategy, as the case may be; or</u></p> <p><u>(iii) recommend by the person carrying out, under Section 20 of the Planning and Compulsory Purchase Act 2004, an independent examination of a development plan document.</u></p> <p><u>(ii) Where (i) to (iii) apply then the amendment, modification, revision, variation, withdrawal or revocation is the responsibility of the Executive.</u></p>	

Function	Provision of Act or Statutory Instrument
<p>Note: The Council functions specified in this paragraph cannot be delegated</p>	
<p>5. (1) In connection with the discharge of the function of:</p> <p>(a) making a calculation in accordance with any of sections 32 to 37, 43 to 49, 52I, 52J, 52T and 52U of the Local Government Finance Act 1992, whether originally or by way of substitute; or</p> <p>(b) issuing a precept under Chapter IV of Part I of that Act, all functions except the following:</p> <p>(A) the preparation, for submission to the authority for their consideration, of:</p> <p>(i) estimates of the amounts to be aggregated in making the calculation or of other amounts to be used for the purposes of the calculation and estimates of the calculation; or</p> <p>(ii) the amounts required to be stated in the precept</p> <p>(B) the reconsideration of those estimates and amounts in accordance with the authority's requirements;</p> <p>(C) the submission for the authority's consideration of revised estimates and amounts.</p>	<p>The Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 4</p>
<p>6. Any other function not listed above which has been (or in future becomes) a Council side function by virtue of any Act of</p>	

Function	Provision of Act or Statutory Instrument
Parliament or subordinate legislation, shall be deemed to be a Council function.	

Schedule 3 - Circumstances in Which Functions are Not to be the Responsibility of the Cabinet Executive

(Note: Special rules apply in the case of urgency and these are set out in the Standing Orders relating to the Budget and Policy Framework.)

Function	Circumstances
<p>1. The adoption or approval of a plan or strategy (whether statutory or non-statutory), other than a plan or strategy of a description referred to in regulation 4(1)(b) (a plan or strategy for the control of the authority's borrowing or capital expenditure) or Schedule 4-3 (the statutory plans and strategies) or a plan or strategy for the control of the authority's borrowing or capital expenditure.</p>	<p>The authority determines that the decision whether the plan or strategy shall be adopted or approved shall be taken by them.</p> <p>Note: The Council's functions in these circumstances may not be delegated.</p>
<p>2. The determination of any matter in the discharge of a function which -</p> <p>(a) is the responsibility of the Executive; and</p> <p>(b) is concerned with the authority's budget, or their borrowing or capital expenditure.</p>	<p>The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made:</p> <p>(a) is minded to determine the matter contrary to, or not wholly in accordance with:</p> <p>(i) the authority's budget; or</p> <p>(ii) the plan or strategy for the time being approved or adopted by the authority in relation to their borrowing or capital expenditure; and</p> <p>(b) is not authorised by the authority's Executive arrangements, financial regulations, standing orders or other rules or procedures to make a determination in those terms.</p>

Function	Circumstances
<p>3. The determination of any matter in the discharge of a function:</p> <ul style="list-style-type: none"> (a) which is the responsibility of the Executive; and (b) in relation to which a plan or strategy (whether statutory or non-statutory) has been adopted or approved by the authority. 	<p>The individual or body by whom, by virtue of any of sections 14 to 17 of the Local Government Act 2000 or provision made under section 18 or 20 of that Act, the determination is to be made, is minded to determine the matter in terms contrary to the plan or, as the case may be, the strategy adopted or approved by the authority.</p>

Schedule 4 – Terms of Reference – New Council post May 2019 recommended to review
**Overview and Scrutiny Board and Sub-committees, Regulatory and Other Committees,
 Area Committees, Working Parties and Other Bodies**

Name of Committee and Terms of Reference	Membership
<p>Appeals Committee (Transport):</p> <p>Terms of Reference:</p> <p>To determine appeals in respect of school transport.</p>	<p>7 members of the Council in accordance with the political balance requirements</p> <p>Conservative (4)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p> <p>Independent (1)</p>
<p>Audit Committee:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To consider the Head of Internal Audit’s annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council’s corporate governance arrangements. 2. To consider summaries of specific Internal Audit reports as requested. 3. To consider reports dealing with the management and performance of the providers of Internal Audit Services. 4. To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale. 5. To consider the External Auditor’s Annual Letter, relevant reports, and the report to those charged with governance. 	<p>7 members of the Council excluding members of the <u>Executive Cabinet</u>, in accordance with the political balance requirements</p> <p>Conservative (4)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (1)</p>

Name of Committee and Terms of Reference	Membership
<p>6. To consider specific reports as agreed with the External Auditor.</p> <p>7. To comment on the scope and depth of external audit work and to ensure it gives value for money.</p> <p>8. To liaise with the Public Sector Audit Appointments Ltd over the appointment of the Council’s external auditor.</p> <p>9. To commission work from Internal and External Audit within approved resources.</p> <p>10. To support the Council’s compliance with the CIPFA Code of Practice for Treasury Management in Public Services including the role as nominated Committee to be responsible for ensuring effective scrutiny of the capital strategy, treasury management strategy and policies.</p>	
<p>Regulatory Framework</p>	
<p>11. To maintain a strategic overview of the Council’s Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour (the primary responsibility for considering and ensuring that the constitution is fit for purpose lies with the Monitoring Officer and the Standards Committee in relation to the codes of conduct).</p>	
<p>12. To maintain a strategic overview of the Council’s compliance with the prevailing Accounts and Audit Regulations.</p>	
<p>13. To review any issue referred to it by the Chief Executive, a Director, the Monitoring officer, Section 151 Officer (Chief Finance Officer) or any Council body.</p>	
<p>14. To monitor the effective development and operation of risk management and</p>	

Name of Committee and Terms of Reference	Membership
<p>corporate governance in the Council.</p> <p>15. To monitor council policies on ‘Raising Concerns at Work’ and the ‘Anti-fraud and corruption strategy’ and the Council’s complaints process.</p> <p>16. To consider the findings of reviews of the effectiveness of the system of internal control including the Annual Governance Statement and to recommend its adoption.</p> <p>17. To oversee the Council’s arrangements for corporate governance and consider necessary actions to ensure compliance with best practice.</p> <p>18. To review the Code of Corporate Governance.</p> <p>19. To monitor the Council’s compliance with its own and other published standards and controls.</p> <p>20. To maintain a strategic overview of the Council’s compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).</p> <p>Accounts</p> <p>21. To consider the External Auditor’s report to those charged with governance on issues arising from the audit of the accounts.</p> <p>22. On behalf of the Council, to consider and approve the annual statement of accounts.</p>	
<p>Civic Committee:</p> <p>Terms of Reference:</p>	<p>7 members of the Council in accordance with the political balance requirements</p>

Name of Committee and Terms of Reference	Membership
<ol style="list-style-type: none"> 1. To consider nominations for the title of Honorary Freeman and Honorary Alderman and make recommendations to the Council as necessary following unanimous voting on acceptance of any nominations. 2. To consider and promote nominations for national and local awards. 3. To identify events to attract Royal visits. 4. To keep updated on major national civic events. 	<p>Conservative (4)</p> <p>Liberal Democrat (2)</p> <p>Independent (1)</p>
<p>Development Management Committee:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. At all times to have regard to the adopted Torbay Local Plan 1995-2011 (“the Torbay Local Plan”) and, following submission to the Secretary of State, the new Torbay Local Plan 2012 - 2032. 2. To consider and (if appropriate) determine (unless such determination is reserved by law to Council) all applications and all other matters (including issuing notices, making Orders and requesting the Monitoring Officer to issue civil or criminal proceedings) relating to: <ul style="list-style-type: none"> Town and Country Planning, including <ul style="list-style-type: none"> • Conservation Areas • Listed Buildings • Scheduled Ancient Monuments • The display of advertisements • Tree Preservation Orders • Complaints about high hedges • Public Rights of Way • Minerals 	<p>9 members of the Council (excluding the CabinetExecutive Lead with responsibility for Planning, in accordance with the political balance requirements) with membership comprising, if reasonably possible, members from the various areas of the Borough</p> <p>Conservative (5)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (2)</p>

Name of Committee and Terms of Reference	Membership
<ul style="list-style-type: none"> • Highways matters • Waste • Enforcement; and • Environmental Assessment <p>so far as they are set out in Schedule 2 of this Part 3 of the Constitution (Council Functions) or are identified as Council functions in Schedule 1 of this Part 3 (Local Choice Functions): i.e. so far as they are not Executive functions.</p> <p>3. The Committee shall not determine any application (or other matter) in a manner that would (in the opinion of the Executive Head of Business Services) not be in accordance with the adopted and/or new Torbay Local Plan unless both those<u>the</u> Officers recommend such determination and the determination is consistent with the Executive Head’s recommendation.</p> <p>If, contrary to officer recommendation, the Committee consider that an application (or other matter) shall be determined not in accordance with the adopted and /or Torbay Local Plan then (unless their determination is consistent with the recommendation of the Executive Head of Business Services) the item shall be referred to Council for determination.</p>	
<p>Employment Committee:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To make recommendations to Council on the appointment of the Head of Paid Service including the terms and conditions of his/her employment. 2. To determine appointments to post of Director or equivalent positions of the Council, including the terms and conditions of contracts, appointment procedures and arrangements. 3. To consider applications for the position of Coroner and to recommend to 	<p>5 members of the Council in accordance with the political balance requirements (to include an <u>a</u> Cabinet<u>n-Executive</u> member)</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent (1)</p>

Name of Committee and Terms of Reference	Membership
<p>Council the person to be appointed to that post.</p> <p>4. To hear and determine appeals in relation to disciplinary matters, in relation to dismissal.</p> <p>5. To consider any matters referred by the Chief Executive on the appointment of Directors on Council owned companies.</p> <p>6. To consider any disciplinary or grievance matters in relation to the Chief Executive.</p> <p>7. To consider and determine requests for Flexible Retirement from Senior Officers.</p>	
<p>Terms of Reference:</p> <p>To determine all matters relating to the strategic management of the Council’s function as a Harbour Authority, in line with the Tor Bay Harbour Port Masterplan, the Council’s Policy Framework. Specifically the Committee will:-</p> <p>1. manage all of the Harbour’s financial matters in accordance with approved financial procedures and the Council’s aspirations for the harbour to be self financing as outlined in the Tor Bay Harbour Port Masterplan and including (but not limited to):</p> <p>(a) the setting of harbour charges from time to time (including in-year changes to the schedule) normally following consultation with the relevant Harbour Liaison Forums;</p> <p>(b) approving the annual revenue budgets within the ring-fenced harbour accounts;</p>	<p>9 members of the Council in accordance with the political balance requirements, plus up to five external non-voting advisors appointed by the Committee on a four year term and one non-voting advisor who is a private sector representative of the Board of the TDA.</p> <p>(Group Leaders will be asked to take account of the geographical spread of members in making appointments to the Committee)</p> <p>Conservative (5)</p> <p>Liberal Democrat (2)</p>

Name of Committee and Terms of Reference	Membership
<p>(c) receiving quarterly budget monitoring reports and to approve variances as appropriate; and</p> <p>(d) monitoring the harbour reserve funds and to seek to ensure that the funds are kept above an appropriate minimum contingency level and ensure the harbour remains self-financing;</p> <p>providing that no decision by the Harbour Committee shall impact adversely on the Council’s general fund or capital budget.</p> <p>2. to act as Duty Holder for the purposes of the Port Marine Safety Code;</p> <p>3. approve and monitor a business plan for Tor Bay Harbour, in line with the Council’s policy framework, and address any issues relating to performance;</p> <p>4. review these terms of reference annually and request the Council to make any necessary amendments and/or additions;</p> <p>5. review annually the powers delegated to the Head of Tor Bay Harbour Authority and refer any proposed changes to the Council for determination. The Committee itself shall not authorise any changes;</p> <p>6. consider any other matters referred to the Committee by the Head of Tor Bay Harbour Authority;</p> <p>7. establish any sub-committee or working parties as the Committee sees fit, in particular a Harbour Appointments Sub-Committee for the recruitment of advisors;</p> <p>8. recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review;</p> <p>9. to provide strategic direction to the Head of Tor Bay Harbour Authority and the</p>	<p>Independent Group (1)</p> <p>Independent (1)</p>

Name of Committee and Terms of Reference	Membership
<p>elected Mayor <u>Leader of the Council</u> in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority.; and</p> <p>10. appoint advisors following receipt of recommendations from the Harbour Appointments Sub-Committee and the Board of TDA. Appointments will be merit based and be in accordance with the Local Protocol for members of the Harbour Committee.</p>	
<p>Health and Wellbeing Board</p> <p>1. To encourage those who arrange for the provision of any health or social care services in the area to work in an integrated manner for the purpose of advancing the health and wellbeing of the people in its area.</p> <p>2. To provide advice, assistance and support, as it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 (arrangements between NHS bodies and local authorities) of the National Health Service Act 2006 in connection with the provision of such services.</p> <p>3. To encourage those who arrange for the provision of health-related services in its area to work closely with the Health and Wellbeing Board.</p> <p>4. To encourage those who arrange for the provision of any health or social care services in its area and those who arrange for the provision of any health-related services in its area to work closely together.</p> <p>5. To exercise the functions of Torbay Council and South Devon and Torbay Clinical Commissioning Group under sections 116 (health and social care: joint strategic needs assessments) and 116A (health and social care: joint health and wellbeing strategy) of the Local Government and Public Involvement in Health Act 2007, namely:</p>	<p>This is a Council Committee with up to five members of the Council (to be appointed by the <u>Leader of the Council</u>elected Mayor);</p> <p>Membership: Director of Adult Social Services Director of Children’s Services Director of Public Health A representative of Healthwatch Torbay A representative of South Devon and Torbay Clinical Commissioning Group</p> <p>Mayor;<u>Leader of the Council;</u> Executive Cabinet Lead for Adults and Children; Executive Cabinet Lead for Health and Wellbeing; <i>(note: to be updated with Leader of the Council’s relevant Cabinet Leads);</i></p>

Name of Committee and Terms of Reference	Membership
<ul style="list-style-type: none"> • Preparation of a Joint Strategic Needs Assessment; and • Preparation of a Joint Health and Wellbeing Strategy. <p>6. To assess needs for pharmaceutical services in Torbay and publish a statement of its first assessment and of any revised assessment.</p> <p>7. To provide the Council its opinion on whether the local authority is discharging its duty under section 116B (duty to have regard to assessment and strategies) of the Local Government and Public Involvement in Health Act 2007.</p> <p>8. To exercise the statutory duty to promote co-operation between Torbay Council, its relevant partners and other partners or bodies as the Council considers appropriate, to improve the well-being of children in the area.</p> <p>9. To consider the annual report of the Torbay Safeguarding Children’s Board.</p> <p>10. To make any decisions that legislation or government guidance reserves to Health and Wellbeing Board’s and/or proposes that Health and Wellbeing Boards would be appropriate forum for such decisions to be made.</p>	<p>Conservatives (2)</p> <p>Liberal Democrat (1)</p> <p>Non-voting Co-opted Members: Torbay and Southern Devon Health and Care NHS Trust South Devon Healthcare NHS Foundation Trust Police and Crime Commissioner Devon Partnership NHS Trust Torbay Community Development Trust Chairman of Safer Communities Torbay Chairman of Torbay Safeguarding Children Board Chairman of Torbay Safeguarding Adults Board Chairman of Torbay Together Representative from Devon and Cornwall Police Executive Head of Community Safety</p>
<p>Terms of Reference:</p> <p>1. The Housing Committee to have strategic oversight of delivery of the Council’s Housing Strategy and “My home is My Life” plan.</p> <p>2. To receive reports of overall performance and sub groups of the housing strategy as needed.</p>	<p>7 members of the Council in accordance with the political balance requirements (to include the Executive Cabinet Lead with responsibility for Housing)</p> <p>Conservative (4)</p>

Name of Committee and Terms of Reference	Membership
<p>3. To receive reports on national policy changes for housing and be advised as to how they impact or provide opportunities for Torbay.</p>	<p>Liberal Democrat (1) Independent Group (1)</p>
<p>4. To receive and approve Business Cases for developments/phases and therefore approve drawdowns of loans in accordance with the Prudential Borrowing limit set by Council.</p>	<p>Independent (1)</p>
<p>5. To approve the disposal of any land to the Companies associated with any Business Cases/Phases considered.</p>	
<p>6. The Head of Finance can refer any proposed acquisition decision (irrespective of value) to Full Council for determination where he deems that this is in the best interest of the Council.</p>	
<p>7. In respect of the Housing Rental Company reserved matters, to consider the following;</p> <p>7.1 Varying the quorum provisions for Director or Shareholder meetings.</p> <p>7.2 Permitting the registration (upon subscription or transfer) of any person as a member of the Company other than the Council.</p> <p>7.3 The creation, allotment or issue of any shares or the variation of any rights attaching to any Share</p> <p>7.4 Granting any option or other interest (in the form of convertible securities or in any other form) over or in its Shares capital, redeeming or purchasing any of its own Shares or effecting any other reorganisation of its Shares capital.</p>	

Name of Committee and Terms of Reference	Membership
7.5 Issuing any loan capital in the Company or entering into any commitment with any person with respect to the issue of any loan capital.	
7.6 Making any borrowing arrangement, other than from the Council.	
7.7 Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent).	
7.8 Changing the nature/scope of the Company’s Business or commencing any new business by the Company which is not ancillary or incidental to the Business.	
7.9 Approving any Business Plan prepared by the Board.	
7.10 Taking any action or decision which would not be consistent with any adopted Business Plan and/or any approved Business Case.	
7.11 Forming any subsidiary or acquiring shares in any other company or participating in any partnership or joint venture (incorporated or not).	
7.12 Selling any part of the Business unless authorised through any adopted Business Plan.	
7.13 Amalgamating or merging with any other company or business undertaking.	
7.14 The provision of letting agency services to others.	
7.15 Creating or granting any Encumbrance over the whole or any part of the	

Name of Committee and Terms of Reference	Membership
<p>Business, undertaking or assets of the Company or over any Shares in the Company or agreeing to do so other than liens arising in the ordinary course of business or any charge arising by the operation or purported operation of title retention clauses and in the ordinary course of business.</p> <p>7.16 Making any loan (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading) or giving any guarantee (other than in the normal course of trading) or indemnity (other than i in the normal course of trading).</p> <p>7.17 Altering any mandate given to the Company’s bankers relating to any matter concerning the operation of the Company’s bank accounts other than by the substitution of any person nominated as a signatory by the party entitled to make such nomination.</p> <p>7.18 Entering into any arrangement, contract or transaction (including the appointment of any agent or intermediary to conduct any of the Company’s Business) outside the normal course of its business.</p> <p>7.19 Making or permitting to be made any change in the accounting policies and principles adopted by the Company in the preparation of its audited and management accounts where such change would have an impact on the EBITDA.</p> <p>7.20 Declaring or paying any dividend or making any other distribution (by way of capitalisation, repayment or in any other manner) out of the Company's distributable profits or any of its reserves other than an interim dividend in</p>	

Name of Committee and Terms of Reference	Membership
<p>accordance with the Articles.</p> <p>7.21 (a) Making the initial decision for the Company to have its own employees</p> <p>(b) Granting any pension rights (Local Government Pension Scheme) to any director, officer, employee, former director, former officer or former employee, or any member of any such person's family.</p> <p>7.22 Dismissing any officer or employee in circumstances in which the Company incurs or agrees to bear redundancy or other costs in excess of £50,000 in total and dismissing any Director.</p> <p>7.23 Instituting, settling or compromising any material legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened against the Company or submitting to arbitration or alternative dispute resolution any dispute involving the Company.</p>	
<p>Investment and Regeneration Committee:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To review the Investment and Regeneration Fund Strategy and make recommendations to the Council for revision of the same, when appropriate. 2. To determine any investment or purchase using the Investment and Regeneration Fund up to the value of £25 million, in accordance with the Investment and Regeneration Fund Strategy. All investments or purchases to be subject to a (documented) review by the s151 Officer, Monitoring Officer and Executive Head of Business Services (any of whom may require the proposal to be referred to Council for approval). 	<p>7 members of the Council in accordance with the political balance requirements (members to receive mandatory training, including any substitutes)</p> <p>Conservative (4)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (1)</p>

Name of Committee and Terms of Reference	Membership
<p>3. To review with officer advice current and future investment opportunities.</p> <p>4. To determine when to receive external advice on investment opportunities.</p> <p>5. To receive performance reports on the Investment and Regeneration Fund on a quarterly basis.</p> <p>6. To be responsible for progressing and overseeing the Town Centre Regeneration Programme in accordance with the Transformation Strategy for Torbay’s Town Centres.</p> <p>7. To determine any Town Centre Regeneration opportunities and allocate funding from the £25 million previously approved by the Council for Town Centre Regeneration.</p> <p>8. To appoint working parties from amongst its membership or any other members of the Council to investigate individual Town Centre Regeneration Projects and to monitor their progress.</p>	
<p>Licensing Committee:</p> <p>Terms of Reference:</p> <p>To carry out the Licensing functions of the Council.</p>	<p>15 members of the Council in accordance with the political balance requirements</p> <p>Conservative (8)</p> <p>Liberal Democrat (3)</p> <p>Independent Group (1)</p> <p>Independents (3)</p>
<p>Overview and Scrutiny Board:</p>	<p>8 members of the Council in accordance with the political</p>

Name of Committee and Terms of Reference	Membership
<p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To approve and co-ordinate the work programme for the overview and scrutiny function for the year. 2. To appoint sub-committees and/or working parties to perform the overview and scrutiny function (the membership of such bodies to be in accordance with Standing Order D2 in relation to Overview and Scrutiny). 3. To appoint the Council's representatives to the Heart of the South West Local Enterprise Partnership (LEP) Joint Scrutiny Committee. 4. To review or scrutinise decisions made, or other action taken, in connection with the discharge of functions which are the responsibility of the Cabinet<u>Executive</u>. 5. To make reports or recommendations to the Authority or the Executive Cabinet<u>Executive Cabinet</u>. 6. To make reports or recommendations to the Authority or the Executive Cabinet<u>Executive Cabinet</u> with respect to the discharge of functions which are not the responsibility of the Executive Cabinet. 7. To make reports or recommendations to the Authority or the Executive Cabinet<u>Executive Cabinet</u> or the Council's partner authorities (as defined by the Local Government and Public Involvement in Health Act 2007) on matters which affect the Authority's area or the inhabitants of that area. 8. To consider all matters and issues arising from the Council's power of scrutinising local health services in accordance with the Health and Social Care Act 2001, the National Health Service Act 2006 and Health and Social Care Act 2012. 	<p>balance requirements (including the Overview and Scrutiny Co-ordinator and Scrutiny Lead Members) excluding the elected Mayor<u>Leader of the Cabinet</u>, other members of the Executive Cabinet<u>Executive Cabinet</u> and the Chairman/woman of the Council plus 2 Diocesan and 2 Parent Governor Representatives</p> <p>Conservative (5)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (1)</p>

Name of Committee and Terms of Reference	Membership
<p>9. To consider all matters and issues arising from the Council’s power to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions in accordance with the Police and Justice Act 2006.</p> <p>10. To review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area in accordance with Flood and Water Management Act 2010.</p>	
<p>Note: The Leader of the Council will determine governance structure for the Cabinet Policy Development and Decision Group (Joint Operations Team) and Policy Development and Decision Group (Joint Commission Team):</p> <p>Terms of Reference</p> <p>1. to begin early discussions on developing policy in key areas (notably, but not exclusively to those areas that are covered by the Council's Budget and Policy Framework, or are considered Key Decisions) and to review forthcoming issues in the Forward Plan;</p> <p>2. to review and offer opinions/guidance on the policy/development options put forward by officers to assist in the development of Equality Impact Assessments and other formal papers prior to the decision making process;</p> <p>3. to consider the most appropriate form of wider consultation and review the outcomes of consultation;</p> <p>4. to receive and make recommendations to the Mayor on Overview and Scrutiny reports; and</p> <p>5. to receive reports and make recommendations to the Mayor on Executive</p>	<p>These are Executive Committees comprising the Elected Mayor and Executive Leads (to be appointed by the Elected Mayor)</p>

Name of Committee and Terms of Reference	Membership
<p>decisions to enable the Mayor to make decisions at Policy Development Decision Groups.</p>	
<p>Standards Committee:</p> <p>Terms of Reference:</p> <p>6.1. To promote and maintain high standards of conduct by the elected Mayor, councillors, co-opted members and church and parent governor representatives.</p> <p>2. To assist the elected Mayor, councillors, co-opted members and church and parent governor representatives to observe the Members’ Code of Conduct.</p> <p>3. To advise the Council on the adoption or revision of the Members’ Code of Conduct.</p> <p>4. To monitor the operation of the Members’ Code of Conduct.</p> <p>5. To advise, train or arrange to train the elected Mayor, councillors, co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct.</p> <p>6. To assist the Monitoring Officer in carrying out his/her responsibilities pursuant to the Code of Conduct and its protocols.</p> <p>7. To review the Council’s local protocols as contained in the Constitution.</p> <p>8. To review the Constitution in relation to ethics and probity issues.</p> <p>9. To advise others on probity and ethics.</p> <p>10. To consider any alleged breaches of local protocols by members.</p> <p>11. To share experience with other standards committees.</p>	<p>7 members of Torbay Council in accordance with the political balance requirements</p> <p>Conservative (4)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (1)</p>

Name of Committee and Terms of Reference	Membership
<p>The Council may arrange for the Standards Committee to exercise such other functions as the Council considers appropriate.</p>	
<p>Adult Services and Public Health Monitoring Working Party</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To provide strategic political interface between elected members and the Executive Cabinet Lead for Adults and Children and the Directors of Adult Services and Public Health. 2. To understand the key priorities for Adult Services and Public Health. 3. To be fully briefed on the changes within Adult Services and Public Health especially in respect of the arrangements with the Integrated Care Organisation, changes arising from the Devon-wide Sustainability and Transformation Plan and changes in Government legislation and/or guidance. 4. To understand the financial situation in relation to Adult Services and Public Health. 	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>
<p>Airshow Working Party</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To enable Members to be kept fully briefed on the progress of the Torbay Air Show 2. To monitor the budget allocated for the Torbay Air Show. 3. To consider how the Torbay Air Show can provide an opportunity to create 	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent (1)</p>

Name of Committee and Terms of Reference	Membership
<p>greater benefits which support the Council’s broader corporate objectives (including providing opportunities for the Council’s Looked After Children).</p>	
<p>Children’s Services Monitoring Working Party</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To provide strategic political interface between elected members and the Executive Cabinet Lead for Adults and Children and the Director of Children’s Services; 2. To understand the key priorities for Children’s Services; 3. To be fully briefed on progress of improvements within Children’s Services; and 4. To understand the financial situation and plans for recovery of Children’s Services. 	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent (1)</p>
<p>Community Asset Transfer Panel</p> <p>Terms of Reference:</p> <p>To assess applications made at Stage 1 and Stage 2 of the Community Asset Transfer process in accordance with the criteria set out in the Community Asset Transfer Policy.</p>	<p>5 members of the Council in accordance with the political balance requirements, to include the CabinetExecutive Lead responsible for Planning</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent (1)</p>

Name of Committee and Terms of Reference	Membership
<p>Community Governance Review Working Party</p> <p>To oversee impartially and objectively the implementation of the Community Governance Review and to report back to Full Council with recommendations based on the responses to the consultation.</p>	<p>8 members of the Council in accordance with the political balance requirements, to include the <u>Leader of the Council</u> Elected Mayor</p> <p>Conservative (5)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (1)</p>
<p>Constitution Working Party</p> <p>Terms of Reference:</p> <p>1. To consider the warding patterns for the electoral review and make recommendations to Council.</p> <p>2. To prepare the Constitution for a Leader and Cabinet model of governance and make recommendations to Council.</p> <p>2. To consider representations and make recommendations to Council on the review of polling districts, polling places and polling stations having due regard to legislation and Electoral Commission guidance.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>
<p>Consultation, Communication and Engagement Working Party</p> <p>Terms of Reference:</p> <p>1. To develop the approach for improving Members and officers working together to ensure that Members are aware of all engagement activity.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p>

Name of Committee and Terms of Reference	Membership
<p>2. To develop approaches to ensure Members are equipped to promote and be involved in engagement activity.</p> <p>3. To develop a set of key performance indicators against which this strategy and the action plan can be measured.</p>	<p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>
<p>Corporate Parenting Panel</p> <p>Terms of Reference:</p> <p>Purpose:</p> <p>1. To lead on behalf of the Council and partners of the Local Authority to ensure that all services directly provided for children and young people in care and care leavers are delivered to a high standard and to all statutory requirements;</p> <p>2. To raise the aspiration, ambitions and life chances of children and young people in care, narrowing the gap of achievement and outcomes between children in care and their peers;</p> <p>3. To ensure that children in care are protected and supported to develop as healthy citizens, able to participate fully in their community.</p> <p>4. To ensure that all elected members are aware of their corporate parenting responsibilities and that all Council services are mindful of the needs of children in care and respond accordingly within their particular remit.</p> <p>Functions:</p> <p>5. To receive regular reports in relation to the adoption, fostering, commissioning, children looked after services, care leavers and the virtual school with a view to identifying any areas of underperformance and recommending any changes.</p>	<p>5 members of the Council in accordance with the political balance requirements, to include the Executive Cabinet Lead responsible for Children</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent (1)</p> <p>Note: The Panel will also include a representatives from the Children in Care Council and a foster carer. In addition, membership will include partners to support the delivery of key priorities in particular a senior local police officer, a Head Teacher, and designated health lead.</p>

Name of Committee and Terms of Reference	Membership
<p>6. To ensure that the principles of the corporate parenting are incorporated within key plans, policies and strategies of the Council including interagency working arrangements.</p>	
<p>7. To review reports relating to complaints from looked after children to ensure officers have dealt with these appropriately and made any recommendations for change.</p>	
<p>8. To raise awareness in Torbay Council and amongst its partners and the wider community by promoting the role of members as corporate parents and the Council as a corporate family with key responsibilities;</p>	
<p>9. To raise the profile of the needs and achievements of children looked after and care leavers through a range of celebratory events/activities determined by children looked after and care leavers.</p>	
<p>10. To ensure that leisure, cultural, further education and employment opportunities are provided and taken up by our children looked after and care leavers;</p>	
<p>11. To ensure that the views of children and young people are regularly heard through the Corporate Parenting Panel to improve educational, health and social outcomes.</p>	
<p>12. To meet with children and young people in care, frontline staff and foster carers to inform the Panel of the standards of care and improvement outcomes for children looked after.</p>	
<p>13. To monitor the ongoing commitment to providing support, training and clarity of expectations for foster carers to provide excellent and high quality care.</p>	
<p>14. To appoint elected members as Champions for Children in Care in respect of the following strands:</p>	

Name of Committee and Terms of Reference	Membership
<ul style="list-style-type: none"> • Housing; • Employment and training opportunities within council departments and with partner agencies; • Health (including mental health); • Educational Attainment and access to Higher Education; • Foster carer recruitment and retention; and • Response to those who go missing. 	
<p>Devolution Working Party</p> <p>Terms of Reference:</p> <p>1. To explore opportunities for Devolution.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>
<p>Financial Future Working Party</p> <p>Terms of Reference:</p> <p>1. To review in detail the Council’s Medium Term Resource Plan and Capital Expenditure and their underlying budgets to understand inter alia;</p> <p>(a) services that are statutory and have to be delivered, and services that are discretionary and can cease to be provided, and the relative costs of</p>	<p>6 members of the Council in accordance with the political balance requirements, plus the Elected Mayor<u>Leader of the Council</u></p> <p>Conservative (4)</p> <p>Liberal Democrat (1)</p>

Name of Committee and Terms of Reference	Membership
<p>the same,</p> <p>(b) opportunities for income generation including additional investments;</p> <p>2. To oversee an education programme for the residents of Torbay to ensure they are fully aware of the Council’s financial challenges;</p> <p>3. To make representations to Government in respect of the Council’s financial position;</p> <p>4. To consider the potential for holding a referendum to increase Council Tax above the cap set by Government, including undertaking any consultation; and the arrangements that would need to be put in place for a referendum; and</p> <p>5. To make any appropriate recommendations to the <u>Cabinet</u>Executive and Council on any of these matters.</p>	<p>Independent Group (1)</p>
<p>Harbour Asset Working Party (plus external advisors)</p> <p>Terms of Reference:</p> <p>1. To review all assets within Tor Bay Harbour and the Harbour Estate.</p> <p>2. To establish how each asset is performing.</p> <p>3. To identify any assets that are surplus.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p> <p>Liberal Democrat (2)</p>
<p>Harbour Budget Working Party (plus external advisors)</p> <p>Terms of Reference:</p> <p>1. To scrutinise the draft Tor Bay Harbour Authority budget prior to presentation to the Harbour Committee and to review the full range of harbour charges.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p>

Name of Committee and Terms of Reference	Membership
<p>2. To assist Officers to monitor and review the budget ahead of each quarterly Harbour Committee meeting.</p>	<p>Liberal Democrat (2)</p>
<p>Oldway Mansion and Estate Working Party</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To review any condition surveys for buildings on the site. 2. To review proposals for use of buildings and grounds. 3. To ascertain community views in respect of these matters. 4. To make recommendations about how future use of building should be taken forward. 5. To identify relevant members from the local community and relevant representatives from the business, public and voluntary sectors to be invited to meetings. 6. To specify, fully cost and prioritise the works to Oldway as identified in Phase 1 of the DCA report (presented to Council on 21 June 2018). 7. To explore with the community all potential sources of funding for the entirety of the Phases, including, but not limited to: <ul style="list-style-type: none"> • Grant funding • Fund raising events • Crowd funding 	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (3)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>

Name of Committee and Terms of Reference	Membership
<ul style="list-style-type: none"> • Business opportunities and investment • Legacies • Philanthropic contributions <p>8. To produce a flexible programme of proposed delivery of restoration works which aligns with the availability of funding.</p> <p>9. To provide strategic oversight of commissioning and delivery of any restoration works.</p>	
<p>Town Centre Regeneration Programme Board</p> <p>Terms of Reference:</p> <p>1. To approve the programme plan, which will lists all work programmes and projects, and agree the schedule of delivery and authorise any deviation from it.</p> <p>2. To consider the allocation of time and resources necessary to meet the Programme objectives.</p> <p>3. To confirm programme tolerances (budget, time and quality).</p> <p>4. Manage Programme Risks – i.e. to both assess risks (i.e. barriers to delivery and risks of success) and ensure that all identified risks are managed effectively and efficiently – by ensuring:</p> <ul style="list-style-type: none"> (a) that suitable counter-measures are developed and deployed to reduce likelihood and/or impact of risk; and, (b) that where required - i.e. for high impact probability risks – suitable contingency plans re; identified risk/s are put in place and deployed to reduce impact of risk if/when it materialises. 	<p>6 members of the Council in accordance with the political balance requirements, plus the Elected Mayor<u>Leader of the Cabinet</u>, partners and officers</p> <p>Conservative (4)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>

Name of Committee and Terms of Reference	Membership
<p>5. To ensure that the required resources are committed for each phase and arbitrate on any conflicts within the Programme or negotiate a solution to any problems between the Programme and external bodies – also ensure that resources required to manage risks and issues are identified/agreed and sourced.</p> <p>6. To review each completed Phase and approve progress to the next stage.</p> <p>7. To approve changes to the Programme scope and timescales.</p> <p>8. To assist and support the Masterplan Delivery Team in the resolution of issues and risks escalated to it.</p> <p>9. To provide assurance that all Acceptance Criteria have been met; ensuring implementation includes appropriate handling of equal opportunities issues.</p> <p>10. To decide the recommendations for follow-on actions and transfer these to appropriate authorities.</p> <p>11. To engage with and take market advice from any advisory team(s) established.</p>	

Schedule 5 - Scheme of Delegation of Executive Functions to the Executive Cabinet, Committees of the Executive Cabinet and Officers

Note: the Leader of the Council will be responsible for the delegation of Executive Functions to the Cabinet etc. Following the Election in May 2019 the Chief Executive and Senior Leadership Team will work with the Leader of the Council to assist with the formation of the Cabinet and allocation of portfolios.

This report is presented to the meeting of Council on 21 June 2018 in accordance with Standing Order C4.2(a) for inclusion in the Council's Scheme of Delegation (Schedule 5 of Part 3) of the Constitution of Torbay Council.

- The names, addresses and wards of the people appointed to the Cabinet Executive by the elected Mayor/Leader of the Council are set out below:

Name	Address	Electoral Ward
Deputy Mayor and Cabinet Lead for XX Executive Lead Planning and Waste- Councillor Derek MillsXXX	5 Bascombe Close Churston Brixham TQ5 0JR (01803) 843412 or 07769369654	Churston with Galmpton
Executive Lead for Tourism, Culture and Harbours – Councillor Amil	e/o Town Hall Castle Circus Torquay TQ1 3DR 07815561304	Cockington with Chelston
Executive Lead for Housing – Councillor Cindy Stocks	27 Ellacombe Road Torquay TQ1 3AT (01803) 295702 07787 766544	Ellacombe
Executive Lead for Environment – Councillor Vic Ellery	3 Alma Road Brixham TQ5 8QR (01803) 854928	Berry Head with Furzeham
Executive Lead for Community Services – Councillor Robert Excell	Excell Studio 203 Union Street Torre Torquay TQ1 4BY (01803) 212377 07811965194	Tormohun
Executive Lead for Customer Services – Councillor Richard Haddock	Churston Farm Shop Dartmouth Road Brixham TQ5 0LL (01803) 845837 07836 584044	St Marys with Summercombe

Name	Address	Electoral Ward
Executive Lead for Adults and Children – Councillor Julien Parrott	51 Princes Road Torquay TQ1 1NW (01803) 389624	Ellacombe
Executive Lead for Health and Wellbeing – Councillor Jackie Stockman	Winsome Higher Furzeham Road Brixham TQ5 8QP (01803) 851255	Berry Head with Furzeham

2. The ~~elected Mayor~~Leader of the Council is responsible for the discharge of all executive functions (except as specified in paragraph 3. below). ~~Executive Cabinet~~ Leads will have an **advisory role** in relation to the areas of responsibility set out below.

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Elected Mayor Gordon Oliver</p> <p>Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation</p>	<p>Transformation: Programme Management Project Management</p> <p>Economic Regeneration: TDA Commissioning</p> <p>Assets: Asset Management</p> <p>Business Services: Events</p> <p>Finance: Financial Services – Martin Phillips Creditors Debtors Payments Internal Audit Cashiers Procurement Systems Accountancy</p> <p>Governance and Corporate Services: Communications Coroner Governance Support (Democratic and Electoral Services) Registrars Human Resources & Payroll</p>	<p><input type="checkbox"/> Chief Executive/Chief Executive TDA</p> <p><input type="checkbox"/> Director of Corporate Services and Operations</p> <p><input type="checkbox"/> Director of Commercial and Transformation</p> <p><input type="checkbox"/> Head of Financial Services</p> <p><input type="checkbox"/> Executive Head Assets and Business Services</p>

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 356</p>	<p>Corporate Support (Freedom of Information and Performance) Legal Services Policy and Overview & Scrutiny Senior Leadership Team Strategic Support</p> <p>Business Development and Administration: JOT administrative & Technical Support JOT Contract Management: Leisure contracts Crematorium Waste Disposal Building Control Homes Improvement Agency Concessionary Fares Analysts</p>	
	<p>Planning and Transport: Planning Applications, Appeals & Enforcements</p> <p>Business Services: TOR2 (Commissioning) & Service Delivery</p> <p><input type="checkbox"/> (Twinning)</p> <p>Delegated Decision: Regeneration of the Castle Circus area of Torquay</p> <p>Delegated Decisions: Executive functions in absence of Mayor (see paragraph 3(iv) below.</p>	<p><input type="checkbox"/> Director of Corporate and Services and Operations</p> <p><input type="checkbox"/> Executive Head of Assets and Business Services</p> <p><input type="checkbox"/></p>

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Executive Lead for Tourism, Culture and Harbours</p> <p>Councillor Nicole Amil</p>	<p>Business Services: Harbour Authority Resort Services (Beaches) Theatres Arts & Museums Culture</p> <p><input type="checkbox"/> (Armed Forces Champion) <input type="checkbox"/> (Heritage Champion)</p> <p>Delegated Decision: – Tourism</p>	<p><input type="checkbox"/> Director of Corporate Services and Operations</p> <p><input type="checkbox"/> Executive Head of Assets and Business Services</p>
<p>Executive Lead for Community Services</p> <p>Councillor Robert Excell</p>	<p>Community Safety: Corporate Health & Safety Emergency Planning Anti-Social Behaviour and Vulnerability (excluding town centres) Safer Communities (excluding town centres) CCTV & Security</p> <p>Business Services: Parking Services Sports Development</p> <p>Transport: Local Transport & Strategic Transport Highways & Street scene</p>	<p><input type="checkbox"/> Director of Corporate Services and Operations</p> <p><input type="checkbox"/> Executive Head of Assets and Business Services</p> <p><input type="checkbox"/> Executive Head of Community Safety</p> <p><input type="checkbox"/></p>
<p>Executive Lead for Adults and Children</p> <p>Councillor Julien</p>	<p>Children’s Safeguarding: Early Help Targeted Support Services Multi Agency Safeguarding Hub</p>	<p><input type="checkbox"/> Director of Adult and Housing</p> <p><input type="checkbox"/> Director of Children’s Services</p>

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Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 358</p> <p>Parrott</p>	<p>Single Assessment Children in Need/Child Protection Children Looked After/Care Leavers Children with Disabilities Fostering Adoption Independent Reviewing Youth Offending Services Integrated Youth Support Services Quality Assurance Professional Support to Torbay Safeguarding Children Board</p> <p>Education Learning and Skills: Early Years and Childcare Pupil Place Planning Special Education Needs & Disability School Admissions School Improvement and Commissioning School Transport Virtual School Children’s Centres</p> <p>Adult Services (NHS Trust Provider): Adult Mental Health Adult Safeguarding Care Homes Commissioning & Management Community Alarms Community Equipment Domiciliary & Day Care</p>	<p><input type="checkbox"/> Assistant Director of Children’s Safeguarding</p> <p><input type="checkbox"/> Assistant Director Adults Services (NHS Trust Provider)</p> <p><input type="checkbox"/> Director of Public Health</p> <p><input type="checkbox"/></p>

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
	<p>Adult Social Care Commissioning: Community Engagement Healthwatch Housing Strategy & Development NHS Advisory Service Performance Management</p> <p>Public Health: Domestic Abuse</p>	
<p>Executive Lead for Customer Services Councillor Richard Maddock</p>	<p>Customer Services: Customer Services & Connections ICT Library Services Revenue & Benefits Print & post Room Website Support</p>	<p><input type="checkbox"/> Director of Corporate Services and Operations</p> <p><input type="checkbox"/> Executive Head of Customer Services</p> <p><input type="checkbox"/></p>
<p>Executive Lead for Health and Wellbeing Councillor Jackie Stockman</p>	<p>Public Health: Health Improvement Strategy and Policy Intelligence</p> <p>Housing (shared with Councillor Stocks): Housing Strategy & Development Housing Options Housing Standards</p>	<p><input type="checkbox"/> Director of Public Health</p> <p><input type="checkbox"/> Executive Head of Community Safety</p> <p><input type="checkbox"/> Director of Adults Services and Housing</p>

Executive Lead	Portfolio/Service Area:	Main Director/Assistant Director/Executive Head/Lead Officer
<p>Executive Lead for Environment</p> <p>Councillor Vic Ellery</p>	<p>Business Services: Flood Risk Management (client side) Natural Environment and Parks & Open Spaces</p> <p>Community Safety: Food & Safety Licensing & Public Protection Trading standards (DCC)</p>	<p><input type="checkbox"/> Executive Head of Assets and Business Services</p> <p><input type="checkbox"/> Executive Head of Community Safety</p> <p><input type="checkbox"/></p>
<p>Executive Lead for Housing</p> <p>Councillor Cindy Stocks</p> <p>Page 360</p>	<p>Housing (shared with Councillor Stockman): Housing Strategy & Development Housing Options Housing Standards</p> <p>Community Safety: Anti-Social Behaviour and Vulnerability (town centres only) Safer Communities (town centres only)</p> <p>Delegated Decision: contract for housing pathway for single vulnerable adults</p>	<p><input type="checkbox"/> Director of Adults Services and Housing</p> <p><input type="checkbox"/> Executive Head of Community Safety</p> <p><input type="checkbox"/></p>

3. Note: Paragraph 3 will set out specific delegations and delegations to act in the Leader of the Council's absence allocated by the new Leader of the Council(†)
— The Deputy Mayor (Councillor Derek Mills) will be responsible for the discharge of all executive functions relating to the regeneration of the Castle Circus area of Torquay as the elected Mayor owns properties in this area and has a pecuniary interest.
- (ii) — The Executive Lead for Housing (Councillor Cindy Stocks) will be responsible for the discharge of all executive functions relating to the contract for housing pathway for single vulnerable adults.
- (iii) — The Executive Lead for Tourism, Culture and Harbours will be responsible for the discharge of all executive functions relating to tourism due to the perceived concerns of the public in respect of the elected Mayor's interests in the tourism sector.
- (iv) The Deputy Leader Mayor will be responsible for the discharge of executive functions if the elected Mayor Leader of the Council:
- (a) is absent (e.g. on holiday) for a period of time or in cases of urgency where the Chief Executive is satisfied that the elected Mayor Leader of the Council cannot be reasonably contacted;
- (b) is incapacitated through illness; or
- (c) has a pecuniary interest in any matter requiring determination.
- (v) If the elected Mayor Leader of the Council or the Deputy Leader Mayor (Councillor Derek Mills) are unable to act on a matter requiring a decision then the Chief Executive shall have the power to determine any matter requiring a decision.
4. The elected Mayor Leader of the Council has established ~~two Executive Committees namely the Policy Development and Decision Group (Joint Operations Team) and the Policy Development Group (Joint Commissioning Team)~~ which meet in public on a ~~monthly~~ basis in accordance with the Standing Orders – Executive, Committees, Access to Information and Budget and Policy Framework. Their membership and Terms of Reference are included in Schedule 4 – Terms of Reference of the Constitution.
5. No executive functions have been delegated to area committees, any other authority or any joint arrangements at the present time.
6. The elected Mayor Leader of the Council 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 Cabinet Leads are as set out paragraph 2 above.

Officer Scheme of Delegation

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- ~~6.~~ 6. [Delegations to the Director of Place](#)
- ~~7.~~ 7. [Delegations to the Assistant Director of Business Services/Acting Assistant Planning and Transport](#)
- ~~8.~~ 8. [Delegations to the Head of Tor bay Harbour Authority and Tor Bay Harbour Master](#)
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Definitions

“Council”	includes all Committees and Sub-Committees of the Council unless the context requires otherwise
“Council Function”	means a function on which the responsibility of the Council has been delegated by the Council
“ Cabinet <u>Executive</u> ”	includes the Leader of the Council <u>elected Mayor</u> , all Committees of the Cabinet <u>Executive</u> and any individual member of the Cabinet <u>Executive</u> to whom the Leader of the Council <u>elected Mayor</u> has delegated decision making power unless the context requires otherwise
“Executive function”	means a function that is the responsibility of the Leader of the Council <u>elected Mayor</u> or has been delegated by the elected Mayor <u>Leader of the Council</u> , or a member or committee, of his Cabinet <u>Executive</u>

“~~Executive Cabinet~~ member/s” includes the ~~elected Mayor~~Leader of the Council unless the context requires otherwise

“Officer” includes employees of the Council, persons seconded to the Council and agency workers

“relevant member”

means the ~~elected Mayor~~Leader of the Council (in relation to Executive Functions) (or any ~~Executive Cabinet~~ member to whom he/she has delegated the relevant function) and (in relation to Council functions) means the Chairman/woman of the appropriate Committee where the decision to be taken is within the power of the Committee; or (in relation to harbour matters) the Chairman/woman of the Harbour Committee; and otherwise the Chairman/woman of the Council (where no single political group has more than 18 elected members) or the Leader of the political group that comprises more than 18 elected members AND may mean more than one member where the context or nature of decision made so requires BUT where the person referred to above is absent or has a pecuniary interest or a conflict of interest in the matter or is precluded by law from acting, the expression “relevant member” shall mean the Deputy ~~Leader-Mayor~~, ~~Deputy Vice-~~Chairman/woman or Deputy Group Leader as applicable.

General Delegations

Description	Responsibility delegated by
1. General scheme of delegation	
1.1 In managing the services and functions for which they are responsible Directors, Assistant Directors and Executive Heads shall be authorised to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions. Except Assistant Directors and Executive Heads shall not be authorised to take any decisions where they are expressly delegated to the Chief Executive, a specific Director, Assistant Director or Executive Head in this Scheme of Delegation unless so expressly delegated specifically to them.	Council/ Executive Cabinet
1.2 This authorisation shall include (but not be limited to) any decisions in relation to the budget for and resources (including employees) allocated to those service/s and function/s for which they are responsible, from time to time.	Council/ Executive Cabinet
1.3 Where the areas of responsibility and powers of an employee refer to specific Acts of Parliament, Regulations, Orders or guidance any subsequent re-enactment or amendment of the same shall apply.	not applicable
1.4 To retain contract staff or appoint consultants on matters related to their areas of responsibility.	Council/ Executive Cabinet
1.5 To make any decisions related to staff matters within their business unit in accordance with Council policy.	Council
1.6 So far as is lawful, Directors, Assistant Directors and Executive Heads may delegate (in such manner as is considered appropriate) matters within the services and functions for which they are responsible to officers within their portfolio/business unit or to other Directors, Assistant Directors or Executive Heads. Any such delegations may be revoked, varied or subject to such limitations as the delegating Director, Assistant Director or Executive Head considers appropriate.	not applicable
1.7 A Director or Assistant Director (following consultation with the Chief Executive and the relevant Executive Head) may (by written notice (including email)) withdraw (either permanently or temporarily) any of the above powers delegated to any Executive Head within his/her portfolio and/or impose restrictions or conditions upon	not applicable

Description

Responsibility delegated by

the exercise of any of the above powers by that Executive Head. However, this paragraph shall not apply in relation to the following:

- (a) the Council’s Monitoring Officer when acting in that capacity;
- (b) the Head of Tor Bay Harbour Authority and Tor Bay Harbour Master when exercising powers or duties expressly reserved to him/her by law in respect of the Harbour Authority; and
- (c) any other officer when exercising powers or duties expressly reserved to him/her by law.

Limitations on delegations to the Chief Executive, Directors and Assistant Directors, Executive Heads and all other officers

2.1	No decision shall be taken by any officer under this Scheme of Delegation if any relevant member or the Chief Executive requests that the matter shall be referred to the Council or the <u>Executive Cabinet</u> (whichever shall be able to take the decision in question) or to the Chief Executive.	Council/ Executive Cabinet
2.2	All decisions shall be in accordance with the law. Whether or not any decision is contrary to the Council’s Constitution may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Director of Corporate Services reasonably considers it to be contrary to the law.	No applicable
2.3	All decisions shall be in accordance with the Constitution and the Policy Framework of the Council. Whether or not any decision or action falls within the Policy Framework may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Director of Corporate Services reasonably considers it to be contrary to the Policy Framework.	Council
2.4	All decisions shall be in accordance with the Council’s Budget and Financial Regulations. Whether or not any decision or action falls within the Budget and Financial Regulations may, if necessary, be determined by the Council. However, no decision or action shall be taken	Council

Description	Responsibility delegated by
<p>by any employee if the Chief Finance Officer or the Monitoring Officer reasonably considers it to be contrary to the Budget or Financial Regulations.</p>	
<p>2.5 All decisions relating to the expenditure of unbudgeted additional income, or lower than budgeted expenditure shall be in accordance with the Financial Regulations.</p>	<p>Council/<u>Executive Cabinet</u></p>
<p>2.6 All decisions shall be in accordance with the Council’s Standing Orders. Whether or not any decision or action is in accordance with the Council’s Standing Orders may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee which the Monitoring Officer reasonably considers to be contrary to the Council’s Standing Orders.</p>	<p>Council</p>
<p>2.7 In relation to the authorisation of the institution, defence or conduct of legal proceedings no decision shall be taken without prior consultation with the Director of Corporate Services and no such action shall be taken that is contrary to or not in accordance with any instruction from the Director of Corporate Services.</p>	<p>Council/<u>Executive Cabinet</u></p>
<p>2.8 Before exercising (or deciding not to exercise) any delegated powers all employees shall undertake appropriate internal consultation. This consultation shall normally include (but not be limited to) the following:</p>	<p>Council/<u>Executive Cabinet</u></p>
<p>2.8.1 Where the proposal may have implications relating to the Council’s Corporate Plan, consultation with all relevant members and the Chief Executive;</p>	<p>Council/<u>Executive Cabinet</u></p>
<p>2.8.2 Where the proposal may have any policy implications, or any significant service implications, consultation with all relevant members and the Chief Executive;</p>	<p>Council/<u>Executive Cabinet</u></p>
<p>2.8.3 Where the proposal might reasonably be regarded as unusual or highly contentious, or involve an uncertain outcome, or has been the subject of (or is likely to result in) an allegation of maladministration being made against the Council, consultation with the relevant member, the Chief Executive and appropriate other senior officers;</p>	<p>Council/<u>Executive Cabinet</u></p>
<p>2.8.4 Where the proposal has any legal implications, consultation with the relevant member and the Director of Corporate Services;</p>	<p>Council/<u>Executive Cabinet</u></p>

Description	Responsibility delegated by
2.8.5 Where the proposal may have significant implications for any particular Ward, consultation with all the members representing that Ward;	Council
2.8.6 Where the proposal may have any financial or audit (whether internal or external) implications, or any property implications, consultation with the Chief Finance Officer;	Council/ Executive Cabinet
2.8.7 Where the proposal may have any constitutional implications, consultation with the Monitoring Officer;	Council
2.8.8 Where the proposal may have any implications relating to the Council’s insurance policies (or the ability of the Council to obtain insurance at reasonable rates in the future), consultation with the Director of Corporate Services;	Council/ Executive Cabinet
2.8.9 Where the proposal may have any health and safety implications for the public or employees, consultation with the Assistant Director of Community Services;	Council/ Executive Cabinet
2.8.10 Where the proposal may have any human resources implications, consultation with the Director of Corporate Services;	Council
2.8.11 Where the proposal may have any equalities implications, consultation with the Director of Corporate Services;	Council/ Executive Cabinet
2.8.12 Where the proposal may have any implications for another Council business unit, consultation with the relevant Director, Assistant Director and Executive Head;	Council/ Executive Cabinet
2.8.13 Where any relevant member, Director, Assistant Director or Executive Head has expressed opposition to a proposal, consultation with the Chief Executive;	Council/ Executive Cabinet
2.8.14 Where the proposal is similar to a previous matter that has been the subject of consultation with any member (or which a member has expressed a desire to be consulted about), consultation with that member;	Council/ Executive Cabinet
2.8.15 Where the delegated power is expressly required to be	Council/ Executive

Description	Responsibility delegated by
exercised in consultation with one or more Community Partnership, the Community Partnership(s) specified in the decision to delegate;	<u>Cabinet</u>
2.8.16 Where the proposal may have significant implications for one or more Community Partnerships, consultation with those Community Partnerships affected; and	Council/ <u>Executive Cabinet</u>
2.8.17 In any cases of doubt, consultation with the relevant member.	Council/ <u>Executive Cabinet</u>
2.9 Freehold property acquisitions and disposals may not be authorised where in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS) the estimated market value of the land or property being acquired or disposed of exceeds £50,000 or (if a transaction is linked to another transaction) where the aggregate estimated value exceeds that amount (this includes disposals at a peppercorn rate). But this paragraph shall not prevent the Chief Executive, Directors and Assistant Directors authorising land/property acquisitions and freehold disposals where they are in accordance with the Council’s Capital Programme or an express Council decision.	<u>Executive Cabinet</u>
2.10 The Chief Executive, Directors and Assistant Directors and Executive Heads may not authorise leases if, in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS), the market value of the premium exceeds £25,000 or if the market value of the rent (including any service charge) should exceed £10,000 per year, or (if a transaction is linked to another transaction) where the aggregate relevant amounts exceeds those limits (this includes leases at a peppercorn rent). But this paragraph shall not prevent the Chief Executive, Directors, Assistant Directors and Executive Heads authorising leasehold disposals where they are in accordance with the Council’s Capital Programme or an express Council decision.	<u>Executive Cabinet</u>
2.11 The Chief Executive, all Directors, Assistant Directors and Executive Heads may not authorise the acceptance of any tender for goods or services where the estimated or actual (whichever the higher) total contract value exceeds £50,000 or (if a contract is linked to another contract) where the aggregate estimated or actual (whichever the higher) value exceeds that amount unless otherwise specified within the Financial Regulations. But	<u>Executive Cabinet</u>

Description	Responsibility delegated by
<p>this paragraph shall not prevent the Chief Executive, Directors, Assistant Directors and Executive Heads authorising the acceptance of any tenders for goods or services where they are pursuant to the Council’s approved Capital Programme.</p>	
<p>2.12 No decision shall be taken that is contrary to the terms of any specific delegations whether in this Scheme or made by Council (or a Council Committee or Sub-Committee) or the <u>Executive Cabinet</u>, or an employee of the Council.</p>	not applicable

Specific Delegations

Description	Responsibility delegated by
1. Delegations to the Chief Executive	
1.1 To advise the Executive Cabinet and Council on policy development, the overall strategic direction and corporate governance of the Council.	Council/ Cabinet Executive
1.2 To act as the Council's Head of Paid Service under section 4(1) of the Local Government and Housing Act 1989.	Council
1.3 To determine the organisation and management of the Council's employees.	Council
1.4 To determine the appointment of all officers (excluding the Head of Paid Service and Directors or equivalent positions so far as that power has been specifically reserved to be exercised by the Employment Committee).	Council
1.5 To determine the terms and conditions of employment of all officers (excluding the Head of Paid Service and Directors or equivalent so far as that power has been specifically reserved to be exercised by the Employment Committee).	Council
1.6 To be responsible for taking disciplinary action (including dismissal) in respect of any officer (except the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer).	Council
1.7 To be responsible for appropriate management arrangements across the Council including the co-ordination of functions and to resolve disputes between business units.	Council
1.8 In consultation with the relevant member to (by written notice) change the allocation of responsibilities for services and functions between Directors, Assistant Directors and Executive Heads.	Council/ Cabinet Executive
1.9 To exercise any powers delegated to any Director, Assistant Director and/or Executive Head, subject to the limitations outlined above.	Council/ Cabinet Executive
1.10 In consultation with the relevant member to (by written	Council/

Description	Responsibility delegated by
notice) withdraw any powers delegated to any Director, Assistant Director and/or Executive Head.	Cabinet Executive
1.11 In managing the services and functions for which he/she is directly responsible to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions, subject to the limitations outlined above.	Council/ Cabinet Executive
1.12 To retain contract staff or appoint consultants on matters related to the management of the Council.	Council/ Cabinet Executive
1.13 So far as is lawful, to delegate (in such manner in which he or she considers appropriate) to any other officer responsibility for any matters for which he/she is responsible. Any such delegations may be revoked, varied or subject to such limitations as the Chief Executive considers appropriate.	not applicable
1.14 To handle complaints made against the Council (including Ombudsman complaints) and (following consultation with the relevant member) to settle complaints locally.	Council/ Cabinet Executive
1.15 To represent the interests of the Council to the community, local interest groups and external agencies.	Council/ Cabinet Executive
1.16 In consultation with the relevant member, to deal with all matters in connection with the media and public relations including issuing press releases on behalf of the Council.	Council/ Cabinet Executive
1.17 In consultation with the relevant member, to respond on behalf of the Council to Government and other consultation exercises in relation to proposed legislation and other matters relevant to the Council.	Council/ Cabinet Executive
1.18 To approve (in consultation with the relevant member) all civic and ceremonial arrangements including in relation to twinning.	Council/ Cabinet 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, as he/she considers necessary, following consultation with the Leader of the Council and Group Leaders. The decision will also be communicated to all members as soon as practicable after the decision	Council

Description

Responsibility delegated by

has been taken. He/she 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.

1.20 In the following circumstances: Cabinet

- a) during the interim period of a Local Election and Annual Council to appoint the new Leader of the Council; or
- b) in absence of the Leader of the Council and in circumstances where no Deputy Leader is appointed and/or where the delegation arrangements by the Leader of the Council to Cabinet members are not in place; or
- c) during the period where the Council has removed the Leader of the Council by resolution and the new Leader is to be appointed at the subsequent Council

and where the Chief Executive is of the opinion that as a matter of urgency any decision in relation to an Executive function shall be taken by him/her in the best interests of either the Council or the inhabitants of the Borough, as he/she considers necessary, following consultation with any appointed Group Leaders. The decision will also be communicated to all members as soon as practicable after the decision has been taken. He/she will also submit to a meeting of the Cabinet a written report of any action taken under this paragraph 1.20 (and the reasons for that action and the alternative options he/she considered) as soon as reasonably practicable.

1.210 In the absence of the Chief Executive his/her powers as ~~set out in the preceding paragraphs~~ may be exercised by the Director of Corporate Services. Council/ Cabinet Executive

1.224 In consultation with the Leader of the Council and Group Leaders, 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 Leader of the Council and Political Groups. Where consensus between the Leader of the Council and the Leaders of the all the political groups is not forthcoming, the Chief Executive may refer the matter to the Council Council

Description	Responsibility delegated by
for determination.	
1.232 In consultation with the Overview and Scrutiny Co-ordinator, to appoint representatives to serve on a Joint Health Scrutiny Committee in accordance with legislation, guidance and/or protocols in force at the time.	Council
2. Delegations to the Director of Adult Services & Housing	
2.1 No specific delegations.	
3. Delegations to the Director of Children’s Services	
3.1 Approve all care package arrangements for children, irrespective of value.	<u>Executive Cabinet</u>
4. Delegations to the Director of Public Health	Statutory delegation
4.1 The holder of the post of Director of Public Health is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006 and is responsible for the strategic direction and overall management and delivery of the local authority’s functions relating to Public Health and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution and approved policies of the Council or <u>Executive Cabinet</u> (as appropriate) and all legal requirements, to discharge the following functions in relation to public health matters:	
a) taking appropriate steps to improve the health of the people in the authority’s area. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement;	

Description	Responsibility delegated by
making available the services of any person or any facilities; and providing grants or loans;	
b) dental public health as prescribed by the Secretary of State under Section 111 of the 2006 Act;	
c) joint working with the prison service in relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners;	
d) the medical inspection of pupils and the weighing and measuring of children;	
e) research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise;	
f) planning for, or responding to, emergencies involving a risk to public health;	
g) co-operating with arrangements for assessing risks posed by violent or sexual offenders;	
h) any public health function of the Secretary of State (or functions exercisable in connection with those functions): <ul style="list-style-type: none"><li data-bbox="584 1458 1102 1525">• which the authority is required by regulations to exercise; or<li data-bbox="584 1559 1102 1626">• in respect of which arrangements have been made;	
i) any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;	
j) the oversight of clinical governance arrangements;	
k) making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act	

Description	Responsibility delegated by
2003; and	
l) provision of contraceptive services.	
5. Delegations to the Director of Corporate Services	
5.1 Institute, defend and conduct any legal proceedings and take all steps necessary to enforce judgements in accordance with any policies approved by the Council or the <u>Executive Cabinet</u> .	<u>Executive Cabinet</u>
5.2 To negotiate and reach agreement on behalf of the Council on policies and procedures concerning employees.	<u>Executive Cabinet</u>
5.3 To obtain the necessary statistical information to enable the Council to monitor the composition of its workforce in accordance with its equal opportunity and other policies and good practice.	<u>Executive Cabinet</u>
5.4 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.	Council/ <u>Executive Cabinet</u>
4.5 Property Management, Acquisition and Disposal:	
(a) — Where the Council or the Executive or an officer acting under delegated powers has made a decision to acquire or dispose of a freehold or leasehold property interest, to determine the detailed terms of acquisition/disposal. No term shall be agreed that is contrary to any term imposed by the decision maker without the consent of the decision maker or (in the case of the Executive, the express approval of the elected Mayor);	Council (so far as part of the Capital Plan) — otherwise Executive
(b) — To grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £10,000 per annum on any single transaction (or series of linked transactions);	Executive
(c) — To grant leases for up to 40 years to sports clubs on acceptable terms which each case being considered on its merits, in consultation with the	Executive

Description	Responsibility delegated by
Chief Executive of the TDA;	
(d) To renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments;	Executive
(e) To approve variations to (including the release of) restrictive and other covenants;	Executive
(f) To approve terms for the appropriation of land previously authorised by the Executive or the Council	
5.56 To make changes to the Council's constitution required for technical or legal reasons.	Council/ Executive Cabinet
5.67 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.	Council
<u>6. Delegations to the Director of Place</u>	
<u>6.1 Property Management, Acquisition and Disposal:</u>	
(a) Where the Council or the Cabinet or an officer acting under delegated powers has made a decision to acquire or dispose of a freehold or leasehold property interest, to determine the detailed terms of acquisition/disposal. No term shall be agreed that is contrary to any term imposed by the decision maker without the consent of the decision maker or (in the case of the Cabinet, the express approval of the Leader of the Council);	Council (so far as part of the Capital Plan) – otherwise <u>Cabinet</u>
(b) To grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £10,000 per annum on any single transaction (or series of linked transactions);	<u>Cabinet</u>
(c) To grant leases for up to 40 years to sports clubs on acceptable terms which each case being considered on its merits, in consultation with the Chief Executive of the TDA;	<u>Cabinet</u>

Description	Responsibility delegated by
<p><u>(d) To renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments;</u></p>	<u>Cabinet</u>
<p><u>(e) To approve variations to (including the release of) restrictive and other covenants;</u></p>	<u>Cabinet</u>
<p><u>(f) To approve terms for the appropriation of land previously authorised by the Cabinet or the Council</u></p>	
<p><u>75.</u> Delegations to the Assistant Director of Planning and Transport/Acting Assistant Director of Planning and Transport</p>	
<p><u>5.1</u> <u>7.1</u> To consider and determine (unless such determination is reserved by law or the Council’s Constitution to Council all applications and all other matters (including issuing Notices, making Orders and requesting Legal Services to issue civil or criminal proceedings) relating to the Buildings Act 1984 and Building Regulations as appropriate.</p>	Council
<p><u>75.2</u> To consider and take any action under the Town and Country Planning Act 1990 in connection with tree preservation and enforcement.</p>	Council
<p><u>7.3</u> <u>To consider and (if appropriate) determine (unless such determination is reserved by law or the Council’s Constitution to Council or its Development Management Committee) all applications and all other matters (including issuing Notices, making Orders and requesting the Director of Corporate Services to issue civil or criminal proceedings) relating to:</u></p> <p><u>Town and Country Planning;</u> <u>Conservation Areas;</u> <u>Listed Buildings;</u> <u>Scheduled Ancient Monuments;</u> <u>The display of advertisements;</u> <u>Public Rights of Way;</u> <u>Environmental Impact Screening/Scoping;</u> <u>Habitats Regulation Screening;</u> <u>Applications for prior approval and prior notification made under the General Permitted Development Order;</u> <u>Amendments to planning obligations (s.106 agreements); and</u></p>	<u>Council</u>

Description

Responsibility delegated by

Collection of the Community Infrastructure Levy.

7.4 Following consultation with the relevant member, to determine applications for planning permission where an application that is materially the same has previously been refused because of a failure to execute a Section 106 Agreement and such determination would otherwise be contrary to a limitation set out in paragraph 7.5 to 7.7 below, or where an appropriate Section 106 Agreement has been executed and there has been no other material change in circumstances.

Council

Limitations to Delegated Powers to the Assistant Director of Planning and Transport/Acting Assistant Director of Planning and Transport

7.5 At all times to have regard to the extant Torbay Local Plan (“the Torbay Local Plan”).

Council

7.6 The Assistant Director of Planning and Transport/Acting Assistant Director of Planning and Transport shall not determine any application (or other matter) in a manner that would (in his/her opinion or the opinion of the Director of Place not be in accordance with the Torbay Local Plan and any such application (or other matter) shall be referred to the Development Management Committee (or, if he/she considers it appropriate, Council).

Council

7.7 The Assistant Director of Planning and Transport/Acting Assistant Director of Planning and Transport may not determine and must refer to the Development Management Committee (or, if he/she considers it appropriate, Council) any application (or other matter) that:

Council/Cabinet

- (a) Constitutes a “Major Development” (as defined (from time to time) by the Secretary of State) for the purposes of the Council’s PS1 Return except for
 - i. minor amendments to planning obligations made in connection with Major Development where there are no objections to the proposed variation; and
 - ii. minor material amendments to permissions for Major Development

(b) Relates to Minerals;

(c) Relates to the handling, transfer or disposal of

Description

Responsibility delegated by

Waste or Hazardous Waste:

- (d) Relates to land owned, controlled or occupied by the Council (unless there are no objections or it is a minor variation to an existing planning permission);
- (e) The Assistant Director of Planning and Transport, or any Director, Assistant Director or Executive Head has requested be referred to the Development Management Committee or Council;
- (f) By law requires determination by Council or a Council Committee or the Secretary of State; and
- (g) Having consulted with the Chairman/woman or Deputy Chairman/woman of the Development Management Committee, he/she considers should be referred to members for consideration or determination in the interest of the Council or the public or for any other reason.

7.8 The Assistant Director of Planning and Transport/Acting Assistant Director of Planning and Transport shall refer to the Leader of the Council for determination any matters the determination of which is an Executive Function (e.g. preparation of supplementary planning guidance, designation of conservation areas, designation of areas of archaeological interest, designation of nature reserves, removal of permitted development rights through Article 4 Directions and making compulsory purchase orders). not applicable

86. Delegations to the Head of Tor bay Harbour Authority and Tor Bay Harbour Master

86.1 To serve or receive notices, make orders, authorise any action or the institution, defence or conduct of proceedings and appeals and authorise named employees to enforce specific powers in respect of Tor Bay Harbour Authority. Council

86.2 The following powers in this paragraph are statutory powers which cannot be exercised by any officer other than the Head of Tor bay Harbour Authority and Tor Bay Harbour Master, his/her Deputy or appointed assistants (such appointments being specifically referred to in their job description). Likewise they cannot be withdrawn by the Chief Executive or any other officer. Statutory delegation

Description	Responsibility delegated by
<p><u>86.2.1</u> To give general directions to regulate the movement and berthing of ships and the safety of navigation.</p>	
<p><u>86.2.2</u> To give directions prohibiting the entry into, or requiring the removal from, the Harbour of any dangerous vessels.</p>	
<p><u>86.2.3</u> To prohibit the entry into the Harbour, and to regulate the movement, of any vessel carrying dangerous substances and to control similarly the entry onto the Harbour estate of dangerous substances brought from inland.</p>	
<p><u>86.2.4</u> To detain a vessel, if he/she has reason to believe that it has committed an offence by discharging oil, or a mixture containing oil, into the waters of the Harbour.</p>	
<p><u>86.2.5</u> Only in relation to property forming part of the Harbour Estate and always having first obtained the approval of a fellow or member of the Royal Institute of Charter Surveyors (RICS) as to the value and terms of such disposal:-</p> <ul style="list-style-type: none"> (a) to grant or enter into the terms of leases, sub leases, or licences where the consideration does not exceed £25,000 per annum on any single transaction (or series of linked transactions); (b) to grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £20,000 on any single transaction (or series of linked transactions); (c) to effect freehold disposals of land not required for operational purposes up to £100,000 in value; (d) to renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments; and (e) to approve variations to (including the release of) restrictive and other covenants. 	<u>Executive Cabinet</u>
<p><u>86.2.6</u> To regulate the time and manner of a ship's entry into, departure from and movement within the Harbour waters and related purposes.</p>	Council
<p><u>86.3</u> To vary (by addition or waiver (in full or as to part)) the approved Schedule of Harbour Charges in such manner</p>	Council (as part of the budget)

Description

Responsibility delegated by

as the Head of Tor bay Harbour Authority and Tor Bay Harbour Master shall consider reasonable; including for example (without restricting the generality of this power) where he/she considers:

- (i) the variation to be in the best interest of the Harbour Authority and/or local people;
- (ii) the variation would fairly reflect actual or part-year usage;
- (iii) that it would be appropriate where a vessel owner/operator has made use of a facility as a result of what the Head of Tor bay Harbour Authority and Tor Bay Harbour Master considers to be extreme or unusual weather conditions, an accident at sea, or other emergency; and
- (iv) it appropriate to levy a charge above or in addition to those matters contained within the approved Schedule of Charges for anything done or provided by (or on behalf of) the Harbour Authority in accordance with the Harbours Act 1964 and/or Section 24 of the Tor Bay Harbour Act 1970 or any amendments or re-enactments of those Acts.

PROVIDED THAT the Head of Tor bay Harbour Authority and Tor Bay Harbour Master shall maintain a proper written record of all variations approved under this paragraph and shall, at least twice a year, report to the Harbour Committee the total value of the additional charges levied and the total value of the charges waived under this paragraph.

97. Delegations to the Chief Finance Officer (as Section151 Officer)

79.1 In accordance with the Council’s Standing Orders and Financial Regulations:

ExecutiveCabinet

- (a) to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to the Council’s borrowing, investments, and financial management;
- (b) to approve the re-phasing of expenditure between years on approved schemes, provided that the impact does not exceed the overall level of the

Description	Responsibility delegated by
approved programme and the level of resources estimated to be available;	
(c) to authorise the opening and closing of any such bank accounts, purchasing cards etc as may be considered necessary in the Council's interest;	
(d) in respect of National Non Domestic Rates, Council Tax including Council Tax Support Scheme, and other income and debtors, to exercise all the powers of the Council (including the institution of legal proceedings and all steps necessary to enforce judgements) in accordance with any policies approved by the Council or the <u>Executive Cabinet</u> ;	
(e) in respect of any sums due to the Council, to approve the writing off of sums that he/she considers to be irrevocable (or uneconomic to recover). If the amount to be written off exceeds £1,000 the Chief Finance Officer shall first consult with the relevant <u>Executive Cabinet</u> member with responsibility for finance;	
(f) to submit bids and accept any grant offers, including the terms and conditions attached to such offers subject to the grant offer and terms and conditions being in accordance with the Council's policies and objectives, and make any resulting budget virements;	
(g) in consultation with the Chief Executive to approve any use of contingency budgets, carry forwards (positive or negative) that the Chief Finance Officer deems necessary;	
(h) in consultation with the Chief Executive to approve the use of Earmarked reserves in accordance with Financial Regulations;	
(i) that the Chief Finance Officer, in consultation with the Chief Executive, <u>elected Mayor the Leader of the Council</u> and <u>Executive Cabinet</u> Lead Member for Finance, be authorised to make adjustments to and introduce new fees and charges in year if it has no adverse impact upon the revenue or capital budget;	
(j) to make any changes to the budgets for technical Reasons;	

Description	Responsibility delegated by
<p>(k) the approval of the estimated distribution on the Collection Fund for both Council Tax and Non Domestic Rates; and</p> <p>(l) approval of the Council’s estimate of Business Rate Income as required to be submitted to central government.</p>	
<p><u>97.2</u> In consultation with the relevant member, to determine all applications for grants or concessions from the Council up to the value of £25,000 (to any one person or organisation whether or not extending over more than one financial year) and to impose such conditions on any approved grant as he/she shall consider appropriate. In exercising this power the Chief Finance Officer shall have regard to all relevant matters including the following:</p> <p>(a) the extent to which the grant requested would facilitate a contribution towards the Council’s priorities;</p> <p>(b) the extent to which the grant requested would be likely to assist the grantee to obtain additional funding from third parties;</p> <p>(c) whether alternative sources of funding are available to the grantee;</p> <p>(d) value for money;</p> <p>(e) the extent to which the grant is likely to enable the grantee to apply the principle of “invest to save”;</p> <p>(f) the likely medium and long-term implications for the Council’s Revenue Budget; and</p> <p>(g) the extent to which the grantee is able to demonstrate that it has in place (or is able to put in place) effective auditing arrangements to monitor and control the expenditure of the grant monies.</p>	<p>Executive<u>Cabinet</u></p>
<p><u>97.3</u> To make adjustments to the Exceptional Hardship Policy and Fund and the Vulnerable Policy in consultation with the Mayer<u>Leader of the Council</u> and Executive<u>Cabinet</u> Lead for Finance and Regeneration.</p>	<p>Council/Executive<u>Cabinet</u></p>

Description	Responsibility delegated by
<p>Limitations to Delegated Powers to the Chief Finance Officer</p>	
<p><u>97.4</u> That the provisions outlined above exclude decisions to make loans or provide guarantees to external organisations and that these require approval by Full Council. However loans of less than £50,000 to be approved by the Chief Finance Officer, in consultation with the Chief Executive and the elected Mayor<u>Leader of the Council</u>.</p>	<p>Council/Executive Cabinet</p>
<p><u>108.</u> Delegations to the Head of Governance Support</p>	<p>Council/Executive Cabinet</p>
<p><u>810.1</u> To authorise additional training and development that is not included within the Members’ Development Programme <u>in accordance with:-</u></p> <p>(Note: T<u>he Local Protocol on relations between the Mayor</u>Leader of the Council 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:-</p> <p>(i) Training for Executive Members; (ii) Training for Scrutiny Members; and (iii) Training not specifically related to Executive scrutiny functions.)</p>	<p>Council</p>
<p><u>108.2</u> The appointment of Political Group Assistants where budget is allocated for such posts.</p>	<p>Council</p>
<p><u>108.3</u> The taking of disciplinary action (including dismissal) in relation to the elected Mayor’s Assistant (in consultation with the elected Mayor) and any Group Assistant (in consultation with the relevant group leader).</p>	<p>Council/Executive Cabinet</p>
<p><u>10.4</u> <u>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.</u></p>	<p><u>Council</u></p>

Proper Officers and Statutory Appointments

1. Legislation requires local authorities to appoint certain officers with statutory and proper officer responsibilities. These appointments and the officer to whom the council has allocated responsibility are listed below.
2. Where in any legislation reference is made to a Proper Officer of the Council and no officer has been appointed by the Council to act for that purpose, then the Chief Executive will be deemed to be the Proper Officer.
3. The Proper Officers designated below and any other officer of the Council having specific duties under his or her appointment to the service of the Council shall be an authorised officer for the purpose of any specific reference to an authorised officer in an Act or Regulation relating to such duties.
4. In the foregoing designations of Proper Officers and in any case where an officer is appointed or authorised, he or she may delegate such authorisations to such officer as he or she may determine and may make such arrangements for the carrying out of functions in the event of his or her absence or otherwise being unable to act by any other officer of the Council as he or she considers appropriate, subject to such arrangements being made in written form indicating the officers in power to exercise the functions and the functions involved.
5. In the event of the Chief Executive being absent or otherwise unable to act the Director of Corporate Services has been appointed Proper Officer.
6. In the event of the Chief Finance Officer being absent or otherwise unable to act, his/her nominated deputy has been appointed Proper Officer in accordance with Section 114(6) of the Local Government Finance Act 1988.
7. Any reference in this document to an enactment is to be taken as including a reference to any enactment for the time being amending or replacing it.

Statutory Officers

Legislation	Section	Statutory Officer	Allocated To
Local Authority Social Services Act 1970	S6	Director of Adult Social Services	Director of Adult Services & Housing, for purposes of the Council's audit of adult social services functions
Local Government Act 1972	S151	Officer responsible for financial administration	Chief Finance Officer
Representation of the People Act	S8	Registration Officer (local government	Director of Adult

Legislation	Section	Statutory Officer	Allocated To
1983		elections)	Services & Housing
Representation of the People Act 1983	S28	Acting Returning Officer (Parliamentary elections)	Director of Adult Services & Housing
Representation of the People Act 1983	S35	Returning Officer (local government elections)	Director of Adult Services & Housing
Local Government and Housing Act 1989	S4	Head of Paid Service	Chief Executive
Local Government and Housing Act 1989	S5	Monitoring Officer	Director Corporate Services
Education Act 1996	S532	Chief Education Officer	Director of Children’s Services
Local Government Act 2000	S21ZA	Scrutiny Officer	Overview and Scrutiny Manager
Children’s Act 2004	S18	Director of Children’s Services	Director of Children’s Services
National Health Service Act 2006	S73A	Director of Public Health	Director of Public Health, appointed by the authority acting jointly with the Secretary of State

Proper Officers

Legislation	Section	Provision	Proper Officer
Public Health Act 1936	S84 and S85	Cleansing of filthy or verminous articles, persons or clothing	Consultant in Communicable Disease Control (or equivalent) for Health Protection Agency, as authorised by the Assistant Director of Community Services
Marriage Act 1949	S57(4)	Reimbursing superintendent registrars the fees paid to incumbents and authorised persons for quarterly certified copies of marriage certificates	Director Corporate Services
National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951	S47	The removal of persons in need of care and attention to suitable premises	Consultant in Communicable Disease Control (or equivalent) for Health Protection Agency, as authorised by the Assistant Director of Community Services
Registration Service Act 1953	S6(1)	Appointment of registration officers	Director of Corporate Services
Registration Service Act 1953	S6(3)	Payment of registration officers and receipt of fees	Director of Corporate Services
Registration Service Act 1953	S14(1)	Preparation and submission of a local registration scheme	Director of Corporate Services

Legislation	Section	Provision	Proper Officer
Milk and Dairies (General) Regulations 1959	Part VII (Regs 18 to 20)	Pasteurisation Orders	Consultant in Communicable Disease Control (or equivalent) for Health Protection Agency, as authorised by the Assistant Director of Community Services
Public Health Act 1961	S37	Disinfestation of verminous articles offered for sale	Consultant in Communicable Disease Control (or equivalent) for Health Protection Agency, as authorised by the Assistant Director of Community Services
Agriculture Act 1970	S67	Agricultural Analyst	Consultant in Communicable Disease Control (or equivalent) for Health Protection Agency, as authorised by the Assistant Director of Community Services
Local Authority Social Services Act 1970	S7(B)	Complaints Officer	Director of Children's Services
Children's Act 1989	S26		
NHS and Community Care Act 1990.	S50		
General Data Protection Regulation (GDPR)	S4	Data Protection Officer	Head of Information Governance
Digital Economy Act 2017	Part 6	To pay a data protection fee to the Information Commissioner's Office	Head of Information Governance

Legislation	Section	Provision	Proper Officer
Local Government Act 1972	S83(1) – (3)	Witness and receipt of acceptance of office on form prescribed by rules made under Section 42 of the Act (office of councillor and Chairman/woman or Vice-Chairman/woman of Council)	Chief Executive
Local Government Act 1972	S84	Receipt of declaration of resignation of office	Head of Governance Support
Local Government Act 1972	S88(2)	Conveying a meeting of the Council to fill a casual vacancy (in the case of a Chairman of a Committee)	Chief Executive
Local Government Act 1972	S89(1) (b)	Receipt of notice of casual vacancy from two local government electors	Director of Adult Services & Housing
Local Government Act 1972	S99 and Schedule 12 Para 4(2)(b)	Signature of Summonses to Council Meetings	Chief Executive
Local Government Act 1972	S115(2)	Receipt of money due from officers	Chief Finance Officer
Local Government Act 1972	S146(1)(a) &(b)	Declarations and Certificates with regard to transfer of securities on the change of name of the authority	Chief Finance Officer
Local Government Act 1972	S191(2)	Receipt of an application under Section 1 of the Ordnance Survey Act 1841	Assistant Director of Community Services
Local Government Act 1972	S204(3)	Receipt of notice of an application for a justices' licence under Schedule 2 of the Licensing Act 1964	Assistant Director of Community Services
Local Government Act 1972	S210(6) & (7)	Charity functions of holders of office with existing authorities transferred to holders of equivalent offices with new authorities	Director of Corporate Services
Local Government Act 1972	S225(1)	Deposit of documents	Director of Corporate Services

Legislation	Section	Provision	Proper Officer
Local Government Act 1972	S229(5)	Certification of photographic copies of documents	Director of Corporate Services
Local Government Act 1972	S234(1) & (2)	Authentication of documents	Director of Corporate Services
Local Government Act 1972	S236(10)	To send copies of Bylaws to the County Council	Director of Corporate Services
Local Government Act 1972	S238	Certification of Bylaws	Director of Corporate Services
Local Government Act 1972	S248(2)	Keeping of the roll of Freemen	Head of Governance Support
Local Government Act 1972	Schedule 3 Para 6(2)	Custody of first Declarations of Acceptance of Office	Head of Governance Support
Local Government Act 1972	Schedule 12 Para 4(3)	Receipt of notices of addresses to which summonses to meetings are to be sent	Head of Governance Support
Local Government Act 1972	Schedule 14 Para 25(7)	Certification of resolutions	Head of Governance Support
Local Government Act 1974	S30	Reports on Investigations by the Local Director for Administration	Chief Executive
Land Charges Act 1975	S19	The officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975	Assistant Director of Business Services/Acting Assistant Director of Planning & Transportation
Safety of Sports Grounds Act 1975		Technical Chairman of the Safety Advisory Group	Assistant Director of Community Services

Legislation	Section	Provision	Proper Officer
Ancient Monuments and Archaeological Areas Act 1979	S1A	Receipt of information on the inclusion, amendment or exclusion, or a copy of any entry or amended entry in the Schedule of Ancient Monuments, relating to any Monument in the area of the Authority	Assistant Director of Community Services
Representation of the People Act 1983	S52(2)	Deputy to the Registration Officer	Director of Corporate Services Head of Governance Support Electoral Services Team Leader
Representation of the People Act 1983	S82	Witnessing of signatures on candidates and agents declarations as to expenses at local elections	Director of Adult Services & Housing
Public Health (Control of Disease) Act 1984	S37	Power to a Justice of the Peace to order or removal to hospital of a person with a notifiable disease	Assistant Director of Community Services
Public Health (Control of Disease) Act 1984	S38	Power to a Justice of the Peace to order the detention of a person in hospital	Assistant Director of Community Services
Public Health (Control of Disease) Act 1984	S41	Power to remove to hospital an inmate of a common lodging house	Assistant Director of Community Services
Public Health (Control of Disease) Act 1984	S46	Disposal of dead bodies	Assistant Director of Community Services
Public Health (Control of Disease) Act 1984	S61	Power to enter premises	Assistant Director of Community Services

Legislation	Section	Provision	Proper Officer
Public Health (Control of Disease) Act 1984	S11, 18, 20, 21, 22, 24, 29 31, 35-38, 40-43 & 48	The control of notifiable diseases and food and poisoning	Assistant Director of Community Services – authorising named deputies for the Consultant in Communicable Disease Control for the Health Protection Agency
Building Act 1984	Various	All purposes for proper officer in relation to Building Control matters	Building Control Manager
Local Government (Access to Information) Act 1985 (as amended)	S100B(2)	Designation of Reports “Not for Publication”	Chief Executive, Directors, Assistant Directors and Executive Heads
Local Government (Access to Information) Act 1985	S100B(7) (c)	Supply of papers to the press	Head of Governance Support
Local Government (Access to Information) Act 1985	S100C(2)	Summaries of Minutes	Head of Governance Support
Local Government (Access to Information) Act 1985 (as amended)	S100D(1) (a)	Compilation of lists of background papers	Chief Executive, Directors, Assistant Directors and Executive Heads
Local Government (Access to Information) Act 1985 (as amended)	S100D(5) (a)	Identification of background papers	Chief Executive, Directors, Assistant Directors and Executive Heads
Local Government (Access to Information) Act 1985	S100F(2)	Decisions affecting members’ rights to receive papers	Director of Corporate Services
Registration of Marriages Regulations 1986			Director of Corporate Services
Registration of Births and Deaths Regulations 1987			Director of Corporate Services

Legislation	Section	Provision	Proper Officer
Local Registration Scheme	Article 5(1)(b)	Provision of assistance to registration officers	Director of Corporate Services
Local Registration Scheme	Article 6	Provision, equipping and maintenance of registration offices	Director of Corporate Services
Local Government Finance Act 1988	S114(1)	Preparation of a report in the case of unlawful expenditure	Chief Finance Officer
Local Government Finance Act 1988	S116 (3)	Notification to the Auditor of the date, time and place of any meeting of the Council to consider a report under Section 114(1)	Chief Finance Officer
Local Government Finance Act 1988	S139A	Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required	Chief Executive
Local Government and Housing Act 1989	S2(4)	Maintenance of the list of politically restricted posts	Director of Corporate Services
Local Government and Housing Act 1989	S3(3)	Certification that a post is or is not politically restricted	Director of Corporate Services
Local Government and Housing Act 1989	S15 – 17	The officer to receive notices relating to the membership of political groups	Monitoring Officer
Local Government and Housing Act 1989	S37(insert -ing S137A of the LGA 1972)	The deposit of a statement or report or accounts from a voluntary body in receipt of financial assistance above the relevant level	Chief Finance Officer
Listed Buildings Act 1990		Receipt on deposit of lists of protected buildings	Assistant Director of Business Services/Acting Assistant Director of Planning and Transportation

Legislation	Section	Provision	Proper Officer
Food Safety Act 1990	S27	Public Analyst	Assistant Director of Community Services – authorising named deputies for the Consultant in Communicable Disease Control for the Health Protection Agency
Environmental Protection Act 1990	S149	Discharging the functions imposed or conferred for dealing with stray dogs found in the area of the Authority	Assistant Director of Community Services
Local Government (Committees and Political Groups) Regulations 1990 (as amended).		All purposes connected with the Regulations	Head of Governance Support
Local Authority (Members' Allowances) Regulations 1991	Regulation 14	To receive written notice from a member electing to forego entitlement to allowances	Head of Governance Support
Local Government Act 2000	S81	Maintaining the register of members' financial and other interests	Head of Governance Support
Local Government Act 2000		Responsible for the referral of Executive proposals to the Council and for other administrative processes arising from the Council's constitutional arrangements.	Head of Governance Support
Local Government Act 2000		To make payments of relevant allowances in accordance with the Council's Members' Allowances Scheme	Head of Governance Support

Legislation	Section	Provision	Proper Officer
The Countryside and Rights of Way of Act 2000 (The Access to the Countryside (Maps in Draft Form) (England) Regulations 2001)	Regs 4, 9, 10 and 11 SI 2001/3301	The deposit and display of draft maps	Assistant Director of Business Services/Acting Assistant Director of Planning and Transportation
Local Authorities (Standing Orders) (England) Regulations 2001		Notifying members of the Executive of the proposed appointment or dismissal of a Chief Officer or Deputy Chief Officer	Chief Executive
Local Authorities (Referendum) (Petitions and Directions) (England) Regulations 2001		<p>Publishing the number that is equal to 5% of the number of Local Government electors in the area.</p> <p>Notifying the Secretary of State and petition organiser after receipt of a petition, including whether it is held to be valid or not valid.</p> <p>Taking the necessary procedural steps on receipt of the petition, including amalgamating petitions.</p>	Director of Adult Services & Housing

Standing Orders – Council Meetings

(Note: References to Chairman/womand and Vice-Chairman/woman to be updated with Ceremonial Mayor and Ceremonial Deputy Mayor once approved by Council.)

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A1. Annual Meeting of the Council**(This Standing Order may not be suspended)**

- A1.1 In a year when there is an ~~election of the Mayor or an~~ all-Council election, the annual meeting will take place between 8 and 21 days after the retirement of the outgoing ~~Elected Mayor or~~ councillors. In any other year, the annual meeting will take place in March, April or May.
(Schedule 12 of the Local Government Act 1972)
- 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 Elected Mayor is~~ Members of the Cabinet are not permitted to be the Chairman/woman or Vice-Chairman/woman.);
 - (ii) receive apologies for absence;
 - ~~(iii) receive any declarations of interest from the Elected Mayor, members and officers;~~
 - ~~(iii)~~ (iv) elect the Chairman/woman of the Council for the ensuing Municipal Year. (Note: Members of the Cabinet are ~~The Elected Mayor is~~ not permitted to be the Chairman/woman.);
 - (iv) elect the Vice-Chairman/woman of the Council for the ensuing Municipal Year. (Note: Members of the Cabinet are ~~The Elected Mayor is~~ not permitted to be the Vice-Chairman/woman.);
 - (v) receive any declarations of interest from the members and officers;
 - ~~(vi)~~ (vi) approve the minutes of the last meeting;
 - (vii) receive any announcements from the Leader of the Council (excluding the year of a whole Council election), ~~Elected Mayor~~, Chairman/woman, ~~Group Leaders~~ and/or the Chief Executive;
 - (viii) in the year of a whole Council election, to elect the Leader of the Council for a four year term and until the Annual Council meeting following the next whole Council election.
 - ~~(viii) be informed by the Elected Mayor about the composition and constitution of the Executive for the coming year, and the names of councillors he/she has chosen to be members of the Executive;~~
 - ~~(ix)~~ (viii) appoint the Overview and Scrutiny Co-ordinator and (if any) the Overview and Scrutiny Lead Members. (Note: Executive Cabinet members shall not be appointed as the Overview and Scrutiny Co-ordinator or scrutiny lead members).
 - (ix) appoint at least one Overview and Scrutiny Committee, a Health and Wellbeing Board, 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 nomination of members to serve on each committee and appoint to these committees in accordance with Standing Order A1.4) below; and
- (xi) approve a programme of ordinary meetings of the Council for ~~up to 2 years~~the 4 year term in the year of a whole Council election;
- ~~(ix)~~ (xii) be informed by the Leader of the Council about the composition of the Cabinet and the names of councillors he/she has chosen to be members of the Cabinet;
- ~~(x)~~ to receive from the Elected Mayor/Leader of the Council a record of delegation of executive function in accordance with Standing Order C2;
- (xiii) 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
- (xiv) consider any business set out in the notice convening the meeting.

A1.3 In the year of a ~~an~~ whole Council election, to determine appointments to outside organisations.

A1.4 The members to serve on each committee, sub-committee, working party and any other body (including outside organisations) may be nominated by the Group Leaders by notice in writing to the Head of Governance Support not later than the day before the Annual Meeting (including by e-mail if verified by the Head of Governance Support) otherwise they must be nominated by the Group Leaders at the Annual Meeting. Once appointed, Group Leaders will notify any changes to appointments in writing to the Head of Governance Support. Members not affiliated to any political group may indicate their preference in relation to places on committees, sub-committee, working parties and other bodies in writing not later than the day before the Annual meeting (including by e-mail if verified by the Head of Governance Support).

A1.5 The Chairman/woman of the Council shall not be a member of any committee, sub-committee or working party.

A2. Ordinary Meetings

(A2.2 (ii) to (iv) and (xiii) to apply to Committees and Overview and Scrutiny)
(This Standing Order may not be suspended)

A2.1 Ordinary meetings of the Council and its committees will take place in accordance with ~~the 4 years~~ programme decided at the Council’s Annual Meeting following the all Council election. The Chief Executive in consultation with the Chairman/woman of the Council may amend that programme during ~~each~~ the

year. In relation to committees the relevant Director, Assistant Director or Executive Head in consultation with the Chairman/woman of that committee may amend that committee's programme during ~~the~~ each year.

A2.2 Every ordinary meeting of the Council shall commence with the following items. These items must not be displaced elsewhere in the agenda:

- (i) to elect a person to preside if both the Chairman/woman and Vice-Chairman/woman of the Council are not present. (Members of the Cabinet are 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;

The remaining order of business for the meeting shall be determined by the Chairman/woman and he/she will place those items with significant public interest at the beginning of the meeting. The business of ordinary meetings of the Council shall include:

- (iv) to receive any declarations of interest from members and officers;
- (v) to receive any communications or announcements from the Leader of the Council, 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 Council and in accordance with Standing Order A24;
- (viii) to deal with any business from the last meeting of the Council that was on the agenda, but was not dealt with at the last meeting;
- (ix) to answer any question under Standing Order A13;
- (x) to consider motions in accordance with Standing Order A14;
- (xi) to receive reports from the Cabinet, the Council's committees (including Overview and Scrutiny Bodies) and officers including proposals from the Leader of the Council in relation to the Council's budget and policy framework and receive questions and answers on any of those reports;
- (xii) to receive reports on the business of joint arrangements and external organisations; and
- (xiii) to consider any other business specified in the summons to the meeting.

A3. Extraordinary Meetings (To apply to Committees and Overview and Scrutiny)
(This Standing Order may not be suspended)

(Paragraph 3 of Part 1, Schedule 12 of the Local Government Act 1972)

A3.1 Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Chairman/woman of the Council; ~~and~~
- (iii) the Monitoring Officer; and

(iv) any five Members of the Council if they have signed a requisition presented to the Chairman/woman of the Council and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.

~~A3.2 If the Chairman of the Council refuses to call an extraordinary meeting of the Council after a requisition for that purpose, signed by five members of the Council, has been presented to him/her, or if, without so refusing, the Chairman of the Council does not call an extraordinary meeting within seven days after the requisition has been presented to him/her, then, any five members of the Council, may forthwith call an extraordinary meeting of the Council. (Members exercising their rights under this paragraph are to give notice in writing (including by e-mail if verified by the Head of Governance Support) to the Head of Governance Support who will then call the meeting in accordance with the Standing Orders in relation to Access to Information.)~~

A3.2 An extraordinary meeting shall conduct no business other than that for the purpose of which it was called.

A4. Time, Place and Arrangement of Meetings (To apply to Committees, Executive Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)

A4.1 The time and place of meetings will be determined by the Chief Executive, in consultation with the Chairman/woman of the Council, and notified in the summons.

A4.2 Seating arrangements at meetings of the Council shall be determined by the Chairman/woman in consultation with the Leader of the Council~~Elected Mayor~~ and Group Leaders.

A5. Notice of and Summons to Meetings (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)

A5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Standing Orders in relation to Access to Information.

A5.2 At least five clear working days before a meeting (with the exception of cases of unavoidable urgency), the Chief Executive will send by electronic means, or in paper form where a member has requested, a summons signed by him/her to every member of the Council.

A5.3 The summons will give the date, time and place of the meeting, specify the business to be transacted and will be accompanied by such reports as are available. However, non-receipt of a summons by any member shall not affect the validity of the meeting.

A6. Opening of Meeting

A6.1 The proceedings of every Council meeting may be preceded by such an address as the Chairman/woman may determine.

A7. Order Of Business**Urgent Items of Business** (~~A7.1 (i) to (iv) to apply to Committees, Executive 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 Elected 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 Elected Mayor, members and officers;~~
- ~~(v) to receive any communications or announcements from the Elected 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 Council and in accordance with Standing Order A24;~~
- ~~(viii) to deal with any business from the last meeting of the Council that was on the agenda, but was not dealt with at the last meeting (**A7.1 (viii) to apply to Committees and Overview and Scrutiny**);~~
- ~~(ix) to answer any question under Standing Order A13;~~
- ~~(x) to consider motions in accordance with Standing Order A14;~~
- ~~(xi) to receive reports from the Executive, the Council's committees (including Overview and Scrutiny Bodies) and officers including proposals from the Elected Mayor in relation to the Council's budget and policy framework and receive questions and answers on any of those reports;~~

~~(xii) to receive reports on the business of joint arrangements and external organisations; and~~

~~(xiii) to consider any other business specified in the summons to the meeting.~~

~~A7.2 Business falling under items (i), (ii) and (iii) in Standing Order A7.1 shall not be displaced although the remaining order of business may be varied by the Chairman/woman. (To apply to Committees, and Overview and Scrutiny)
(This Standing Order may not be suspended)~~

A7.13 Urgent items of business shall not be dealt with at ordinary or extraordinary meetings of the Council unless notice of the item in question has been included in the summons sent to members under Standing Order A5.2.
(This Standing Order may not be suspended)
(Paragraph 4(5) of Part 1, Schedule 12 of the Local Government Act 1972)

A8. Chairman/Woman of Meeting
(This Standing Order may not be suspended)

A8.1 At Meetings of the Council, the Chairman/woman of the Council, if present, shall preside and, in his/her absence, the Vice-Chairman/woman of the Council, shall preside.

A8.2 The person presiding at any Council, committee or sub-committee meeting may exercise any power or duty of the Chairman/woman. **(To apply to Committees and Overview and Scrutiny)**

A9. Election of Chairman/Woman of the Council
(This Standing Order may not be suspended)

A9.1 The selection of the Chairman/woman Elect and the Vice-Chairman/woman Elect of the Council shall ~~be by an elimination ballot to~~ take place at the penultimate ordinary Council meeting of each Municipal Year in accordance with the procedure set out in Standing Order B1.4 in relation to Committee meetings. The Council may resolve not to select a Chairman/woman Elect and/or Vice Chairman/woman Elect in the year of the ~~local~~ all-Council elections.

A10. Quorum
(This Standing Order may not be suspended)

A10.1 The quorum at a meeting of the Council shall one quarter of the whole number of members which equates to ~~be~~ nine members, including the person presiding at the meeting.
(Paragraph 6 of Part 1, Schedule 12 of the Local Government Act 1972)

A10.2 During any meeting if the Chairman/woman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman/woman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

A11. Duration of Meeting (To apply to Committees and Overview and Scrutiny)

A11.1 Subject to Standing Order A11.2, unless the majority of members present vote for the meeting to continue, any meeting or adjourned meeting that has lasted for four hours will adjourn immediately. Remaining business will be considered at a

time and date to be fixed by the Chairman/woman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

- A11.2 Prior to the adjournment of any meeting pursuant to Standing Order A11.1, the Chairman/woman shall invite the Chief Executive, Monitoring Officer and Section 151 Officer (Chief Finance Officer) to indicate whether there is any other business that they believe must be transacted at that meeting. If any such officer indicates that there is any other business that must be transacted at the meeting before it is adjourned, such business must be transacted before any adjournment regardless of the outcome of the vote referred to at paragraph A11.1.

~~A12. Petitions~~

~~A12.1 The Council will consider petitions received in accordance with its Petition Scheme (as set out in Appendix 3 to these Standing Orders).~~

Note: This Standing Order has been moved to sit with rest of public participation Standing Orders below. Renumber and check/update SO references throughout rest of Constitution once approved by Council

A13. Questions by Members

A13.1 Notices of questions at Council

Subject to Standing Order A13.3, a member of the Council may ask:

- (i) the Chairman/woman of the Council;
- (ii) the Leader of the Council~~Elected Mayor~~;
- (iii) a member of the Executive Cabinet;
- (iv) the Chairman/woman of any committee (including the Overview and Scrutiny Board); or
- (v) a Council representative on an outside organisation

a question on any matter in relation to which the Council has powers or duties or which affects the Borough of Torbay and is relevant to the area or areas of responsibility of the person to whom the question has been asked.

A13.2 Notice of questions

A member may only submit three questions for consideration at each Council Meeting and may only do so if either:

- (i) he/she has given notice in writing (including by e-mail if verified by the Head of Governance Support) of the question to the Head of Governance Support by 4.00 p.m. on the tenth clear working day before the next Council meeting and that question has been accepted; or
- (ii) the Chairman/woman permits the question to be put because of exceptional circumstances and the questioner has given a copy of his/her question to the Head of Governance Support by 4.00 p.m. on the working day prior to the meeting or (if later) as soon as reasonably practicable.

- A13.3 The Chief Executive, in consultation with the Chairman/woman of the Council, may decline to accept any question if it is in his/her opinion:
- (i) factually inaccurate; or
 - (ii) it is identical or materially similar to a question which has received a response within the 12 months preceding the Council meeting; or
 - (iii) it is illegal, defamatory, scurrilous, irrelevant or otherwise objectionable; or
 - (iv) to respond to the question would require a disproportionate amount of officer time (having regard to any possible benefits such work would deliver) and the question is not of such nature that would require a response if made pursuant to the Freedom of Information Act 2000.

Where a member's question is declined by the Chief Executive, the Chief Executive will provide the reason(s) for this and where possible assist the member to amend the declined question so that it is acceptable.

Following approval of the question, the Head of Governance Support will send a copy of the question(s) to the member to whom it has been put and include the question(s) with the Council agenda.

- A13.4 The Chief Executive (in consultation with the Elected Mayor, Chairman/woman of the council and group leaders) may defer any question from a Member to a subsequent meeting of the Council where in his/her opinion, having regard to the complexity of the questions and amount of officer time reasonably likely to be required to be spent in researching the matter, it is reasonable to do so.

At the Meeting

- A13.5 At the Council meeting each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn.
- A13.6 The time for members' questions will be limited to a total of 30 minutes. If a member has already commenced a response, the member who asked the question shall have the right to ask his/her supplementary question and receive a response.
- A13.7 Any questions not dealt with after 30 minutes will be deemed withdrawn, the member may resubmit the question as one of their three question to the next Council meeting provided the question is submitted in accordance with Standing Orders A13.1, A13.2 and A13.3.
- A13.8 A member submitting a question under this Standing Order shall attend the Council meeting to present their question. In the absence of the questioner, another member may present the question.
- A13.9 Subject to Standing Order A13.11, questions submitted under this Standing Order shall be put and answered without discussion.

- A13.10 **Responses**

An answer to a question will take the form of:

- (i) a written answer and will be ~~tabled and read out at the~~ published at least one hour prior to the meeting; or
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication.

An answer to a supplementary question will take the form of a:

- (i) a direct oral answer; or
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication.

Where the member to whom the question was asked is either absent and no other member is able to respond, the question will be referred to the next meeting where the member is present. If the member asking the questions wishes a response prior to the next meeting, they may request a written answer from the member concerned. If the member asking the question is absent, the member must seek agreement from the Chairman/woman prior to the Council meeting for another member to present the question on their behalf or the question will be withdrawn.

A13.11 **Supplementary Question**

A member asking a question under this Standing Order may ask one brief supplementary question, with the consent of the Chairman/woman or the person presiding (which shall not be reasonably refused), without notice to the member to whom the question was asked. The supplementary question must arise directly out of the original question or the reply and must not be a statement. A member asking a supplementary question shall have a maximum of one minute to put his/her question at the meeting. The member responding to a supplementary question shall have a maximum of three minutes to put his/her answer to the question.

A14. **Notices of Motion**

A14.1 **Scope** (This Standing Order may not be suspended)

Motions ~~will be entered in a book for public inspection and~~ must be about matters for which the Council has a responsibility or which affect the Borough of Torbay and must not include declaratory statements relating to matters wholly outside the ambit of the Council.

A14.2 **Notice**

- (a) Except for motions which can be moved without notice under Standing Order A15, written notice of every motion, signed (or sent by e-mail and verified by the Head of Governance Support) by the proposer and seconder, must be delivered to the Head of Governance Support by 4.00 p.m. on the tenth clear working day before the date of the meeting. ~~These will be~~

~~entered in a book after approval by the Chief Executive, and be open to public inspection.~~

- (b) The Chief Executive (in consultation with the Chairman/woman ~~and Group Leaders~~) may decline to accept any notice of a motion if it is in his/her opinion:
- (i) factually inaccurate; or
 - (ii) it is identical or materially similar to a motion which has been presented to a meeting of Council or a Council committee within the 12 months preceding the Council meeting; or
 - (iii) it is illegal, defamatory, scurrilous, irrelevant or otherwise objectionable.

Where a member's Notice of Motion may be declined by the Chief Executive, the Chief Executive will provide the reason(s) for this and where possible assist the member to amend the declined Motion so that it is acceptable.

- (c) Motions for which notice has been given and require a council decision will be listed on the agenda in the order in which notice was received, unless the proposer and seconder giving notice state, in writing (including by e-mail if verified by the Head of Governance Support), that they propose to move it to a later meeting or withdraw it. The Chairman may alter the order in which Notices of Motion are taken on the agenda if he/she considers this will facilitate the efficient running of the meeting ~~and if a majority of those present do not object.~~ Motions which subject matter comes within the province of the Cabinet or any Council Committee will be listed included on the relevant agenda for those decision-making bodies with reference to the relevant decision-maker.

- (d) Motions which result in financial implications for the Council must include an outline of such implications together with advice from the Council's Finance Officer (including an officer report where required). Where there is insufficient time to enable a robust assessment of the financial implications the Motion will stand deferred to a subsequent meeting.

A14.3 Procedure

- (a) If the subject matter of any motion ~~listed on the agenda~~ comes within the province of the ~~Cabinet~~ Executive or any Council committee, it shall stand referred to the ~~Leader of the Council~~ Elected Mayor or committee, as appropriate, without ~~inclusion on the Council agenda~~ introductory speeches by the proposer and seconder and without debate. ~~Executive Cabinet~~ matters will be considered and determined by the ~~Elected Mayor~~ Leader of the Council normally at a meeting of the ~~Policy Development and Decision Group (Joint Operations Team) or (Joint Commissioning Team) or he/she may announce his/her decision at the Council meeting~~ Cabinet, or he/she may refer the matter to an individual member of the ~~Cabinet~~ Executive or an officer. Matters referred to a Council committee will be placed on the next available agenda and the Committee will determine whether to request officers to prepare a report on the matter for consideration at a future meeting.

- (b) If the subject matter does not fall within the remit of the Executive Cabinet or a Council committee, the Council may deal with the matter immediately via normal rules of debate, ~~defer it to a future meeting and/or request a report.~~

A14.4 **Motions affecting the setting of the Budget**

Written notice of every proposed amendment (or objection in the case of the first meeting of Council at which the ~~Elected Mayor~~Leader of the Council's proposals will be considered) to a recommendation affecting the setting of the Budget, signed (or sent by e-mail and verified by the Head of Governance Support) by the member (or members), must be delivered to the Head of Governance Support by 4.00 p.m. two clear working days before the commencement of the meeting (including any adjourned meetings) at which the setting of the Budget is to be considered. These will be ~~entered in a book and~~ published on the Council's website, after approval by the Chief Executive, and be open to public inspection. The provisions in A.14.2 (b) will apply.

A15. Motions which may be moved without Notice and/or during debate without Notice (To apply to Committees and Overview and Scrutiny)

A15.1 The following motions may be moved during the meeting~~without notice~~:

- (i) to appoint a Chairman/woman for that meeting at which the motion is moved;
- (ii) in relation to the accuracy of the minutes;
- (iii) to change the order of business in the agenda;
- (iv) to refer something to an appropriate body or individual;
- (v) to appoint a committee or member arising from an item on the summons for the meeting;
- (vi) to receive reports or the adoption of recommendations of the Executive Cabinet (or committees or individual members of the Executive Cabinet), committees, sub-committees, working parties or officers and any resolutions following on from them;
- (vii) to withdraw a motion;
- (viii) to amend a motion;
- (ix) to proceed to the next item of business;
- (x) that the motion/amendment be now put to the vote;
- (xi) to adjourn a debate;
- (xii) to adjourn a meeting;
- (xiii) that the meeting continue beyond four hours in duration;

- (xiv) to suspend a particular Council Standing Order (subject to Standing Order A29);
- (xv) to exclude the public and press in accordance with the Standing Orders in relation to Access to Information;
- (xvi) to not hear further a member or to exclude them from the meeting where that member is behaving improperly or offensively or is deliberately obstructing business;
- (xvii) to give the consent of the Council where its consent is required by this Constitution; and
- (xviii) any motion relating to the use of cameras or the audio or visual recording of the proceedings of the meeting.

A16. Rules of Debate (~~To apply to Cabinet, Committees and Overview and Scrutiny (except A16.53(a), and A16.6).~~ See **flowcharts at** appendices 1 and 2

These rules do not apply for the consideration of Planning or Licensing applications. Standing Order 23 below sets out the rules of debate for such applications.

A16.1 No speeches until motion moved and seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

A16.2 Right to require motion or amendment in writing

Unless notice of the motion has already been given, the Chairman/woman may require it to be written down and handed to him/her before it is discussed. The Chairman/woman may also require an amendment to be written down and handed to him/her before it is discussed.

A16.3 Seconder’s speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate (note: if a member does reserve their speech until later in the debate and that member wishes to speak later in the debate they must raise their hand/indicate such wish to the Chairman/woman).

A16.4 Content of speeches

A member’s speech must relate to the business under discussion or to a personal explanation or point of order.

A16.5 Length of speeches

No speech or response may exceed five minutes without the consent of the Chairman/woman except the opening speeches on the revenue budget by the ~~Elected Mayor~~**Leader of the Council** and the leaders of each political group at the annual budget setting meeting, which shall not exceed fifteen minutes without the consent of the Chairman/woman.

A16.6 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (i) to speak once on any amendment;
- (ii) to move a further amendment if the motion has been amended since he/she last spoke;
- (iii) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (iv) in exercise of a right of reply (under Standing Order A16.10);
- (v) on a point of order (under Standing Order A16.12); ~~and~~
- (vi) by way of personal explanation (under Standing Order A16.13).

A16.7 Amendments to motions

- (a) An amendment to a motion must be reasonably relevant (in the opinion of the Chief Executive) to the motion and must seek to:
 - (i) refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) delete words;
 - (iii) delete words and add other words; or
 - (iv) add words,

and an amendment that otherwise complies with this Standing Order shall be valid even if the direct or indirect consequence of the amendment (if carried) would be to negate the motion (except amendments made at Development Management Committee).

Assistance with drafting amendments will be provided by the Head of Governance Support where requested and the Head of Governance Support will involve the relevant officers for their professional advice. Where officer advice is sought in advance on amendments, this advice will be provided in confidence and not shared with any other members unless instructed to do so by the member preparing the amendment. The mover of an amendment prepared in advance of the meeting will confirm with the Head of Governance Support when they wish the amendment to be shared.

- (b) Only one amendment may be moved and discussed at any one time except that the Chairman may permit more than one amendment to be debated at the same time if he/she considers this would facilitate the efficient running of the business and if a majority of members present do not object. No further amendment may be moved until the amendment under discussion has been disposed of. Amendments to motions will be moved at the earliest possible opportunity during the debate.

- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which further amendments may be moved. At the end of the debate, the substantive motion will then be put to the vote.
- (e) For the avoidance of doubt no amendment can be made to the motion to set the Council Tax.

A16.8 Amendment of motions by proposer

- (a) A member may request, with the consent of the seconder/meeting, to alter a motion of which he/she has given notice. ~~On such a request, the Chairman/woman shall ask the meeting whether anyone objects to the request. The meeting's consent will be signified without discussion.~~ If there is no objection to the request it shall be amended as proposed. If there is an objection, the request to alter the motion shall be put to the vote without debate.
- (b) A member may alter a motion which he/she has moved without notice with the consent of the seconder.
- (c) Only alterations which could be made as an amendment (in accordance with Standing Order A16.7) may be made.

A16.9 Withdrawal of motions

A member may withdraw a motion which he/she has moved with the consent of the seconder. No member may speak on the motion after the mover has asked permission to withdraw it unless the seconder refuses consent to withdraw the motion.

A16.10 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the amendment has the right of reply before the mover of the original motion. The mover of the original motion then has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. This Standing Order also applies if the amendment is carried and further amendments are moved.
- (c) The mover of the amendment has no right of reply to the debate on his/her amendment.

A16.11 Procedural Motions which may be moved during debate

- ~~(a)~~ When a motion is under debate, ~~no other motion may be moved except~~ the following procedural motions may be moved:
 - ~~(i)~~ to withdraw a motion;

~~(ii)~~ to alter or amend a motion;

(iii) to proceed to the next business;

If a motion to proceed to the next business is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

~~(iv)~~ that the motion/amendment be now put to the vote;

If a motion that the motion/amendment be now put to the vote is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

~~(iii)~~ to adjourn a debate;

If a motion to adjourn the debate is seconded and the Chairman/woman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply. If the motion is carried and no timeframe is explicit the discussion will be resumed at the next ordinary meeting of the Council and the member who moved its adjournment shall be entitled to speak first. If the motion to adjourn is lost, a second motion for adjournment may be moved during the same meeting and the Chairman/woman thinks a reasonable amount of time has lapsed since the last motion to adjourn.

~~(vi)~~ to adjourn a meeting;

If a motion to adjourn the meeting is seconded and the Chairman/woman shall invite the Chief Executive, Monitoring Officer and Chief Finance Officer to indicate whether there is any other business that they believe should be transacted at that meeting (in accordance with Standing Order A11.2) and it shall be put to the vote without debate and without giving the mover of the original motion the right of reply.

(vii) that the meeting continue beyond four hours in duration;

If a motion that the meeting continue beyond four hours in duration or a motion to adjourn the meeting is moved, the Chairman/woman shall invite the Chief Executive, Monitoring Officer and Chief Finance Officer to indicate whether there is any other business that they believe should be transacted at that meeting (in accordance with Standing Order A11.2) and if the motion is then seconded it shall be put to the vote without debate.

- (viii) to exclude the public and press in accordance with the Standing Orders in relation to Access to Information; and

If a motion to exclude the press and public in accordance with the Standing Orders in relation to Access to Information is seconded, it shall be put to the vote without debate but the Chairman/woman may invite the Chief Executive and/or the Monitoring Officer to advise on the matter.

- (ix) in accordance with Standing Order A25 (members' conduct), to not hear further a member or to exclude them from the meeting.

- ~~(b) If a motion to proceed to the next business is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.~~
- ~~(c) If a motion that the motion/amendment be now put to the vote is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.~~
- ~~(d) If a motion to adjourn the debate or to adjourn the meeting is seconded and the Chairman/woman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply.~~
- ~~(e) If a motion that the meeting continue beyond four hours in duration or a motion to adjourn the meeting is moved, the Chairman/woman shall invite the Chief Executive, Monitoring Officer and Chief Finance Officer to indicate whether there is any other business that they believe should be transacted at that meeting and if the motion is then seconded it shall be put to the vote without debate.~~
- ~~(f) If a motion to exclude the press and public in accordance with the Standing Orders in relation to Access to Information is moved and seconded, it shall be put to the vote without debate but the Chairman/woman may invite the Chief Executive and/or the Monitoring Officer to advise on the matter.~~

A16.12 Point of order

A member may raise a point of order, at any times subject to first obtaining the consent of the Chairman/woman. The Chairman/woman will determine when they are heard, either immediately will hear them immediately or after the member speaking has finished their speech. A point of order may only relate to an alleged breach of these Council Standing Orders, a significant factual inaccuracy or a breach of the law. The member must indicate the Standing Order, the alleged significant factual inaccuracy or the law (and the way in which he/she considers it has been broken, or is inaccurate) before speaking further. The ruling of the Chairman/woman on the matter will be final.

A16.13 Personal explanation

A member may make a personal explanation ~~at any time~~, subject to first obtaining the consent of the Chairman/woman. The Chairman/woman will determine when they are heard, either immediately or at an appropriate point during the debate.

A personal explanation may only relate to some statement by, or material fact relating to, the member which may appear to have been misunderstood in the present debate. The ruling of the Chairman/woman on the admissibility of a personal explanation will be final.

A16.14 Briefings by Officers

In exceptional circumstance and with the consent of the Chairman/woman, ~~the~~ Chief Executive may request officers to provide members with a briefing at the Council meeting on agenda items before they are considered by the Council. The Chairman/woman will allow each member a maximum of two questions to the officer presenting. Questions must only relate to factual elements of the matter under discussion and not draw the officer into the debate of the Council.

A17. State of The Borough Debate**A17.1 Calling of debate**

The ~~Elected Mayor~~Leader of the Council or Chairman/woman may call a State of the Borough debate annually to be held at the first ordinary meeting of the Council after the Annual Council meeting or on such other occasion to be determined by the Chairman/woman of the Council in consultation with the ~~Elected Mayor~~Leader of the Council.

A17.2 Form of debate

The ~~Elected Mayor~~Leader of the Council in consultation with the Chairman/woman (or the Chairman/woman if calling the debate) may decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of the Borough debate.

A17.3 Chairing of debate

The debate will be chaired by the Chairman/woman of the Council.

A17.4 Results of debate

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the ~~Elected Mayor~~Leader of the Council in proposing the budget and policy framework to the Council for the coming year.

A18. Previous Decisions and Motions (To apply to Committees and Overview and Scrutiny)**A18.1 Motion to rescind a previous decision**

A motion or amendment to rescind a non-Executive decision made at a meeting of Council within the past six months cannot be moved unless:

- (i) the notice of motion is signed by at least the same number of members as would make the meeting quorate; or
- (ii) an amendment is moved at a meeting, which seeks to rescind a previous decision, which is supported by at least the same number of members as would make the meeting quorate to enable the matter to be debated; or
- (iii) the motion or amendment is substantially in accordance with a recommendation contained in an officer report.

No resolution shall be rescinded if, in the opinion of the Monitoring Officer, it would infringe on any third party's legal rights or be likely to result in a finding of maladministration against the Council.

[This Standing Order does not apply to a decision that has previously been rescinded.](#)

A18.2 **Motion similar to one previously rejected**

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless:

- (i) the notice of motion or amendment is signed by at least the same number of members as would make the meeting quorate; or
- (ii) an amendment moved at a meeting is supported by at least the same number of members as would make the meeting quorate to enable the matter to be debated; or
- (iii) the motion or amendment is substantially in accordance with a recommendation contained in an officer report.

A19. **Voting (To apply to Committees, Cabinet and Overview and Scrutiny except A19.5)**

A19.1 **Majority** (This Standing Order may not be suspended)

Prior to voting the Chairman/woman will read out the motion or amendment due to be voted upon if he/she considers the debate has been complex and clarity is needed before taking the vote. Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the motion was put (except voting on decisions of the Investment and Regeneration Committee, where three or more members of the Committee vote against decisions of the Committee the matter shall stand referred to the Council for decision).
(Schedule 12 of the Local Government Act 1972)

~~Note: Special rules apply in relation to the Budget and Policy Framework and these are set out in the Standing Orders in relation to Budget and Policy Framework.~~

A19.2 Chairman/woman’s casting vote
(This Standing Order may not be suspended)

If there are equal numbers of votes for and against, the Chairman/woman (whether or not he/she has voted) will have a casting vote. There will be no restriction on how the Chairman/woman chooses to exercise a casting vote, save that he/she must use his/her casting vote for the election of the Chairman/woman at the Annual Council meeting in the case of an equality of votes.
(Schedule 12 and Section 4 of the Local Government Act 1972)

A19.3 Method of Voting

Unless a recorded vote is demanded under Standing Order A19.4, the Chairman/woman will take the vote by a show of hands or by an appropriate alternative means determined by the Chairman/woman.

A19.4 Recorded vote

If at least the same number of members as would make the meeting quorate demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

A19.5 Recorded vote at budget meetings
(This is a mandatory standing order under The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and may not be suspended)

Recorded votes will be taken on any decision relating to the budget or Council Tax, including any amendments and substantive motions on agreeing the budget, setting, Council Tax or issuing precepts.

A19.6 Right to require individual vote to be recorded
(This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and may not be suspended.)

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. The member must ensure the Governance Support Officer present at the meeting is made aware of how they voted for the minutes.

~~A19.7 Party Whip~~

~~The use of the party whip is not permissible at any meetings of the Council.~~

A20. Minutes
(This Standing Order may not be suspended)

A20.1 Signing the minutes (To apply to Committees, Cabinet and Overview and Scrutiny)

The Chairman/woman will sign the minutes of the proceedings at the next suitable meeting (Schedule 12 of the Local Government Act 1972/Local Authorities (Standing Orders) Regulations 1993). The Chairman/woman will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

A20.2 No requirement to sign minutes of previous meeting at extraordinary meeting

(This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and may not be suspended. The language is constrained by that permitted in the regulations.)

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

A20.3 Form of minutes (To apply to Committees, Cabinet and Overview and Scrutiny)

Minutes will include all decisions in the form and order they were taken at the meeting.

A21. Record of Attendance (To apply to Committees, Cabinet and Overview and Scrutiny) (This Standing Order may not be suspended)

A21.1 The Governance Support Officer will make a record of Aall members present during the whole or part of a meeting ~~shall sign their names in the attendance register (or sheet provided for that purpose)~~ before the conclusion of every meeting to assist with the record of attendance. ~~Non-compliance with this Standing Order by any member shall not affect the validity of the meeting. The official attendance record will be held in the minutes of the meeting.~~
(Schedule 12 of the Local Government Act 1972)

A22. Exclusion of Public (To apply to Committees, Cabinet and Overview and Scrutiny) (This Standing Order may not be suspended)

A22.1 Members of the public and press may only be excluded either in accordance with the Standing Orders in relation to Access to Information or Standing Order A26 (Disturbance by Public).

A23. Representations In Respect Of Planning and Licensing Applications (To apply to Committees)

A23.1 Members of the public shall be entitled to speak at meetings of the Council, committees or sub-committees during the consideration of:

- (i) any application for approval or consent required under the Town and Country Planning legislation; and
- (ii) any licensing applications that fall outside the Licensing Act 2003.

in accordance with the following provisions.

A23.2 Any member of the public who wishes to speak shall notify the Head of Governance Support or his/her representative at least three hours before the meeting he/she wishes to speak at or at lesser notice at the discretion of the Chairman/woman of the Council.

A23.3 The following procedure shall apply in respect of each item:

- (i) introduction of item by officer;
- (ii) representations by objector(s);
- (iii) representations by applicant, agent or supporters;
- (iv) Brixham Town Councillors (if it relates to a Brixham application);
- (v) officers to comment if necessary on matters raised above;
- (vi) Questions by Members to the Planning Officers in respect of the application;
- (vii) Once all questions have been asked, a motion will be put forward and seconded to open the application for debate, the options for the motion include:
 - 1. Approval (with or without conditions); or
 - 2. Refusal (with reasons); or
 - 3. Deferment for further information or a site visit; or
 - 4. Delegation for determination by an officer or other Committee of the Council.
- (viii) Members may speak more than once on a motion;
- (ix) During the debate if any further additions (such as reasons for refusal or additional conditions) are suggested to the motion, the Chairman/woman will seek consent of the proposer and seconder for these to be included in the original motion. If consent is not forthcoming, then a further motion can be moved once the motion on the table has been dealt with;
- (x) prior to the vote on the motion, the Chairman/woman will confirm the details of the motion, including asking the Planning Officer to clarify if there are any additional technical conditions required or reasons for refusal; and
- (xi) a vote will be taken on the motion and the Chairman/woman will announce the result of the vote. If the motion fails the Chairman/woman will invite Members to propose an alternative motion which will be subject to debate prior to the vote and following (vi) to (x) above.

A23.4 The total time allowed for speeches in respect of each of the following groups of speakers shall not exceed five minutes or such period as the Chairman/woman may allow:

- (a) objectors;
- (b) applicant, agent or supporters; and
- (c) Brixham Town councillors.

A23.5 Where more than one objector to or supporter of an application wishes to speak, the Chairman/woman may if he/she considers it convenient and conducive to the

despatch of business of the meeting require that a spokesperson be appointed to represent the views of the objectors or supporters as the case may be.

- A23.6 The Chairman/woman shall ensure, as far as is practicable, that both objectors and supporters are given the opportunity to speak but an application will not normally be deferred merely because one side is unable or does not wish to be present.
- A23.7 The Brixham Town Council may nominate a representative to speak on a planning application in relation to its area.
- A23.8 The Chairman/woman may:
- (i) suspend the operation of this Standing Order during the consideration of any application or for the remainder of the meeting if he/she considers it necessary so to do for the purpose of maintaining order at the meeting; or
 - (ii) vary the order of representations if he/she considers that it is convenient and conducive to the despatch of business and will not cause any prejudice to the parties concerned.
- A23.9 Guidance on representations in respect of licensing (2003 Act) applications is available in the Local Code of Good Practice for Members and Employees Involved in the Licensing Process.

(Note: This Standing Order A23 shall also apply to a member with an interest that means they should not be present when the matter is under consideration but who wishes to make a representation in respect of a planning or licensing application, but having made his/her representations he/she must withdraw from the meeting room and cannot vote on the matter.)

A12. Petitions

A12.1 The Council will consider petitions received in accordance with its Petition Scheme (as set out in Appendix 3 to these Standing Orders).

Note: Standing Orders to be renumbered following approval by Council.

A24. Public Question Time

- A24.1 Members of the public shall be entitled to ask questions/make statements during the Question Time sessions held at the meetings of Council provided that the questions/statements:
- (a) relate to the Council and/or the services it provides (or are provided on its behalf) to local people or to a matter that affects local people more than the general public nationally and is relevant to the area or areas of responsibility of the person to whom the question or statement is directed;
 - (b) do not relate to planning or licensing applications to be considered by the Authority;
 - (c) do not relate to any matter where public consultation is being undertaken in the next six months by the Council; and

- (c) are provided to the Head of Governance Support in writing (including by e-mail if verified by the Head of Governance Support) by no later than 4.00 p.m. on the tenth clear working day before the date of the meeting in order that a suitable response may be prepared. The Chairman/woman may permit a question/statement after this deadline in exceptional circumstances and the questioner has given a copy of his/her question to the Head of Governance Support by 4.00 p.m. two clear working days prior to the meeting.

However, the Chief Executive, in consultation with the Chairman/woman of the Council may decline to accept any question or statement if it is in his/her opinion:

- (i) factually inaccurate; or
- (ii) it is identical or materially similar to a question which has been presented to a meeting of Council or a Council committee within the 12 months preceding the Council meeting; or
- (iii) it is illegal, defamatory, scurrilous, irrelevant or otherwise objectionable; or
- (iv) to respond to the question or statement would require a disproportionate amount of officer time (having regard to any possible benefits such work would deliver) and the question or statement is not of such nature that would require a response if made pursuant to the Freedom of Information Act 2000.

And the reasons for rejection will be provided.

- A24.2 The Head of Governance Support will immediately send a copy of the question/statement to the member to whom it has been put and ~~include~~ publish the questions/statements ~~with the Council agenda~~.
- A24.3 The total time allowed for questions or statements shall not exceed 30 minutes except with the consent of the Chairman/woman of the body concerned. No person may submit more than 2 questions at any one meeting and no more than 2 such questions may be asked on behalf of one organisation.
- A24.4 Each person addressing the meeting shall be restricted to five minutes of speech or such period as the Chairman/woman may allow. Any persons addressing the Council under this Standing Order may only refer to matters relevant to the question or statement and shall:
- (a) not use discriminatory or offensive language;
 - (b) not make any party political statements;
 - (c) not use personal abuse; and
 - (d) treat others with courtesy and with respect.

If the Chairman/woman considers that any of these requirements have been breached he/she may take such action as he/she considers appropriate (including prohibiting the person addressing the Council from speaking further).

- A24.5 Questions ~~or statements~~ shall be directed to the Chairman/woman, who may request:
- (i) the ~~Elected Mayor~~ Leader of the Council;
 - (ii) a member of the Executive;
 - (iii) the Chairman/ woman of any committee (including the Overview and Scrutiny Board or sub-committee);
 - (iv) a Council representative on an outside organisation
- to reply. The Chairman/woman, Leader of the Council ~~Elected Mayor~~ or other Councillor may, in turn, request an appropriate officer or his/her representative to reply.
- If a questioner who has submitted a written question is unable to be present, they may ask the Chairman/woman to put the question on their behalf or the Chairman/woman can decide to put the question. The Chairman/woman may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.
- A24.6 Every question shall be put and answered without discussion although the questioner may be permitted by the Chairman/woman to ask one supplementary question provided that it is relevant to the original question ~~or statement~~ (or the response thereto) and his/her allocation of five minutes is not exceeded (subject to Standing Order A24.4).
- A24.7 Statements will not be responded to. A response to a question shall take the form of:
- (i) a direct oral answer; or
 - (ii) where the reply to the question cannot conveniently be given orally, an undertaking that a written reply will be provided.
- A24.8 Unless the Chairman/woman decides otherwise, no discussion will take place on any question or statement, but any member may move that a matter raised by a question or statement be referred to the Executive or appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.
- A24.9 Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.
- (Note: This Standing Order A24 shall also apply to a member with an interest that means they should not be present when the matter is under consideration but who wishes to make a representation, but having made his/her representations he/she must withdraw from the meeting room and cannot vote on the matter.)

A25. Members' Conduct (To apply to Committees, Cabinet and Overview and Scrutiny)**A25.1 Members addressing the meeting**

When a member addresses a meeting of the Council they must make themselves clearly identifiable and address the meeting through the Chairman/woman. If more than one member seeks to address the meeting, the Chairman/woman will rule on the order on which they may address the meeting. Other members must behave in an appropriate manner whilst a member is addressing the meeting and not interrupt unless they wish to move a motion under Standing Order A16.11 or to make a point of order or a point of personal explanation. When making a point of order or point of personal explanation, ~~having once raised requested the matter~~ a member making the request must sit down and not speak again until invited to do so by the Chairman/woman.

A25.2 Chairman/woman calling the meeting to order ~~(To apply to Committees and Overview and Scrutiny)~~

When the Chairman/woman calls to order, whether by standing or banging his/her gavel or by some appropriate means during a debate, any member addressing the meeting at the time must stop and sit down. The meeting must be silent.

A25.3 Member not to be heard further ~~(To apply to Committees and Overview and Scrutiny)~~

If a member behaves improperly or offensively or deliberately obstructs business, the Chairman/woman or the Council by resolution may determine that the member in question be not heard further in respect of the item under discussion.

A25.4 Member to leave the meeting ~~(To apply to Committees and Overview and Scrutiny)~~

If the member continues to behave improperly after a motion under A25.3 is carried, the Chairman/woman ~~or any member~~ may either determine that (a) the member in question leaves the meeting in respect of the item under discussion or for the remainder of the meeting, as appropriate, or (b) that the meeting is adjourned for a specified period. A25.5

A25.5 General disturbance ~~(To apply to Committees and Overview and Scrutiny)~~

If there is a general disturbance making orderly business impossible, the Chairman/woman may adjourn the meeting for as long as he/she thinks necessary.

A25.6 Addressing other members ~~(To apply to Committees and Overview and Scrutiny)~~

At meetings of the Council, its committees and sub-committees, members shall address each other as “councillor” followed by the member’s surname. ~~The Elected Mayor shall be addressed as Mr or Madam Mayor or such other title as he/she may reasonably choose.~~ At meetings of the Council, the Chairman/woman of the Council shall be addressed as Chairman/woman or such other title as he/she may reasonably choose, but at meetings other than Council the Chairman/woman of the Council shall be referred to as “councillor” followed by his/her surname.

A25.7 Members Leaving During the Meeting

Where a Member leaves the meeting room temporarily during the meeting for whatever reason, they shall acknowledge the Chairman/woman by nodding their head (or by another appropriate means) and leave the chamber. Where a Member leaves the meeting room permanently before the end of the meeting (or its formal adjournment) they shall give their apologies to the Chairman/woman (either immediately prior to their departure or earlier during the meeting or immediately prior to its commencement) and their departure shall be recorded in the minutes.

A26. Disturbance by Members of the Public (To apply to Committees, Cabinet and Overview and Scrutiny)**A26.1 Removal of member of the public**

If a member of the public interrupts proceedings or behaves improperly or offensively, the Chairman/woman will warn the person concerned. If they continue to interrupt or behave improperly or offensively, the Chairman/woman may order their immediate removal from the meeting and the premises. If the Chairman/woman considers behaviour to be grossly improper or offensive he/she may order the immediate removal of the person from the meeting and the premises without warning. The person concerned shall not be permitted re-entry to the premises for the duration of the meeting.

A26.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Chairman/woman may call for that part to be cleared.

A27. Use of Cameras and Tape and Video Recorders (To apply to Committees, Cabinet and Overview and Scrutiny)

A27.1 Any persons present at the meeting may, unless prohibited or restricted by a resolution, take photographs, ~~and~~ make audio or visual recordings and make live stream recordings on social media of the proceedings of meetings of the Council, its committees and sub-committees. However, no flash photography or other artificial light source shall be used without the prior approval (which may be withdrawn or conditional) of the person presiding at the meeting concerned.

A27.2 The Head of Governance Support may make arrangements for the electronic recording (including filming) of those parts of the meetings of Council, Development Management Committee and Standards Hearings Sub-Committee at which the press and public are entitled to be present.

**A28. Prohibition of Smoking, Alcohol and Drugs at Council Meetings (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)**

A28.1 No member or officer or member of the public shall smoke (this includes any electronic smoking devices), consume (or, in the opinion of the Chairman/woman be incapacitated by) alcohol and/or illegal drugs at any council meeting.

A29. Suspension and Amendment of Standing Orders In Relation To Council Procedure (To apply to Committees, Cabinet and Overview and Scrutiny)

(This Standing Order may not be suspended)

A29.1 Suspension – TO BE CHECKED ONCE DOCUMENT FINALISED TO ENSURE NUMBERS CORRECT

All of these Standing Orders in relation to Council except Standing Orders A1, A2, A3, A4, A5, A7.2, A7.3, A8, A9, A10, A14.1, A14.4, A19.1, A19.2, A19.5, A19.6, A20, A21, A22, A28 and A29 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

A29.2 Any motion to suspend any Standing Order (or part of any Standing Order) shall indicate the Standing Order (or part thereof) to be suspended.

A29.3 Amendment

Any motion to add to, vary or revoke these Standing Orders in relation to Council and Meetings will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council (unless the Monitoring Officer agrees otherwise).

A29.4 Conflict between Standing Orders and the law

If any Standing Order does not comply with any relevant legal requirement (whether arising from statute, subordinate legislation, EU directives or case law), that Standing Order shall be deemed to be amended so far as shall be necessary to comply with the legal requirement in question

A30. Interpretation
(To apply to Committees, Cabinet and Overview and Scrutiny)

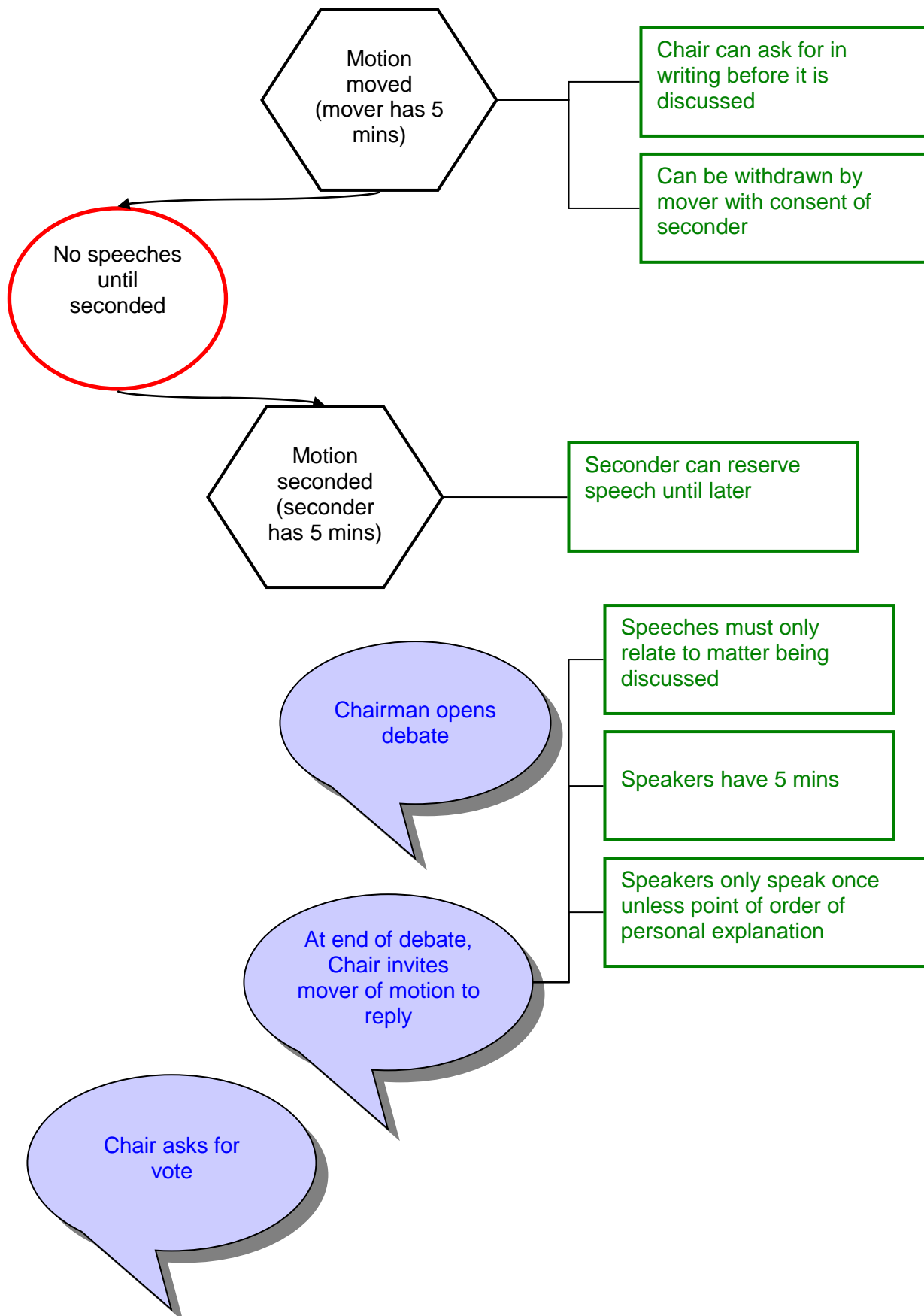
A30.1 Any references to writing or speaking in these Standing Orders shall be deemed to include any other means of communication that are reasonably appropriate having regard to any person's disabilities or special needs.

A31. Application of Standing Orders in Relation to Access to Information to Meetings of The Council

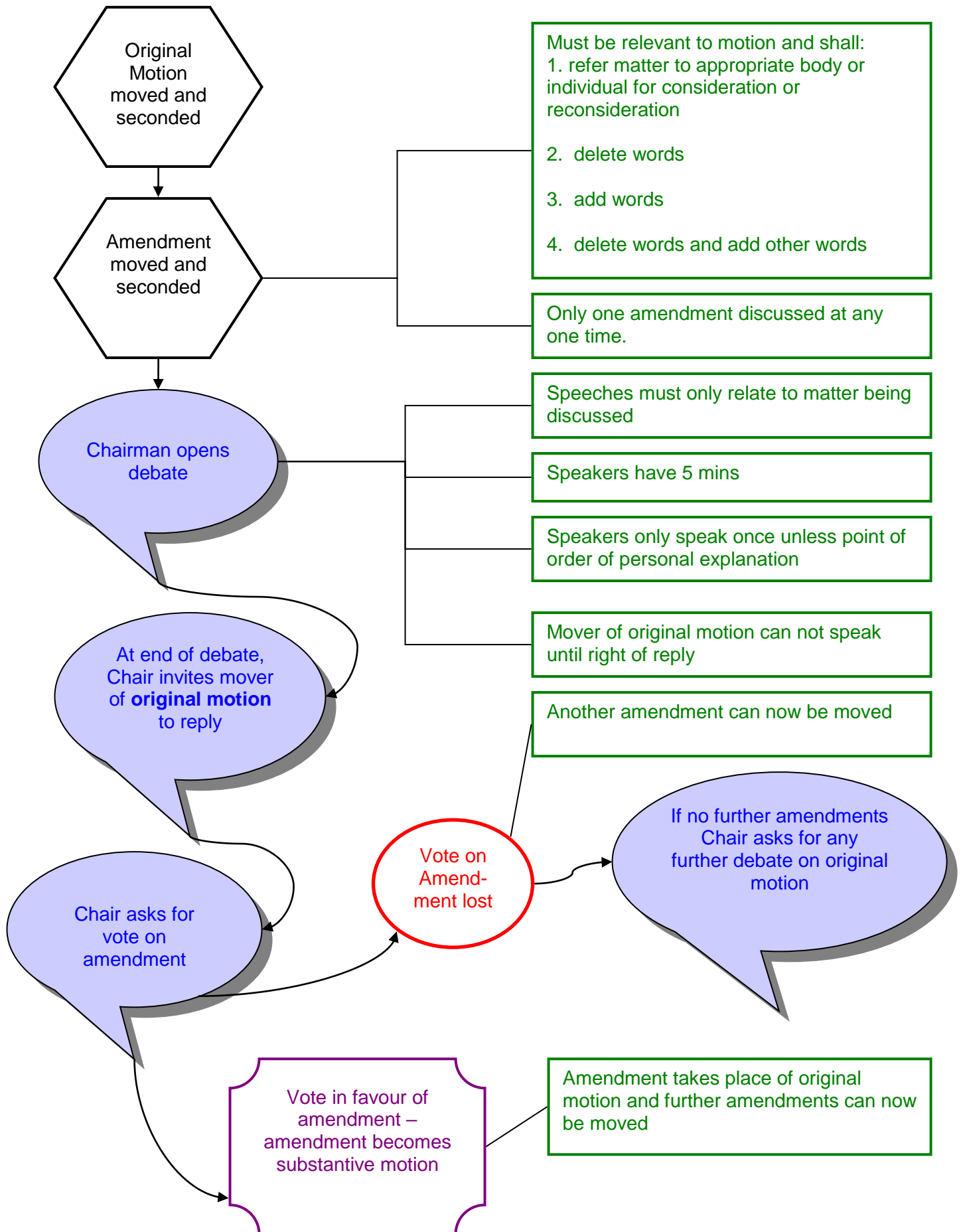
A31.1 The following Standing Orders in relation to Access to Information will apply to meetings of the Council: E1 to E11, E19 and E20.

A31.2 The Chairman/woman's ruling on the interpretation of these Standing Orders and on the conduct of the proceedings shall be final

Appendix 1 Standing Order A16 Rules of Debate – Motions without Amendment



Appendix 2 Standing Order A16 Rules of Debate – Amendments to Motions



Appendix 3 - Petition Scheme

Contents

1. Introduction
2. What are the guidelines for submitting a petition?
3. Are there any issues which the Council will not consider in a petition?
4. How can I submit a petition?
5. Petition Deadlines
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8. What can I do if I feel my petition has not been dealt with properly?
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10. Special requirements
11. Sample Petition Form

1. Introduction

A petition is a request for Torbay Council to consider an issue or concern or to take a particular course of action. Petitions set out a particular view point and can be a useful tool to demonstrate that a view is shared by others. The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

This document sets out the guidelines for submitting a petition and what you can expect from the petitions process.

To meet the requirements of the scheme, the petition must be about:

- **an issue which relates to the Council and/or services it provides to local people;**
- **an improvement in the economic, social or environmental well-being of Torbay to which any of the Council’s partner authorities could contribute’; or**
- **to issues which relate to services provided by partner authorities, including matters which are sub-regional and cross-authority;**

Petitions can be submitted in paper format or can be scanned and sent electronically. There is also a [Torbay Council e-petitions](#) facility available (this is a method of starting a petition and gathering signatures online which allows petitions and supporting information to be made available to a much wider audience). We are also happy to accept e-petitions generated from third party facilities, but only if they meet the submissions criteria set out in this scheme – including, for example, by providing sufficient information to enable the Council to verify signatures in support of the petition.

2. What are the guidelines for submitting a petition?

Petitions submitted to the Council **must** include (*see Appendix 1 for a sample paper petition template*):

- **A clear and concise statement covering the subject of the petition.** It should state what action the petitioners wish the Council to take.
- **The subject matter of the petition on each page.** People need to know what they are signing and therefore the petition should clearly state this on each page.
- **The petition organiser’s contact details.** Including a phone number and address, – this will be the person who we will contact to explain how we will respond to the petition.
- **At least 25 valid signatures.** Anyone who lives, works or studies in the Torbay area, including under 18’s, can sign or organise a petition. In order for a signature to be valid it must be accompanied by the name and

address (which must include the name or number, street and town) of each person supporting the petition. The address provided should be that place of work or study if they do not live in the bay. To ensure the Council understands the local level of support for a petition, it reserves the right to seek to verify each signature submitted as part of a petition. This may be particularly significant when establishing whether a petition has obtained the required number of signatures to trigger a specific process (see section 6 below Full Council Debate).

In the case of e-petitions, (including those submitted from other online petition facilities) the Council requires a name, valid email address (one email address per person), address (including the name or number, street and town) for each person supporting the petition; failure to provide this information may lead to a signature not being counted.

The Council may also ask for additional information it may require to confirm that the petition complies with the requirements of this scheme.

The Council's Monitoring Officer may decline to accept any petition where in his/her opinion the petition does not include any of the above.

3. Are there any issues which the Council will not consider in a petition?

3.1 There are certain circumstances when petitions will not be accepted by the Council's Monitoring Officer, including if a petition:

- is abusive, vexatious, libellous or otherwise inappropriate
- relates to an identifiable person
- relates to an issue which is clearly outside the control or reasonable influence of the Council (e.g. petitions on national issues)
- refers to a matter which is already the subject of legal proceedings
- is a duplicate or substantially similar to a petition received in the last 12 months, unless there has been a material change in circumstances

Petitions made under other enactments, such as petitions under the Local Government Act 2000 asking for referendum on whether the area should have an elected mayor, will be dealt with according to the procedures set out in those enactments. If such a petition fails to meet the requirements of the enactment in question, for example a petition under the 2000 Act does not achieve the requisite number of signatures, it will then be dealt with through this Petitions Scheme in exactly the same manner as any other petition.

3.2 This Petitions Scheme does not apply to certain matters, where there are already existing processes for communities to have their say. The following matters are therefore excluded from the scope of this Petitions Scheme:

- Any matter relating to a planning decision,
- Any matter relating to a licensing decision

- Any matter relating to a subject where consultation by the Council is currently being undertaken or is due to be undertaken in the next six months, (e.g. Formal Budget/Savings Proposals consultation).
- Any matter where there is already an existing right of appeal such as council tax banding and non-domestic rates.

We will advise the petition organiser what will happen to petitions under this category.

- 3.3 In the period immediately before an election or referendum we may need to deal with your petition differently. If this is the case we will explain the reasons and discuss the revised timescale which will apply.

4. How can I submit a petition?

Paper petitions may be submitted to the Council in person/by post to:

Governance Support
Torbay Council
Town Hall
Castle Circus
Torquay
TQ1 3DR

Alternatively, you can give your petition to your local councillor who will deliver it on your behalf.

Petitions can be emailed to:

Governance.support@torbay.gov.uk

For emailed petitions each sheet of signatures should be scanned in full as an exact replica of the original copy.

E-petitions may be submitted through the Council's *e-petitions facility* or via an independent online e-petition system and not via the Council's facility, however, in this case the Petition Organiser must ensure that the petition meets the submissions criteria set out in this scheme – including, for example, a valid email address (one email address per person), full name, address and postcode for each person supporting the petition to enable the Council to verify signatures on the petition.

The Council will also allow a combined paper and e-petition providing there are no duplicate signatories and the date of receipt is when the final submission is made.

Please note that we keep all original copies of petitions for our records for six years.

Upon submission of your petition, you need to advise the Governance Support Team whether you wish for your petition to be presented to a meeting of the full Council or referred directly to the decision maker for consideration. Please refer to section 6 below for further details.

5. Petition Deadlines

If you would like your petition to be presented at a Council meeting, (see details in section 6 below), it must be received by the Governance Support Team by 4.00 p.m. 10 clear working days before the meeting. The deadlines/dates of meetings can be found at (www.torbay.gov.uk).

Once approved and activated, a standard e-petition will remain open for 60 days. However this can be amended, following discussion with the petition organiser, to fit with timescales for specific meeting deadlines.

6. How will the Council respond to my petition?

All petitions received by the Governance Support Team will be acknowledged within 10 working days of receipt. The acknowledgement will be sent to the petition organiser and will explain what we plan to do with the petition and when you can expect to hear from us again. Your petition details will be provided to the Leader of the Council/Elected Mayor, the Chairman/woman of the Council, the Group Leaders and the Chief Executive. Details of any petitions that have not been accepted for the reasons cited in 3.1 will also be provided to those listed above for information purposes.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed.

If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, relates to a subject where consultation by the Council is currently being undertaken or is due to be undertaken in the next six months (e.g. Formal Budget/Savings Proposals consultation), or is a statutory petition on a matter where there is already an existing right of appeal (such as Council tax banding and non-domestic rates) other procedures apply. In our acknowledgment to you, we will explain these procedures and how you can express your views. Where a petition is passed to another department it may then become subject to any conditions relating to representations for such matters i.e. a petition in respect of a planning representation may be published in full which includes names and address of those who have signed the petition.

Petitions containing less than 25 signatures will not be presented to a Council meeting, but treated as general correspondence and forwarded directly to the relevant service department for response.

‘Ordinary’ petitions

For petitions containing at least 25 valid signatures you can present your petition to a meeting of the Council (which ~~the Mayor and~~ all Councillors can attend). Alternatively, you (as the petition organiser) and up to two other people who have signed the petition, can choose to meet directly with the relevant decision-maker to present your petition.

Once an 'ordinary' petition is received the Governance Support Team will write to you to inform you which body/decision-maker will respond to your petition and confirm which of the above options you would like to proceed with.

Presentation to Council

If you wish for the petition to be presented to a meeting of the Council you can speak in support of the petition at the meeting for up to five minutes. Confirmation of speaking in support of a petition must be received from the petition organiser by 4.00 p.m. the day before the Council meeting by registering with the Governance Support Team (by telephone on 01803 207087 or by e-mailing governance.support@torbay.gov.uk).

Please note the petition will not be debated by the ~~Mayor and~~ Councillors at the Council meeting, it will be referred straight to the relevant decision maker following the presentation of your petition at the meeting.

Also, if the subject of the petition is due to be considered by the decision-maker before the next meeting of the Council it will be referred to the decision-maker direct and you will not, therefore, have the opportunity to present the petition at a Council meeting.

Meeting with decision-maker

If you wish for the petition to be submitted directly to the decision-maker you will be informed of who will be contacting you to make the necessary arrangements for meeting with the decision maker. This meeting will normally be arranged within 28 days from notifying the Governance Support Team of your decision to proceed with this option.

The decision-maker may respond to the issues raised in your petition in one or more of the following ways:

- Taking the action requested in the petition;
- Holding an inquiry into the matter;
- Undertake research into the matter;
- Hold a public meeting; and/or
- Undertake consultation.

Full Council Debates

If a petition contains more than 1000 valid signatures it will be debated by the Mayor and Councillors at a meeting of the Council unless the matter is resolved before the meeting to the Petition Organiser's satisfaction.

You will receive notification from the Governance Support team with details of the Council meeting to which your petition will be submitted. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. You will be given five minutes to present the petition at the meeting and the petition will then be discussed by the ~~Mayor and~~ councillors.

The Council will decide how to respond to the petition at this meeting, it may decide to:

- take the action the petition requests;
- not to take the action requested for reasons put forward in the debate;
- make recommendations to the ~~Mayor~~ Leader of the Council if the issue is one for him/her to make the decision; or
- commission further investigation into the matter, for example by a relevant committee.

The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

7. Feedback – will the petitioners be told of the outcome?

Yes, the Petition Organiser will receive written confirmation setting out the Council's final response to the petition. This will normally outline the steps taken by the Council to consider the issue, including the involvement (where applicable) of the elected Councillors.

We will also publish details of petitions received and the final response/outcome of the petition on the Council's website.

8. What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser can complain through the Council's complaints procedure. The Governance Support Team can provide you with details of how to complain or you can find details on the Council's website (www.torbay.gov.uk).

9. Other ways to make your views known

Torbay Council values petitions and this document sets out clear commitment about how we will respond to the petitions we receive.

Petitions are not, however, the only - or necessarily the easiest or quickest - way to resolve an issue or to make your views known.

You can also:

- Contact the relevant Council service directly.
- Contact your local Councillor or Community Partnership if you have a concern which relates to your local area or neighbourhood.

If you wish to make a complaint about a Council service, then you should instead use the Council's Complaints Process.

There are a number of other ways you can have your say and get involved in local decisions. To find out more go to our website:

<http://www.torbay.gov.uk/index/yourcouncil/councillorsdecisions/haveyoursay.htm>

10. Special requirements

If you need any special help with accessing any Council buildings or if you have any special requirements please advise the Governance Support Team (using the contact details provided below) before the meeting.

To ask for a copy of this guide in another format or language, or for more information on petitions or Council meetings, please contact:

Governance Support on (01803) 207087

Email: governance.support@torbay.gov.uk

Subject of petition:	
Action required:	
Organiser/Main Contact for Petition	
Name:	Telephone number:
e-mail address:	
Address (including name or number, street, town):	

Using the guidance set out in this scheme please select the relevant petition type for your petition from the options below. If applicable, please also tick the box confirming whether you would like to present your petition by speaking at a Full Council meeting:

Ordinary (contains 25 signatures or more)

please indicate where you wish to submit your petition:

Full Council Meeting

or

Direct to Decision Maker

If you have chosen to submit your petition straight to a Full Council Meeting would you like to speak at the meeting? *please tick box below*

Yes

Name of speaker:

No

Petitions for Council debate (contains 1000 signatures or more)

please indicate if you would like to speak at the Council meeting

Yes

Name of speaker:

No

Subject of petition:	
-----------------------------	--

Name	Address (including name or number, street, town) or place of work or study if not a resident in Torbay	Signature

Please copy this page for further signatures

DATA PROTECTION: Torbay Council will become the data controller when the petition is submitted to the Council. The details you provide on this form will only be used for the purpose of this petition, however, please be aware that your name and address may be published in accordance with our petition scheme.

Standing Orders – Committee and Sub-Committee Meetings

Contents

Standing Order

- B1. Election of Chairmen/women
- B2. Appointment of substitute members of committees and sub-committees
- B3. Quorum
- B4. Attendance at committee meetings
- B5. Rules of Debate
- ~~B6~~5. Application of Standing Orders in relation to Council meetings to meetings of committees and sub-committees
- ~~B7~~6. Application of Standing Orders in relation to Access to Information to meetings of committees and sub-committees

B1. Election of Chairmen/Women (To apply to Overview and Scrutiny)

- B1.1 A Chairman/woman shall be elected at the first meeting of the Municipal Year of every committee and sub-committee.
- B1.2 Every committee and sub-committee may at any time appoint a Vice-Chairman/woman.
- B1.3 In the absence of the Chairman/woman (and Vice-Chairman/woman if appointed) at any meeting, a Chairman/woman for that meeting shall be elected.
- B1.4 **Voting on the appointment of Chairman/woman (To apply to Council)**

When there are two or more people nominated for the position of Chairman/woman of a committee or sub-committee and they have the same number of votes with no majority for one person, the most senior officer in attendance at the meeting will draw lots to determine who is elected. The person drawn will be deemed to be Chairman/woman.

B2. Appointment of Substitute Members of Committees and Sub-Committees (To apply to Overview and Scrutiny)

- B2.1 Where the membership of a committee or sub-committee has been determined as consisting of representatives of the political groups on the Council, such representatives may be varied by the respective groups provided notice of the variation (signed by the Leader or Deputy Leader of the group or the [Leader of the Council/Elected Mayor](#) in respect of ~~Executive Cabinet~~ Members substituting at ~~Executive Cabinet~~ meetings) ~~and Executive seats on meetings or outside bodies or a majority of members of the group on the committee or sub-committee~~ has been delivered to the Head of Governance Support before the commencement of the meeting or adjourned meeting. For the avoidance of doubt ~~any~~ member ~~of a different group~~ may be appointed as a representative of a group on a committee or sub-committee if that member agrees to such appointment even if this means that the political balance of the committee does not reflect the political balance of the Council. The Chairman/woman of the Council shall not ~~normally~~ attend any meeting as a substitute.
- B2.2 Where the notice has been delivered to the Head of Governance Support, it shall be effective until the end of the relevant meeting (including any adjourned meeting unless the substitution expressly excludes adjourned meetings or unless the variation only applied to one or more specific items and those items have been determined) and may be withdrawn by the Group Leader or Deputy Leader or ~~Elected Mayor~~[Leader of the Council](#). Once the notice has been delivered the member who has been substituted shall not vote at the relevant meeting (or on the relevant item if the variation has only related to one or more specified items) even if the substitute member does not attend.
- B2.3 Where a meeting of a Council committee or sub-committee would otherwise be inquorate an elected member may be substituted by any other elected member for one or more items on the agenda for the meeting (including any item raised under “Urgent Items”) without prior written notice but with the approval of the person presiding for the item in question.

B3. Quorum (To apply to Overview and Scrutiny)

B3.1 The quorum of a committee or sub-committee meeting shall be as set out in the table below (except the Investment and Regeneration Committee where the quorum shall be 4 members to ensure the voting procedures meet the intended requirements):

Number of members (excluding co-opted members)	Quorum of members (excluding co-opted members but including the person presiding)
3-8	3
9-12	4
13-16	5
17-20	6
21-24	7
25-28	8
28-36	9
37	10

B3.2 During any meeting if the Chairman/woman counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chairman/woman. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

B3.3 No committee shall comprise less than three members.

B4. Attendance at Committee Meetings (To apply to Overview and Scrutiny)

B4.1 ~~The elected Mayor and a~~Any councillor may attend and speak at any meeting of the Council’s committees, sub-committees, working parties, review panels, ~~policy development and decision groups~~Cabinet, or outside bodies with the agreement of the Chairman/outside body, except the Employment Committee ~~and business planning meetings such as the Mayor’s Executive Group or Overview and Scrutiny briefing meetings (unless otherwise specified by the Council from time to time)~~ where they are not a member, unless those bodies resolve to suspend Standing Order B4.1 in whole or in part; ~~or to speak at Licensing Sub-Committee on Licensing Act 2003 applications where the councillor is required to submit a valid written representation to the Licensing Authority within the prescribed consultation period; or Development Management Committee where the councillor is required to register their intention to speak prior to the meeting with the Governance Support Team.~~

B4.2 Standing Order B4.1, shall not entitle ~~the elected Mayor or~~any councillor (even if they are a member of that committee, sub-committee, working party or body) to remain in the room in which a meeting is taking place during the consideration of any matter in which he/she has a pecuniary interest or during the consideration of any matter that is confidential (as defined in Part 5A of the Local Government Act 1972). Nor shall Standing Order B4.1 entitle any councillor to remain in the room in which a meeting is taking place if the person presiding at the meeting (if so recommended by the Monitoring Officer (or his/her representative)) considers that the presence of the councillor might prejudice the interest of the Council, be contrary to any relevant Code or Protocol adopted by the Council, or lead to an allegation of maladministration, impropriety or bias.

- B4.3 Under no circumstances shall a councillor attending a meeting under this Standing Order B4.1 be entitled to propose or second motions (or amendments) or vote at the meeting.
- B4.4 Standing Order A25 (Members' conduct) shall apply to councillors attending meetings under this Standing Order B4.
- B4.5 A member's attendance under Standing Order B4 shall be recorded in the attendance record minutes for the meeting concerned. However, it shall be the responsibility of members attending under the Standing Order to ensure that the Governance Support Officer is aware of their attendance so that it can be recorded in the attendance record circulated at in the minutes of the meeting.

B5. Rules of Debate (to apply to Cabinet and Overview and Scrutiny)

- B5.1 The Chairman/woman may request officers to provide members with a briefing on agenda items before they are considered. Questions must only relate to factual elements of the matter under discussion and not draw the officer into the debate of members.
- B5.2 Following any presentation, the Chairman/woman will invite debate.
- B5.3 During debate a proposal may be moved. No speeches may be made after the mover has moved a proposal, explained the purpose of it and until the motion has been seconded.
- B5.4 The Chairman/woman may require the motion to be written down and handed to him/her before it is discussed. The Chairman/woman may also require an amendment to be written down and handed to him/her before it is discussed.
- B5.5 An amendment to a motion must be reasonably relevant (in the opinion of the Chairman/woman) to the motion and must seek to:
- (i) refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) delete words;
 - (iii) delete words and add other words; or
 - (iv) add words,
- and an amendment that otherwise complies with this Standing Order shall be valid even if the direct or indirect consequence of the amendment (if carried) would be to negate the motion (except amendments made at Development Management Committee).
- (b) Only one amendment may be moved and discussed at any one time except that the Chairman/woman may permit more than one amendment to be debated at the same time if he/she considers this would facilitate the efficient running of the business and if a majority of members present do not object. No further amendment may be moved until the amendment under discussion has been disposed of. Amendments to motions will be moved at the earliest possible opportunity during the debate.

(c) If an amendment is not carried, other amendments to the original motion may be moved.

(d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which further amendments may be moved. At the end of the debate, the substantive motion will then be put to the vote.

B5.6 A member may alter a motion which he/she has moved with the consent of the seconder. Only alterations which could be made as an amendment (in accordance with Standing Order B5.5) may be made.

B5.7 A member may withdraw a motion which he/she has moved with the consent of the seconder. No member may speak on the motion after the mover has asked permission to withdraw it unless the seconder refuses consent to withdraw the motion.

B5.8 When a motion is under debate, the following procedural motions may be moved:

(i) to proceed to the next business;

If a motion to proceed to the next business is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

(ii) that the motion/amendment be now put to the vote;

If a motion that the motion/amendment be now put to the vote is seconded and the Chairman/woman thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

(iii) to adjourn a debate;

If a motion to adjourn the debate is seconded and the Chairman/woman thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply. If the motion is carried and no timeframe is explicit the discussion will be resumed at the next ordinary meeting of the Council and the member who moved its adjournment shall be entitled to speak first. If the motion to adjourn is lost, a second motion for adjournment may be moved during the same meeting and the Chairman/woman thinks a reasonable amount of time has lapsed since the last motion to adjourn.

(iv) to adjourn a meeting;

If a motion to adjourn the meeting is seconded and the Chairman/woman shall invite the Chief Executive, Monitoring Officer and Chief Finance Officer to indicate whether there is

any other business that they believe should be transacted at that meeting (in accordance with Standing Order A11.2) and it shall be put to the vote without debate and without giving the mover of the original motion the right of reply.

(vii) that the meeting continue beyond four hours in duration;

If a motion that the meeting continue beyond four hours in duration or a motion to adjourn the meeting is moved, the Chairman/woman shall invite the most senior officer present to indicate whether there is any other business that they believe should be transacted at that meeting (in accordance with Standing Order A11.2) and if the motion is then seconded it shall be put to the vote without debate.

(viii) to exclude the public and press in accordance with the Standing Orders in relation to Access to Information; and

If a motion to exclude the press and public in accordance with the Standing Orders in relation to Access to Information is seconded, it shall be put to the vote without debate but the Chairman/woman may invite the Chief Executive and/or the Monitoring Officer to advise on the matter.

(ix) in accordance with Standing Order A25 (members' conduct), to not hear further a member or to exclude them from the meeting.

B6. Application of Standing Orders in Relation to Council Meetings to Meetings of Committees and Sub-Committees – TO BE CHECKED ONCE DOCUMENT APPROVED BY COUNCIL TO ENSURE NUMBERS CORRECT

B6.1 The following Standing Orders in relation to Council Meetings will apply to committee and sub-committee meetings:

- A2.2 (ii) to (iv), (xiii)..... Ordinary Meetings
- A3..... Extraordinary Meetings
- A4..... Time, place and arrangement of meeting
- A5..... Notice of and Summons to Meetings
- A8.2..... Chairman/woman of Meeting
- A11..... Duration of meeting
- A15..... Motions which may be moved without Notice and/or during debate
- A18..... Previous Decisions and Motions
- A19 (except A19.5)..... Voting (Standing Order A19.1 shall not apply to meetings of the Civic Committee determining nominations for Honorary Freeman or Honorary Alderman where the vote must be unanimous to recommend to the Council to accept the nomination)
- A20 (except A20.2)..... Minutes
- A21..... Record of attendance
- A22..... Exclusion of public
- A23..... Representations in respect of Planning and Licensing Applications

- A25 Members' conduct
- A26 Disturbance by members of the public
- A27 Use of cameras and tape and video recorders
- A28 Prohibition of smoking, alcohol and drugs at meetings
- A29 Suspension and amendment of Standing Orders
- A30 Interpretation

~~A3, A4, A7.1 (i) to (iv) (inclusive), (viii), A7.2, A8.2, A11, A15, A16 (except A16.8(a)), A19 – Standing Order A19.1 shall not apply to meetings of the Civic Committee determining nominations for Honorary Freeman or Honorary Alderman where the vote must be unanimous to recommend to the Council to accept the nomination, A20 (except A20.2), A21, A22, A23, A24 (Area Committees only), A25.2, A25.3, A25.4, A25.5, A25.6, A26, A27, A28, A29 and A30.~~

~~B6.2~~ In applying these Standing Orders to meetings of committees and sub-committees references to “the Council” shall be deemed to be references to “the committee” (or “the sub-committee”, as appropriate) and references to the Chairman/woman of the Council and/or Vice-chairman/woman of the Council shall be deemed to be references to the “Chairman/woman of the committee/sub-committee” and/or “Vice-chairman/woman of the committee/sub-committee.”

B7.6. Application of Standing Orders in Relation to Access to Information to Meetings of Committees and Sub-Committees

~~B7.6.1~~ The following Standing Orders in relation to Access to Information will apply to committee and sub-committee meetings:

- E1 Scope
- E2 Additional rights to information
- E3 Rights to attend meetings
- E4 Notices of meeting
- E5 Access to agenda and reports before and during a meeting
- E6 Supply of copies
- E7 Access to information after a decision has been made
- E8 Background papers
- E9 Summary of public's rights
- E10 Exclusion of access by the public to meetings
- E11 Exclusion of access by the public to reports
- E21 Access to information - members

E1 to E11, E19 and E20.3

Standing Orders – The CabinetExecutive

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C1. Introduction

- C1.1 In accordance with Article 6, the Cabinet Executive will comprise the elected Mayor/Leader of the Council and at least two but no more than nine councillors appointed to the Cabinet Executive by the elected Mayor/Leader of the Council. The terms of office of the Leader of the Council and Cabinet Members are detailed in Article 7.
- C1.2 Functions which are the responsibility of the Cabinet Executive may be exercised by the elected Mayor/Leader of the Council. The elected Mayor/Leader of the Council may also delegate authority to exercise those functions to the extent he/she wishes to:
- (i) the Cabinet Executive as a whole;
 - (ii) a committee of the Executive Cabinet (the membership of which will only include members of the Executive Cabinet including the elected Mayor/Leader of the Council);
 - (iii) an individual member of the Executive Cabinet;
 - (iv) an officer;
 - (v) an area committee;
 - (vi) joint arrangements; or
 - (vii) another local authority.

C2. Record of Delegations of Executive Functions

- C2.1 At the Annual Meeting of the Council, the elected Mayor/Leader of the Council will present to the Council a written record of all delegations made by him/her for inclusion in the Council's Scheme of Delegation at Part 3 to this Constitution. The document presented by the elected Mayor/Leader of the Council must contain the following information in relation to the following year in so far as they relate to executive functions:
- (i) the names, addresses and wards of the people appointed to the Executive Cabinet by the elected Mayor/Leader of the Council;
 - (ii) the extent of any authority delegated to those Cabinet Executive members individually, including details of the limitation on their authority;
 - (iii) the terms of reference and constitution of such Cabinet Executive committees as the elected Mayor/Leader of the Council appoints (and the names of the Cabinet Executive members he/she appoints to them), including details of any limitation on their authority;
 - (iv) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements (and the names of those Cabinet Executive members appointed to any joint

committee for the coming year), including details of any limitations on such delegations; and

- (v) the nature and extent of any delegation of executive functions to officers with details of any limitation of that delegation and the title of the officer to whom the delegation is made.

C3. Sub-Delegation of Executive Functions

- C3.1 If the elected Mayor/Leader of the Council delegates functions to the Cabinet/Executive, and unless he/she directs otherwise, the Executive-Cabinet may delegate further to a committee of the Executive Cabinet, an officer, an area committee, another local authority, or a joint arrangement.
- C3.2 If the elected Mayor/Leader of the Council delegates functions to a committee of the Executive Cabinet, and unless he/she directs otherwise, the committee may delegate further to a sub-committee or an officer.
- C3.3 Unless the delegating body directs otherwise, where executive functions are delegated to an area committee, that committee may delegate further to an officer.
- C3.4 Even where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated the function.

C4. The Council's Scheme of Delegation and Executive Functions

- C4.1 The Council's Scheme of Delegation will be adopted by the Council at its Annual Meeting. It will contain the details required in Article 6 and be set out in Part 3 of this Constitution.
- C4.2 During the year, amendments to the scheme of delegation in relation to executive functions may be effected as follows:
 - (a) The elected Mayor/Leader of the Council may amend the Scheme of Delegation of executive functions at any time during the year. To do so, the elected Mayor/Leader of the Council must give written notice to the proper officer and report these changes to the next ordinary meeting of the Council. Where the elected Mayor/Leader of the Council wants to withdraw or amend delegations to a committee, notice will be served on that committee when it has been served on its Chairman/woman.
 - (b) The notice to the proper officer must set out the amendment to the Scheme of Delegation, as contained in Part 3 of this Constitution, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive Cabinet as a whole. The amendment will take effect on service of the notice by the elected Mayor/Leader of the Council on the proper officer.

C5. Chairman/woman of the Cabinet

- C5.1 The Leader of the Council will preside at any meeting of the Cabinet or its committees at which he/she is present, unless he/she appoints another person to do so. In the absence of the Leader of the Council, the Deputy Leader shall preside if they are present unless he/she appoints another person to do so (or the Leader of

the Council has appointed another person to preside). In the absence of both the Leader of the Council and Deputy Leader, the Cabinet will elect a Chairman/woman unless the Leader of the Council has appointed another person to do so.

C6. Meetings of the Cabinet

C6.1 The frequency, times and locations to be determined by the Leader of the Council.

C6.2 The Chief Executive may call other meetings of the Cabinet throughout the Municipal Year, in consultation with the Leader of the Council.

C6.3 All meetings of the Cabinet will be convened in accordance with the Standing Orders in relation to Access to Information.

C6.4 The quorum for a meeting of the Cabinet, or a committee of it, shall be three.

C6.5 The order of business at meetings of the Cabinet will be:

- (i) to elect a Chairman/woman for the meeting, if the Leader of the Council and Deputy Leader (if appointed) are absent, subject to C5.1 above;
- (ii) to approve and sign as a correct record the minutes of the previous meeting;
- (iii) to receive any declarations of interest;
- (iv) to deal with any urgent business being dealt with in accordance with the Standing Orders in relation to Access to Information;
- (v) to consider matters referred to the Cabinet (whether by the Overview and Scrutiny Board or any of its sub-committees or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Standing Orders in relation to Overview and Scrutiny or the Standing Orders in relation to the Budget and Policy Framework;
- (vi) to consider any reports from the Overview and Scrutiny Board or its sub-committees; and
- (vii) to consider any other matters set out in the agenda for the meeting (which shall indicate which are key decisions and which are not in accordance with the Standing Orders in relation to Access to Information);

C6.6 The Head of Governance Support will prepare each agenda for the Cabinet meetings in consultation with the Leader of the Council.

C6.7 The Head of Governance Support will ensure that an item is placed on the agenda of the next available meeting of the Cabinet if the Overview and Scrutiny Board (or any of its sub-committees) or the Council has resolved that an item must be considered by the Cabinet.

C6.8 Any member of the Council may ask the Leader of the Council to put an item on the agenda for a Cabinet meeting for consideration. If the Leader of the Council 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.

C6.9 The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties.

C6.10 Where a notice of motion has been submitted to the Cabinet for consideration, the Member who submitted the motion shall be entitled to address the Cabinet on such motion.

C6.11 In other circumstances, where the Head of the Paid Service, Chief Finance Officer or 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 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.

C7. Attendance at Cabinet Meetings

C7.1 Meetings of the Cabinet shall be held in public unless exempt or confidential information is likely to be discussed in accordance with the Standing Orders in relation to Access to Information.

C7.2 Any councillor may attend and speak at any meeting of the Cabinet and any meeting of any committee of the Cabinet subject to Standing Order B4.

C85. Executive Cabinet Decisions

C85.1 All reports to the Executive Cabinet from the Overview and Scrutiny Board (or any of its sub-committees) on proposals relating to the budget and policy framework must contain details of consultation with stakeholders. The level of consultation required will be appropriate to the matter under consideration.

C85.2 Reports about other matters will set out the details and outcome of consultation as appropriate.

C85.3 Decisions taken by the ~~elected Mayor~~Leader of the Council, individual members of the Executive Cabinet, the Executive Cabinet or a committee of the Executive Cabinet will have due regard to legal, financial and professional officer advice. The advice of the Monitoring Officer will be sought if there is doubt about the legality of the proposed decision.

C85.4 Where executive Cabinet decisions are made by the ~~elected Mayor~~Leader of the Council or delegated to a committee of the Executive Cabinet or an individual member of the Executive Cabinet, the rules applying to executive Cabinet decisions taken by them shall be the same as those applying to those taken by the Executive Cabinet as a whole.

C85.5 Executive Cabinet decisions (including key decisions taken by officers) are subject to a call-in mechanism as set out in the Standing Orders in relation to Overview and Scrutiny.

C96. Conflicts of Interest

- C96.1 Where the ~~elected Mayor~~Leader of the Council has a conflict of interest this shall be dealt with as set out in the Council's Code of Conduct for Members and Schedule 5 – Delegation of Executive Functions in Part 5 and Part 3 of this Constitution respectively.
- C96.2 If every member of the ~~Executive Cabinet~~ has a conflict of interest this shall be dealt with as set out in the Council's Code of Conduct for Members and Schedule 5 – Delegation of Executive Functions as set out in Part 5 and Part 3 of this Constitution respectively.
- C96.3 If the exercise of an executive function has been delegated to a committee of the Executive Cabinet, an individual member or an officer, and should a conflict of interest arise, which means that the committee, individual member or officer cannot exercise the function, then the function will be exercised by the person or body by whom the delegation was made and that person or body may delegate such function to another committee, individual member or officer.

C107. Record of Executive Cabinet Decisions

- C107.1 A record of any Executive Cabinet decisions taken by the ~~elected Mayor~~Leader of the Council, an individual member of the Executive Cabinet, the ~~Executive Cabinet~~ or a committee of the Cabinet Executive will be prepared in accordance with the Standing Orders in relation to Access to Information.

C11. Cabinet Working Parties

- C11.1 The Leader of the Council may appoint (on a task-and-finish basis) informal working parties in accordance with the Local Protocol on Working Parties.

C128. Referral of Matters to the Overview and Scrutiny Bodies

- C128.1 The ~~elected Mayor~~Leader of the Council, individual members of the Cabinet Executive, the ~~Executive Cabinet~~ and ~~Executive Cabinet~~ committees may refer matters related to any executive functions to the Overview and Scrutiny Board with a request that the Board consider the matter and report back with recommendations. Such requests will be dealt with in accordance with the Standing Orders in relation to Overview and Scrutiny.

C13. Application of Standing Orders in Relation to Council Meetings to Meetings of the Cabinet and Committees of the Cabinet – TO BE CHECKED ONCE DOCUMENT FINALISED TO ENSURE NUMBERS CORRECT

- C13.1 The following Standing Orders in relation to Council Meetings will apply to meetings of the Cabinet and Cabinet committees:

- A4 Time, place and arrangement of meeting
A5 Notice of and Summons to Meetings
A11 Duration of meeting
A15 Motions which may be moved without Notice and/or during debate
A19 (except A19.5) Voting
A20 (except A20.2) Minutes
A21 Record of attendance

<u>A22</u>	<u>Exclusion of public</u>
<u>A25</u>	<u>Members' conduct</u>
<u>A26</u>	<u>Disturbance by members of the public</u>
<u>A27</u>	<u>Use of cameras and tape and video recorders</u>
<u>A28</u>	<u>Prohibition of smoking, alcohol and drugs at meetings</u>
<u>A29</u>	<u>Suspension and amendment of Standing Orders</u>
<u>A30</u>	<u>Interpretation</u>

C13.2 In applying these Standing Orders to meetings of the Cabinet and Cabinet committees references to the Council shall be deemed to be references to the Cabinet and references to the Chairman/woman of the Council and/or Vice-Chairman/woman of the Council shall be deemed to be references to the Leader of the Council and/or Deputy Leader.

C13.3 The following Standing Orders in relation to Committee and Sub-Committee Meetings will apply to meetings of the Cabinet and Cabinet sub-committees:

<u>B3.2</u>	<u>Quorum</u>
<u>B4</u>	<u>Attendance at committee meetings</u>
<u>B5</u>	<u>Rules of Debate</u>

C13.4 So far as the above mentioned Standing Orders in relation to Council meetings are inconsistent with these Standing Orders in relation to the Cabinet and Cabinet committees, the latter shall prevail.

C14. Application of Standing Orders in relation to Access to Information to Meetings of the Cabinet and Committees of the Cabinet

C14.1 The following Standing Orders in relation to Access to Information will apply to meetings of the Cabinet and Cabinet committees:

<u>E1</u>	<u>Scope</u>
<u>E2</u>	<u>Additional rights to information</u>
<u>E3</u>	<u>Rights to attend meetings</u>
<u>E4</u>	<u>Notices of meeting</u>
<u>E5</u>	<u>Access to agenda and reports before and during a meeting</u>
<u>E6</u>	<u>Supply of copies</u>
<u>E7</u>	<u>Access to information after a decision has been made</u>
<u>E8</u>	<u>Background papers</u>
<u>E9</u>	<u>Summary of public's rights</u>
<u>E10</u>	<u>Exclusion of access by the public to meetings</u>
<u>E11</u>	<u>Exclusion of access by the public to reports</u>
<u>E12</u>	<u>Procedure before taking Key Decisions</u>
<u>E13</u>	<u>The Forward Plan</u>
<u>E14</u>	<u>General exception</u>
<u>E15</u>	<u>Special urgency</u>
<u>E16</u>	<u>Reports to Council</u>
<u>E17</u>	<u>Record of decisions</u>
<u>E18</u>	<u>Reports intended to be taken into account</u>

- E19. Recording of Decisions by the Elected Mayor or individual members of the Cabinet taken outside of meetings
- E21. Access to information – Members

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- D15. Application of Standing Orders in relation to Council and Committee Meetings to Overview and Scrutiny meetings
- D16. Application of Standing Orders in relation to Access to Information to meetings of Overview and Scrutiny meetings

D1. Introduction

- D1.1 The Council will appoint overview and scrutiny committees in accordance with Article 5.
- D1.2 The committees may appoint sub-committees. The committees and their sub-committees may appoint working parties.

D2. Membership

- D2.1 The ~~elected Mayor~~Leader of the Council, members of the ~~Executive Cabinet~~ and the Chairman/woman of the Council may not be members of the overview and scrutiny committees, their sub-committees or any working parties appointed by the committees or their sub-committees. All other councillors will be eligible to be appointed to the overview and scrutiny committees, their sub-committees or any working parties appointed by the committees or their sub-committees. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.
- D2.2 The composition of the overview and scrutiny committees is set out in Part 3 of this Constitution.
- D2.3 In accordance with the Local Government and Housing Act 1989, each of the overview and scrutiny committees (and any of their sub-committees) must reflect the political balance of the local authority (unless the Council (or the committees, as applicable) agree(s) otherwise with no member voting against).

D3. Co-opted Members with Voting Rights

- D3.1 The Overview and Scrutiny Board and any sub-committee it appoints that deals with education matters will include in their membership the following representatives with voting rights:
- (i) one Church of England diocese representative;
 - (ii) one Roman Catholic diocese representative; and
 - (iii) two parent governor representatives.
- D3.2 When and if Board or sub-committee dealing with education matters also deals with other matters, those representatives shall not vote on those other matters, although they may stay in the meeting and speak. Agendas for these meetings will indicate which matters those representatives may vote on.
- D3.3 Any working party appointed by the Board or its sub-committee to deal with mainly education matters (in the opinion of the Overview and Scrutiny Manager will include in its membership the representatives indicated in Standing Order D3.1).
- D3.4 The Church of England and Roman Catholic dioceses may appoint substitute members to attend meetings of the Board and any sub-committee and overview and scrutiny working party if the nominated representatives are unable to attend.

D4. Co-opted Members with No Voting Rights

- D4.1 Any of the overview and scrutiny committees may recommend to the Council the appointment of non-voting co-opted members.
- D4.2 Any overview and scrutiny sub-committee or working party may recommend to the parent committee, the appointment of non-voting co-opted members.

D5. Chairman/Woman

- D5.1 Each overview and scrutiny committee, sub-committee and working party will elect a Chairman/woman for the Municipal Year from the members (including any church and parent governor representatives) sitting on that body.
- D5.2 Each committee and sub-committee will consider appointing a Vice-chairman/woman. If a church or parent governor representative is elected as Chairman/woman, a Vice-chairman/woman will be appointed and shall be an elected member of the committee or the sub-committee.
- D5.3 If a church or parent governor representative is elected as Chairman/woman of the committee or sub-committee and a non-education matter comes before the committee or sub-committee, the Vice-chairman/woman will take the chair. If there is no Vice-chairman/woman or if the Vice-chairman/woman is not present or is unable to act, the committee or sub-committee will appoint a Chairman/woman for that item. This provision is to allow the Chairman/woman a casting vote if necessary.

D6. Meetings of the Overview and Scrutiny Bodies

- D6.1 The order of business at the overview and scrutiny committees will be:
- (i) to elect a person to preside at the meeting, if the Chairman/woman and Vice-chairman/woman is absent;
 - (ii) to approve and sign as a correct record the minutes of the previous meeting;
 - (iii) to receive any declarations of interest;
 - (iv) to deal with any urgent business dealt with in accordance with the Standing Orders in relation to Access to Information;
 - (v) to deal with any matters which are subject to the call-in mechanism;
 - (vi) to consider responses of the [elected Mayor/Leader of the Council](#) and/or [Executive Cabinet](#) to reports of that overview and scrutiny committee; and
 - (vii) to deal with any other matters set out on the agenda for the meeting.

D7. Reports from Overview and Scrutiny Bodies

- D7.1 Subject to Standing Order D7.2, following each investigation, review or call-in a report will be prepared for consideration by the [elected Mayor/Leader of the Council](#) or the [Executive Cabinet](#), as appropriate (when the recommendations relate to an executive function and the proposals are consistent with the existing Budget and Policy Framework), or the Council (when the recommendations relate to a Council

function or if the proposals would require a departure from or a change to the agreed Budget and Policy Framework). Reports of the overview and scrutiny committees and their sub-committees will be public documents.

- D7.2 In the case of reports prepared in relation to health services or, crime and disorder matters or local improvement targets specified in the Local Area Agreement and related to a relevant partner authority the report will be forwarded to the relevant NHS body or partner authority without reference to the elected Mayor/Leader of the Council, the Executive Cabinet or the Council.
- D7.3 Reports prepared by any overview and scrutiny working party following a review or investigation will be considered in the first instance by the parent overview and scrutiny committee or sub-committee as appropriate. The committee or sub-committee may adopt the report (with or without amendment) and once adopted, the proposals will be classed as proposals of the relevant committee or sub-committee. The report will then be dealt with in accordance with Standing Orders D7.1 and D7.2.
- D7.4 The body or individual to which a report has been referred will, in writing, be required to:
- (i) consider the report and recommendations
 - (ii) respond to the overview and scrutiny committee or sub-committee indicating what (if any) action the body or individual proposed to take
 - (iii) publish the response
 - (iv) provide the member who referred the matter to the overview and scrutiny body under section 21A of the Local Government and Local Involvement in Health Act 2007 (“Councillor Call for Action”) (if applicable) with a copy of the response.

It is the duty of the body or individual to undertake these actions within two months beginning with the date on which the body or individual received the report or recommendations or (if later) the notice.

D8. Production of A Work Programme

- D8.1 The Overview and Scrutiny Board will, early in each Municipal Year, co-ordinate the production of a work programme for the all of the overview and scrutiny bodies for that year. The Board will keep that programme under review during the course of the year. The work programme will be devised having regard to the resources available, time constraints of members and officers and the interests of the local community.
- D8.2 The views of all non-Executive Cabinet members will be taken into account when agreeing the Work Programme including the views of the members who are not members of the largest political group on the Council and of the co-opted members. Executive Cabinet Members, Directors and Assistant Directors will also be consulted on which issues to include within the Work Programme.
- D8.3 In determining which matters to review, regard will be given to sources such as the Community Plan, the Council’s Corporate Plan, the Forward Plan and reports from any other relevant persons or bodies.

D8.4 The work programme must be flexible enough to take account of changing circumstances throughout the Municipal Year. This flexibility will also allow for those recently implemented decisions of the [elected Mayor/Leader of the Council](#) and the [Executive Cabinet](#) to be monitored and scrutinised.

D9. THE “CALL-IN” MECHANISM

- D9.1 Subject to Standing Order D9.6, Standing Order D10 and Standing Order D11, any five members of the Council may request, in writing and within five clear working days of the publication of a decision (Note: this does not include recommendations made to other bodies for decision e.g. Council) made by the [elected Mayor/Leader of the Council](#), the [Executive Cabinet](#), another individual member of the [Executive Cabinet](#) or a committee of the [Executive Cabinet](#) or a Key Decision made by an officer under delegated authority from the [Executive Cabinet](#), the proper officer to “call-in” that decision for scrutiny by the appropriate overview and scrutiny committee. The member whose name (in the opinion of the Overview and Scrutiny Manager) appears first on the Notice of Call-in shall be known as the Call-in Promoter and the other members who have signed the Notice of Call-in shall be known as the Call-in Supporters. Where a matter relates to education, one of the five signatories to a call-in request may be a church or parent governor representative. No other co-opted member may be entitled to sign a call-in notice. Any request for call-in shall set out the reason/s for that request and shall be invalid if no reason is given. Any request for call-in may be withdrawn in accordance with Standing Order D12 below.
- D9.2 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 appropriate overview and scrutiny committee 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 committee (and may be asked to speak on the matter and/or be questioned by members of the committee). With the prior approval of the Overview and Scrutiny Co-ordinator or appropriate Scrutiny Lead Member, 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 committee the call-in request shall be deemed to be withdrawn unless the committee resolves otherwise on a majority vote. The Overview and Scrutiny Co-ordinator or appropriate Scrutiny Lead Member and/or the appropriate overview and scrutiny committee 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.
- D9.3 If, for whatever reason, a valid meeting of the appropriate overview and scrutiny committee (including any adjourned meeting) 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.
- D9.4 Having considered the decision, the appropriate overview and scrutiny committee 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 committee.
B. Refer the decision back to the decision maker for reconsideration, setting out in writing the nature of the committee’s concerns.	<p>Within a further ten working days, the decision maker will resolve to either:</p> <p>(i) confirm the decision without modification; or</p> <p>(ii) confirm the decision with modification; or</p> <p>(iii) rescind the decision.</p> <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:</p> <p>(i) 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; or</p> <p>(ii) if a normal Council meeting is not scheduled within 30 working days and the decision-maker confirms to the proper officer that he/she is content for the matter to be referred to the next normal Council 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> <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</p>

Option**Subsequent Action**

which it objects back to the decision maker together with the Council's views on that decision and the Subsequent Action referred to in Option B shall apply.

- D9.5 In each of the options set out in 439.4 above, the decision maker may only be asked to re-consider a matter once.
- D9.6 Subject to Standing Order D10 below, decisions taken by officers will only be subject to call-in if they are Key Decisions (as defined in Article 11).
- D9.7 Where a matter is called-in under this Standing Order D9 no further action will be taken in respect of the decision or its implementation save in accordance with this Standing Order or (if appropriate) Standing Order D10.
- D9.8 None of the call-in procedures apply to the budget setting process which operates its own procedures and prescribed timetable.
- D9.9 The operation of the provisions relating to call-in shall be monitored annually and a report submitted to Council with proposals for review if necessary.

D10. Call-In of Decisions That May Be Outside the Budget or Policy Framework

- D10.1 Where a matter is called-in under Standing Order D9.1 above and the appropriate overview and scrutiny committee considers that the decision is or (if implemented) would be contrary to the Policy Framework or contrary to (or not wholly in accordance with) the Council's Budget, then it shall seek advice from the Monitoring Officer and/or the Chief Finance Officer.
- D10.2 If the advice of the officer/s consulted is that the matter is not contrary to the Budget and Policy Framework (and this is accepted by a majority of the committee) then no further action will be taken under this Standing Order D10, but the matter may still be dealt with under Standing Order D9.4.
- D10.3 If the advice of the officer(s) consulted is that the decision is contrary to the Policy Framework or contrary to (or not wholly in accordance with) the Budget (or if a majority of the committee is still of that view despite contrary advice from the officer/s consulted) the committee shall refer the matter to Council. If the decision has already been implemented the committee shall determine the make a report to Council suggesting any remedial action it considers necessary and make recommendations to the Council accordingly.
- D10.4 If a matter is referred to Council under Standing Order D10.3 an officer's report (setting out the views of the appropriate overview and scrutiny committee and any advice by the Monitoring Officer and/or Chief Financial Officer) shall be sent to the elected Mayor/Leader of the Council and every member of the Executive Cabinet and a copy sent to every other member of the Council. Regardless of whether the decision in question is delegated, tThe Executive Leader of the Council shall then consider the officer's report and publish a Record of Decision with his/her response in advance of meet (as soon as is reasonably practicable) to decide what action to take and to prepare a Executive Cabinet report to the Council meeting.

- D10.5 Where a matter is referred to Council under this Standing Order D10, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.
- D10.6 Where a matter is referred to Council under this Standing Order D10 the Council shall first determine whether or not the decision (if implemented) would be within the Budget and Policy Framework.
- D10.7 If the Council determines that the decision would be within the Framework the Subsequent Action it may take are as per Option C of D9.4.
- D10.8 If the Council determines that the decision would be contrary to (or not wholly in accordance with) the Budget and/or Policy Framework, the decision shall be deemed as a recommendation to the Council and the Council itself shall take the final decision on the matter.

D11. CALL-IN AND URGENCY

- D11.1 The call-in procedure set out above shall not apply where the executive decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether (in the opinion of the decision-making person or body) the decision is an urgent one, and therefore not subject to call-in.
- D11.2 Before deciding whether a decision is urgent, the decision-making person or body shall consult with the Overview and Scrutiny Co-ordinator or (if he/she cannot be reasonably contacted) then:
- (a) (if the decision is a Key Decision and Standing Order E14 (General Exception) applies) each member of the Overview and Scrutiny Board shall be consulted; or
 - (b) (in all other cases) the Chairman of the Council , or (if there is no Chairman/woman of the Council appointed) the Vice-chairman/woman of the Council, shall be consulted.
- D11.3 Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council, together with the reasons for urgency and a summary of the consultation undertaken under Standing Order D11.2.

D12. Withdrawal of a Call-In Notice

- D12.1 A call-in notice may be withdrawn at any time before it is considered by the appropriate overview and scrutiny board if a majority of the first five members (including any co-opted member) whose names appear on the call-in notice give notice in writing (including by e-mail) to the proper officer that they wish their name to be removed from the call-in notice.
- D12.2 No-Once notice to the proper officer under Standing Order D12.1 above has been lodged it may not be withdrawn.

D13. Members’ Right to Include Items on Agendas and the Councillor Call for Action

- D13.1 The [elected Mayor/Leader of the Council](#) and any councillor (whether or not a member of any overview and scrutiny committee) may give written notice (including by e-mail) to the proper officer that he/she wishes an item relevant to the functions of an overview and scrutiny committee or any of their sub-committees to be considered at a meeting of that body. On receipt of such request, the proper officer will ensure that it is included on the next available agenda and the item shall be discussed by the appropriate committee or sub-committee with a view to determining whether to request officers to prepare a full report on the matter for submission to a future meeting of that body.
- D13.2 Any co-opted member may give written notice (including by email) to the proper officer that he/she wishes an item relevant to the functions of the overview and scrutiny committee or sub-committee on which they sit to be considered at a meeting of that body. On receipt of such request, the proper officer will ensure that it is included on the next available agenda and the item shall be discussed by the committee or sub-committee with a view to determining whether to request officers to prepare a full report on the matter for submission to a future meeting of that body.
- D13.3 The overview and scrutiny bodies will have regard to the Local Government and Public Involvement in Health Act 2007, any Regulations and any guidance in considering those items referred to in D13.2.

D14. Attendance by Other Members of the Council, Officers and Other Persons at Meetings of Overview and Scrutiny Bodies

D14.1 Each overview and scrutiny committee (and their sub-committees) may require the [elected Mayor/Leader of the Council](#), any other member(s) of the [Executive Cabinet](#) and (subject to Standing Order D14.2) officers of the Council to appear before it to explain (in relation to all aspects of the committee’s (or sub-committee’s) work):

- (i) any particular decision or series of decisions;
- (ii) the extent to which the actions taken implement Council policy; and/or
- (iii) their performance

and it is the duty of those persons to attend if so required, unless they have a legitimate reason for not doing so.

- D14.2 The only officers who may be called to appear will be executive heads or above (or officers holding posts designated by the appropriate director or assistant director or other officers who have given advice to members). No other officer shall be called unless the Monitoring Officer (in consultation with the Chairman/woman and relevant director or assistant director) agrees otherwise.
- D14.3 Where any member or officer is required to attend an overview and scrutiny committee or any of their sub-committees, the Chairman/woman of the committee or sub-committee will inform the proper officer. The proper officer shall inform the member or officer in writing (including by e-mail) normally giving at least three working days notice of the meeting which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee or the sub-

committee. Where the account to be given to the committee or the sub-committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for the preparation of that documentation (in the opinion of the proper officer).

- D14.4 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the committee 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).
- D14.5 Subject to Standing Orders D14.3 and D14.4, where the Overview and Scrutiny Board or the Health Scrutiny Board (if appointed) (or one of their sub-committees) is considering a matter in relation to health services in Torbay, the Board or its sub-committee may require an officer of the appropriate NHS trust or body to attend its meeting to explain any particular decision or series of decisions. It is the duty of those persons to attend if so required, unless they have a legitimate reason for not doing so.
- D14.6 Each overview and scrutiny committee (and their sub-committees) may also invite any other person(s) to attend its meetings (but the committee (or its sub-committees) cannot require them to do so). Working parties may only invite (and not require) persons (including members and officers) to attend its meetings. In undertaking its work, the overview and scrutiny committees, their sub-committees and any working parties may seek the views of as many communities and interested parties as the body considers necessary to gain a balanced view.
- D14.7 When the [elected Mayor/Leader of the Council](#), members, officers or other individuals attend overview and scrutiny meetings, the Chairman/woman will explain the purpose of their attendance at the meeting. Questions will be directed through the Chairman/woman who will determine whether they are relevant or if they are repetitive. Those persons attending the meeting will be treated with respect and courtesy and will be given every opportunity to respond. Members will have regard to the European Convention on Human Rights.
- D14.8 When officers attend meetings of any overview and scrutiny committee, their sub-committees and any working party under these provisions, members' questions may only relate to matters of fact and explanation relating to [Executive Cabinet](#) and Council policies and decisions. Officers may be asked to explain, as far as they are able:
- (i) what the policies are;
 - (ii) the justification and objectives of those policies as the officer believes the [elected Mayor/Leader of the Council](#), the [Executive Cabinet](#) or the Council sees them;
 - (iii) the extent to which those objectives may have been met; and
 - (iv) how administrative factors may have affected both the choice of policy measures and the manner of their implementation.
- D14.9 Each committee, their sub-committees and any working parties must bear in mind that officers are employed to give professional advice and shall not be drawn into

discussion of the merits of alternative policies where this is politically contentious. Any comment by officers on the [elected Mayor/Leader of the Council](#)'s, the [Executive Cabinet](#)'s or the Council's policies and actions shall always be consistent with the requirement for officers to be politically impartial.

D15. Application of Standing Orders in Relation to Council Meetings to Overview and Scrutiny Meetings

D15.1 The following Standing Orders in relation to Council Meetings will apply to meetings of all overview and scrutiny committees and their sub-committees: [A3, A4, A5, A7.1 \(i\) to \(iv\) inclusive, \(viii\) and \(xi\), A7.2, A8.2, A11, A15, A16 \(except A16.8\(a\)\), A19, A20 \(except A20.2\), A21, A22, A23, A25.2, A25.3, A25.4, A25.5, A25.6, A26, A27, A28, A29 and A30.](#)

D15.2 In applying these Standing Orders to meetings of overview and scrutiny bodies references to the Council shall be deemed to be references to overview and scrutiny bodies and references to the Chairman/woman of the Council and/or Vice-chairman/woman of the Council shall be deemed to be reference to the Chairman/woman and/or Vice-chairman/woman (if appointed) of the overview and scrutiny bodies.

D15.3 The following Standing Orders in relation to Committee and Sub-Committee Meetings will apply to meetings of each overview and scrutiny committee and their sub-committees: [B1, B2, B3 and B4.](#)

D15.4 So far as the above mentioned Standing Orders in relation to Council Meetings are inconsistent with these Standing Orders in relation to Overview and Scrutiny, the latter shall prevail.

D16. Application of Standing Orders in Relation to Access to Information to Meetings of Overview and Scrutiny Meetings

D16.1 The following Standing Orders in relation to Access to Information will apply to meetings of all overview and scrutiny committees and their sub-committees: [E1 to E11, E19 and E20.](#)

Standing Orders – Access to Information

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E1. Scope

- E1.1 Standing Orders E1 to E11 and E20 (of these Standing Orders in relation to Access to Information) apply to all meetings of the Council, Boards, Council committees and sub-committees and to meetings of the [Cabinet](#)~~Executive~~ and its committees.
- E1.2 Standing Orders E12 to E19 (of these Standing Orders in relation to Access to Information) apply the ~~Executive~~[Cabinet](#) only (and in relation to associated documents).

E2. Additional Rights to Information

- E2.1 These Standing Orders do not affect any more specific rights to information contained elsewhere in this Constitution or the law. Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided i.e. in connection with the proper performance of the Member's Council duties.

E3. Rights to Attend Meetings

- E3.1 Members of the public may attend all meetings [of the Council, Council committees and sub-committees and the Cabinet and its committees](#) subject only to the exceptions set out elsewhere in these Standing Orders.

E4. Notices of Meeting

- E4.1 The Council will normally give at least five clear working days notice of any meeting by posting details of the meeting at the Town Hall, Torquay. Details of all these meetings will also be available on the Council's website (www.torbay.gov.uk). In exceptional circumstances and where it is not possible to give five clear working days notice, the details of the meeting will be publicised on the date that the meeting is arranged at the Town Hall, Torquay and on the Council's website.
- E4.2 The Head of Governance Support, following consultation with the relevant Chairman/woman or the Chairman/woman of the Council where it is not possible to consult the relevant Chairman/woman, may alter the date of or cancel a meeting.

E5. Access to Agenda and Reports Before and During a Meeting

- E5.1 Subject to Standing Orders E10 and E11, the Council will make copies of agendas and reports open to the public and available for inspection on the Council's website and at the Town Hall, Torquay and other Council offices by prior arrangement, at least five clear working days before the meeting, or if the meeting is arranged on less than five clear working days notice on the date the meeting is arranged, but nothing in this Standing Order requires copies of any agenda item, or report to be open to inspection by the public until copies are available to the decision-maker and/or members of the Council.
- E5.2 Each member of the Council will be sent by electronic means, or in paper form where they have requested, agenda and reports for meetings of committees to which they have been appointed. Exempt and confidential reports will be provided to non-committee members in accordance with Standing Order E20, if requested on a 'need to know' basis.

- E5.3 If an item is added to the agenda later, a revised agenda and any associated reports will be sent by electronic means, or in paper form where they have requested, to relevant councillors and made available for inspection by the public as soon as it is published.
- E5.4 A reasonable number of copies of the agenda and reports to be considered at a meeting will be made available for the use of the public at that meeting.

E6. Supply of Copies

E6.1 Subject to Standing Orders E10 and E11, the Council will supply copies of:

- (i) any agenda and reports that are open to public inspection;
- (ii) any further documents necessary to indicate the nature of the items on the agenda; and
- (iii) if the proper officer thinks fit, any other documents supplied to ~~the Elected Mayor and~~ councillors in connection with an item

to any person on payment of a charge for postage and any other costs.

E7. Access to information after a decision has been made

E7.1 The Council will make available copies of the following for six years after a decision is made:

- (i) the minutes of the meeting and/or any record of decisions taken, in accordance with Standing Order E17.;
- (ii) a summary of any proceedings when the meeting was not open to the public or where exempt or confidential information was disclosed;
- (iii) the agenda for the meeting; and
- (iv) reports that were considered when the meeting was open to the public.

This Standing Order shall also apply to decisions taken by the ~~Elected Mayor~~Leader of the Council or individual members of the ~~Executive Cabinet~~ and ~~Executive Cabinet~~ decisions taken by officers.

E8. Background Papers

E8.1 At the end of each report, the report author will set out a list of those documents (called background papers) which, in his/her opinion:

- (i) disclose any facts relating to matters on which the report or an important part of the report is based; and
- (ii) have been relied on to a material extent in the preparation of the report,

but will not include published works or those which disclose exempt or confidential information (as defined in Standing Order E10) or, in respect of any ~~Executive Cabinet~~Executive Cabinet reports, the advice of a political advisor.

- E8.2 The Council will make available for public inspection for six years after the date of the meeting one copy of each of the documents on the list of background papers and these will also be available on the Council’s website.
- E8.3 Standing Orders E8.1 and E8.2 shall also apply to [executiveCabinet](#) decisions taken by the [Elected Mayor/Leader of the Cabinet](#), individual members of the [Executive Cabinet](#) and officers.

E9. Summary of Public’s Rights

E9.1 A summary of the public’s rights to attend meetings and to inspect and copy documents is set out in the Summary, Explanation and Interpretation at the beginning of the Constitution.

E10. Exclusion of Access by the Public to Meetings

- E10.1 The public **must** be excluded from meetings whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that **confidential information** would be disclosed.
- E10.2 Confidential information means information given to the Council by a government department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order or any Act.
- E10.3 The public **may** be excluded from meetings upon the passing of a resolution whenever it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that **exempt information** would be disclosed. The public may also be excluded from meetings where in the reasonable opinion the Chairman/woman it is necessary to exclude them in order to maintain orderly conduct or prevent misbehaviour at a meeting.
- E10.4 Where the meeting will determine any person’s civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6 of that Act.
- E10.5 Exempt information means information defined in Schedule 12A of the Local Government Act 1972 (as amended (SI 2006/88) which falls within the following 7 categories (subject to any condition):

Category	Condition
1. Information relating to any individual.	Information within paragraph 1 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Condition
2. Information which is likely to reveal the identity of an individual.	Information within paragraph 2 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information within paragraph 3 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. However, information under paragraph 3 is not exempt information if it must be registered under:</p> <ul style="list-style-type: none"> (a) the Companies Acts (1985 and 2006); (b) the Friendly Societies Acts 1974 and 1992; (c) the Industrial and Provident Societies Act 1965 to 1978; (d) the Building Societies Act 1986; or (e) the Charities Act 1993.
4. Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Information within paragraph 4 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information within paragraph 5 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Category	Condition
6. Information which reveals that the Council proposes: <ul style="list-style-type: none"> (a) to give, under any enactment, a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment. 	Information within paragraph 6 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information within paragraph 7 is exempt information if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

E10.6 Information falling within any of paragraphs 1-7 above is not exempt if it relates to proposed development for which the Council can grant itself planning permission under Regulation 3 of the Town and Country Planning General Regulations 1992.

E10.7 Where an [executiveCabinet](#) decision is to be made at a private meeting of the [CabinetExecutive](#) or its committees, the decision-making body must publish a notice, including the reasons for the meeting to be held in private, at least 28 clear days before the meeting at the Town Hall, Torquay and on the Council's website. At least five clear days before a private meeting of the [Executive-Cabinet](#) or its committees, the decision-making body will publish a further notice including the reasons for the meeting to be held in private, details of any representations received about why the meeting should be open to the public and a statement responding to such representations.

E10.8 Where the date by which a meeting must be held makes compliance with Standing Order E10.7 impracticable, the meeting may only be held in private where the decision-making body has obtained agreement from:

- (i) the Chairman/woman of the relevant Overview and Scrutiny Committee; or
- (ii) if the Chairman/woman of the relevant Overview and Scrutiny Committee is unable to act, the Chairman/woman of the Council or the Vice-Chairman/woman if the Chairman/woman of the Council is unable to act

that the meeting is urgent and cannot be reasonably deferred.

As soon as reasonably practicable after the decision-making body has obtained agreement to hold a private meeting it must publish a notice including the reasons why the meeting is urgent and cannot reasonably be deferred at the Town Hall, Torquay and on the Council's website.

E11. Exclusion of Access by the Public to Reports

E11.1 If the proper officer thinks fit, the Council may exclude access by the public to reports or parts of reports that, in his/her opinion, relate to items during which (in accordance with Standing Order E10) a meeting is likely not to be open to the public. Such reports [or parts of reports](#) will be marked “Restricted and Not for publication” together with an explanation of the reasons why the author of the report considers that the report [or parts of the report](#) should be considered with the press and public excluded.

E12. Procedure Before Taking Key Decisions

E12.1 Subject to Standing Order E14 (general exception) and Standing Order E15 (special urgency) [in relation to Cabinet key decisions](#), a Key Decision may not be taken unless:

- (i) the matter in question has been entered into and published in a Forward Plan;
- (ii) at least twenty eight clear days in the case of an [ExecutiveCabinet](#) key decision ~~(or normally three months in the case of a Council key decision)~~ have elapsed since the entry in the Forward Plan has been available for inspection by the public in accordance with Standing Order E13.1; and
- (iii) where the decision is to be taken at a meeting of the [CabinetExecutive](#) or its committees, notice of the meeting has been given in accordance with Standing Order E4 (notice of meetings).

(A Key Decision is defined in Article 11.03 of this Constitution.)

E13. The Forward Plan

E13.1 A Forward Plan will be prepared on behalf of the [Elected MayorLeader of the Council](#) and entries will be published as soon as reasonably practicable once made or substantially amended. The Forward Plan will be available for inspection by the public at the Town Hall, Torquay and on the Council’s website (www.torbay.gov.uk).

E13.2 The Forward Plan will contain matters which the [Elected MayorLeader of the Council](#) has reason to believe will be subject of a Key Decision to be taken by the [CabinetExecutive](#), a committee of the [ExecutiveCabinet](#), individual members of the [ExecutiveCabinet](#), officers, area committees or under joint arrangements in the course of the discharge of an executive function. The Forward Plan will also include all decisions to be taken by the Council, any Council Committee or Sub-Committee or any officer that would, if they were an [CabinetExecutive](#) decision, be regarded as a key decision. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (i) that a key decision is to be made;
- (ii) the matter in respect of which a decision is to be made;
- (iii) where the decision taker is an individual, his/her name and title (if any) or where the decision taker is a body, its name and details of membership;
- (iv) the date on which, or the period within which, the decision will be taken;

- (v) a list of the documents submitted to the decision-maker for consideration in relation the matter in respect of which the key decision is to be made;
- (vi) the address from which any documents can be obtained, subject to any prohibition or restriction on their disclosure; and
- (vii) that other documents relevant to decision may be submitted to the decision-maker and the procedure for requesting details of those documents as and when they become available.

In addition to the above, the Forward Plan may include:

- (i) the identity of the principal groups that the decision taker proposes to consult before taking the decision;
- (ii) the means by which any such consultation is proposed to be undertaken; and
- (iii) the steps any person might take if they wish to make representations to the decision taker about the matter on which the decision is to be made and the date by which those steps must be taken.

E13.3 Exempt information need not be included in a Forward Plan and confidential information cannot be included.

E14. General Exception

E14.1 Where the matter is likely to be a Key Decision and it has not been practicable to include it in the Forward Plan then the decision may still be taken if all of the following apply:

- (i) the decision must be taken by a specified date and it is therefore impracticable to defer the decision to allow for 28 clear days notice in respect of [Executive Cabinet](#) key decisions ~~(or normally three months notice in respect of Council key decisions);~~
- (ii) in respect of [Executive Cabinet](#) key decisions, the Proper Officer has informed the Chairman/woman of the relevant Overview and Scrutiny Committee or if he/she cannot reasonably be contacted each member of the relevant Overview and Scrutiny Committee, by written notice, of the matter about which the decision is being made, together with the reasons why Standing Order E13 can not be complied with; or
- ~~(iii) in respect of Council key decisions, the Chief Executive to agree to a reduced time period, in consultation with the Overview and Scrutiny Co-ordinator or if he/she cannot reasonably be contacted each member of the relevant Overview and Scrutiny Committee; and the Proper Officer to provide written notice, of the matter about which the decision is being made, together with the reasons why Standing Order E13 can not be complied with;~~
- ~~(iiiiv)~~ (iv) the proper officer has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
- (iv) at least five clear working days have elapsed since the proper officer complied with ~~(iiiiv)~~.

E14.2 If the provisions of Standing Order E14.1 cannot be met, the provisions of Standing Order E15 (special urgency) will apply.

E14.3 Where such a decision is taken at a meeting of the [Executive Cabinet](#), that meeting must be held in public.

E15. Special Urgency

E15.1 In respect of [Executive Cabinet](#) key decisions, where the date by which a key decision must be made, makes compliance with Standing Orders E13 and/or E14 impracticable, the decision may only be made where the decision-maker has obtained agreement from:

- (i) the Chairman/woman of the relevant Overview and Scrutiny Committee; or
- (ii) if the Chairman/woman of the relevant Overview and Scrutiny Committee is unable to act, the Chairman/woman of the Council or the Vice-Chairman/woman if the Chairman/woman of the Council is unable to act.

~~E15.2 In respect of Council key decisions, where the date by which a key decision must be made, makes compliance with Standing Orders E13 and/or E14 impracticable, the decision may only be made where the decision-maker has obtained agreement from the Chief Executive in consultation with:~~

- ~~(i) the Overview and Scrutiny Co-ordinator; or~~
- ~~(ii) if the Overview and Scrutiny Co-ordinator is unable to act, the Chairman/woman of the Council or the Vice-Chairman/woman if the Chairman/woman of the Council is unable to act.~~

E15.32 As soon as reasonably practicable, after the decision-maker has obtained agreement under Standing Order E15.1 ~~or E15.2~~, the decision-maker must make available a notice to the public at the offices of the Council and on the Council's website, setting out the reasons that the decision is urgent and why it could not be deferred;

E15.34 The [Elected Mayor/Leader of the Council](#) will submit reports to the next appropriate Council meeting summarising the decision of the [Cabinet Executive](#) taken in accordance with Standing Order E15.1 in the preceding three months. The report submitted must include:

- (i) particulars of each decision made; and
- (ii) a summary of the matters in respect each decision was made.

E16. Reports to Council

E16.1 If the Overview and Scrutiny Board thinks that a [Cabinet](#) 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 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;
- (iv) the Overview and Scrutiny Board may require the [Executive 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 [Executive 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 [Elected Mayor/Leader of the Council](#) is of the opinion that it was not a Key Decision, the reasons for that opinion.

E17. Record of Decisions

E17.1 After any meeting of the [Executive Cabinet](#) (or any of its committees) or Council meeting where the [Elected Mayor/Leader of the Council](#) makes an executive decision, the proper officer or, where no officer was present the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record of decision will include:

- (i) details of the decision maker;
- (ii) details of the decision including the date it was made;
- (iii) the reason for the decision;
- (iv) background information;
- (v) alternative options considered and rejected at the time of the decision;
- (vi) whether the decision is a Key Decision;
- (vii) whether the call-in procedure applies;
- (viii) any declarations of interest and, if applicable, a note of any dispensation granted;
- (ix) the published date; and
- (x) the anticipated implementation date.

E17.2 Where a Key Decision is taken without consideration of a duly completed report in the Council's usual format, the record of that decision shall, within the section entitled "background information" explain how and why the decision was reached and include the key risks relating to the decision and any relevant financial, legal or equalities implications.

E17.3 When a decision is made by the [Elected Mayor/Leader of the Council](#) or a member of his/her [Cabinet/Executive](#), the decision shall be published as soon as reasonably

practicable at the Town Hall, Torquay and on the Council's website. All councillors will be sent electronic copies of the records of all such decisions by the person responsible for publishing the decision.

E17.4 The notice of the decision will bear the date on which it is published and will specify that the decision will come into force and may be implemented on the expiry of five clear working days after the publication of the decision unless the call-in procedure is triggered (as set out in the Standing Orders in relation to Overview and Scrutiny).

E18. Reports intended to be taken into account

E18.1 Where the [Leader of the Council](#)~~Mayer~~ or an individual member of the [Cabinet](#)~~Executive~~ receives a report which he/she intends to take into account in making any decision, then he/she will not make the decision until at least five clear days after receipt of the report. On the giving of such a report to an individual decision maker, the proper officer will give a copy of it to the Chairman/woman of the Overview and Scrutiny Board and make it publicly available at the same time.

E19. Recording of Decisions by the [Leader of the Council](#)~~Elected Mayor~~ or Individual Members of the [Cabinet](#)~~Executive~~ taken outside of meetings

E19.1 As soon as reasonably practicable after an [Executive](#)~~Cabinet~~ decision has been taken by the [Elected Mayor](#)~~Leader of the Council~~ or an individual member of the [Executive](#)~~Cabinet~~, he/she will instruct the proper officer to prepare a record of the decision in accordance with Standing Order E17. The provisions of Standing Orders E7 and E8 (inspection of documents after meetings) will also apply to the making of decisions by the [Elected Mayor](#)~~Leader of the Council~~ or individual members of the [Executive](#)~~Cabinet~~. This does not require the disclosure of exempt or confidential information or advice from a group assistant ~~(either the Elected Mayor's Assistant or a Group Assistant)~~.

E20. [Executive](#)~~Cabinet~~ Decisions by Officers

E20.1 As soon as reasonably practicable after an officer has made an [executive](#)~~Cabinet~~ decision, the officer must produce a written statement which must include:-

- (i) details of the decision including the date it was made;
- (iii) the reason for the decision;
- (v) alternative options considered and rejected at the time of the decision;
- (viii) a record of any conflict of interest declared by any [executive](#)~~cabinet~~ member who is consulted by the officer which relates to the decision; and
- (viii) in respect of any declared conflict of interest of the officer making the decision, a note of dispensation granted by the Monitoring Officer.

and this written statement will be available for inspection in accordance with E17.3.

E20.2 The provisions of Standing Orders E7 and E8 (inspection of documents after meetings) will also apply to the making of [executive](#)~~Cabinet~~ decisions by officers. This does not require the disclosure of exempt or confidential information.

E21. Access to Information – Members

E21.1 All members will be entitled to receive reports and associated documents submitted to the ~~Elected Mayor~~Leader of the Council, individual members of the ~~Cabinet~~Executive, the ~~Executive~~Cabinet, committees of the ~~Executive~~Cabinet, officers, the Overview and Scrutiny Board or other committees, unless those reports and/or associated documents contain confidential and exempt information (where disclosure is not in the public interest), and

- (i) in the case of confidential information, disclosure would be contrary to a court order or government guidance; or
- (ii) a member has (in the reasonable opinion of the Monitoring Officer) a pecuniary interest in the subject matter of the report; or
- (iii) the report contains the advice of a political assistant.

E21.2 The rights set out in Standing Order E20.1 are in addition to (and do not detract from) a member's common law rights to access documents on a 'need to know basis'. Members have a prima facie right to inspect Council documents so far as access to the documents is reasonably necessary to enable the Member to properly perform their duties as a member of the Council. The Monitoring Officer shall determine requests for disclosure of documents under the 'need to know' criteria.

E21.3 The Member has to be able to demonstrate the necessary 'need to know'. A Member does not have a right to a 'roving commission' to examine Council documents. The question will be determined by the Monitoring Officer in the event of any refusal by a Head of Service which holds the document in question.

E21.4 When dealing with casework, the Member will seek written consent from the individual to access their personal data held by the Council. Where it is not possible to obtain written consent and the relevant service manager considers explicit consent from the individual is necessary due to sensitive personal data being disclosed, the Member will email the service manager with confirmation that they have spoken to the individual who has provided their explicit consent. Members, as individual Data Controllers will be responsible for ensuring that they have obtained the necessary consent. Alternatively or where explicit consent is not given, the casework will be handed over to the service department concerned without any personal data being released to the Member.

E22. Freedom of Information Act 2000

E22.1 So far as there is any conflict between these Standing Orders and the Freedom of Information Act 2000 the latter shall prevail.

E23. Outside Bodies Reporting Protocol – New Council post May 2019 to review

E23.1 The Council appoints Members to represent Torbay Council on a number of outside organisations. Representatives on those bodies listed below are required to report on the activities of the outside organisation, the impact of those activities on the local community and Council service delivery, in order to keep the Council informed. Reports from members on outside organisations will also allow the Council and

evaluate the value and benefits of its continued membership. Members will not disclose any information that is confidential to that organisation:

1. Companies:

- a) Riviera International Conference Centre Board of Directors;
- b) TDA; and
- c) TOR2 Board.

2. Organisations which receive grants/funding from the Council:

- a) Parkwood Leisure Monitoring Group;
- b) Culture Board Steering Group;
- c) Torbay Coast and Countryside Trust Board of Trustees; and
- d) Torbay Community Development Trust.

3. Other strategic important outside bodies/partnerships:

- a) Local Enterprise Partnership Steering Group;
- b) Community Safety Partnership Board;
- c) Devon and Cornwall Police and Crime Panel;
- d) Devon and Exeter Area Rail Project Working Party;
- e) Devon and Somerset Fire and Rescue Authority;
- f) Devon Authorities Strategic Waste Joint Committee
- g) South West Devon Waste Partnership (Joint Working Committee);
- h) South West Energy and Environment Group; and
- i) South West Regional Flood Defence Committee.

Members on other outside bodies may submit a report where they feel it is in the Council's interest for them to do so.

E23.2 Reports will be submitted annually following the annual meeting of the body, unless exceptional circumstances require a further report. Reports will be prepared by the member(s) so not to draw on officer resource and submitted in writing to governance.support@torbay.gov.uk using the prescribed form (attached at Appendix 1 to these Standing Orders), and so far as is reasonably practicable limited to two sides of A4. Reports will be considered by the Overview and Scrutiny Board to enable it to make recommendations to the Council before reports are presented to Council.

E23. Where the Council nominates more than one representative to an outside body, a Lead Member will be nominated to be responsible for co-ordinating the report to the Council (this can include a joint report by all members on the outside body being prepared). If an organisation does not have an annual meeting, then the Council's Lead Member will report in the third quarter of the year so that the Council can consider the benefits of retaining its representation.

Outside Bodies - Member Reporting Form

Name of Organisation	
Elected Member	
Objectives of Organisation	
Role and responsibility of the Council representative? (For example, Observer, Trustee, Director)	
What have you achieved through the relationship?	
How often does the organisation meet?	
How often have you attended meetings?	
Have you been provided with any training to support your role? If yes, please give details.	
What at key issues have arisen? (continue on separate sheet if required)	

Standing Orders – Budget and Policy Framework

Contents

Standing Order

- F1. The framework for Cabinet executive decisions
- F2. Process for developing the Revenue Budget
- F3. Process for developing the Capital Plan
- F4. Process for developing the Policy Framework
- F5. Decision outside the Budget or Policy Framework
- F6. Urgent decisions outside the Budget or Policy Framework
- F7. Virements and general limitations on expenditure
- F8. Reviews/amendments to existing Policy Framework documents

F1. The Framework for Executive Decisions

F1.1 The Council will be responsible for the adoption of its budget and policy framework as set out in Article 4. Once the budget and policy framework is in place, it will be the responsibility of the CabinetExecutive to implement it.

F2. Process for Developing the Revenue Budget

- F2.1 Normally, at least four months before the Council's budget meeting, the elected MayorCabinet will publicise, by including in the Forward Plan, a timetable in accordance with which it will make proposals for the authority's overall financial approach to service expenditure levels and local taxation for the next following year and publish initial proposals for the budget, having taken into account any budget formulation work carried out by the Overview and Scrutiny Board and any issues raised during any State of the Borough debate.
- F2.2 The elected MayorCabinet's initial budget proposals will then be sent to the all the members of the Overview and Scrutiny Board for consideration and to all appropriate external consultees. Details of the consultation process shall be included in the Forward Plan and the consultation period shall normally be not less than six weeks.
- F2.3 If the Overview and Scrutiny Board wishes to respond to the Cabinetelected Mayor 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 elected MayorCabinet will take any response from the Overview and Scrutiny Board into account in drawing up it'shis/her budget proposals.
- F2.4 In addition, the elected MayorLeader of the Council may seek informal discussions with the Overview and Scrutiny Board to debate any areas of difference.
- F2.5 At the end of the consultation period the elected MayorCabinet will finalise his/herit's budget proposals (subject to receipt at a later date of any relevant information from the Government and/or any precepting authorities) having due regard to the responses to the consultation and submit them to the Council for consideration at a meeting normally commencing prior to 8th February in each year. The Cabinet'sselected Mayor's budget report to Council will explain how the elected MayorCabinet has taken into account any recommendations from the Overview and Scrutiny Board and other consultation responses.
- F2.6 At the Council budget setting meeting, the Council will consider the elected MayorCabinet's budget proposals. In reaching a decision on the elected MayorCabinet's budget proposals the Council may:
- (i) adopt the elected MayorCabinet's proposals without amendment; or
 - (ii) follow the process set out in Standing Orders F2.7 to F2.112 below, where it has objections to it.
- F2.7 Subject to Standing Order F2.112, where, before 8th February in any financial year, the elected MayorCabinet submits to a meeting of the Council for its consideration in relation to the following financial year:

- (i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992;
- (ii) estimates of other amounts to be used for the purposes of such a calculation;
- (iii) estimates of such a calculation; or
- (iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992

and following consideration of those estimates or amounts the Council has any objection, it must take the action set out in Standing Order F2.8.

F2.8 Before the Council makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in Standing Order F2.7(i), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the ~~elected Mayor~~Leader of the Council of any objections which it has to the ~~Cabinet~~elected Mayor's estimates or amounts and must give to him/her instructions requiring the ~~elected Mayor~~Cabinet to reconsider, in the light of those objections, those estimates and amounts in accordance with the Council's requirements.

(Note: The provisions in Standing Order A14.4 in relation to Council meetings apply for Motions affecting the setting of the Budget.)

F2.9 Where the Council gives instructions in accordance with Standing Order F2.8, it must specify a period of at least five working days beginning on the day after the date on which the ~~elected Mayor~~Leader of the Council receives the instructions on behalf of the ~~Cabinet~~Executive within which the ~~elected Mayor~~Leader of the Council may:

- (i) submit a revision of the estimates or amounts as amended by the ~~elected Mayor~~Cabinet ("revised estimates or amounts"), which have been reconsidered in accordance with the Council's requirements, with the ~~elected Mayor~~Cabinet's reasons for any amendments made to the estimates or amounts, to the Council for its consideration; or
- (ii) inform the Council of any disagreement that the ~~elected Mayor~~Cabinet has with any of the Council's objections and the ~~elected Mayor~~Cabinet's reasons for any such disagreement.

F2.10 ~~Subject to Standing Order F2.11, w~~When the period specified by the Council referred to in Standing Order F2.9 has expired, the Council must, when making calculations (whether originally or by way of substitute) in accordance with sections 32 to 37 or 43 to 49 of the Local Government Finance Act 1992, or when issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account:

- (i) any amendments proposed by the ~~elected Mayor~~Cabinet to the estimates or amounts included in any revised estimates or amounts;
- (ii) the ~~Cabinet~~elected Mayor's reasons for those amendments;
- (iii) any disagreement that the ~~elected Mayor~~Cabinet has with any of the Council's objections; and
- (iv) the ~~Cabinet~~elected Mayor's reasons for that disagreement,

which the ~~elected Mayor Cabinet~~ submitted to the Council, or informed the Council of, within the period specified by ~~Standing Order S.O. F2.9~~ above.

~~F2.11 When the Council, for the purposes of making the calculations or issuing the precept, proposes to use different estimates or amounts which are not in accordance with the elected Mayor's estimates or amounts, or, as the case may be, the elected Mayor's revised estimates or amounts, the different estimates or amounts must be approved by at least a two thirds majority of those members present and voting in favour. Such amendments to the elected Mayor's estimates or amounts or revised estimates or amounts must arise from the original objection(s) of the Council as set out in Standing Order F2.9. Where a two thirds majority voting in favour of the Council's amendments is not achieved, then the elected Mayor's proposals will stand.~~

F2.112 Standing Orders F2.7 to F2.104 shall not apply in relation to:

- (i) calculations or substitute calculations which the Council is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and
- (ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of the Local Government Finance Act 1992.

(Standing Orders F2.7 to F2.112 reflect the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001)

F2.123 Where the papers containing the ~~elected Mayor Cabinet~~'s budget proposals to be submitted under Standing Order F2.5 are submitted to a meeting of Council prior to 8th February, that meeting shall be adjourned (or further adjourned) for such a reasonable period (including having regard to Standing Order ~~F14.5A~~14.4 in relation to Council Meetings) as the Chief Executive shall recommend where:

- (i) a majority of members present and voting so determine; or
- (ii) (without a vote) where the Chief Finance Officer has advised that an adjournment is reasonably necessary to allow time for the receipt (or consideration by him/her and/or members) of additional information or full consideration (by him/her and/or members) of the papers submitted to Council

and Standing Orders F2.7 to F2.112 (inclusive) shall continue to apply notwithstanding such adjournment.

F2.134 Subject to Standing Order F2.123, Standing Orders F2.7 to F2.112 shall not apply when the ~~elected Mayor Cabinet~~ submits its proposals to the Council after 7th February in any financial year.

F2.145 Any notices of motion in respect of the proposed budget will be served in accordance with the Standing Order A14.45.

F2.156 Given the statutory deadline for setting council tax levels, a decision on the budget to be set shall be taken (and shall not be referred to an adjourned meeting or to a future meeting) where the Council's Chief Finance Officer (in consultation with the Monitoring Officer and Chief Executive) advises that a failure to set a budget would be likely to be illegal.

- F2.167 The Overview and Scrutiny Co-ordinator and scrutiny lead members will be given notice of and shall be entitled to attend all meetings of the ~~elected Mayor~~Cabinet when annual estimates are under consideration.
- F2.178 In approving the budget, the Council may also specify the extent of any budget transfer (or virement) limits in accordance with Financial Regulations. Any other changes to the budget are reserved to the Council.
- F2.189 In approving the budget, the Council will also set the fees and charges for the forthcoming year.
- F2.1920 The ~~Executive Lead for Finance,~~Cabinet shall submit a recommendation to the appropriate Council meeting, as to the setting of the Council Tax Base as per the Local Authorities (Calculation of Tax base)(England) Regulations 2012,
- F2.204 The ~~Executive Lead for Finance~~Cabinet, after taking into consideration those statutory matters to be taken into account in relation to the Collection Fund (including the amounts required under precepts served by precepting authorities), shall submit a recommendation to the appropriate Council meeting as to those matters and the amount of the levels of Council Tax to be set for each category of dwelling for its area for the chargeable financial year commencing on 1st April.

F3. Process for Developing the Capital Plan

- F3.1 Each year the Corporate Asset Management Team (CAMT), in collaboration with the Chief Executive, other Directors, Assistant Directors and Executive Heads, will prepare revisions to the Capital Plan (including any proposed changes to the approved disposals list) covering all capital expenditure in the forthcoming four-year period for consideration by the ~~Cabinet~~elected Mayor. In considering any new schemes for inclusion within the Capital Plan, the CAMT will utilise any capital prioritisation process approved by the Council ensuring that the projected expenditure over the life of the project, including on-going revenue consequences, is taken into account.
- F3.2 Normally, at least two months before the Council's budget meeting and following the annual announcement of the Government's allocation of capital resources (through the Single Capital Pot or successor arrangements), the ~~Cabinet~~elected Mayor will publish in the Forward Plan a timetable ~~in accordance with which he or she will for~~make proposals to the Council for revisions to the Capital Plan.
- F3.3 The ~~elected Mayor~~Cabinet's initial proposals for revisions to the Capital Plan will then be sent to the all the members of the Overview and Scrutiny Board for consideration and to all appropriate external consultees. Details of the consultation process shall be included in the Forward Plan and the consultation period shall normally be not less than six weeks.
- F3.4 If the Overview and Scrutiny Board wishes to respond to the ~~elected Mayor~~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 ~~elected Mayor~~Cabinet will take any response from the Overview and Scrutiny Board into account in drawing up ~~it's~~his or her budget proposals.

- F3.5 In addition, the ~~elected Mayor~~Leader of the Council may seek informal discussions with the Overview and Scrutiny Board to debate any areas of difference.
- F3.6 At the end of that period, the ~~elected Mayor~~Cabinet will finalise ~~it's~~his or her proposals for revision to the Capital Plan having regard to the responses to the consultation and submit them to the Council for consideration. The ~~elected Mayor~~Cabinet's report to Council will explain how the ~~elected Mayor~~Cabinet has taken into account any recommendations from the Overview and Scrutiny Board and other consultation responses.
- F3.7 In reaching a decision on the ~~elected Mayor~~Cabinet's proposals the Council may:
- (i) adopt the ~~elected Mayor~~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 F3.8 to F3.10 below, where it has objections to it.
- F3.8 Before the Council:
- (i) amends the draft Capital Plan; or
 - (ii) adopts (with or without modification) the Capital Plan,
- it must inform the ~~elected Mayor~~Leader of the Council of any objections which it has to the draft Capital Plan and must give him/her instructions requiring the ~~elected Mayor~~Cabinet to reconsider, in light of those objections, the draft Capital Plan submitted to it.
- F3.9 Where the Council gives instructions in accordance with Standing Order F3.8, it must specify a period of at least five working days beginning on the day after the date on which the ~~Leader of the Council~~elected Mayor receives the instructions within which the ~~elected Mayor~~Cabinet may:
- (i) submit a revision of the draft Capital Plan as amended by ~~him or her~~the Cabinet (the "revised draft Capital Plan"), with ~~his or her~~the Cabinet's reasons for any amendments made to the draft Capital Plan, to the Council for its consideration; or
 - (ii) inform the Council of any disagreement that the ~~he or she~~Cabinet has with any of the Council's objections and his or her reasons for any such disagreement.
- F3.10 ~~Subject to Standing Order F3.11, w~~When the period specified by the Council referred to in Standing Order F3.9 has expired, the Council must, when:
- (i) amending the draft Capital Plan or, if there is one, the revised draft Capital Plan; or
 - (ii) adopting (with or without modifications) the Capital Plan,
- take into account any amendments made to the draft Capital Plan that are included in any revised draft Capital Plan, the ~~elected Mayor~~Cabinet's reasons for those amendments, any disagreement that the ~~elected Mayor~~Cabinet has with any of the Council's objections and the ~~elected Mayor~~Cabinet's reasons for that disagreement,

which the ~~elected Mayor~~ Leader of the Council submitted to the Council, or informed the Council of, within the period specified.

~~F3.11 Where the Council proposes to:~~

~~(i) amend the draft Capital Plan or, as the case may be, the revised draft Capital Plan; or~~

~~(ii) adopt with modifications the Capital Plan,~~

~~and that Capital Plan (whether or not in the form of a draft), with any proposed amendments or modifications, is not in accordance with the draft Capital Plan or, as the case may be, the revised draft Capital Plan, the amendments or modifications must be approved by at least a two thirds majority of those members present and voting in favour. Such amendments or modifications to the elected Mayor's draft Capital Plan or revised Capital Plan must arise from the original objection(s) of the Council as set out in Standing Order F3.8. Where a two thirds majority voting in favour of the Council's amendments is not achieved, then the elected Mayor's proposals will stand.~~

(Standing Orders F3.7 to F3.10~~4~~ reflect the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001)

F3.11~~2~~ The procedures referred to in Standing Orders F3.7 to F3.10~~4~~ shall be undertaken concurrently with the process for developing the revenue budget.

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 ~~elected Mayor~~Cabinet shall publish a timetable in accordance within which ~~he or it~~she 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 ~~elected Mayor~~Cabinet and the Overview and Scrutiny Board to ensure its effectiveness. Any representations made to the ~~elected Mayor~~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 ~~elected Mayor~~Cabinet and considered in the preparation of initial proposals.

F4.3 The ~~elected Mayor~~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 Council without any formal consideration or response from the Overview and Scrutiny Board. He/she will inform the Head of Governance Support, the elected 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 ~~elected Mayor~~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 ~~elected~~

~~Mayor~~Cabinet will take any response from the Overview and Scrutiny Board into account in drawing up ~~it's~~his or her proposals.

- F4.5 In addition, the ~~elected Mayor~~Leader of the Council 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 ~~elected Mayor~~Cabinet will finalise ~~it's~~his or her proposals having regard to the responses to the consultation and submit them to the Council for consideration. The ~~elected Mayor~~Cabinet's report to Council will explain how ~~he or she~~it has taken into account any recommendations from the Overview and Scrutiny Board and other consultation responses.
- F4.7 The Council will consider the ~~elected Mayor~~Cabinet's proposals. In reaching a decision on the ~~elected Mayor~~Cabinet's proposals the Council may:
- (i) adopt the ~~elected Mayor~~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 F4.10 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~~Leader of the Council of any objections which it has to the draft plan or strategy and must give him/her instructions requiring the ~~him or her~~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~~Leader of the Council receives the instructions within which the ~~elected Mayor~~Leader of the Council may:
- (i) submit a revision of the draft plan or strategy as amended by ~~him or her~~the Cabinet (the "revised draft plan or strategy"), with ~~the Cabinet's~~his or her 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 ~~elected Mayor~~Cabinet has with any of the Council's objections and the ~~elected Mayor~~Cabinet's reasons for any such disagreement.
- F4.10 ~~Subject to Standing Order F4.11, w~~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 ~~elected Mayor~~Cabinet's reasons for those amendments, any disagreement that the ~~elected Mayor~~Cabinet has with any of the Council's objections and the ~~elected Mayor~~Cabinet's reasons for that disagreement, which the ~~elected Mayor~~Leader of the Council 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. Such amendments to the elected Mayor's draft plan or strategy must arise from the original objection(s) of the Council as set out in Standing Order F4.9. Where a two thirds majority voting in favour of the Council's amendments is not achieved, then the elected Mayor's proposals will stand. (Standing Orders F4.7 to F4.11 reflect the requirements of the Local Authorities (Standing Orders) (England) Regulations 2001).~~

F4.11~~2~~ The process for dealing with a proposed addition to or amendment to a Policy Framework document may, however, be varied where the ~~elected Mayor~~Leader of the Council and/or Overview and Scrutiny Co-ordinator (or their respective deputies or nominees) have confirmed in writing (including via email) to the Head of Governance that they are in agreement to the variations to the process.

F4.11~~3~~ Subject to Standing Order F8, any changes to the Policy Framework are reserved to the Council.

F5. Decisions outside the Budget or Policy Framework

F5.1 Subject to the provisions of Financial Regulations in relation to virement, the ~~elected Mayor~~Leader of the Council, the ~~Executive Cabinet~~ (including committees of the ~~Executive Cabinet~~), individual members of the ~~Executive Cabinet~~ and any officers, area committees or joint arrangements discharging ~~Executive Cabinet~~ functions may only take decisions that are in line with the Budget and Policy Framework. If any of these bodies or persons wishes to make a decision that is contrary to the Policy Framework or contrary to (or not wholly in accordance with) the Budget approved by

the Council, then (subject to Standing Order F6 (Urgent decisions outside the Budget or Policy Framework)) that decision may only be taken by the Council.

- F5.2 If the Executive Cabinet (including committees of the Executive Cabinet), the elected Mayor/Leader of the Council, individual members of the Executive Cabinet and any officers, area committees or joint arrangements discharging executive functions consider (or if they are asked by the Chief Executive or his/her deputy to consider) that a decision might be contrary to Policy Framework or contrary to (or not wholly in accordance with) the Budget, they shall take advice from the Monitoring Officer and/or the Chief Finance Officer as appropriate. If the advice of either of those officers is that the decision would not be in line with the existing Budget and/or Policy Framework (with officers giving clear reasons for this advice), then the decision must be referred by that body or person to the Council for decision, unless the decision is a matter of urgency, in which case the provisions in Standing Order F6 (Urgent decisions outside the Budget or Policy Framework) shall apply.

F6. Urgent Decisions outside the Budget or Policy Framework

- F6.1 The Executive Cabinet (including a committee of the Executive Cabinet), the elected Mayor/Leader of the Council, an individual member of the Executive Cabinet or officers, area committees or joint arrangements discharging executive functions may take a decision that is contrary to the Council's Policy Framework or contrary to (or not wholly in accordance with) the Budget approved by Council if the circumstances which render necessary the making of the decision may reasonably be regarded as urgent. However, such a decision may only be taken:

- (i) if (in the opinion of the Chief Executive) it is not reasonably practical to convene a quorate meeting of the Council in sufficient time; and
- (ii) if the person or body making the decision has obtained a statement in writing (confirming that the decision needs to be taken as a matter of urgency) from the Overview and Scrutiny Co-ordinator (as determined by the Chief Executive) or, if the Overview and Scrutiny Co-ordinator is unable to act, from the Chairman/woman of the Council or, in the absence of both, from the Deputy Vice-Chairman/woman of the Council.

- F6.2 The reasons why it is not practical to convene a quorate meeting of the Council and the consent of the relevant member to the decision being taken as a matter of urgency must be noted on the record of the decision.

- F6.3 As soon as reasonably practicable after the decision, the decision taker will submit a report to a meeting of the Council. This report must include details of the decision; the emergency or other circumstances in which it was made; and the reasons for the decision.

In Standing Order F6.1, references to the Chief Executive mean:

- (i) in the absence of the Chief Executive (or if the decision in question is to be taken by the Chief Executive), his/her deputy; and
- (ii) in the absence of both the Chief Executive and his/her deputy (or if one of them is absent and the other is to take the decision in question) the Monitoring Officer, or Deputy Monitoring Officer, as appropriate.

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/Executive Head. The relevant Director/Assistant Director/Executive Head may amend a Policy Framework document, following consultation with the ~~elected Mayor~~Leader of the Council, 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.

F8.2 Where the Council wishes to amend an existing Policy Framework document, a Notice of Motion objecting to the existing Policy Framework document shall be submitted (in accordance with Standing Order A14) and Standing Orders F4.8 to F4.1¹² shall be followed.

Standing Orders – Officer Employment

Contents

Standing Order

- G1. Interpretation
- G2. Recruitment of Head of Paid Service and chief officers
- G3. Appointments, disciplinary actions and dismissals that must be discharged by the head of paid service or other officers
- G4. Appointments delegated to committees and sub-committees
- G5. Disciplinary action
- G6. Group assistants
- ~~G7. Elected Mayor's assistant~~.....

Note

The following Standing Orders are mandatory:

Standing Orders G2.1 and G2.2 (authorised versions – 1993 Regulations); and
Standing Orders G3 – G5 (2001 Regulations)

G1. Interpretation

G1.1 In these Standing Orders:

“the 1989 Act”	means	the Local Government and Housing Act 1989
“the 1993 Regulations”	means	the Local Authorities (Standing Orders) Regulations 1993
“the 2000 Act”	means	the Local Government Act 2000
“the 2001 Regulations”	means	the Local Authorities (Standing Orders) (England) Regulations 2001
“ the Council”	means	Torbay Council
“Chief Finance Officer” and “Monitoring Officer”	have the same meanings as	in Regulation 2 of the 2001 Regulations
“Head of the Paid Service”	means	the person designated as the head of the Council’s paid service under Section 4(1) of the 1989 Act
“chief officer”	has the same meaning as	in Regulation 1 of the 1993 Regulations and includes the Head of the Paid Service
“designated independent person”	has the same meaning as	in Regulation 7 of the 2001 Regulations
“disciplinary action”	means	any action occasioned by alleged misconduct which, if proved, would, according to the usual practice of the Council, be recorded on the member of staff’s personal file, and includes any proposal for dismissal of a member of staff for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract
“ Executive Cabinet ”	has the same meaning as	“executive” in Part II of the 2000 Act
“ Mayor ”	has the same meaning as	“ elected mayor ” in Part II of the 2000 Act
“member”	includes	any co-opted member of any committee or sub-committee
“officer”	means	a person appointed to or holding a paid office or employment under the Council
“group assistant”	means	an assistant for a political group appointed under Section 9 of the 1989 Act
“proper officer”	means	an officer appointed by the Council for the purposes of the provisions of these Standing Orders

“statutory chief officer”, “non-statutory chief officer” and “deputy chief officer” have the same meanings as in Section 2 of the 1989 Act

G2. Recruitment of Head of Paid Service and Chief Officers

G2.1 Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Head of the Paid Service will:

- (a) draw up a job description and person specification setting out:
 - (i) the duties of the officer concerned; and
 - (ii) any qualifications or qualities to be sought in the person to be appointed;
- (b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- (c) make arrangements for a copy of the job description and person specification mentioned in paragraph (a) above to be sent to any persons on request.

G2.2 Where a post has been advertised in accordance with Standing Order G2.1, either:

- (a) all qualified applicants shall be interviewed; or
- (b) a short list of such qualified applicants shall be selected and those included on the short list shall be interviewed

but where no qualified person has applied the Council shall make further arrangements for advertisement in accordance with Standing Order G2.1.

G2.3 Every appointment of a chief officer shall be made by the Council (or a committee or a sub-committee if delegated by Council) except that the appointment (or renewal of contract) of non-statutory chief officers may (if delegated to him/her) be made by the Head of the Paid Service after consultation with the Chairman of the Council.

G3. Appointments, Disciplinary Actions and Dismissals that must be Discharged by the Head of Paid Service or Other Officers

G3.1 Subject to Standing Orders G3.2 and G4.4, the function of appointment and dismissal of (and taking disciplinary action against) any officer must be discharged, on behalf of the Council, by the Head of the Paid Service (or by an officer nominated by him/her).

G3.2 Standing Order G3.1 shall not apply to the appointment or dismissal of, or disciplinary action against:

- (a) the Head of the Paid Service;
- (b) a statutory chief officer;

- (c) a non-statutory chief officer
- (d) a deputy chief officer
- (e) assistants for political groups
- ~~(f) the elected Mayor's assistant~~

(NOTE: The Council has delegated certain non-mandatory powers in relation to appointments, disciplinary action and dismissals to the Employment Committee and/or the Chief Executive and/or other officer in accordance with Part 3 of the Constitution.)

G4. Appointments Delegated to Committees and Sub-Committees

- G4.1 (1) Where a committee, sub-committee or an officer is discharging, on behalf of the Council, the function of the appointment or dismissal of the Head of the Paid Service, the Council must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him/her.
- (2) Where a committee or a sub-committee of the Council is discharging, on behalf of the Council, the function of the appointment or dismissal of any officer referred to in sub-paragraph (a), (b), (c) or (d) of Standing Order G3.2, at least one member of the Cabinet must be a member of that committee or sub-committee.
- G4.2 (1) In this Standing Order, “appointor” means, in relation to the appointment of a person as an officer of the Council, the Council or (where a committee, sub-committee or officer is discharging the function of appointment on behalf of the Council) that committee, sub-committee or officer, as the case may be.
- (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of Standing Order G3.2 must not be made by the appointor until:
- (a) the appointor has notified the proper officer of the name of the person to whom the appointor wishes to make the offer and any other particulars which the appointor considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person to whom the appointor wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointor has notified to the proper officer; and
 - (iii) the period within which any objection to the making of the offer is to be made by the ~~elected Mayor~~Leader of the Council on behalf of the Cabinet to the proper officer; and
 - (c) either:
 - (i) the ~~elected Mayor~~Leader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii) above,

notified the appointor that neither he/she nor any other member of the Cabinet has any objection to the making of the offer; or

- (ii) the proper officer has notified the appointor that no objection was received by him/her within that period from the ~~elected~~ MayerLeader of the Council; or
- (iii) the appointor is satisfied that any objection received from the ~~elected~~ MayerLeader of the Council within that period is not material or is not well-founded.

- G4.3 (1) In this Standing Order, "dismissor" means, in relation to the dismissal of an officer of the Council, the Council or (where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the Council) that committee, sub-committee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of Standing Order G3.2 must not be given by the dismissor until:
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the Cabinet of:
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the ~~elected~~ MayerLeader of the Council on behalf of the Cabinet to the proper officer; and
 - (c) either:
 - (i) the ~~elected~~ MayerLeader of the Council has, within the period specified in the notice under sub-paragraph (b)(iii) above, notified the dismissor that neither he/she nor any other member of the Cabinet has any objection to the dismissal;
 - (ii) the proper officer has notified the dismissor that no objection was received by him/her within that period from the ~~elected~~ MayerLeader of the Council; or
 - (iii) the dismissor is satisfied that any objection received from the ~~elected~~ MayerLeader of the Council within that period is not material or is not well-founded.

G4.4 Nothing in Standing Order G3.1 shall prevent a person from serving as a member of any committee or sub-committee established by the Council to consider an appeal by:

- (a) another person against any decision relating to the appointment of that other person as an officer; or
- (b) an officer against any decision relating to the dismissal of, or taking disciplinary action against, that officer.

(Standing Orders G2 to G4 are compulsory provisions pursuant to Part 1, Regulations 3(1) and 4(1), Schedule 1 of the Local Authorities (Standing Orders) (England) Regulations 2001)

G5. Disciplinary Action

(Schedule 3 of the Local Authorities (Standing Orders) (England) Regulations 2001)

G5.1 No disciplinary action in respect of the Head of the Paid Service, the Monitoring Officer or the Chief Finance Officer (except action described in paragraph G5.2 below) may be taken by the Council, or by a committee, a sub-committee, a joint committee on which the Council is represented or any other person acting on behalf of the Council, other than in accordance with a recommendation in a report made by ~~an a-designated independent person panel~~ under ~~Regulation 7 of the Standing Orders Regulations 2001 (investigation of alleged misconduct)~~. [Regulation 6 of the Local Authorities \(Standing Orders\) \(England\) \(Amendment\) Regulations 2015](#).

G5.2 The action mentioned in Standing Order G5.1 above is suspension of the officer for the purpose of investigating the alleged misconduct occasioning the action; and any such suspension must be on full pay and terminate no later than the expiry of two months beginning on the day on which the suspension takes effect.

G6. Group Assistants

G6.1 No appointment shall be made to a post established by the Council pursuant to Section 9 of the 1989 Act (assistants for political groups), referred to in this Standing Order as a “Group Assistant”, unless the Council has identified the appropriate funding for the post(s) and allocated a Group Assistant post to each of the political groups that qualify for one under that section.

G6.2 No Group Assistant post shall be allocated by the Council to a political group that does not qualify for one under section 9 of the 1989 Act.

G6.3 No political group shall be allocated more than one group assistant post.

G6.4 Group assistants shall be appointed on merit but regard may be given to any person’s political activities or affiliation in determining whether he/she should be appointed. (Local Government and Housing Act 1989, Section 9(1))

G6.5 Group assistants shall be appointed by and ‘report to’ the Head of Governance Support following interview by a panel comprising the Head of Governance Support (or such other officer to whom he/she may delegate this responsibility), an officer from Human Resources and up to three members nominated by the Group Leader of the group to whom the Group Assistant will be allocated.

- G6.6 The terms and conditions of appointment of the Group Assistants shall be determined by the Chief Executive (in consultation with the Monitoring Officer) having regard to the 1989 Act.
- G6.7 The Head of Governance Support (or such other officer to whom he/she may delegate this responsibility) shall be responsible (in consultation with the relevant Group Leader) for taking any disciplinary action (including dismissal) in respect of any Group Assistant.

~~G7. — Elected Mayor's Assistant~~

- ~~G7.1 — The elected Mayor shall be entitled to appoint one person (“the elected Mayor’s Assistant”) (as an employee of Torbay Council) to provide assistance to him/her in accordance with the Local Authorities (Elected Mayor and Mayor’s Assistant) (England) Regulation 2002 (SI975/2002).~~
- ~~G7.2 — The elected Mayor’s Assistant shall be appointed on merit (but the elected Mayor may have regard to any person’s political activities or affiliations in determining whether he/she should be appointed). (Local Government and Housing Act 1989, Section 9(1))~~
- ~~G7.3 — The elected Mayor’s Assistant shall be appointed by the elected Mayor following interview by a panel comprising the elected Mayor, an officer from Human Resources and the Governance Support Manager/Head of Governance (or his/her representative).~~
- ~~G7.4 — The terms and conditions of appointment of the elected Mayor’s Assistant shall be determined by the Chief Executive (in consultation with the elected Mayor and the Monitoring Officer) having regard to Schedule 1 to the Local Government Act 2000 and the Section 9 of the 1989 Act.~~
- ~~G7.5 — The elected Mayor’s Assistant shall be line managed by the Governance Support Manager (or such other officer to whom he/she may delegate this responsibility).~~
- ~~G7.6 — The Governance Support Manager (or such other officer to whom he/she may delegate this responsibility) shall be responsible (in consultation with the elected Mayor) for taking any disciplinary action (including dismissal) in respect of the elected Mayor’s Assistant.~~

Standing Orders – Health and Wellbeing Board

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Interpretation

In applying these Standing Orders to meetings of the Health and Wellbeing Board and its sub-committees references to “members” refers to all members of the Health and Wellbeing Board irrespective whether they are elected councillors or not.

H1. Introduction

H1.1 The Council will appoint a Health and Wellbeing Board in accordance with Article 16.

H1.2 The Board may appoint sub-committees. The Board and its sub-committees may appoint working groups.

H2. Membership

H2.1 The composition of the Health and Wellbeing Board is set out in Part 3 of this Constitution.

H2.2 The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 disapply Sections 15 and 16 of the Local Government and Housing Act 1989. Therefore, the membership of the Health and Wellbeing Board does not need to reflect the political balance of the local authority.

H3. Chairman/Woman

H3.1 The Health and Wellbeing Board will elect a Chairman/woman at the first meeting of the Municipal Year from its members and co-opted members.

H3.2 The Board may at any time appoint a Vice-chairman/woman. If a co-opted member is elected as Chairman/woman, a Vice-chairman/woman will be appointed and shall be a member of the Board.

H3.3 In the absence of the Chairman/woman (and Vice-Chairman/woman, if appointed) at any meeting, a Chairman/woman for that meeting shall be elected.

H3.4 The person presiding at any meeting of the Board may exercise any power or duty of the Chairman/woman.

H4. Order of Business

H4.1 The order of business at meetings of the Health and Wellbeing Board will be:

- (i) To elect a person to preside at the meeting, if the Chairman/woman and Vice-Chairman/woman is absent.

- (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 Board.
- (iv) To receive any declarations of interest from the members of the Board.
- (v) To deal with any business from the last meeting.

H4.2 Business falling under items (i), (ii) or (iii) in Standing Order 4.1 shall not be displaced although the remaining order of business may be varied by the Chairman/woman.
(This Standing Order may not be suspended)

H5. Voting

H5.1 Decisions at the Health and Wellbeing Board will be reached by consensus where possible.

H5.2 However, in the event that consensus cannot be reached, each member of the Board will have a single vote.

H5.3 If there are equal numbers of votes for and against, the Chairman/woman (if he/she is a member of the Board and whether or not he/she has voted) will have a casting vote. There will be no restriction on how the Chairman/woman chooses to exercise a casting vote.

If the Chairman/woman of the Board is a co-opted member, the Vice-chairman/woman (whether or not he/she has voted) will have the casting vote. There will be no restriction on how the Vice-chairman/woman chooses to exercise a casting vote.

(Standing Order H5.3 may not be suspended – Schedule 12 and Section 4 of the Local Government Act 1972)

H5.4 Standing Orders **A19.1 and A19.3 – A19.7** in relation to Council Meetings also applies to meetings of the Health and Wellbeing Board.

H6. Substitutions and Permanent Changes in Membership

H6.1 All members of the Board are asked to make every effort to attend meetings of the Board. This will provide consistency and thus effectiveness. However, it is acknowledged that in some circumstances members may not be able to attend and therefore the following standing orders apply in making substitutions.

H6.2 Substitutions of elected members are permitted subject to the requirement of Standing Order B2 in relation to Committee and Sub-committee Meetings.

H6.3 Substitutions of other members of the Board is permitted provided notice of the variation has been delivered to the Head of Governance Support before the commencement of the meeting or adjourned meeting. Substitutes should be of a sufficiently senior level to act on behalf of the permanent member.

H6.4 Substitutes shall be counted when determining whether a meeting is quorate.

H6.5 The ~~elected Mayor~~Leader of the Council, the Clinical Commissioning Group, Healthwatch Torbay and the NHS Commissioning Board may change their representatives on the Board at any stage providing that written notification is supplied to the Head of Governance Support.

H7. Quorum

(The quorum is the minimum number of members necessary to conduct the business of the Board)

H7.1 A meeting of the Health and Wellbeing Board will be not be quorate unless at least four members of the Board are present.

H8. Attendance at Board meetings

H8.1 ~~The elected Mayor and a~~Any councillor may attend and speak at any meeting of the Health and Wellbeing Board, its sub-committees or working groups where they are not a member, unless those bodies resolve to suspend Standing Order H8.1 in whole or in part.

H8.2 The Health and Wellbeing Board (and its sub-committees or working groups) may invite any person(s) to attend and speak at its meetings (but the Health and Wellbeing Board (or its sub-committees) cannot require them to attend). In undertaking its work, the Health and Wellbeing Board, its sub-committees or working groups may seek the views of as many communities and interested parties as the body considers necessary to gain a balanced view

H8.3 For the avoidance of doubt Standing Order H8.1, shall not entitle ~~the elected Mayor or~~any councillor (even if they are a member of that committee or sub-committee) to remain in the room during the consideration of any matter in relation to which he/she has a disclosable pecuniary interest as defined in the Code of Conduct for Members.

H8.4 Under no circumstances shall a councillor attending a meeting under this Standing Order H8.1 be entitled to propose or second motions (or amendments) or vote at the meeting.

H8.5 Standing Order A25 (Members' conduct) shall apply to councillors attending meetings under this Standing Order H8.

H8.6 A member's attendance under Standing Order H8 shall be recorded by the Clerk at the meeting~~.in the attendance record for the meeting concerned. However, it shall be the responsibility of members attending under the Standing Order to ensure that their attendance is recorded in the attendance~~

~~record circulated at the meeting.~~ The official attendance record will be held in the minutes of the meeting.

H9. Application of Standing Orders in relation to Council Meetings to meetings of the Health and Wellbeing Board

H9.1 The following Standing Orders in relation to Council Meetings will apply to meetings of the Health and Wellbeing Board:

A3	Extraordinary Meetings
A4	Time, place and arrangement of meeting
A11	Duration of meeting
A15	Motions without notice
A19	Voting
A20 (except A20.2)	Minutes
A21	Record of attendance
A22	Exclusion of public
A25.2-A25.6	Members' conduct
A26	Disturbance by members of the public
A27	Use of cameras and tape and video recorders
A28	Prohibition of smoking, alcohol and drugs at meetings
A29	Suspension and amendment of Standing Orders
A30	Interpretation

H9.2 In applying these Standing Orders to meetings of the Health and Wellbeing Board and its sub-committees references to “the Council” shall be deemed to be references to “the Board” (or “the sub-committee”, as appropriate) and references to the Chairman/woman of the Council and/or Vice-chairman/woman of the Council shall be deemed to be references to the “Chairman/woman of the Board/sub-committee” and/or “Vice-chairman/woman of the Board/sub-committee.”

H10. Application of Standing Orders in relation to Access to Information to meetings of the Health and Wellbeing Board

H10.1 The following Standing Orders in relation to Access to Information will apply to meetings of the Health and Wellbeing Board:

E1	Scope
E2	Additional rights to information
E3	Rights to attend meetings
E4	Notices of meeting
E5	Access to agenda and reports before and during a meeting
E6	Supply of copies
E7	Access to information after a decision has been made
E8	Background papers
E9	Summary of public's rights
E10	Exclusion of access by the public to meetings
E11	Exclusion of access by the public to reports

E21 Access to information - members

H11. Application of the Code of Conduct for Members to the Health and Wellbeing Board

H11.1 The Code of Conduct for Members applies to all members of the Health and Wellbeing Board.

Financial Regulations and Contracts Procedures

These Financial Regulations and Contracts Procedures should be considered in conjunction with the Officer Scheme of Delegation and Standing Orders in relation to the Budget and Policy Framework.

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8. Imprest and Petty Cash Accounts
9. Assets including Estates, Non Current Assets and intellectual property
10. Inventories (Moveable Property)
11. Stocks and Stores
12. Investments, Borrowing, Loans, Guarantees and Trust Funds
13. Income and Debtors
14. Orders for Work, Goods and Services
15. Payment of Accounts/Invoices
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19. Risk Management
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22. Working with our Partners
23. The Council working for third parties

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- 26. Breach of Contract Procedures
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- 37. Local Government Transparency Code 2014

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- 40. Confidentiality
- 41. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended
- 42. Market Research and Consultation
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- 45. Estimated Value of the Procurement

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52. Advertising the Procurement
53. Reserved Contracts
54. Award of Contracts for Social and Other Specific Services
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56. Collaborative Arrangements
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61. Contracts with other Public Sector Bodies
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- E. Tender Preparation**
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64. Consortia
65. Sub Contracting
66. Economic Operator Financial Risk Issues
67. Contract Terms and Conditions
68. Evaluation Criteria
69. Reliance on the Capacity of Other Entities
70. Limiting the number of economic operators to be invited to Tender
71. Selection Questionnaire Template
72. European Single Procurement Document

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- 97. Contract Termination

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J. Definitions

Financial Regulations

1. Introduction

- 1.1 To conduct its business properly, Torbay Council needs sound financial management policies in place and controls to ensure compliance with those policies. In addition, the Council has additional responsibilities under statute. These Financial Regulations provide a framework of policies and controls for managing these responsibilities.
- 1.2 All local authorities are required to establish Financial Regulations to ensure the proper administration of financial affairs which have arisen from the legislative powers conferred upon local authorities and the consequential rights, powers and duties placed upon the Council, the ~~Mayor~~Leader of the Council, Members and Officers.
- 1.3 The Financial Regulations apply to every Member and Officer/employee (including agency and seconded staff) of the Council and anyone acting on its behalf. All Officers and Members have a duty to abide by the highest standards of probity in dealing with financial issues.
- 1.4 Non compliance with these regulations will be referred to the Chief Finance Officer and the Head of Devon Audit Partnership, who will take appropriate action.
- 1.5 The Financial Regulations should ensure compliance with all accounting and auditing standards, and codes of practice, which are produced by the appropriate professional accountancy bodies.
- 1.6 The Financial Regulations apply to the Council and any associated companies. The Chief Finance Officer legislative requirements apply to all council assets and liabilities included subsidiary companies. The CFO therefore has responsibility for the financial systems, financial procedures and financial regulations in use by the subsidiary companies.
- 1.~~7~~6 These Financial Regulations are intended as an aid to good financial management and outline the necessary procedures to secure the proper administration of financial affairs. ~~They should be read and construed in conjunction with the Standing Orders of the Council and shall be in addition to and not in substitution for these Standing Orders.~~ Financial regulations will also be supplemented by more detailed financial instructions issued as and when appropriate by the Chief Finance Officer or his/her nominated representative.
- 1.~~8~~7 In these regulations the following definitions apply:-
- a) Budget Holder – as identified on the Council Financial Information Management System (a Budget Holder is allocated to every cost centre).
 - b) ~~Executive Director~~Chief Executive, Directors, Assistant Directors and Executive Heads – are the posts contained within the Council's Senior Management Structure.
 - c) Executive Head – reference to Executive Head in these regulations includes the ~~Executive Director~~Chief Executive, Directors, Assistant Directors and

Executive Head.

- d) Chief Finance Officer – the appointed Section 151 post and reference to it includes all nominated deputies appointed by the Chief Finance Officer.

2. Legislative and Regulatory Requirements

- 2.1 The Local Government Act 1972, in section 151, directs that there should be a specifically designated officer responsible for the proper administration of the Council's financial affairs and for reporting on these matters. The role of Chief Finance Officer has been given these responsibilities within the Council's management structure.
- 2.2 In addition the Chief Finance Officer, or his/her properly appointed nominated representatives, have duties under Sections 114 and 114A of the Local Government Finance Act 1988 see paragraph 3.5.
- 2.3 The Accounts and Audit (England) Regulations 2015 also confer further responsibilities upon the Chief Finance Officer, or his/her nominated representatives, including determination of and responsibility for the accounting systems and supporting records and systems and internal control (including internal audit). These regulations have been produced to comply with these requirements.
- 2.4 The Chief Finance Officer is also responsible for the publication of financial related notices, documents and the completion of returns as required under statute.
- 2.5 Whilst these responsibilities are specifically allocated to the Chief Finance Officer, it is the responsibility of individuals identified in paragraph 1.3 to be aware of and operate within the Financial Regulations, standing orders in Part 4 and the code of conducts and local protocols in Part 5 of the Constitution.
- 2.6 For Torbay Council schools operating under the School Standards and Framework Act 1998, ~~there are they have~~ specific Financial Regulations ~~which are a subset of these Financial Regulations~~. These ~~will have to beare~~ approved by the Chief Finance Officer in consultation with the Schools Forum.

3. Role of Chief Finance Officer (S151)

- 3.1 The Council supports the principles as set out in the "CIPFA Statement on the Role of the Chief Finance Officer in Local Government" (2010).
- 3.2 Delegations to Chief Finance Officer are listed in the Officer Scheme of Delegation in Part 3 of the Constitution.
- 3.3 The Chief Finance Officer is responsible for advising the Council and all decision-making persons and bodies on all financial matters. Accordingly he/she or his/her nominated representative must be consulted on all financial matters and they should be given adequate opportunity to provide written comments on any report that may have a financial impact or commitment on the Council at some point in the future.
- 3.4 The Chief Finance Officer or his/her properly authorised and nominated deputies

have a duty under Sections 114 and 114A of the Local Government Finance Act 1988 to report to the Mayor/Leader of the Council, Councillors and the Council's appointed External Auditor, if it appears that the Council, a Committee or Officer of the Council, or a Joint Committee on which the Council is represented, or the Mayor/Leader of the Council or individual Members of the Executive Cabinet, or the Executive Cabinet, or Committee of the Executive Cabinet, have acted in the following legally defined instances:

- (a) Has made or is about to make a decision which involves or would involve the Council incurring expenditure which is unlawful; or
- (b) Has taken or is about to take a course of action which, if pursued to its conclusion, would be unlawful and likely to cause a loss or deficiency on the part of the Council; or
- (c) Is about to enter an item of account, the entry of which is unlawful; or
- (d) If it appears that the expenditure of the Council incurred (including expenditure it proposes to incur) in a financial year is likely to exceed the resources (including sums borrowed) available to it to meet the expenditure.

3.5 The Council shall provide the Chief Finance Officer with such staff, accommodation and other resources as are sufficient to allow statutory duties.

3.6 The Chief Finance Officer must consult with other appropriate statutory officers and Directors of the Council before submitting any report under Sections 114 or 114A.

4. Accounting Procedures

4.1 The Chief Finance Officer is responsible for keeping the accounting records of the Council including the Collection Fund and any third party income and expenditure. All financial systems and records maintained within any Business Unit shall be in a form approved by the Chief Finance Officer, kept up to date, and retained until after the formal completion of the external audit of the Council's accounts and issue of the Audit Opinion or as otherwise required by law or indicated in the Council's Retention of Documents Policy.

4.2 All financial documents to be retained as set out in the Council's document retention policy unless specific grant claims or statute require a longer period. Where possible all financial documents should be scanned and saved to the Council's IT network and if contractual offered to the Council's Records section for archive.

4.3 Accounting policies will be updated as necessary and reviewed by the Chief Finance Officer annually.

4.4 Accounting procedures will comply with proper accounting practice and follow principles determined from time to time by the Chief Finance Officer. No changes should be made to these practices without the prior approval of the Chief Finance Officer.

4.5 The Chief Finance Officer shall be responsible for interpreting and implementing all relevant legislation and guidance relating to the Council's finances, both revenue and capital. The Chief Finance Officer will also ensure that the Council's financial

procedures comply with all current codes of practice and will report on relevant implications to the ~~Mayor~~Leader of the Council, Members and Directors.

- 4.6 The Chief Finance Officer shall also be responsible for the Treasury Management function as defined by the relevant codes of practice.

5. Financial Control

General

- 5.1 Standing Orders in relation to the Budget and Policy Framework refer to the timetable and preparation of the Council's Revenue Budget for the forthcoming year along with ~~revisions and the~~ indicative budgets for the ~~forthcoming four year period three following years and the ongoing monitoring of the~~for the Capital Investment Plan. Once approved, it is the responsibility of the ~~Executive Director~~Chief Executive, Directors, Assistant Directors, Executive Heads and all Budget Holders to ensure net expenditure is contained within the totals approved by Council, subject to any variations to these totals that may be approved by the Council. This responsibility remains even when partners incur expenditure on the Council's behalf.
- 5.2 The Chief Finance Officer, in conjunction with Directors, Assistant Directors and Executive Heads, shall produce regular reports to the ~~Chief Executive~~Executive Director, to the ~~Mayor~~Leader of the Council and the Overview and Scrutiny Board and Council on the current year's budget (including comparison with actual spending and projected out-turn).
- 5.3 The Chief Finance Officer, in consultation with the ~~Executive Director of Operations and Finance~~Chief Executive, may authorise the use of contingencies and expenditure from reserves and provisions approved as part of the Council's revenue and capital budget.
- 5.4 Within the context of these Financial Regulations the following definitions can be assumed to apply:
- (a) Approved Budgets – Those sums approved by the Council at its budget setting meeting and identified in the Council's Budget Digest as presented at that meeting (reflected in the Council's financial information management system) and approved Capital Plan. Budgets are set at a Business Unit level and subdivided into service areas. For the purpose of these Financial Regulations the approved budget is at the service area level, as shown in the approved budget digest.
 - (b) An amount is shown against an individual capital scheme or service programme.
 - (c) Virements – the transfer of money from one approved budget to another.
 - (d) Non cash transactions, such as sponsorship, land swaps, concessionary rents and similar transactions are to be accounted for at their market value and will be within the scope of these regulations.

Revenue

5.5 The Chief Finance Officer, in consultation with the ~~Mayor~~Leader of the Council, is authorised to submit bids and accept any grant offers, including terms and conditions attached to such offers subject to the grant offer and terms and conditions being in accordance with the Council's policies and objectives. The Chief Finance Officer, in consultation with the ~~Mayor~~Leader of the Council, to determine the allocation and expenditure of any new revenue grant monies that are received during the year.

5.6 After consideration by the Chief Finance Officer ~~and subject to the approval of Council~~ when considering the end of the financial year position, any net uncommitted under-spends within a directly controllable revenue budget may be carried forward into an earmarked reserve to be used in the following financial year.

After consideration by the Chief Finance Officer, in consultation with the ~~Executive Director of Operations and Finance~~Chief Executive, when considering the end of the financial year position the following may be approved:

- (a) Individual budget under-spends of £10,000 may be carried forward at the request of the Director, Assistant Director or Executive Head.
- (b) Any net overspend (below £10,000) may also be carried forward to the following financial year and made good during that year.
- (c) Any net unspent grant, third party funds or funds committed but not spent within a directly controllable revenue budget may be carried forward into an earmarked reserve to be used in the following financial year.

5.7 Any item in the Approved Revenue Budget saved or expected to be, and additional revenue saved above approved budget is subject to the normal virement rules. This is subject to the Council's overall financial situation where, following consultation with the Chief Finance Officer, the ~~Mayor~~Leader of the Council (in respect of Executive functions) and Council (in respect to Council functions), a Director, Assistant Director or Executive Head may request that the budget saved is not spent or a virement is made to another Business Unit.

5.8 Within an approved Business Unit Budget, or between Business Units, the responsible Executive Head(s) of the Business Unit(s) may approve in-year virements provided that:

- (a) The virement does not exceed £100,000 within individual services in a Business Unit and £50,000 between Business Units;
- (b) The virement is requested in writing by the Executive Head (and a copy kept by the Chief Finance Officer or his representative);
- (c) There is no significant change of policy or significant reduction in service quality (in the opinion of the relevant Director, Assistant Director or Executive Head);
- (d) All virements above £100,000 within a Business Unit and £50,000 between Business Units must be approved by the Chief Finance Officer in consultation with the relevant Director, Assistant Director or Executive Head and the virement is included in the next budget monitoring report considered

by the Overview and Scrutiny Board; and

- (e) Any changes to budgets as a result of restructures, technical accounting changes including support service allocations are not subject to the virement rules.

5.9 Urgent decisions which are not wholly in accordance with the budget will be dealt with in accordance with the Council's Standing Orders in relation to Budget and Policy Framework and Officer Scheme of Delegation.

5.10 All fees and charges including fees set by statute are to be approved on an annual basis as part of the budget setting process. The Chief Finance Officer, in consultation with the ~~Mayer~~Leader of the Council, the ~~Executive~~Cabinet Lead for Finance and the ~~Executive Director of Operations and Finance~~Chief Executive, is authorised to make adjustments to fees and charges and introduce new charges in year within the approved budget if it is in the best interest for the Council and they have no adverse impact upon the revenue or capital budgets.

5.11 Where a permanent change to the Revenue Base Budget is being proposed (i.e. it affects more than the current financial year) the relevant Director(s), Assistant Director(s) and the Executive Head(s) concerned and the Chief Finance Officer will identify the proposed change as part of the next budget process.

Reserves

5.12 The responsible officer, as identified in the Review of Reserves report approved by Council, for a reserve may authorise use of contributions to and from that earmarked reserve provided that:

- (a) The funds are used for the stated purpose of the reserve, as stated in the Review of Reserves report, in question;
- (b) The level of such Earmarked Reserves is reported to the Overview and Scrutiny Board when the annual review of reserves report is considered (together with proposals for replenishment of the reserve in question where the Chief Finance Officer considers it appropriate);
- (c) If the earmarked reserve is to be used for a purpose which differs from the original agreed terms of reference this must be approved by the Council; and
- (d) The Council's finance system is to reflect the planned use of reserves in the year.

5.13 The Chief Finance Officer, in consultation with the ~~Mayer~~Leader of the Council, may recommend to the Council for approval in-year virements from the Council's General Fund Reserve to any Business Unit provided that the Chief Finance Officer is satisfied as to the robustness and adequacy of the Council's reserves.

Capital

5.14 For each financial year Council will have an approved:-

- (a) Capital Strategy

(b) Asset Management Plan

(c) Capital Plan

- 5.15 Each quarter the Chief Finance Officer, in consultation with the ~~Mayor~~Leader of the Council, may approve any variations to the approved capital plan for new or existing schemes provided that the Chief Finance Officer is satisfied that the proposed variations will be contained within the overall approved Capital ~~Budget Plan~~ or that additional (and adequate) funding resources have been identified.
- 5.16 Any bids (or support for a partners bid) for capital grants and contributions over £100,000 to be notified to the ~~Mayor~~Leader of the Council and Chief Finance Officer prior to submission, to ensure the scheme is in line with Council priorities and funding and resource implications have been assessed. This will include any match funding and future revenue costs.
- 5.17 Prior to the approval of any scheme, the funding for the scheme and any future revenue costs must be identified and deemed to be achievable by the Chief Finance Officer.
- 5.18 The Chief Finance Officer, in consultation with the ~~Mayor~~Leader of the Council, is authorised to determine the allocation and expenditure of any new (ring fenced) capital grants or contributions that are received during the year.
- 5.19 The Chief Finance Officer, in consultation with the ~~Mayor~~Leader of the Council, may also approve any variation to timings for projects within the 4 years of the capital plan on a quarterly basis.
- 5.20 The allocation of any un-ring fenced grants or contributions to a service will be determined by the Chief Finance Officer taking into account the overall budget position of the Council and any expectations/conditions of the awarding body.a Council decision. Any schemes to be funded under the Prudential Code will also be a Council decision as set out in 5.269 below.
- 5.21 The Budget Holder, in consultation with the relevant ~~Executive~~Cabinet Lead, is authorised to approve allocations of generic capital funding within an allocation to a service to individual projects within the overall total funding approved.
- 5.22 If the Council receives additional income not linked to a specific project such as a capital receipt, or has an under spend on a specific scheme this will be applied in the first instance to fund the existing ~~€~~Capital pPlan. If the funding is in excess of the resources required to fund the existing ~~€~~Capital pPlan it will be allocated to a general capital reserve pending further decision by the Council.
- 5.23 If an urgent and unforeseen need arises to undertake a project not included in the current approved Capital Plan, or to accelerate the preparation or commencement of an unapproved scheme the proposal shall be referred to the Chief Finance Officer at the earliest opportunity and before a substantial amount of preparatory work (i.e. costing more than £5,000) is undertaken and only if agreed by Chief Finance Officer, in consultation with the ~~Mayor~~Leader of the Council, the proposed capital scheme will be submitted for approval to the Council.
- 5.24 It is expected that individual projects should include a contingency. The approved

Capital Plan will also include a capital contingency, which as a target should be 1% of the Capital Plan. Use of this contingency will be determined by the Chief Finance Officer in consultation with the Mayor/Leader of the Council.

- 5.25 If any variation to the programme has a material impact upon the revenue budget in the current or future financial year(s), such as increased running costs or prudential borrowing, this must be approved by Council.
- 5.26 Any decision by Council to utilise prudential borrowing must be made with regard to the prudential framework, the approved prudential indicators and policies as set out within the approved Capital Strategy.
- 5.27 The Council maintains a Capital Reserve list as part of the approved Capital Plan. Any new resources received by the Council, if in excess of the resources required to fund the Capital Plan, should, in the first instance, be used to fund schemes maintained on the reserve list.
- 5.28 All capital expenditure incurred must comply with the CIPFA definition of capital as set out in the relevant accounting proper practice. The Chief Finance Officer will be the arbiter of disputes in relation to the eligibility of any expenditure.
- 5.29 All capital expenditure must be recorded accurately including asset reference to ensure the information on all Council assets, and their component parts, is correct within the Council's asset register.

6. Audit, Anti-Fraud and Anti-Corruption

Internal Audit Function

- 6.1 The Chief Finance Officer shall maintain an adequate and effective system of internal audit of its accounting records and its system of internal control in accordance with proper Internal Audit practices, as governed by responsibilities under Section 151 of the Local Government Act 1972, and the Accounts and Audit Regulations 2015.
- 6.2 The internal audit service provided by the Devon Audit Partnership shall follow professional standards and guidelines in accordance with the Code of Practice for Internal Audit in Local Government in the United Kingdom issued by the Chartered Institute of Public Finance and Accountancy (CIPFA). The Code requires that an authority should have in place an approved Internal Audit Strategy which describes how the internal audit service will be delivered, and formally defines the purpose, authority and responsibility of internal audit.
- 6.3 The main objectives of the internal control system are to:
- (a) ensure adherence to management policies and directives in order to achieve the organisation's objectives;
 - (b) safeguard assets;
 - (c) secure the integrity, relevance, reliability, confidentiality and availability of information and resources, so ensuring as far as possible the completeness and accuracy of records;

- (d) ensure compliance with statutory requirements; and
 - (e) ensure risks are identified and appropriately managed.
- 6.4 The Chief Finance Officer, or authorised representative, shall have authority in connection with an audit to:
- (a) visit all establishments and premises of the Council and other partners where the Council has a legal interest or an open book agreement;
 - (b) have access to such documents which relate to the accounts of the Council, as may appear to be necessary for the purpose of the audit;
 - (c) call for the production of cash, stores or other property in the custody of any employee of the Council;
 - (d) require from any employee information and explanations necessary for that purpose;
 - (e) remove and keep in safe custody any books, records, vouchers and other material that may be relevant; and
 - (f) receive access at user level and/or system level to any computing or communications device, including access to interactively monitor and log traffic on Torbay Council's networks in accordance with the Council's Information Security Policy Framework.
- 6.5 The Head of Devon Audit Partnership (on behalf of the Chief Finance Officer) shall produce audit reports as appropriate and when an audit report is issued, the Head of the Business Unit concerned should respond in writing with an agreed action plan on any recommendations made without delay.
- 6.6 Where it appears that there is an opportunity of increasing the financial efficiency, economy or effectiveness of any Business Unit, the Head of Devon Audit Partnership shall, in conjunction with the Chief Finance Officer and the relevant Director(s), Assistant Director(s), Executive Head (s) or other authorised officer, investigate any relevant aspect of the work of any Business Unit and shall be empowered to make recommendations thereon. This includes appropriate value for money exercises.
- 6.7 The Head of Devon Audit Partnership shall have the right of direct access to, and freedom to report to, all senior management including the ~~Executive Director~~Chief Executive and Members.
- 6.8 Devon Audit Partnership shall be responsible for supplying to, or obtaining, such information required on behalf of itself or the Audit Committee or Overview and Scrutiny Board or other nominated sub-committee or working party or carry out any investigations requested, subject to the appropriate resources being available to undertake such investigations.

External Audit Function

- 6.9 The Chief Finance Officer shall be responsible for:-

- (a) Ensuring an external audit function is being provided.
- (b) Liaising with external audit in all issues relating to the Statement of Accounts, Annual Governance Statement, specific grant audits and Value for Money.
- (c) Ensuring the above documents are available for External Auditors within agreed timescales and providing supporting documentation to enable External Auditors to provide an audit opinion.

Anti-Fraud and Anti Corruption

- 6.10 The Chief Finance Officer will be responsible for a Council wide anti-fraud and anti-corruption policy. All members and officers, partners and suppliers are expected to act with integrity, adhere to that policy and not tolerate fraud or corruption in the administration of its responsibilities whether inside or outside of the Council.
- 6.11 Members and officers ~~shall to~~ comply with the Council's codes of conduct relating to the register of interest and gifts and hospitality.
- 6.12 The Chief Finance Officer will be responsible for ensuring whistle blowing procedures are in place.
- 6.13 The Chief Finance Officer and the Head of Devon Audit Partnership shall be notified forthwith by the ~~Executive Director~~Chief Executive, Directors, Assistant Directors, or the Executive Heads concerned, of any circumstances which suggests the possibility of irregularity in the exercise of the functions of the Council. The Chief Finance Officer or the Head of Devon Audit Partnership shall, on confirmation of the irregularity, be empowered to undertake any investigation considered necessary including informing the Police and shall inform the ~~Executive Director~~Chief Executive and Monitoring Officer of the full circumstances in accordance with the Council's Anti -Fraud and Anti-Corruption Policy and Protocol.

7. Banking Arrangements and Methods of Payment

Bank Accounts

- 7.1 The Chief Finance Officer is authorised to make arrangements regarding the Council's bank accounts, including the opening and closing of any account, and tendering for banking services. No charges/debits shall be set up on the bank accounts without the written consent of the Chief Finance Officer. All accounts must be in the name of Torbay Council.
- 7.2 The Chief Finance Officer must be notified of all bank accounts held. All bank accounts and balances need to follow the Council's banking procedures including online banking.
- 7.3 All transactions in the Council's bank accounts are to be included in the Council's finance system.
- 7.4 The Chief Finance Officer is authorised to agree the overdraft facilities and the charges for the operation of the Council's bank accounts with the bank.
- 7.5 All charges made by the Bank must be verified as being levied in accordance with

the scale of charges current at the time the charge was incurred.

- 7.6 All bank accounts shall, wherever practicable, be reconciled with cashbooks and/or other relevant records at least once each month.

Methods of Payment

- 7.7 Payments from the above-mentioned bank accounts, by cheque, Clearing House Automated Payments System (CHAPS), electronic data (BACS), direct debit, via Bankline or any other agreed format, shall only be made in accordance with procedures agreed by the Chief Finance Officer.
- 7.8 All cheques, or similar agreed documents authorising payment, shall be signed by, or bear the facsimile signature of the Chief Finance Officer or other officers authorised in writing by the Chief Finance Officer.
- 7.9 All cheque payments should be made on crossed cheques unless otherwise directed and authorised by the Chief Finance Officer.
- 7.10 Where bank accounts are used for imprest accounts then two authorised signatures shall appear on the cheque.
- 7.11 Changes to the authorised signatures or the mandate can only be made through the Chief Finance Officer.
- 7.12 The Chief Finance Officer, or authorised deputies, is responsible for the transfer of funds from one bank account to another.
- 7.13 The Chief Finance Officer shall be responsible for the production of the electronic data for payments due, the forwarding to the processing centre and security.
- 7.14 All cheques and procurement cards shall be ordered only on the authority of the Chief Finance Officer, or authorised deputies, who shall ensure that arrangements are made for their safe custody and recording. Where procurement cards are issued, a record must be kept of the issue and signed by the receiving officer/~~member~~ confirming acceptance of the applicable conditions.
- 7.15 Only Procurement cards under the Government Approved Scheme are to be issued. No other debit or credit cards are permitted.
- 7.16 A voucher and/or receipt are required for all procurement card transactions, and where the goods include VAT, a VAT invoice/receipt must be obtained.
- 7.17 For any payment of £250,000 and over the following additional authorisations will be required:
- (i) Crossed cheques for £250,000 or over will be countersigned by a second signatory;
 - (ii) CHAPS payments will require electronic authorisation by a minimum of two authorised officers; and
 - (iii) A manual payment voucher for £250,000 or over will be countersigned by a bank signatory.

7.18 The Chief Finance Officer shall arrange such safeguards as are deemed necessary and practicable including ensuring that the following duties, as far as possible, are the responsibility of separate officers:

- (a) The checking of creditors invoices;
- (b) The control of cheques and like forms;
- (c) The preparation of cheques and electronic payment data;
- (d) The signing of cheques and like forms;
- (e) The despatch of cheques or electronic data;
- (f) The entry of cash accounts; and
- (g) The reconciliation of bank balances.

8. Imprest and Petty Cash Accounts

- 8.1 The Chief Finance Officer, or authorised deputies, may advance a fixed imprest to an Officer of the Council for the purpose of meeting petty cash expenses. Each imprest or Petty Cash Account shall be of such an amount as the Chief Finance Officer, or authorised deputies, may determine in consultation with the Executive Head or other authorised officer, but shall not exceed the sum anticipated to be sufficient to meet such expenses for a period of two months, (unless there are exceptional circumstances necessitating a higher level and this is agreed by the Chief Finance Officer or authorised deputies).
- 8.2 The Chief Finance Officer, or authorised deputies, shall prescribe such conditions in connection with petty cash disbursements as is deemed desirable.
- 8.3 Petty Cash items shall be limited to minor items of expenditure and in the case of individual items, shall not exceed £100 except by arrangement with the Chief Finance Officer or authorised deputies.
- 8.4 No payments should be made from Petty Cash/Imprest Accounts where there may be HMRC implications. Petty Cash/Imprest Accounts should not be used for:-
- Travel and subsistence claims;
 - Working lunches;
 - Private phones (work usage);
 - Salaries and wages;
 - Entertaining (employees and non-employees);
 - Periodic Payments;
 - Construction Industry Scheme work; or
 - Governor Expenses.
- 8.5 All Executive Heads or authorised deputies shall maintain a list of all persons authorised to sign petty cash vouchers on their behalf and a copy of this list, including specimen signatures and initials shall be supplied to the Chief Finance Officer and the Payments section.

- 8.6 A voucher and/or receipt are required for all petty cash and imprest account transactions and, where the goods include VAT, a VAT invoice/receipt must be obtained. Vouchers and/or receipts should be forwarded to the Payments section with the claim for reimbursement. The relevant Executive Heads shall certify these claims as correct or such person(s) nominated for that purpose.
- 8.7 No income is to be paid into a petty cash account, other than reimbursement cheques.
- 8.8 No personal cheques are to be cashed via a petty cash account.
- 8.9 Petty cash imprests must be reconciled and balanced on a regular basis, and agreed to the bank statement (including un-presented cheques) where a bank account is in use. Imprests must be balanced at the 31 March each year to ensure the expenditure is changed to the correct financial year.
- 8.10 Every Officer holding a petty cash imprest shall certify to the Chief Finance Officer the amount of that imprest at 31 March each year.
- 8.11 The conditions for operating an imprest through a bank account must be agreed with the Chief Finance Officer, or authorised deputies, with the minimum of 2 signatories required.
- 8.12 Imprest accounts operated through a bank account must not go into overdraft.
- 8.13 Executive Heads shall inform the Chief Finance Officer in advance when employees who hold an impress account either leave the employ of the Council or otherwise cease to be responsible for the imprest. Whenever an Officer in charge of the imprest hands over, leaves or ceases to have custody of the imprest, the Executive Head, shall ensure that a prior check is made of the imprest concerned and that a handing over certificate is signed by the outgoing and incoming Officer.
- 8.14 Executive Heads or their authorised deputies may exercise delegated power to make ex-gratia payments to Officers, recognised volunteers and customers in a sum not greater than £50 as compensation for damage to or loss of property. Such payments can only be made when the incident occurred during normal Council activities and where such payment is calculated to facilitate or is conducive or incidental to the discharge of any of the functions of the Council. All requests for payment must be authorised and be supported with full written details of the incident and resulting damage/loss, reason for payment and evidence (e.g. receipts) of the actual cost of repair or replacement.
- 8.15 Where it is considered that £50 is insufficient to compensate for any damage or loss, then the individual may submit without delay details of the incident and related damage/loss to officers in the Claims Handling Section who will determine if the Council is legally liable to pay compensation via the standard claims handling procedure. If it is determined that no legal liability exists in respect of the loss/damage then no payment will be made.

9. Assets including Estates, Non Current Assets and intellectual property

Asset Records

- 9.1 The Chief Finance Officer shall commission the TDA to maintain a terrier and asset register of all assets owned or leased in by the Council in a form approved by the Chief Finance Officer to comply with proper accounting practice. The asset register shall record: the holding body (if applicable); purpose details; nature of Council's interest; and rents payable, with particulars and terms of tenancies granted. The terrier is to be regularly reconciled to records held in the asset register.
- 9.2 TDA, the Chief Finance Officer and other appropriate officers shall co-operate in the preparation and maintenance of an asset register in suitable format and containing all the relevant information to comply with proper accounting practice. The valuation of assets, including an assessment of componentisation and asset life, shall be carried out as necessary to comply with proper accounting practice. The asset register (finance module) to contain details of accounting treatment and asset classification including current cost and historic cost records as required. The asset register (finance module) is required to comply with proper accounting practice.
- 9.3 The ownership of the asset register and terrier remains with the Council, though the TDA will maintain the records held and ensure an annual reconciliation.
- 9.4 All non-current assets should be recorded on the asset register, but valuations are only required for those individual assets where the value is estimated to be over £25,000. Where a group of assets e.g. computer equipment, collectively totals in excess of this amount, an entry should be made on the register to reflect this.
- ~~9.5 For assets valued under the CIPFA Transport Infrastructure Code of Practice valuations are only required for those individual assets or a group of similar assets where the value is estimated to be over £250,000.~~
- 9.56 The Monitoring Officer shall have the custody of all title deeds and leases under security arrangements agreed with the Chief Finance Officer.
- 9.67 Intellectual property is something unique that the Council has physically created. To protect internally developed intellectual property from theft and copying, Executive Heads should consider registration e.g. trade marks for logos or copyright for software created. Protecting these assets makes it easier to take legal action against anyone who steals or copies it.
- 9.78 If intellectual property is registered, the Executive Head must notify the Chief Finance Officer so the asset can be added to the asset register and the same safeguards that apply to the Council's other assets can be applied to these assets.

Asset Disposals and Leases

- 9.98 For approval purposes a disposal is deemed to be applicable for both a freehold disposal and any lease where the term is in excess of 40 years.
- 9.109 The Council shall commission the TDA to undertake the arrangements for the lease or disposal in line with the terms specified by the relevant budget holders and these Financial Regulations and Contracts Procedures.

9.140 Officers will identify surplus assets for disposal or lease in accordance with the Officer Scheme of Delegation.

9.112 Officers will identify operational assets for lease in accordance with the Officer Scheme of Delegation.

9.12 Proceeds of asset disposal will be allocated in accordance with the approved Capital Strategy. Any proposal by a service to utilise the proceeds for a specific purpose or recommend to Council the disposal of the asset at below market value will need to be agreed by Chief Finance Officer in light of the overall financial position of the Council and any, as yet unachieved, capital receipts target.

9.13 All disposals or leases shall be subject to a formal process prior to entering into a written contract. All disposal and leases shall comply with the Council's Contracts Procedures. All disposal or leases above a market value of £10,000 (in the opinion of a RICS qualified valuer) must be conducted via the Council's Electronic Tendering System. This process shall include details of the asset and any conditions and specifying a reasonable closing date by which expressions of interest must be received. Standard forms of documentation shall be used where possible. The disposal or lease process can include the use of a public auction or similar competitive method such as a property listing website for at least ten working days in preference to the Electronic Tendering System.

9.14 In accordance with Contracts Procedures, disposal and lease tender processes in respect of property expected to be greater than £50,000 must be electronically sealed. The Electronic Tendering System is set up to electronically seal tenders above £50,000. Verifiers are set up in the system, which are Officers who are able to electronically unseal Tenders. Verification may only be undertaken by an authorised Verifier who has duly been approved by the Monitoring Officer and Procurement Service.

9.15 There are instances where a disposal tender process is also subject to Public Contract Regulations. This is usually when the disposal involves an element of land development. In these instances, advice should be sought from the Procurement Service.

9.16 Regulation 9.13 to 9.15 shall not apply to any of the following types of disposals or leases:-

(a) Grants of leases to existing tenants where security of tenure may exist and the terms of the lease not significantly changed (whether or not their existing tenancies have come to an end);

(b) Where the Grants of leases or licences relates to an asset where:

the market rent for an annual market rent does not exceed £10,000 per annum; or

the market value of the asset does not exceed £25,000 and

the length of the lease is less than 10 years;

(c) Disposals of land acquired under compulsory purchase powers to the original

owners of that land or their successors;

(d) Disposals of freehold in land where the interest disposed of is estimated not to exceed £10,000 in market value in the professional opinion of a member or fellow of RICS; Note the Council does not dispose of freehold property unless under statute but will consider a long term lease or if exceptional circumstances.

(e) Long term lease under the Councils Community Asset Transfer Policy.

9.17 The Chief Finance Officer (in consultation with the ~~Mayor~~Leader of the Council and Monitoring Officer) may give written authorisation to waive the requirements of Regulation 9.13 to 9.15 where he/she is satisfied that the proposed disposal or lease will be in the best interest of the Council and that the proposed terms of the disposal or lease are unlikely to be bettered by complying with Regulation 9.13 to 9.15.

9.18 All disposals and leases are to be accounted for on a gross basis showing the market value of the transactions. Any form of non cash transaction such as an exchange of land, nomination rights, or a concessionary rent below market value or similar transaction forms part of a budget holders' financial control (as set out in section 5 above).

9.19 Where a disposal or lease of land or buildings has been expressly approved by Council or the ~~Mayor~~Leader of the Council, that decision shall be actioned by Officers.

Acquisitions

9.20 Where an asset has been identified for acquisition, if the market value of the asset is less than £50,000 the Officer Scheme of Delegation applies, if in excess of £50,000 the ~~Mayor~~Leader of the Council (where the acquisition is within the budget approved by the Council) or Council (if the acquisition is outside the budget and policy framework) shall approve the acquisition of that asset. In both cases this is subject to the funding being identified for the purpose, any ongoing revenue implications considered and will then be included in the ~~e~~Capital ~~s~~Strategy. ~~Where an acquisition of land or buildings has been expressly approved by Council (so far as part of the Capital Investment Strategy) or the Mayor, that decision shall be actioned by Officers.~~

10. Inventories (Moveable Property)

10.1 Items of moveable property are defined as any equipment used by a service in their duties including office equipment, specialist equipment, IT equipment including mobile phones, laptops and iPads.

(Note: Stock items used for service delivery such as printing and highways stock, and items for sale see section 11 below.)

10.2 All Executive Heads shall be responsible for preparing and maintaining an inventory of moveable property, in a standard form agreed by the Chief Finance Officer (see 10.5 below), for each of the establishments under their control. All inventory records should be held electronically on the Council's network.

- 10.3 The inventory will record an adequate description of all moveable items of equipment, office machinery, ICT and communication equipment and other property belonging, held on leasing agreement, donated to, or on trust to the Council, valued at over £500. Where there are vulnerable items these should be recorded in inventories irrespective of price.
- 10.4 All Executive Heads shall be responsible for the physical security and inventory of all computer hardware and software within their business units in accordance with ICT security policy (where this has not been purchased through ICT Services as set out in 10.2 above). Where hardware and software is purchased through ICT Services or has been assigned a Torbay asset number, ICT Services will maintain an appropriate inventory record.
- 10.5 Details on the inventory should include:
- (a) The name of supplier;
 - (b) The normal location of the item;
 - (c) The original purchase price;
 - (d) Any relevant model or serial numbers, etc; and
 - (e) Lease, loan and trust agreement details.
- 10.6 All property belonging to the Council and covered by the inventory category must be recorded in inventories immediately on receipt and notified to the Council's Insurance Section where the cost is more than £500. Where practicable, inventory items should be marked in a suitable manner as being the property of the Council.
- 10.7 Inventories shall be checked and certified as correct and complete by an authorised officer on an annual basis and copies of the inventories shall be supplied to the Chief Finance Officer on request. Deficiencies and/or surpluses should be reported to the Chief Finance Officer for action by the Devon Audit Partnership.
- 10.8 Inventory items deemed to be surplus to requirements and saleable old materials shall be disposed of only on the written authority of the Executive Head or authorised deputies. Where appropriate, items should be offered to other areas of the Council before being put up for use by other groups or offered for sale. Executive Heads shall obtain the best possible prices when disposing of redundant and obsolete items.
- 10.9 The Chief Finance Officer or authorised representative shall, at all reasonable times, have access to all property of the Council to audit the inventory.
- 11. Stocks and Stores**
- 11.1 Each Executive Head shall be responsible for the care and custody of stock including items for sale and stores for items used by the service in their business unit.
- 11.2 Stores shall not be in excess of reasonable requirements.

- 11.3 Records controlling the receipt and issue of all stores and equipment shall be kept in a form to be approved by the Chief Finance Officer.
- 11.4 The Chief Finance Officer, or authorised representative, shall be entitled to check stores and be supplied with such information relating thereto as may be required for the accounting, costing and financial records of the Council. They shall take such action as deemed necessary to deal with any discrepancies shown in any items of stock revealed at any time. In the event of the Executive Head, or authorised representative, becoming aware of any deficiency or theft a report should be made to the Chief Finance Officer immediately so appropriate action may be taken.
- 11.5 The Executive Head or other authorised officer shall certify that the quantities of stocks and stores held at 31 March each year are reasonable and necessary and, except where agreed by the Chief Finance Officer, that there has been adequate continuous and cyclical stocktaking carried out independently of the person in charge of the store/stock concerned.
- 11.6 The valuation method used for the year end stock valuation will be approved by the Chief Finance Officer.
- 11.7 Surplus and obsolete stocks, having ensured that they cannot be of use elsewhere within the Council, shall be disposed of by competitive tender or public auction unless the Chief Finance Officer, in consultation with the appropriate Executive Head, decides otherwise.
- 11.8 Whenever an Officer in charge of stores hands over, leaves or ceases to have custody of the stores, the Executive Head shall ensure that a prior check is made of the stores concerned and that a handing over certificate is signed by the outgoing and incoming Officer.

12. Investments, Borrowing, Loans, Guarantees and Trust Funds

- 12.1 Treasury management activities will comply with the CIPFA Code of Practice for Treasury Management in the Public Services and the Council has formally adopted the following clauses:
- i. The Council will create and maintain, as the cornerstones for effective treasury management:
 - (a) A treasury management policy statement, stating the policies, objectives and approach to risk management of its treasury management activities;
 - (b) Suitable treasury management practices (TMPs), setting out the manner in which the Council will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities;
 - (c) A Minimum Revenue Provision Policy; and
 - (d) An Investment Strategy.

- ii The content of the policy statement and TMPs will follow the recommendations contained in Sections 6 and 7 of the Code, subject only to amendment where necessary to reflect the particular circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the Code's key principles.
 - iii The Council will receive reports on its treasury management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close, in the form prescribed in its TMPs.
 - iv The Council delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Audit Committee, and for the execution and administration of treasury management decisions to the Chief Finance Officer, who will act in accordance with the organisation's policy statement and TMPs.
- 12.2 All Treasury Management decisions will adhere to the annual Treasury Management Strategy and Annual Investment Strategy approved by Council.
- 12.3 Investment of Council funds shall be made by the Chief Finance Officer in the name of Torbay Council or nominated deputies.
- 12.4 The Treasury Management Strategy (in line with the CIPFA Code for Treasury Management in Local Authorities and any other relevant legislation in force at the time) shall be adhered to at all times. [The Strategy to include Non Treasury Investments such as loans, investment properties, pension guarantees and other guarantees.](#)
- 12.5 The Chief Finance Officer shall be authorised to invest temporarily or utilise such surplus monies of the Council as may seem proper and in the Council's interest.
- 12.6 Investments to any one borrower shall not exceed the limits determined by the Chief Finance Officer in line with the overall counter party creditworthiness policy.
- 12.7 The Chief Finance Officer shall be responsible for the safe custody of securities and shall maintain a record of all such borrowing.
- 12.8 The Chief Finance Officer will ensure that the borrowing requirements of the Council including overdrafts are in accordance with the CIPFA Prudential Code for Capital Finance and do not exceed the Authorised Limit approved by Council.
- 12.9 All borrowing transactions must be approved by the Chief Finance Officer or his authorised deputies.
- 12.10 All Trust Funds shall be administered by the Chief Finance Officer acting on the behalf of the legally appointed trustees.
- 12.11 All officers acting as trustees by virtue of their official position have a legal duty to exercise due care of valuables, documents, securities etc. and shall appropriately deposit them.
- 12.12 The requirements of the Charities Acts legislation must, where appropriate, be

observed.

- 12.13 The granting of a loan or a guarantee to a third party for a service purpose, which is part of the Council's policy and budget framework. The Chief Finance Officer has delegated powers to approve a loan or guarantee if value is under £50,000.

13. Income and Debtors

Income

- 13.1 Income is defined as all forms of income receipts, including internet payments, cash, bank credits, debit and credit card payments, cheques and self billing. This section also applies to partners dealing with income and cash on behalf of the Council.
- 13.2 Arrangements for the collection of all money due to the Council shall be subject to the approval and control of the Chief Finance Officer
- 13.3 All books of accounts, all official receipt forms or books, licences, tickets and all documents or vouchers representing receipts for cash or other forms of income, shall be in the form approved by the Chief Finance Officer. The Executive Head of the appropriate service or his/her nominated officer shall be responsible for the ordering, control and issue of these documents and all receipts and issues thereof shall be properly recorded and acknowledged.
- 13.4 Receipts by credit or debit card, including internet payments are acceptable where proper arrangements have been made for this facility. The Chief Finance Officer and Senior Information Risk Owner (SIRO) must approve all new card payment facilities and outlets offered by the Council [and these must be subject to a Data Protection Impact Assessment which is approved by Chief Finance Officer, Data Protection Officer and SIRO](#). All new requests should initially be made to the Corporate Debt and Incomes Manager.
- 13.5 All money received on behalf of the Council shall be promptly receipted and shall without delay be either paid to the Chief Finance Officer or banked in full in the Council's name as instructed. Such banking shall be made daily or at such intervals as the Chief Finance Officer may decide, but in any event not less frequent than once per week and in any case where the cash and cheques exceeds the insurance level of the respective safe or other facility used for holding the income.
- 13.6 Executive Heads shall be responsible for the safe custody of cash and items having a cash value entrusted to the care of their Business Unit. The arrangements made for safe custody shall be subject to review and authorisation by the Chief Finance Officer.
- 13.7 Where a new safe is required the Executive Head shall be responsible for notifying the Insurance Manager of the required level of cover, type of safe to be purchased and its proposed location to ensure insurer's requirements are met. The Chief Finance Officer shall be consulted prior to the purchase of any safes to ensure the insurance limits are adequate for the Council's needs.
- 13.8 Maximum limits of cash holdings shall be agreed with the Chief Finance Officer and must not exceed the insurance limit of the safe concerned.

- 13.9 Collecting officers shall ensure that all cheques received are correctly dated, the words and figures agree and are signed. Wherever possible, cheques should be endorsed on the reverse with the cheque card details (i.e. number, valid date and value).
- 13.10 In all cases cheques should be marked on the reverse with either the appropriate Business Unit date stamp or a source reference (i.e. account number, Business Unit, waybill number and payer's reference) before banking.
- 13.11 Postal Remittances:
- (a) All postal opening duties shall be clearly defined and supervised by the appropriate Executive Head or an authorised deputy and two officers should empty all post boxes;
 - (b) All post shall be opened promptly in the presence of two officers and all cheques must be marked on the reverse with the appropriate Business Unit date stamp. Cash remittances received via the post **must** be promptly and accurately recorded by the responsible officers and paid in as agreed in 13.5 above.
- 13.12 Transfer of monies from one member of staff to cashiers must be properly recorded and receipted.
- 13.13 Money held on the Council's behalf must at all times be kept separate from private or unofficial money and must never be used for private or unauthorised purposes.
- 13.14 All cash collection devices shall be emptied at frequent and regular intervals as laid down by the Chief Finance Officer in consultation with the Executive Head. This shall be done by two officers who shall agree and certify the amounts of cash collected, or such arrangements as the Chief Finance Officer may determine.
- 13.15 Personal cheques shall not be cashed or money loaned out of cash held on the behalf of the Council.

Debtors

- 13.17 Debtors are defined as all forms of income due including sundry debtors, car parking, libraries, s106 (and CIL) agreements, rent, fines, benefit overpayments, council tax and NNDR.

[13.18 All income due shall be recognised by the raising of a debtor. This includes any income raised on any service specific financial systems.](#)

- 13.198 Executive Heads shall notify the Chief Finance Officer as early as possible of all money due to the Council under contracts, leases, tenancy agreements, agreements for the sale of property and any other agreements involving the receipt of money by the Council.

- 13.2049 The Executive Head or other authorised officers shall provide such particulars of charges for work done, goods supplied or services rendered on behalf of the Council and of other amounts due, as the Chief Finance Officer may require ensuring prompt recording of all funds receivable by the Council. Sundry Debtor invoices and credit notes should be raised promptly and shall be produced in

keeping with current FIMS procedures, guidance, training and advice. Invoices should not normally be raised for amounts of less than £100. Executive Heads or other authorised officers including partners should arrange, wherever possible, for all amounts to be collected at the actual time or in advance of the supply of goods or rendering of the service and paid in by such method as agreed by the Chief Finance Officer.

13.219 A credit note should only be raised where the invoice was incorrectly raised. In all other case the write off procedure should be followed.

13.242 The Chief Finance Officer, in consultation with Executive Heads, will review all outstanding debt at year end and will estimate the value of debt that is likely to be uncollectible.

13.232 Debtor Account Write-Offs and any debt on any service specific financial systems, excluding Council Tax, NNDR and Housing Benefit Overpayments will be dealt with as follows:

- (a) The Debtor Administrator for the individual income systems will recommend debts for write off to Executive Heads;
- (b) Executive Heads of the service raising the charge shall be empowered, after giving due consideration to all the circumstances involved, to write off individual debts below £1,000 and shall inform the Chief Finance Officer of the action taken;
- (c) For all other sums of £1,000 or above the Executive Heads shall request that the Chief Finance Officer approves the write off of the debt, in consultation with the Executive Cabinet Lead for Finance;
- (d) The Chief Finance Officer will maintain a written record of any amounts over £1,000. A quarterly report shall be made to the Overview and Scrutiny Board of the total amounts written off which exceed £5,000, by category and stating the reason for write-off.

13.243 For Debtor write offs for Council Tax, NNDR and Housing Benefit Overpayments, the following will apply:

There will be statutory debts raised under the above debt types, which after due consideration of the circumstances relating to an account, it may be considered as un-collectable and it is appropriate to write off the outstanding balance. The outstanding balances for write off's will be identified, written off and reported on a quarterly basis each financial year as follows:

- (a) The Corporate Debt and Incomes Manager will consider a sample of debts (e.g. five for each debt type) and will sign that that they are appropriate accounts to be written off;
- (b) The Corporate Debt and Incomes Manager will sign the Write Off Report, that all of the accounts will have been subject to a checking process by two relevant members of staff, before the debt is recommended for write off on the system; and

- (c) For debts over £5,000 the Chief Finance Officer will sign off the Write Off Report.

Debts which are written off in the quarterly process which exceed £5000 will be reported to Overview and Scrutiny Board and Council, by debt type and stating the reason why the debt has been written off.

14. Orders for Work, Goods and Services

- 14.1 Orders must be issued for all work, goods and services supplied to the Council (including those supplied under a call off contract or where supplier pro-forma orders are used) and must be produced via the Council's Financial Information Management System (FIMS) except in the following circumstances:

Invoice payments relating to:-

- Rent
- Taxes e.g. NNDR and Council Tax
- Utility Bills e.g. Electric, Gas, Water, Telephones, TV Licences and Internet Charges
- Other Electronic Ordering Systems
- Programmed Contract Work where an official Contract Payment Certificate has been used.
- Supporting People Contracts – interface and periodic payments should be used where possible
- Temporary creditor, for 'one off' supplier payments

Or payments where it is inappropriate to obtain an invoice including:-

- Grants
- Refunds/overpayments
- Other - in agreement and format with the Payments Manager.

Any further exceptions must be agreed by the Payment Manager with the Executive Heads concerned and with the Chief Finance Officer.

- 14.2 A list of all persons approved to authorise orders within Business Units will be maintained by the FIMS Team and displayed on the Council's intranet site. Executive Heads are responsible for ensuring these lists are complete and accurate.
- 14.3 Authorisation controls shall be maintained within the FIMS system. Each Executive Head shall review authorisation permissions regularly and ensure that the FIMS

Team is notified of any changes to the authorisation structure immediately.

- 14.4 The Chief Finance Officer may allow orders to be auto 'Goods Received' in the FIMS system where it has been proven that authorisation has occurred in a system prior to the order being raised (i.e. Mayrise).
- 14.5 The Chief Finance Officer has the discretion to change the authorisation / Goods Receipting tolerance levels (either in totality or for individual contracts) if he is satisfied that it is in the best interest of the Council and that any associated risks have been minimised.
- 14.6 Orders shall be produced in keeping with current FIMS guidance, training and advice (including Purchase Order Processing FAQs).
- 14.7 Orders shall comply with current contracts and framework agreements where they exist.
- 14.8 Suppliers should be aware of contractual conditions and liabilities imposed by the Council.
- 14.9 No order shall be issued for goods, work or services unless the cost is covered by the approved annual budgets, a supplementary estimate or by virement approved by paragraph 5.8 above or delegated powers.
- 14.10 Every officer issuing an official order (or ordering via any other approved medium) shall ensure, and be able to show that, as far as is reasonable and practicable and with regard to the sums of money involved, that the best terms are obtained in respect of each transaction (as per Contracts Procedures).
- 14.11 The Chief Finance Officer may approve alternative arrangements for the ordering of goods etc., where circumstances or trading necessity make this desirable. Such approval must be given in writing.
- 14.12 Verbal orders must only be given in cases of urgency and must only be given by officers who have the appropriate budgetary responsibility. Where a verbal order is made, it must be confirmed no later than the next working day by the issue of an official order, endorsed 'confirmation order'. With regard to major emergencies, reference should be made to paragraphs ~~154~~.16 and ~~154~~.17 below.
- 14.13 The Chief Finance Officer shall assist Executive Heads to ensure that they are able to obtain the fullest possible price advantage in line with any appropriate corporate purchasing policy. Devon Audit Partnership will assist Executive Heads by carrying out relevant Value for Money exercises where resources allow.
- 14.14 Each Executive Head or other authorised officer is authorised, in accordance with this Constitution and powers delegated by the Council or the Leader of the Council, to incur normal recurring and non-recurring expenditure, subject to the following conditions:
 - (a) Budgetary provision has been made for the expenditure by way of revenue or supplementary estimate or compensating income is recoverable from a third party; and

- (b) The quotation and tendering procedures described by the Contracts Procedures and these Financial Regulations have been observed and it has been demonstrated that value for money has been obtained, unless minuted authority has been given by the Council or Chief Finance Officer for their waiving.

- 14.15 In cases where orders have been lost by suppliers, confirmation of the order shall be given by sending a 'copy' of the order. This copy needs to be endorsed as being a copy as opposed to resending the original.
- 14.16 In the case of a major emergency (as declared by the ~~Executive Director~~Chief Executive or his/her authorised deputy), the ordering of goods, works or services may be undertaken by 'non-authorised' officers (i.e. no budgetary responsibility) as part of the Emergency Team. This may constitute the issue of verbal order. However, evidence of such orders must be appropriately documented with the senior officer responsible for dealing with the emergency informing of any costs likely to lead to significant expenditure by the Council.
- 14.17 In the case of an emergency and where officers identify a need for expenditure of a strategic nature, then the requirements of this Constitution should prevail.

15. Payment of Accounts/Invoices

- 15.1 The payment of all money due from the Council shall be made by the Chief Finance Officer or authorised deputies, with the exception of payments made from imprest accounts and petty cash in line with section 8 above. (Note: Special arrangements have been made for some schools.)
- 15.2 Each Executive Head shall arrange for invoices to be sent in the first instance to the Payments Section and any exceptions to this must be previously agreed with the Payments Manager or deputy. In accordance with directions to be specified on the orders, the supplier shall be asked to quote the name of the Business Unit, the number of the order, details of the goods or service supplied and the place where the work was done or goods delivered.
- 15.3 Where purchases have been made using an approved Purchase Card scheme where one exists, it is the responsibility of each Executive Head to ensure that all card statements are checked, reconciled and authorised and that the goods/services are for business use and comply with all the current guidelines issued for Purchase Cards.
- 15.4 Invoices shall not be made out by officers of the Council except in any case or category of cases agreed by the Chief Finance Officer. Paper invoices shall only be accepted on which details are written in ink, typewritten, printed or computer generated. All invoices from VAT registered suppliers are required to be a valid VAT invoice in accordance with HMRC requirement. Emailed invoices can only be accepted if they are sent directly to the Payment Section by the supplier and where appropriate should quote a Financial Information Management System (FIMS) order number. Electronic invoices may be accepted from suppliers if they meet the Council's prescribed conditions in line with Statutory Legislation.
- 15.5 No amendments shall be made to an invoice. Incorrect invoices should be returned

to the supplier for replacement. At the discretion of the Payments Manager or deputy, invoices which do not include a valid FIMS order number may be returned to the supplier requesting further information before payment is made.

- 15.6 The authorisation of an invoice implies that the responsible officer(s) has examined, verified and certified that:
- (a) The goods/services have been received, examined and approved as to quality and quantity, or that services rendered or work done have been performed satisfactorily;
 - (b) They conform to the order;
 - (c) The price is in accordance with the quotation, contract or current market rate, whichever is applicable or is otherwise reasonable;
 - (d) The arithmetic accuracy of the invoice is correct and that all trade and cash discounts, other proper allowances and other credits due have been deducted;
 - (e) The expenditure has been properly incurred, has been duly authorised and is within the financial provisions;
 - (f) The cost allocations are correct;
 - (g) The invoice has not previously been passed for payment and is a proper liability of the Council;
 - (h) Where items of moveable property are purchased costing more than £500, an entry has been made in the appropriate Inventory;
 - (i) Where the purchase is over £25,000 for a single item, an appropriate entry has been made in the Council's Asset Register maintained by the Chief Finance Officer
 - (j) Where the value exceeds £5,000 Officers must ensure that the Contracts Register, available via the Procurement Service, is completed.
 - (k) The duties of “ordering; receiving goods, works and services” and then “certifying the relative invoices for payment” has not be performed by the same officer, subject to the Chief Finance Officer being informed if such a separation of duties in any individual instance is impracticable.

The above checks should be undertaken irrespective of the order or payment mechanism used.

- 15.7 A list of officers authorised to certify invoices/vouchers shall be sent by each Executive Head to the FIMS Systems Team, including specimen signatures and initials. All amendments to the list shall be notified to the Chief Finance Officer in writing.
- 15.8 Invoices not received centrally (by prior agreement) shall be date stamped, examined by the Business Unit promptly and submitted within 3 working days to the Payments Section for payment. Care should be taken to ensure that ‘prompt

payment' discounts are not lost or any penalties incurred (i.e. late payment fees).

- 15.9 There are certain circumstances when it may be necessary to make a 'Manual' Payment:
- (a) Invoices received (where a POP order was not required, as per 15.1);
 - (b) Payment required, but no invoice received and POP order not required as per 15.1; or
 - (c) Special arrangements, due to the nature of the service (i.e. Occupational Health); or one-off payments at the discretion of the Payments Manager.

Although these types of payments are classified as 'Manual', the method by which they are actually paid could vary, i.e. via a paper voucher or an electronic process. Authorisation for such payments (where appropriate) are in line with the Council's main Financial system, and a list of the types of payments falling into the above categories is held within the Payments Section 'Processes & Procedures' document (subject to change).

- 15.10 The Payments Section shall examine, in so far as is considered necessary, all invoices passed for payment and shall be entitled to make all such enquiries and to receive such information and explanations as are necessary to ensure that the invoices are in order.
- 15.11 Subject to the foregoing regulations being complied with, the Payments Section shall pay all invoices passed for payment.
- 15.12 All paid invoices and certificates shall be retained by the Chief Finance Officer, or authorised officer, in line with the Council's Retention of Documents Policy.
- 15.13 Each Executive Head, or authorised deputy, shall be responsible for prompt processing of invoices. This includes both FIMS and manually processed invoices and shall imply the following:
- (a) Prompt despatch of manually certified invoices to the Payments Section;
 - (b) Prompt receipt goods/services (also known as GRN) on the FIMS system;
 - (c) Prompt response to system generated Business Event Manager messages with regard to mismatched (held) invoices on the FIMS system; and
 - (d) Prompt response to emails from the Payment Section with regards to logged invoices.

16. Salaries, Wages, Travelling, Subsistence and Other Expenses

- 16.1 All staff must comply with the current version of the Council's Human Resources Policies in respect of salaries, wages, travelling subsistence and other expenses.

17. Members' Allowances

- 17.1 Allowances for the ~~Mayor~~Leader of the Council and councillors shall be paid in accordance with the Council's approved Members' Allowance Scheme as set in the

Council's Constitution.

18. Insurance

- 18.1 The Insurance Manager, in consultation with the Director of Corporate Services and Chief Finance Officer, shall effect all approved insurance cover and negotiate all claims and maintain necessary records.
- 18.2 Each Executive Head shall give prompt notification to the Insurance Manager of all new risks to be insured, any existing risks for which cover is no longer required and any changes to existing policies.
- 18.3 If there has been a failure by an Executive Head (or equivalent) to take reasonable precautions to prevent or minimise accidental injury, loss or damage or a disregard to Health and Safety requirements or the Council's Risk Management policy an uninsured loss (excess) may be charged to the client department concerned.
- 18.4 Each Executive Head must notify the Insurance Manager as soon as is practically possible and then confirm in writing details of any loss, liability or damage or any event likely to lead to a claim against the Council.
- 18.5 Executive Heads must assist the Insurance Manager by supplying all information required promptly in order that the Insurance Manager may comply with current legislation and enable claims to be settled as quickly as possible.
- 18.6 The Insurance Manager shall, at regular intervals, provide other Executive Head with details as to the progress and eventual settlement of all claims made on their behalf.
- 18.7 The Executive Heads shall maintain a continuous review of insurance cover held, which must include a regular review of valuations and the types of risks covered by existing policies.
- 18.8 All appropriate Council employees shall be insured by fidelity guarantee insurance.
- 18.9 No indemnities shall be given without the written authority of the Assistant Director of Corporate and Business Services, who will inform the Council's insurers when appropriate.
- 18.10 The Director of Corporate Services and the Chief Finance Officer in consultation with the Insurance Manager shall administer the Council's Insurance Fund and take appropriate decisions regarding all insurance strategies. This will include financing expenditure from the fund to mitigate future risks in line with the protocol for managing the Insurance Fund.
- 18.11 The Insurance Manager will determine whether leased out property is insured by the Council or tenant. Where the tenant does not insure, the TDA will recover the insurance charge on behalf of the Council, through the lease.

19. Risk Management

- 19.1 Directors, Assistant Directors and Executive Heads shall ensure that risk is managed effectively in each service area within the agreed Performance and Risk

Framework by ensuring all staff are aware of the Strategy and the processes detailed within it.

- 19.2 Executive Heads and Service Managers will identify and manage risks within their area of responsibility and these shall be communicated directly to the Director of Commercial Services for inclusion on the appropriate Risk Registers.

20. Security

- 20.1 Each Executive Head is responsible for maintaining proper security of assets used by their service such as cash, keys and equipment at all times and shall consult the Chief Finance Officer where security is thought to be defective or where it is considered that special security arrangements may be needed.
- 20.2 The loss of any assets must be reported to the Head of Devon Audit Partnership and the Chief Finance Officer.
- 20.3 Each Executive Head is responsible for maintaining proper security of all buildings, furniture and equipment under their control. They shall ensure that all members of their staff are aware of the Corporate Security Policy, of their responsibility for the security of offices, the possession of keys and other means of access.

21. Group Entities

- 21.1 Council associates and subsidiary companies shall comply with accounting treatments and reporting as required by Chief Finance Officer to meet Council reporting requirements.

22 Working with our Partners

- 22.1 All Council arrangements with partners, in whatever legal form, that involves the Council's expenditure, income, service provision, assets, liabilities or data will apply the Financial Regulations and comply with the Council's information governance, system access and user requirements as if they were staff employed by Council. Where appropriate they will also comply with the Council's Code of Corporate Governance.

- 22.2 Financial Regulations apply to individuals and companies acting as staff although not employed as such e.g. agency staff, seconded staff and other contractual arrangements.

[22.3 The Financial Regulations apply to the Council and any associated companies. The Chief Finance Officer legislative requirements apply to all council assets and liabilities included subsidiary companies. The Chief Finance Officer therefore has responsibility for the financial systems, financial procedures and financial regulations in use by the subsidiary companies.](#)

- 22.43 Working arrangements with partners to include, but not exclusively, companies the Council has a shareholding in, joint committees, pooled budgets, specific client/contractor relationships, Health Act joint working and shared services. Executive Heads are to inform the Chief Finance Officer of any working arrangement entered into to ensure all parties are aware of their responsibilities in

relation to Financial Regulations.

22.54 The Chief Finance Officer:-

- (a) Must ensure that the accounting arrangements to be adopted when working with our partners are satisfactory;
- (b) Consider overall corporate governance arrangements and legal issues, in consultation with the Monitoring Officer, when arranging contracts with external bodies;
- (c) Ensure risks have been fully appraised before agreements are entered into with external bodies; and
- (d) Must protect Council data.

22.65 The Chief Finance Officer must ensure, where appropriate, partners:-

- (a) Are aware of their responsibilities under the Council's Financial Regulations and Contracts Procedures in particular Council procurement and contract guidance, and Information Governance standards;
- (b) Permit an "open book" access to information as required by the Chief Finance Officer;
- (c) Provide information the Council relies on in a form and to a timetable as defined by the Chief Finance Officer or relevant contract;
- (d) Must not incur expenditure which will be funded by the Council without establishing that an approved budget exists and the approval of Council's Budget Holder;
- (e) Can not authorise a payment from the Council to themselves;
- (f) Access to the Council's finance and other systems is to be approved by the Chief Finance Officer or Executive Head. Access to be reviewed on an annual basis; and
- (g) Have agreed and formally accepted the roles and responsibilities of each of the partners involved in the project before the project commences.

22.76 Where partner uses the Council's Financial Management Information System (FIMS) on behalf of the Council. The Executive Head in consultation with the Chief Finance Officer is to ensure that the partner fulfils the Council's requirements in relation to its statutory duties and the Constitution including these Financial Regulations.

22.87 For the avoidance of doubt partners must adhere to the Council's Financial Regulations and guidance on income, rental agreements, write offs and credit notes.

22.89 Partners must also adhere the Council's Financial Regulations and Information

Governance in relation to information held by or accessed by partners on other Council's systems e.g. Asset Register and Paris.

22.109 The Chief Finance Officer is to approve access to Council systems for internal (Devon Audit Partnership) and the Council's appointed External Auditors

23. The Council working for third parties

23.1 All proposals for working with third parties are to be fully costed. Where these costings exceed £25,000 approval from the Director of Corporate Services or Chief Finance Officer is required before contracts are drawn up or when applying for a contract opportunity through a tender process.

23.2 Advice should be sought from the Procurement Service when applying for a contract opportunity through a tender process.

23.3 The Chief Finance Officer, in consultation with Executive Heads, must ensure:-

- a) That the Council is not put at risk from bad debts wherever possible;
- b) The contract is not subsidised by the Council;
- c) That wherever possible, payment is received in advance of delivery of the service;
- d) That such contracts do not impact adversely upon the services provided by the Council; and
- e) Insurance arrangements are in place.

23.4 Executive Heads will provide any documentation or information the Chief Finance Officer requires for financial reporting.

Contracts Procedures

A. General Information/Introduction

24 Contracting Council

- 24.2 Torbay Council (the Council) is the Contracting Council. This means that all Contracts are let on behalf of the Council as a whole and no Business Unit, Service, Team or other part of the Council has the legal capacity to enter independently into any Contract.
- 24.3 The Council remains the Contracting Council when entering into collaborative Contracts where the Council procures goods, services or works jointly with other public sector organisations but may not carry out the procurement process.
- 24.4 The administration, monitoring and ensuring compliance with these Procedures shall be the responsibility of the Chief Finance Officer and the Monitoring Officer.

25. Extent and Application of Contract Procedures

- 25.1 These Contract Procedures are made under Section 135 of the Local Government Act 1972.
- 25.2 These Procedures apply to all Contracts for goods, services and works for and on behalf of the Council, including ad-hoc one-off requirements and they will be applied by any Officer or agent of the Council undertaking any purchasing or procurement activity on behalf of the Council.
- 25.3 These Procedures will also apply in respect of Contracts for the disposal of assets (such as land) and the awarding of leases for which some form of application or bidding process is undertaken or where it becomes a procurement as defined in section 9 of the Financial Regulations.
- 25.4 These Procedures will also apply in respect of the award of any grant funding for which some form of application or bidding process is undertaken.
- 25.5 These Procedures apply to all expenditure by the Council irrespective of the funding source (except where specific terms and conditions attached to a third party funding source determines the method in which the Contract is to be let) and includes expenditure that has been devolved in any way.
- 25.6 These Procedures set out minimum standards and compliance is vital in:
1. Meeting legislative requirements;
 2. Demonstrating probity in the procurement process;
 3. Delivering economy, efficiency and effectiveness through competition; and
 4. Avoiding practices that may restrict, distort or prevent competition.

25.7 The only exemptions to these Procedures are those detailed in paragraph 30 (Exemptions from the Application of Contract Procedures).

26. Breach of Contract Procedures

26.1 Reporting and Disciplinary Action

Any non-compliance or breach of these Procedures will be reported immediately on discovery to the Procurement Service, who will escalate it to the Monitoring Officer and Chief Finance Officer.

The Monitoring Officer will undertake an investigation where deemed necessary. The investigation findings will be reported to the Chief Executive and appropriate Director/Assistant Director and as appropriate to, the relevant Senior Officers, and appropriate Members.

Investigation findings will be referred to Human Resources where any breach of these Procedures requires further action in accordance with human resources policies, including disciplinary action.

Failure to report any known non-compliance or breach may result in disciplinary action being taken against the Officer who failed to report the non-compliance or breach.

26.2 Implications of Non-Compliance

Any non-compliance or breach of these Procedures can seriously impact upon the legal standing of the Contract and can increase the ability of unsuccessful economic operators to seek redress through the courts. The consequences to the Council of non-compliance or breach of these Procedures are wide ranging and may result in:

- damage to the Council's reputation;
- suspension of the procurement process;
- removal of individual bidders from the process;
- suspension of the implementation of any decisions made in relation to the outcome of a procurement process;
- termination of a procurement process;
- requirement to retender the Contract;
- reduction to the term of a Contract;
- termination of a Contract;
- payment of damages or compensation to a bidder or bidders;
- payment of a civil financial penalty;
- repayment of grant funding;
- exclusion from bidding for grant funding.

27. Prevention of Corruption and Conflict of Interest

- 27.1 Officers have a duty in law to avoid any form of behaviour or conflict of interest that might distort or restrict competition or award of a contract are subject to the risk of being challenged. All Officers involved in any purchasing or procurement activity must declare any vested interests, whether direct or indirect, that could conflict with the best interests of the Council, this includes where they have an interest in any person(s) said to be affected by the outcome of the purchasing or procurement activity.
- 27.2 Officers must comply with the Code of Conduct for Employees and not offer, promise, give or receive any gift or reward in respect of the award or performance of any contract.
- 27.3 Officers are advised that any inappropriate behaviour that is deemed contrary to the Bribery Act 2010 could result in dismissal and the matter may be reported to the police.

28. Delegated Authority

- 28.1 The Officer Scheme of Delegation sets out arrangements for tenders to be issued and acceptance of contracts to be awarded.

29. Authority to Undertake Procurement Activity

- 29.1 Officers undertaking procurement activity must be appropriately trained and as a minimum have completed the induction level Procurement Module on i-Learn.

30. Exemptions from the Application of Contract Procedures

- 30.1 An exemption or waiver from these Contract Procedures may only be applied for where:
- a. the proposed Contract is of a very specialist nature and there are insufficient suitable Contractors in the market to fully comply with these Procedures; and/or
 - b. the proposed Contract is required urgently. The urgency must be brought about by events that were unforeseeable by and not attributable to the Council and which will result in loss or damage to the Council if the suspension or exemption is not allowed; and/or
 - c. it would be in the best interests of the Council or local people not to comply in full with these Procedures; and
 - d. the appropriate due diligence checks have been undertaken on the economic operator (where the request relates to the Award of a new Contract, as opposed to extending an existing arrangement) prior to submitting the request to waive Contract Procedures. Details of the due diligence requirements can be found in the Waiver Process Guidance available from the Procurement Service.

30.2 Officers must note the following before applying for a Waiver:

1. lack of planning and/or internal process delays will not constitute special, exceptional or emergency circumstances;
2. exemptions from these Procedures must not be applied for retrospectively;
3. exemptions from these Procedures must not be applied for where the value of the Contract will exceed the relevant EU Spend Threshold.

31. Waiver of Contract Procedures

31.1 Written authorisation, using the agreed process and Waiver Request Form, is required to waive these Procedure requirements.

31.2 Any request to waive these Procedures must be approved by both the Procurement Service and Chief Finance Officer, before the Officer can proceed with the Award.

31.3 Where the value of the contract exceeds £50,000, consultation must be undertaken with the approval will be required from the Mayer~~Leader of the Council~~ or relevant Executive Cabinet Lead Member and the relevant Director/Assistant Director before the Officer can proceed with the award.

31.4 A waiver should not exceed 12 months from date of expiry of existing contract or proposed start date of new contract or supply.

31.5 Where authorisation is given to waive Contract Procedures an appropriate contract must be issued to the supplier and the details of the award entered onto the Contracts Register.

31.6 The Procurement Service must keep a record of all cases where an exemption from these Procedures has been requested and authorised, or declined and will report these to the Joint Operations Management~~Senior Leadership~~ Team on a six monthly basis.

32. Appointment of Management Consultants and Agents

32.1 Any consultant, architect, surveyor, engineer or any other external agent appointed to act on behalf of the Council must be procured in accordance with these Procedures.

32.2 It is a condition of appointment that any consultant, architect, surveyor, engineer or any other external agent appointed to act on behalf of the Council in relation to any procurement process or management of Contracts will:

- (a) Have a Contract condition that ensures that copyright in respect of anything created or completed by that external agent in relation to the appointment will be the property of the Council. Where issues arise in respect of copyright, Officers are required to seek guidance and advice from Legal Services.
- (b) Sign a Confidentiality Agreement and declare any conflict of interest that may arise prior to starting any procurement process and again prior to completing

the tender evaluations. Where a significant conflict of interest arises the consultant must not be part of the tender evaluation process.

- (c) Comply in full with the requirements of the EU Directives, Public Contract Regulations, these Procedures, all relevant legislation and all Council policies;
- (d) Provide evidence that they are trained in and competent in public procurement;
- (e) Produce to the nominated Council Officer, on request, all relevant records and documentation relating to the procurement process or contract being managed on behalf of the Council;
- (f) On completion of the procurement process or contract being managed provide to the nominated Council Officer all relevant records and documentation related to the activity.

32.3 No consultant shall make a decision on whether to award a tender or whom to award it to.

B. Legal Framework

33 Compliance with Legislation

These Contract Procedures comply fully with:

- (a) The requirements of the EU Consolidated Public Procurement Directive, which takes precedence over national and local procurement legislation and Regulations; and
- (b) The Public Contract Regulations 2015, which take precedence over local procurement Regulations.

Every procurement process undertaken on behalf of the Council must be run in an open, fair and transparent manner.

Where a procurement process relates to the spending of European or UK Grants any requirements in relation to how those funds are spent, including ESIF Compliance Guidance, will take precedence over local procurement Regulations.

34. Non Compliance with Legislation

34.1 *Failure to Comply with the Public Contracts Directives and Legislation*

Any failure to comply in full with the requirements of the Directives and Regulations can result in the Council becoming subject to Court action and / or enforcement action by the EU.

34.2 The penalties include:

1. Prohibition from entering into a Contract;
2. Shortening of Contract terms;
3. Fines when a complaint is upheld (including civil financial penalties, damages and compensation);
4. Contract termination;
5. Repayment of EU funds, where applicable.

34.3 In addition, whenever legal proceedings relating to a Tender Award decision are commenced by an aggrieved Economic Operator, the procurement process is required to be suspended.

34.4 Failure to comply can also adversely affect future access to EU funds available to the Council.

34.5 *Mystery Shopper*

The Government's Mystery Shopper service allows Economic Operators to raise concerns anonymously about unfair public procurement practice. The government then investigates and resolves these concerns. The service also carries out spot checks of procurement opportunities advertised on Contracts Finder. The results of Mystery Shopper investigations are published, so if the Council is investigated for any suspected non-compliance with the Regulations this information will be in the public domain.

34.6 *Reports to the Cabinet Office*

Under the Public Contract Regulations the Council is required to report to the Cabinet Office on any Contracts where it has not complied with the Regulations and must also maintain comprehensive written reports relating to every Contract, Framework Agreement and dynamic purchasing system established. Report requirements and templates can be obtained from the Procurement Service.

34.7 Reports must be available to the Cabinet Office on request, along with any other information the Cabinet Office may require the Council to provide in order to enable them to inform the European Commission. Failure to comply with reporting requirements or the Public Contracts Regulations may result in the Cabinet Office taking action against the Council.

35. **Case Law**

35.1 There is a growing body of case law relating to public procurement, as public policy and regulation has eased access to legal remedies for unsuccessful applicants for public Contracts. Some of this case law has had a significant impact on procurement procedure.

- 35.2 All available standard procurement and Contract documentation held by the Procurement Service will be updated to meet new legal requirements arising from case law. Therefore any Officer undertaking procurement activity is required to use only the current version of the standard templates, available from the Procurement Service.
- 35.3 Officers must not amend or alter any of the standard information contained within the procurement and Contract documentation without the prior approval of the Procurement Service.

36. Freedom of Information

- 36.1 The Freedom of Information Act 2000 provides individuals with a right of access to information held by all public sector bodies such as the Council, creating openness and transparency.
- 36.2 There is a presumption that Contractual information should be made available for disclosure if requested. However, Officers should be aware of the potentially anticompetitive implications of disclosing detailed Contractual information in the period around a procurement process taking place.
- 36.3 The Information Compliance Team is the central processing department for all FOI requests and all requests received by Officers must be directed to them, Officers must not respond directly to any FOI request.
- 36.4 The Information Compliance Team will seek advice from the Procurement Service prior to responding to any such FOI requests.

37. Local Government Transparency Code 2014

- 37.1 The Code of Recommended Practice for Local Authorities on Data Transparency is issued under section 2 of the Local Government, Planning and Land Act 1980 (“the Act”) and sets out key principles for local authorities in creating greater transparency through the publication of public data.
- 37.2 The Local Government Transparency Code 2014 states that:

- (a) Local authorities must publish details of every invitation to Tender for Contracts to provide goods and/or services with a value in line with the local authority’s Procedures or advertised Tenders, which is £50,000.

For each invitation, the following details must be published:

- (a) title
- (b) description of goods and/or services sought
- (c) the start, end and review dates
- (d) the local Council department responsible

37.3 The Council is meeting this requirement by mandating that all advertised procurement processes must be conducted via the Council's Electronic Tendering System, refer to paragraph 76 (Electronic Tendering).

- (b) Local authorities must also publish details of any Contract, commissioned activity, purchase order, Framework Agreement and any other legally enforceable agreement with a value that exceeds £5,000. For each Contract, the following details must be published:
 - (e) reference number
 - (f) title of agreement
 - (g) the local Council department responsible
 - (h) description of the goods and/or services being provided
 - (i) supplier name and details
 - (j) the sum to be paid over the length of the Contract or the estimated annual spending or budget for the Contract
 - (k) the start, end and review dates
 - (l) whether or not the Contract was the result of an invitation to quote or a published invitation to Tender

37.4 The Council is meeting this requirement by mandating that all Contracts over £5,000 are published on the Council's Contracts Register, see paragraph 98 (Contracts Register).

C. Procurement Planning

38 Approval to Proceed with the Procurement Process

38.1 Where there is an agreed budget in place or the spend is in the approved Capital Programme Plan the relevant budget holder has the authority to approve the undertaking of a procurement process and the subsequent award of the contract.

38.2 Where there is no approved budget in place or the spend is not in the approved Capital Programme Plan then the Officer must obtain Council approval before any commitment to spend is made.

39. Conflicts of Interest

39.1 In order to avoid any distortion of competition and ensure equal treatment of economic operators, the Council is legally required to take all appropriate measures to effectively identify, remedy and prevent any conflicts of interest that may arise during the course of a procurement process.

- 39.2 This requirement applies to all Officers, Members, staff within external organisations, consultants acting on behalf of the Council and any other individuals, such as service users, who are involved at any stage of the procurement procedure or have the ability to influence the outcome of that procedure.
- 39.3 Officers are required to follow the Declaration of Interest and Confidentiality procedure set out in the Procurement Guidance, when undertaking any purchasing activity governed by these Procedures. This includes the requirement for all individuals to complete Declaration of Interest and Confidentiality Agreement prior to any involvement in the process. Agreements must be sent to the Procurement Service, who will assess the information and advise the Officer whether the individual is able to participate in the procurement process.

40. Confidentiality

- 40.1 All Officers, Members, staff within external organisations, consultants acting on behalf of the Council and any other individuals, such as service users who are involved at any stage of the procurement procedure must:
- treat all information provided to them in the strictest confidence;
 - ensure all information or documents provided are not disclosed to any third party;
 - return to the Procurement Service all copies of any information provided, in whatever format they may exist, within 21 days of a request to do so.
- and will be required to complete a Declaration of Interest and Confidentiality Agreement to confirm this.
- 40.2 The Council must not disclose information which has been provided by an economic operator and designated as being confidential by that economic operator, this includes but is not limited to technical or trade secrets and the confidential aspects of Tenders.
- 40.3 Officers must take account of any requirements for the disclosure of information under the Public Contracts Regulations, Freedom of Information Act and any other requirement or permission that is applicable under the law.
- 40.4 Where procurement procedure requires the sharing of confidential information with economic operators, such as details relating to the transfer of staff, this must not be disclosed unless the economic operator has signed and submitted an appropriate Confidentiality Agreement.
- 40.5 The submission of Confidentially Agreements and the issue of any confidential information must be undertaken electronically via the Council's Electronic Tendering System.

41. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), as amended

- 41.1 TUPE Regulations may apply when a service contract is transferred from one external economic operator to another or where Council staff are being outsourced.
- 41.2 Under both TUPE and Public Contract Regulations there is a requirement for the Council to share anonymous information relating to the staff who may be eligible to transfer.
- 41.3 In the case of external contracts the incumbent economic operator has a legal obligation to provide that information, but must be given sufficient notice of the requirement to provide the information prior to the issue of the tender documents.
- 41.4 Where Council staff are being outsourced Officers must involve Human Resources at the earliest opportunity in order to ensure that all the relevant staff information, pension liabilities and bond requirements can be provided to bidders.
- 41.5 Information relating to transferring staff must only be supplied to economic operators who have signed and returned a Confidentiality Agreement and all information supplied must be anonymous.
- 41.6 Any clarification questions during the tender process must be submitted via the Council's e-Tendering portal and not to incumbent economic operator's direct, in order to maintain confidentiality in relation to the identify of bidders.

42. Market Research and Consultation**42.1 *Preliminary Market Consultation***

Pre-procurement market research and consultation can be conducted with a view to:

- preparing the procurement; and
- informing economic operators of the procurement plans and requirements.

- 42.2 Preliminary market consultation activities must be appropriately advertised in order to provide the opportunity for all potential economic operators to participate. All activities must be conducted in a non-discriminatory and transparent manner and without distorting competition.
- 42.3 Advice obtained in a preliminary market consultation process can be used in the subsequent planning and conduct of the procurement procedure. This is provided that the advice does not have the effect of distorting competition and does not breach requirements for non-discrimination and transparency.
- 42.4 Technical advice or input into the preparation of a specification or procurement process from a specific economic operator who has a commercial interest is not permitted.

42.5 *Prior Involvement of economic operators*

Where an economic operator has advised the Council or been involved in preparing the procurement procedure Officers must take appropriate measures to ensure that competition is not distorted by the economic operator bidding for the contract and those measures must be documented.

42.6 Where no measures can be put in place to ensure compliance with the requirement for equal treatment the economic operator must be excluded from the procedure.

42.7 This requirement also applies if it is identified at any time during the procurement process that an economic operator has gained a competitive advantage.

43. Community Right to Challenge

43.1 The Community Right to Challenge means community organisations can submit an Expression of Interest to the Council to run local services. This right is granted under the Localism Act 2011.

43.2 A procurement process is triggered if an expression of interest is accepted. Timescales for undertaking the procurement must take into account any contract already in place for the provision of that service and contracts must not be terminated early on the basis of acceptance of an expression of interest.

44. Delivering Policy through Procurement

44.1 The Council's policy objectives must be considered in all procurement processes and where appropriate and proportionate, incorporated into the strategy, evaluation process and the terms and conditions of the contract.

44.2 Policy objectives which must be considered as a minimum are:

(i) Sustainable Procurement

Consideration must be given to the ways of procuring resource and energy efficient alternatives, paying attention to the Council's Environmental Policy.

(ii) Public Services (Social Value) Act 2012

The Public Services (Social Value) Act 2012 requires the Council, when procuring public services, to consider how the service they are procuring could bring added economic, environmental and social benefits. Also consider whether to consult on these issues, for instance with potential users or suppliers of the service in question.

(iii) Supporting Local Small and Medium size Enterprises (SMEs)

Consideration must be given to the local supply chain and how the process can support the local community and local SMEs, within the rules of still ensuring an open fair and transparent process.

(iv) *Supporting the Voluntary, Community and Social Enterprise (VCSE) Sector*

Consideration must be given to VCSE Sector and how the process can support the VCSE Sector, within the rules of still ensuring an open fair and transparent process.

(v) *Local Authority Equality Duty*

Consideration must be given to meeting the Equality Duty within the procurement process, wherever it is appropriate and proportionate.

(vi) *Council Policy and Strategy*

In addition to national legislation, policy and guidance there is range of Council policies and strategies which, where relevant, must be considered within the procurement process.

D. Procurement Development

45. Estimated Value of the Procurement

- 45.1 The calculation of the estimated value of a procurement shall be based on the total amount payable including any contract extension options. Account shall be made of the total estimated value of all the business units across the Council.
- 45.2 The contract shall not be sub divided, nor should the choice of the method used to calculate the estimated value shall not be made with the intention of avoiding the application of these Procedures, nor shall it be sub divided.
- 45.3 In the case of Framework Agreements or Dynamic Purchasing Systems (DPS), the estimated procurement value shall be the total estimated value of all the contracts envisaged for the total term of the Framework or DPS.
- 45.4 Where a contract is proposed to be awarded in the form of lots, account shall be taken of the total estimated value of all the lots.
- 45.5 The estimated value of the procurement for goods and services is calculated by taking:
1. The value of the total amount payable for the full term of the contract, including extensions and is for 48 months or less; or
 2. The value of the total amount payable for each month multiplied by 48 if the term of the contract, including extensions, is for more than 48 months, or over an indefinite period;

Or, where there is

3. A requirement over a period of time for goods, or services that are for the same type or have similar characteristics and for that purpose a series or contracts are entered into, or a contract with renewable terms is being used,

the value shall be calculated by taking the spend from the previous 12 months, taking into account any expected changes in the next 12 months.

The estimated value of the procurement for works shall take account of both the cost of the works and the total estimated value of the supplies and services that are made available to the Contractor by the Council which are necessary for executing the works.

46. EU Spend Thresholds

46.1 Officers must refer to the procurement intranet pages for the current EU spend threshold values.

46.2 Where an estimated value of a procurement is equal to or exceeds the EU spend threshold values, then the Public Contracts Regulations 2015 apply to the procurement process. However there are exceptions whereby the Public Contracts Regulations 2015 also apply in certain aspects to a procurement which has been estimated at below the EU spend thresholds.

47. Procurement Process

47.1 The procurement process selected must be in accordance with the table below. Refer to paragraph 45 (Estimated Value of the Procurement) for instructions on how to calculate this estimated value.

Goods/Works/Services Estimated Value of the Procurement	Procurement Process	Authority*
Up to £10,000	Obtain one written quotation. To ensure best value, good practice is to obtain more than one quote Where spend is £5,000 or more publish details on the Contracts Register.	Budget holder
£10,001 to £25,000	Request written quotes either by post or email from minimum of three preselected economic operators. One of which must be a local SME or VCSE (refer to paragraph J Definitions for the definition of local). Retain written evidence	Budget holder

<p>Goods/Works/Services</p> <p>Estimated Value of the Procurement</p>	<p>Procurement Process</p>	<p>Authority*</p>
	<p>to demonstrate the economic operator selected offers best value. Publish details on the Contracts Register.</p>	
<p>£25,001 to £50,000</p>	<p>Offer the opportunity to a minimum of three preselected economic operators. One of which must be a local SME or VCSE (refer to paragraph J Definitions for the definition of local). Procurement process to be run in accordance with these Procedures, using the Council’s standard tender templates and through the e-tendering portal.</p>	<p>Budget holder</p>
<p>£50,001 to EU Spend Threshold</p>	<p>Advertised invitation to Tender. Procurement process to be run in accordance with these Procedures.</p> <p>Procurement process to be run in accordance with the Public Contract Regulations in certain aspects.</p>	<p>Directors, Assistant Directors, Executive Heads or authorised deputies in consultation with the Procurement Service</p>
<p>EU Spend Threshold and Above</p>	<p>Advertised invitation to Tender. Procurement process to be run in accordance with the Public Contract Regulations</p>	<p>Directors, Assistant Directors, Executive Heads or authorised deputies in consultation with the Procurement Service</p>

* In accordance with paragraph 38 (Approval to Proceed with the Procurement Process)

47.2 Where the Contract relates to the spending of funds provided by an external body the procurement process selected must comply with any requirements or thresholds set by the funder or guidance (such as DCLG’s ESIF Compliance Guidance Note), which will take precedence over the processes set out in 47.1 above.

48. Below EU Spend Threshold Procurements

48.1 The Public Contract Regulations stipulate that the following applies to below EU spend threshold procurement processes:

- (a) Must be published on Contracts Finder;
- (b) Restricted Procedure is not permitted;
- (c) Selection Criteria used to assess the meeting of minimum standards or Criteria must be relevant to the subject matter of the procurement and proportionate;
- (d) Selection Criteria used to assess the meeting of minimum standards or Criteria must be in accordance with guidance issued by the Cabinet Office.

49. Division of Contract into Lots

49.1 When planning a procurement, consideration must be given to whether the contract could be subdivided into separate lots.

49.2 If it is decided not to subdivide the contract into separate lots, the main reasons for this decision must be provided in the procurement specification and also in the OJEU notice if applicable.

50. Preparation of Procurement Documentation

50.1 All procurement documents must be prepared and made available for the start of the procurement process. In terms of a restricted procedure, this includes the Pre Qualification Questionnaire (PQQ) and the Invitation to Tender (ITT) documents.

51. Process Time Limits

51.1 The table below details the timescales for a procurement process which exceeds EU Spend Thresholds and the process is undertaken electronically.

Procedure	Timescale
Open	30 days 15 days if PIN is dispatched between 35 days and 12 months before OJEU Notice

Procedure	Timescale
Restricted	30 days for the PQQ 25 days for the ITT 30 days for the PQQ and 10 days for the ITT if a PIN is dispatched between 35 days and 12 months before OJEU Notice
Light Touch	No specific timescales – recommendation is to adopt the Open or Restricted Procedure
Further Competition	No specific timescales

51.2 When fixing the time limits for the receipt of tenders and requests to participate, the complexity of the contract and the time required for the economic operator to complete the tender must be considered.

51.3 For procurement processes which are below the EU Spend Thresholds, the timescale for receiving submissions should not be less than 10 working days.

52. Advertising the Procurement

52.1 All procurement processes under £50,000 do not need to be advertised as economic operators can be pre selected, however, one of the pre selected economic operators must be a local SME or VCSE (refer to paragraph J Definitions for the definition of local), unless it can be demonstrated that this requirement cannot be met.

52.2 All procurement processes over £50,000 must be advertised via the Council’s Electronic Tendering System, refer to paragraph 76 (Electronic Tendering) and must be advertised via the Government’s Contracts Finder, refer to paragraph 77 (Contracts Finder).

52.3 If it is determined as necessary due to the specialist nature of the market, in addition, further advertising in trade journals for example is permissible.

52.4 For procurement processes which exceed the EU Spend Threshold:

- a. a Contract Notice must be published in the Official Journal of the European Union (OJEU), which is submitted via the Council’s Electronic Tendering System, refer to paragraph 76 (Electronic Tendering).
- b. all procurement documentation must be made electronically available from the date of the publication in OJEU. There are exceptions regarding procurement documents which are confidential in nature. Refer to the procurement service for advice in this instance.

- c. a Prior Information Notice (PIN) can be published in order to inform the intention of planned procurements in the future. The aim being to either advertise a bidder day or to enable the market to prepare. Using a PIN can then enable procurement process timescales to be shortened. Refer to paragraph 51 (Process Time Limits).
- d. a Prior Information Notice (PIN) can also be used as a call for competition provided that the appropriate information about the procurement is made available. This then removes the requirement for a Contract Notice to be published and only the economic operators who expressed an interest against the PIN are invited to Tender.

53. Reserved Contracts

53.1 The Council may reserve the right to restrict participation in a procurement procedure:

- a. to sheltered workshops and organisations whose main aim is the social and professional integration of disabled or disadvantaged people or who are able to perform the contract within as part of a sheltered employment programme. In order to qualify to bid for a reserved contract at least 30% of the organisation's employees or the employees of the workshop must be disabled or disadvantaged workers; or
- b. for certain social and other specific services to economic operators fulfilling the criteria to be considered a Social Enterprise or Public Service Mutual. Where this is the case contracts must not be put in place for more than 3 years and may not be awarded to an economic operator that has held the same reserved contract within the past 3 years.

54. Award of Contracts for Social and Other Specific Services¹

54.1 Contracts for social and other specific services may be tendered using a light touch regime. The opportunity must be advertised by means of either a Contract Notice or Prior Information Notice and the results of the tender must be made known by the publication of a Contract Award Notice.

54.2 The resultant procurement does not have to meet the requirements set out in the Public Contracts Regulations in relation to the procedure used, conditions of participation or timescales, but it must be reasonable and proportionate and the process must be undertaken in accordance with these Contract Procedures.

55. Procurement Procedures

55.1 The most appropriate procurement procedure should be selected from the following:

¹ Officers should refer to Procurement Team for details of the services to which this applies.

Procedure	Definition
Open	A procedure leading to the award of a contract whereby all interested economic operators may submit a tender without providing the opportunity to short list.
Restricted	<p>NOT PERMITTED FOR BELOW EU THRESHOLD SPEND</p> <p>A two-stage procedure leading to the award of a contract, the first stage following a pre selection process which determines the economic operators who are subsequently invited to submit a tender.</p>
Competitive Procedure with Negotiation	A restricted procedure (as detailed above) with the addition of the ability to negotiate with economic operators at the award stage. This is to be used only where the requirements are not sufficiently defined to enable award of a contract based on the specification and the project is not sufficiently complex to warrant Competitive Dialogue.
Competitive Dialogue	A flexible procurement procedure for use only in complex projects where there is a need for the Council to discuss all aspects of the proposed contract with economic operators.
Innovation Partnership	A procedure to be used only where the Council is aiming to develop an innovative product, service or works, which it then has the intention of purchasing. This may involve a number of partners and different phases of development.
Framework Agreement	An ‘umbrella agreement’ that sets out the terms under which individual contracts (call-offs) can be made through the period of the agreement.
Dynamic Purchasing System	A completely electronic system, which may be established by the Council and is open throughout its duration for the admission of economic operators and is used to purchase commonly used goods, works or services.

56. Collaborative Arrangements

- 56.1 Where it is of benefit to the Council, taking into account any adverse affect on the local economy or voluntary sector, opportunities to collaborate with other public bodies on procurement processes should be sought.
- 56.2 Where a collaborative procurement process occurs, it is the Procedures/governance arrangements of the public body leading the procurement which will apply unless the lead body specifically agrees otherwise.
- 56.3 Where an appropriate collaborative national or regional contract is available to use, consideration must be given to utilising these contracts, taking into account any adverse affect on the local economy or voluntary sector.

57. Council-wide Contracts

- 57.1 Council-wide contracts are contracts that have been put in place for across Council use in relation to commonly and frequently purchased goods, works and services, such as stationery, agency staff, catering and car-hire.
- 57.2 Prices and terms have been agreed to achieve value for money for the Council as a whole and the Council is legally obliged to use these contracts once they have been put in place.
- 57.3 Council-wide contracts may also take the form of an approved list or framework agreement. Use of these approved lists and framework agreements are mandated where they have been put in place to facilitate corporate spending. Refer to paragraph 58 (Approved Lists) and paragraph 59 (Framework Agreements).
- 57.4 Council-wide contracts, approved lists and framework agreements enable direct purchasing and avoid the administrative costs and time involved in sourcing and purchasing goods and services with individual suppliers. The administrative costs and time taken can negate any savings on goods or services that can sometimes be found cheaper elsewhere.

58. Approved Lists

- 58.1 The set up and use of approved lists are restricted to a contract value below the EU Spend Threshold. See paragraph 45 (Estimated Value of the Procurement) for how a contract value is calculated. The approved list may have a single economic operator or multiple economic operators.
- 58.2 The approved list must only be set up following a procurement process in accordance with these Procedures. All approved lists must be maintained in an open, fair and transparent manner.
- 58.3 Call offs from the approved list must be in accordance with the terms laid out in the approved list.

59. Framework Agreements

- 59.1 Framework agreements are umbrella agreements under which individual contracts can be called-off either through a further competition or direct award, dependent on the terms of the agreement. The framework agreement may have a single economic operator or multiple economic operators and may have multiple lots.
- 59.2 The use of framework agreements, set up by either the Council or other public bodies, may be mandated for certain categories of spend. Call-offs from the framework agreement must be in accordance with the terms laid out in the framework agreement.
- 59.3 Framework agreements set up by third party organisations may only be utilised once written approval has been obtained from the Procurement Service, who will undertake the necessary checks to ensure the Council is legally able to use it.
- 59.4 Framework agreements established by the Council will be procured in accordance with the Public Contracts Regulations. If the intention is to share access to the framework with other Public Bodies, these must be appropriately named within the tender documentation and a user agreement must be signed by the public body before they are able to utilise it.
- 59.5 Call offs from the framework must be in accordance with the terms laid out in the framework agreement.

60. Central Purchasing Bodies

- 60.1 The Council may procure goods services or works through a central purchasing body once written approval has been obtained from the Procurement Service, who will undertake the necessary checks to ensure the Council is legally able to use it.
- 60.2 Where the Council undertakes procurement through such a body it shall be deemed to have complied with the Regulations to the extent that the central purchasing body has complied with them.

61. Contracts with other Public Sector Bodies

61.1 Contracts Awarded to Organisations Controlled by the Council

The Council is able to directly award a contract, without the requirement for a procurement procedure, to an organisation over which it exercises direct control, in its own right or jointly with other public bodies, where:

- a. the Council has control over both the strategic objectives and significant decisions of the organisation (either directly or indirectly through another organisation it controls); and
- b. more than 80% of the activities carried out by the organisation are on behalf of the Council, i.e. the organisation generates 80% of its income from the Council or activities undertaken on behalf of the Council; and

- c. there is no direct private capital participation in the organisation that gives the private capital provider any control over the organisation.

An organisation directly controlled by the Council may also make a direct award of a contract to the Council, where the above criteria are met.

61.2 Contracts Awarded to Other Public Sector Bodies

The Council is able to directly award a contract, without the requirement for a procurement procedure, to other public bodies where:

- a. the Contract establishes co-operation between the public bodies with the aim of ensuring any public services they have to perform are able to achieve shared objectives; and
- b. that co-operation is governed solely by considerations relating to the public interest; and
- c. less than 20% of the activities that will be undertaken are performed on the open market.

62. Joint Venture Company – TOR2

62.1 The Council has a Joint Venture Council-wide contract with TOR2. Under the terms of the Council's Contracts Procedures the Council is obliged to offer the following to TOR2 in the first instance:

- a. Any highways works contract values of £250,000 or less
- b. Any works under £50,000 that come under the following categories:
 - 1. scaffolding
 - 2. demolitions and alterations
 - 3. excavations and concrete
 - 4. brick, underpinning and stone works
 - 5. roofing works
 - 6. woodwork
 - 7. plumbing
 - 8. electrical work
 - 9. internal and external finishes
 - 10. glazing
 - 11. painting and decorating

12. external work (including ironmongery) and drainage.

If written confirmation is obtained that confirms TOR2 have declined this offer of works, then the works must be procured in accordance with these Contract Procedures.

E. Tender Preparation

63 Tender Pack

63.1 Standard templates and guidance on completing the templates for the procurement of goods, services and works are maintained and developed by the Procurement Service. These are available to Officers on request from the Procurement Service.

63.2 Officers are required to use the current version of standard templates for each procurement process undertaken.

63.3 Where a variation to a standard template is required the Officer should consult with Procurement Services prior to any changes being made.

64. Consortia

64.1 Officers may require members of the consortium to assume a specific legal form if awarded the contract, to the extent that it is necessary for the satisfactory performance of the contract.

64.2 Where economic operators are proposing to create a separate legal entity, such as a special purpose vehicle (SPV), they should provide details of the actual or proposed percentage shareholding of the constituent members within the new legal entity as part of their tender submission.

64.3 All members of the consortium will be required to provide the information required in all sections of the 'selection' section of the tender response as part of a single composite response.

64.4 Consortium arrangements may be subject to future changes. Economic operators can provide updated information regarding these arrangements so that a further assessment can be carried out (by applying the selection criteria to the new information provided). The Council reserves the right to deselect the economic operator prior to any tender award, based on an assessment of the updated information.

65. Sub Contracting

65.1 Where the economic operator proposes to use one or more sub-contractors to deliver some or all of the contract requirements, the economic operator must provide information regarding members of the supply chain, the percentage of work being delivered by each sub-contractor and the key contract deliverables each sub-contractor will be responsible for.

65.2 Arrangements in relation to sub-contracting may be subject to future change and may not be finalised until a later date. However, where information provided in the tender submission indicates that sub-contractors are to play a significant role in delivering key contract requirements, any changes to those sub-contracting arrangements may affect the ability of the economic operator to proceed with the procurement process or to provide the supplies and/or services required. Therefore economic operators should notify the Council immediately of any change in the proposed sub-contractor arrangements. The Council reserves the right to deselect the economic operator prior to any tender award, based on an assessment of the updated information.

66. Economic Operator Financial Risk Issues

66.1 Financial Information

The financial assessment must be undertaken in a manner that is proportionate, flexible and not overly-risk averse. All economic operators, whatever their size or constitution, should be treated fairly and with equal diligence during the financial appraisal process and arbitrary minimum requirements should not be imposed which may have the unintended effect of barring new business from tendering. For example: no SMEs, public service mutuals or third sector organisations should not be inadvertently disadvantaged by the financial assessment process.

66.2 Officers must refer to the Procurement Guidance and Standard Tender Templates for further guidance regarding the financial assessment process.

66.3 Business Insurance Requirements

Officers must seek advice from Insurance Services with regard to the appropriate types and levels of insurance required for each contract. The resultant requirements must be stipulated in the tender documents and contract.

66.4 Bonds and Guarantees

Guarantees and bonds can be either financial or performance guarantees, or a hybrid of both. However, with the exception of pension bonds, they only come into effect after the economic operator has failed to perform its Contractual obligations,

1. Deed of Guarantee - Officers must consult with the Procurement Service and Chief Finance Officer, at the outset of any procurement and at each stage of the process, on whether a deed of guarantee is required and:
 - (a) the total value of the contract exceeds £250,000;
 - (b) there is some concern about the stability of the economic operator.

Details of the Council's requirements must be clearly stated in the tender documents.

2. Parent Company Guarantee - Officers must consult with the Chief Finance Officer, at the outset of any procurement and at each stage of the process, on whether a Parent Company Guarantee is required when an economic operator is a subsidiary of a parent company and:

- (c) the total value of the Contract exceeds £250,000;
- (d) award is based on evaluation of the parent company; or
- (e) there is some concern about the stability of the economic operator.

Details of the Council's requirements must be clearly stated in the tender documents.

3. Performance, Conditional or On Demand Bonds - Officers must consult with the Chief Finance Officer, at the outset of any procurement and at each stage of the process, on whether a Bond is required, where:

- (f) the total value of the Contract exceeds £1,000,000; or
- (g) it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the Contract; or
- (h) there is concern about the stability of the economic operator.

Details of the Council's requirements must be clearly stated in the tender documents.

4. Pension Bond - Where the Contract involves the transfer of Council staff to an external organisation Officers must consult with the Chief Finance Officer and Human Resources/Pension Service, at the outset of any procurement and at each stage of the process, on whether a Bond is required to cover potential pension liabilities.

Details of the Council's requirements must be clearly stated in the tender documents.

66.5 Other Performance Measures

Consideration must be given to what appropriate types of contract performance measures need to be in place as these will need to be clearly stated in the tender documents and the contract. The selection must be based upon a risk assessment and what is appropriate and proportionate and based upon a risk assessment and a consideration of the effect on SMEs and resultant bid costs.

- (a) Contract management and monitoring procedures;
- (b) Step in rights;
- (c) Liquidated Damages;
- (d) Default Payments;
- (e) Service Credits; and
- (f) Escrow arrangements.

Details of the Council's requirements must be clearly stated in the tender documents.

67. Contract Terms and Conditions

67.1 Advice should be sought in relation to the application of the most appropriate contract terms and conditions, which must be included as part of the procurement documents. They will either be:

- (a) An industry standard suite of Contracts, JCT, NEC, ICE
- (b) The Councils Standard Contract Terms and Conditions
- (c) Framework Agreements
- (d) Framework User Agreements
- (e) Call Off Contracts

The Procurement Service will seek advice from Legal Services in relation to the appropriate application of Contract Terms and Conditions.

67.2 Council Standard Terms and Conditions

Clauses within the general terms and conditions section of the contract must not be amended, deleted or marked not applicable.

Clauses within the key provisions section of the contract may only be amended or marked not applicable in consultation with Procurement or Legal Services.

67.3 Review and Amendment of Contract Clauses

Contract clauses must not be amended once the tender process has commenced or following contract award without the approval of the Procurement Service.

68. Evaluation Criteria

68.1 Contracts must be awarded on the basis of the evaluation criteria laid out within the tender, which consists of the following:

- a) Exclusion Grounds
- b) Selection Criteria
- c) Award Criteria

Selection and award criteria must be treated separately. All criteria, sub-criteria and weightings must be clearly detailed within the tender documents.

- a) *Exclusion Grounds*

There are mandatory and discretionary grounds for excluding an economic operator from participating in a procurement process, in accordance with the Public Contract Regulations 2015. To protect the Council these grounds must be applied to all economic operators participating in procurement processes with an estimated procurement value of £50,000 or above.

Officers should refer to the Procurement Guidance for further information on the mandatory and discretionary exclusions.

b) Selection Criteria

The selection criteria may relate to:

- a. suitability to pursue a professional activity;
- b. economic and financial standing;
- c. technical and professional ability.

Requirements must be limited to those that are appropriate to ensure the economic operator has the legal and financial capacities and the technical and professional abilities to perform the contract to be awarded. In addition requirements must be proportionate to the value, subject matter and level of risk of the contract.

Officers must refer to the Procurement Guidance and Standard Tender Templates when establishing all selection criteria and these must be declared within the tender documents.

69. Reliance on the Capacity of Other Entities

- 69.1 Where an economic operator relies on the capacity of other entities in relation to economic and financial standing or technical and professional ability, Officers are required to obtain proof from the economic operator of the commitment of those other entities.
- 69.2 In some cases this will also involve the requirement for the other entity to respond some or all of the mandatory exclusions, discretionary exclusions and selection criteria, as appropriate to that entities involvement in the delivery of the contract.
- 69.3 Officers should refer to the Procurement Guidance for further information on this requirement.

70. Limiting the number of economic operators to be invited to Tender

- 70.1 In the Restricted, Competitive with Negotiation, Competitive or Innovation Partnership Procedures, Officers can limit the number of suitable economic operators to be invited to tender, following the assessment of the suitability criteria. The minimum number this can be limited to is five for restricted and three for all others.

70.2 Where the minimum number is not available, the number of economic operators invited must be sufficient to ensure genuine competition.

70.3 Officers must refer to the Procurement Guidance when establishing criteria for limiting the number of economic operators to be invited to tender.

71. Selection Questionnaire Template

71.1 Officers must use the appropriate standard Selection Questionnaire, which can be found within the tender pack, for all procurements where the estimated value of the procurement is above £50,000.

71.2 This Selection Questionnaire has been set up using a standard set of questions in accordance with guidance issued by the Cabinet Office under the Public Contract Regulations.

72. European Single Procurement Document

72.1 From 18 April 2017 the Council will be required to accept the European Single Procurement Document as preliminary evidence instead of certificates published by public authorities or third parties.

73. Award Criteria

73.1 The award of a contract must be based on the most economically advantageous tender assessed from the point of view of the Council.

73.2 The award criteria must be linked to the subject matter of the contract and ensure the possibility of effective competition.

73.3 Officers must refer to the Procurement Guidance for further information on award criteria.

74. Life Cycle Costing

74.1 Life cycle costs consist of all the costs over the life cycle of a product, service or work.

74.2 Where life cycle costing is used as one of the criteria for establishing the most economically advantageous tender this must be declared within the tender documents, including what data must be provided and the method that will be used to determine these costs.

74.3 Officers must refer to the Procurement Guidance for further information when using this criteria within their procurement process.

75. Use of Presentations, Interviews and Site Visits

75.1 Where presentations, interviews or site visits are necessary in enabling Officers to establish the most economically advantageous tender this must be declared within

the tender documents. The documents must clearly state the purpose and where applicable the criteria and weightings.

75.2 Where used, all economic operators must be included and all relevant information including questions must be issued to them in advance via the Electronic Tendering system. Officers must refer to the Procurement Guidance for further information when using this criteria within their procurement process.

F. Procurement Process

76 Electronic Tendering

76.1 All requests for quote between £25,000 and £50,000 must be conducted via the Council's Electronic Tendering System.

76.2 All procurement processes over the £50,000 spend threshold must be conducted via the Council's Electronic Tendering System.

76.3 Where it is determined that the use of the Electronic Tendering System is not appropriate for a particular procurement process, written approval must be obtained from the Procurement Service.

76.4 For above EU spend threshold procurements, all tender documents must be offered unrestricted and with full direct access via the Council's Electronic Tendering System from the date the OJEU notice is published. There are exceptions regarding procurement documents which are confidential in nature. Refer to the Procurement Service for advice in this instance.

77. Contracts Finder

77.1 In accordance with the Public Contracts Regulations and Transparency Code details of all advertised procurement processes with an estimated procurement value of £50,000 or above must be published on Contracts Finder either from the date the OJEU notice is published or for non OJEU, immediately after it is advertised via the Electronic Tendering System.

78 Tender Clarification

78.1 Clarification questions and responses during the tender process must be conducted via the Council's Electronic Tendering System. Unless the question is innovation based, the response must be provided to all economic operators. The identity of the economic operator who raised the question must remain confidential.

78.2 Clarification questions are limited to any questions relating to the tender documentation or to the procurement process as a whole. Questions relating to the negotiation of any of the substantive terms of the tender are not permitted.

78.3 Clarifications or refinements to the tender documents are permitted during a procurement process, provided that the tender documents are reissued via the

Electronic Tendering system and the changes are clearly notified. The submission deadline must be reviewed and extended if the changes are significant.

79. Confidentiality of Tender Proposals

79.1 All details of tender submissions must remain private and confidential. External agents acting on behalf of the Council must sign a Confidentiality Agreement.

80. Submission, Receipt and Opening of Tenders

80.1 Tenders must be submitted via the Council's Electronic Tendering System and in accordance with the requirements set out in the tender documentation.

80.2 The Electronic Tendering System is set up to electronically seal tenders above £50,000. Verifiers are set up in the system, which are Officers who are able to electronically unseal tenders. Verification may only be undertaken by an authorised verifier who has duly been approved by the Monitoring Officer and Procurement Service.

80.3 All tenders shall be electronically unsealed at the same time, in the presence of an Officer and a verifier, after the prescribed submission date and time. The verifier must be independent of the procurement process.

80.4 The Electronic Tendering System keeps an electronic record of the tenders opened and automatically classifies tenders which have been received late, as in after the prescribed date and time.

81. Receiving Late, Irregular or Incomplete Tenders

81.1 A tender submission can be rejected for the following reasons, which must be laid out within the Tender document instructions:

- a. It is incomplete or vague;
- b. Is submitted later than the prescribed date and time;
- c. Not in accordance with the approved format;
- d. Is in breach of any condition contained within it.

81.2 Where there are errors or discrepancies in the tender response, the economic operator must be given the details, via post tender clarification, in order to confirm or withdraw the submission. A correction of an error or omission submitted via the Electronic Tendering System can be accepted if it is determined that the economic operator has gained no unfair advantage.

81.3 A late tender submission must not be accepted unless prior written approval has been obtained from the Procurement Service. This will only be provided for procurement processes below the EU Spend Thresholds and where it can be determined that an unfair advantage has not been gained from it being late.

82. Abnormally Low Tenders

- 82.1 Where a price has been assessed as being abnormally low the Council must require the economic operator to explain the price proposed. The Council must take into account the guidance given within the Public Contracts Regulations when assessing the economic operator's explanation and may only reject the tender where the evidence provided does not satisfactorily account for the low price or where the economic operator has obtained state aid and that state aid has resulted in a distortion in competition.
- 82.2 Where necessary, in order to appropriately evaluate the evidence provided, the Officer should seek advice from Corporate Finance. The Officer should also seek guidance from the Procurement Service in relation to satisfactory grounds for acceptance or rejection.

83. Tenders Exceeding Estimate

- 83.1 Where the budget has not been declared within the tender and submitted tenders exceed the estimate or budget approval to proceed with the tender evaluation must be obtained as per the Approval to proceed Criteria in paragraph 38 (Approval to Proceed with the Procurement Process).
- 83.2 If the lowest tender obtained exceeds the threshold applicable to the process selected, written approval to proceed must be obtained from the Procurement Service or the procurement process must be restarted or abandoned.
- 83.3 Where the maximum budget has been declared the tender documents must state the requirement for all bids to be within that stated budget and any bids exceeding the stated budget will be excluded from the process. If any economic operator's bid is found to exceed the stated budget that economic operator shall be excluded from any further participation in the process.

84. Tender Evaluation

- 84.1 All tender submissions received must be evaluated in accordance with the pre determined evaluation criteria, set out in the invitation to tender documents issued. Criteria, sub criteria, weightings and the attributed breakdown must not be changed from what was published in the tender documents and must be applied consistently for all tender submissions.
- 84.2 Tender evaluation processes must be recorded on a suitable evaluation matrix and once completed uploaded to the Council's Electronic Tendering System. All criteria, sub criteria and scoring must be detailed for each tender submission to enable a complete assessment of what scores are attributed to each criteria set. Reasons for scores allocated must be recorded which provides an appropriate justification and is used to complete the tender outcome letter.
- 84.3 An evaluation process for every compliant tender received must be fully completed. It must not be stopped part way through because it has been assessed that they won't be successful. eEconomic operators are entitled to a full assessment of the

submission, which must be provided in their tender outcome letter and available to facilitate a de brief if requested. Officers must not provide tender feedback to economic operators without the prior approval of the Procurement Service.

85. Reliance on the Capacities of Other Entities

- 85.1 Where the economic operator is reliant on the skills, professional qualifications or financial standing of other entities in order to perform the contract, those other entities must be evaluated against any PQQ or Selection Criteria relevant to that reliance.
- 85.2 Where there are grounds for the mandatory exclusion of an entity or does not meet the relevant criteria the economic operator must be required to replace that entity and an assessment of the replacement entity against the relevant criteria must be undertaken.

86. Post Tender Clarification

- 86.1 Post tender clarification means clarification with the economic operators after the tender has been submitted and only for the purpose of clarifying or supplementing the content of their tenders or the requirements of the Council, providing this does not involve discrimination.
- 86.2 Negotiations on fundamental aspects of the tender submission, including the contract terms and conditions and variations in which are likely to distort competition, and in particular on prices, are not permitted.
- 86.3 Post tender clarifications must be conducted via the Council's Electronic Tendering System or via a formal meeting with an electronic record held. Consideration must be given as to whether the question relates and should be asked to just one or all economic operators.
- 86.4 If post tender clarification results in a material change to the contract, written approval to proceed must be obtained from the Procurement Service or the procurement process must be restarted or abandoned.

87. Approval to Award the Tender

- 87.1 In accordance with the stated evaluation criteria, approval to proceed with the tender award must be obtained as per the Approval to Proceed Criteria in paragraph 38 (Approval to Proceed with the Procurement Process).
- 87.2 The approval must be formally documented and signed, using the Contract Approval Request Form, available to Officers on request from the Procurement Service.
- 87.3 If a decision is reached to not award the tender, the Officer must advise all economic operators, via the Electronic Tendering System, detailing the reason for the decision.

88. Tender Outcome Notifications

- 88.1 All successful and unsuccessful economic operators must be notified of the tender award decision at the same time, via the Electronic Tendering System. Suitable template formats are available from the Procurement Service.
- 88.2 The unsuccessful notification must provide:
- a. The full reasons for the tender award decision and should include: the characteristics and relative advantages of the successful tender.
 - b. The identity of the successful economic operator.
 - c. The percentage breakdown score of the evaluation criteria and sub criteria for the economic operator receiving the notice, and for the economic operator who has been awarded the tender.
 - d. The start and end date of the standstill notice must also be included, if applicable, see paragraph 89 (Standstill).

Any further written or verbal debriefing must not be offered within the notification or at any other time and Officers must immediately refer any such enquiries from economic operators to the Procurement Service.

89. Standstill

- 89.1 For procurement processes that are above EU Spend Thresholds, a mandatory minimum standstill period of 10 calendar days (which must start and end on a working day), from notification of the tender outcome, before the resultant contract can be entered into.
- 89.2 Following the completion of the standstill period, an Award Notice must be published in the Official Journal of the European Union, which is submitted via the Council's Electronic Tendering System, refer to paragraph 76 (Electronic Tendering).

90. Contracts Finder

- 90.1 In accordance with the Public Contracts Regulations and Transparency Code details of all advertised contracts awarded with a value of £50,000 or above must be published on Contracts Finder either from the date the OJEU Award notice is published or for non OJEU, immediately after the tender outcome notifications.

91. Debriefing

- 91.1 Any requests for further written or verbal debriefing, or any complaints, correspondence, threat of legal challenge or court proceedings must be immediately notified to the Procurement Service who will provide the necessary advice and guidance on how to proceed.

G. Contracts Arrangements

Note: This Procedure (so far as it relates to Contracts entered in the course of the discharge of executive functions) complies with the requirements of Article 8 of the Local Authorities (Executive and Alternative Arrangements) (Modifications of Enactments and Further Provisions) (England) Order 2001 (SI 1517/2001) and power to modify this Procedure may not be delegated by the Council.

92 Contracts

- 92.1 Any Contract with a value exceeding £25,000 entered into on behalf of the Council in the course of discharge of any function (whether executive or Council) shall be made in writing (and in a form in accordance with Financial Regulations and these Procedures).
- 92.2 All Contracts with a value exceeding £50,000 must be made under the common seal of the Council attested by at least one Officer.
- 92.3 Where a procurement process was undertaken, the contract terms and conditions must be those that were issued within the tender pack.
- 92.4 The economic operator's terms and conditions may only be used in exceptional circumstances and must be reviewed and approved by Legal Services and Insurance Services prior to signing.
- 92.5 Prior to issuing a Contract, Officers must obtain from the economic operator evidence of compliance with any contractual requirements, such as insurances, disclosure and barring service checks and policies and procedures.
- 92.6 An economic operator shall not be allowed to commence performing the contract prior to the formal contract documents being signed, without the agreement of Legal Services.
- 92.7 In the case of framework agreements an economic operator shall not be permitted to participate in any call-off from the framework until such time as their agreement has been duly signed by the economic operator and the Council.
- 92.8 Other organisations may not use a framework agreement or contract put in place by the Council without having duly signed the user agreement.

93. Issuing and Signing Contracts

- 93.1 The following process must be followed for issuing and signing contracts
- a. Two copies of the contract shall be issued to the economic operator in a format that cannot be altered (i.e. hard copy or if issuing electronically as a PDF) by the recipient.
 - b. The contract must be signed by the economic operator before it is signed by the Council's Authorised Officer.

- c. To ensure the contract is in place prior to the commencement date the economic operator should be advised of the date by which the signed contract must be returned.
- d. Contracts must be either signed by at least two Officers of the Council (one of whom is the Authorised Officer or any senior solicitor in the employment of the Council who is duly authorised by the Council for the purposes of this Procedure) or made under the common seal of the Council attested by at least one Officer.

94. Modification of Contracts

- 94.1 Written authorisation, using the agreed process and Contract Modification Request Form, is required to modify a contract without a new procurement procedure being followed. Any request must be approved by the relevant Procurement Service, the Monitoring Officer and the Chief Finance Officer if there is a financial impact, before the Officer can proceed with the modification of the contract.
- 94.2 Where authorisation is given, the modification must be issued in accordance with the contract change procedure and for above EU Spend Threshold Contracts the appropriate OJEU notice must be submitted where required.
- 94.3 The Procurement Service must keep a record of all cases which have been requested and authorised, or declined and will report these to the Senior Leadership Team on a six monthly basis.
- 94.4 Contracts and framework agreements may only be modified during their term without a new procurement procedure for the following cases:
 - a. Where the modification has been provided for in the original procurement documentation and the modification does not alter the overall nature of the contract or framework agreement;
 - b. A change of contractor cannot be made for economic or technical reasons provided that any increase in price does not exceed 50% of the value of the original contract;
 - c. A change of contractor would cause significant inconvenience or substantial duplication of costs for the contracting authority provided that any increase in price does not exceed 50% of the value of the original contract;
 - d. The need for the modification has been brought about by circumstances which a diligent Council would have not for seen, the modification doesn't alter the overall nature of the contract and provided that any increase in price does not exceed 50% of the value of the original contract;
 - e. The modification is not substantial in accordance with Regulation 72, paragraph 8 of the Public Contract Regulations 2015;

- f. For above EU Spend threshold contracts, where the modification, or cumulative value of modifications, is below the spend threshold value and is 10% of the initial contract value for service and supply contracts and 15% of the initial contract value for works contracts, provided that the modification does not alter the overall nature of the contract or framework agreement.

95. Contract Extension

- 95.1 Contracts may only be extended where the option to do so has been incorporated into the tender documents, formal contract documents and OJEU Notice where applicable.
- 95.2 Approval for any extension to a contract must be obtained as per the approval to proceed Criteria in paragraph 38 (Approval to Proceed with the Procurement Process), ensuring that all reasonable checks have been undertaken before the contract is extended.
- 95.3 Extensions must be issued in accordance with paragraph 93 (Issuing and Signing Contracts), ensuring evidence of compliance with any contractual requirements has been re checked, such as insurances, disclosure and barring service checks and policies and procedures.

96. Assignment and Novation

- 96.1 All written contracts must contain a clause which does not enable the economic operator to assign or novate a contract without the prior written approval of the Council.
- 96.2 Where an Officer becomes aware that an existing economic operator has or may be subject to a company reorganisation, where they may be taken over or merged with another company or simply assigned to another or even otherwise disposed of that will result in the assignment or novation of a contract, the advice of Legal Services must be sought.

97. Contract Termination

- 97.1 All written contracts must contain a clause enabling the Council to cancel the contract.
- 97.2 Contracts up to £100,000 may be terminated early by agreement of the parties prior to the expiry date or in accordance with the termination provisions set out in the contract.
- 97.3 Approval to terminate a contract must be obtained as per the approval to proceed Criteria in paragraph 38 (Approval to Proceed with the Procurement Process). Legal Services, the Chief Finance Officer and Monitoring Officer must be consulted on any proposed termination of a contract over £100,000 in value.

H. Contract Management**98 Contracts Register**

98.1 The Council must publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. Officers must ensure, following letting of the contract, that the Contracts Register, available via the Procurement Service, is completed.

98.2 The Contracts Register must be updated where a contract is extended or varied or terminated.

99. Contract Monitoring and Performance Management

99.1 Contracts awarded by or on behalf of the Council must be monitored and managed throughout the contract term to ensure delivery of the contracted goods, services or works in accordance with the contract requirements and performance standards.

99.2 Contract monitoring and management arrangements must be proportionate to complexity, value and risk associated with the contract.

99.3 The Executive Head will appoint an appropriate Officer to carry out regular reviews of the economic operator's performance against the requirements and key performance indicators specified in the contract and monitor compliance against contractual requirements. All review meetings must be recorded in writing.

99.4 Where an economic operator fails to meet requirements the Executive Head must take timely and appropriate action, in accordance with any default procedures stipulated within the contract, to address any non-compliance including termination in the absence of appropriate remedial action by the economic operator.

99.5 Compliance with contractual requirements, such as insurances and the use of specific staff, consortia member or sub-contractors must be checked throughout the life of the contract and as a minimum annually. Where the economic operator is no longer able to comply with any contractual requirement advice must be sought from Legal Services on the action to be taken to address the non-compliance, including termination in the absence of any appropriate alternative solutions.

100. Claims and Disputes

100.1 Any disputes must be dealt with in accordance with the dispute procedure set out in the contract. Officers must consult with Legal Services in the event of any dispute or on receipt of any correspondence threatening legal claim or formal legal claim.

I. Other**101. Gifts and Hospitality**

101.1 The Council's Codes of Conduct for Members and Employees and Local Protocol on Gifts and Hospitality must be followed in respect of contracts. Specifically, the following must not be accepted:

- a. Any gift or hospitality from any economic operator or potential economic operator;
- b. Hospitality includes drinks, meals, entertainment, overnight accommodation, travel and holidays, but does not include a lift in a private or company car, a taxi, or refreshments in the course of office duty.

102. Nomination of Sub Contractors and Suppliers

102.1 Where it is being stipulated that a specific sub-contractor is to be used or nominated to a main contractor, this is only permissible if this sub-contractor has been selected in compliance with these Procedures.

103. Concessions and Sponsorship

103.1 Where the Council seeks economic operators who want to pay the Council for the right to provide services on the Council's premises, a procurement process is required in accordance with these Procedures, in compliance with the requirements as laid out in the EU Concessions Directives and the resultant UK Regulations when they come into force.

104. Grant Funding Audits

104.1 Where an external funder is carrying out an audit in relation to funding provided to the Council and spend of the funding required a procurement process to be undertaken, Officers must:

- a. Agree any written any response relating to the procurement process with the Procurement Service prior its submission; and/or
- b. Involve the Procurement Service in any meetings with the auditor that relate to the procurement process.

105. Internal Audits

105.1 Where an internal audit raises concerns or identifies areas of non-conformance in relation to procurement practice and compliance with these Contract Procedures the Procurement Service must be consulted on any remedies required to rectify the issues or areas of non-conformance.

J. Definitions

Term	Definition
Approved List	Shall mean a list of pre-selected and approved economic operators
Authorised Officer	Shall mean an Officer, employee (including agency workers with written authority) or persons seconded to the Council with the authority to make a decision or undertake the particular activity
Award	Shall mean the process by which the Council shall determine to whom the contract will be awarded in accordance with the criteria listed at Regulation 30 of the Public Contracts Regulations 2006 as amended in 2009
Award Notice	Shall mean the official notice used to notify the details of contracts awarded
Call Off Contract	Shall mean a contract awarded under a framework agreement
Central Purchasing Body	<p>Shall mean a contracting authority which:</p> <ul style="list-style-type: none"> <input type="checkbox"/> acquires goods or services intended for one or more contracting authorities; <input type="checkbox"/> Awards public contracts intended for one or more contracting authorities; or <input type="checkbox"/> concludes framework agreements for work, works, goods or services intended for one or more contracting authorities.
Competitive Dialogue Procedure	Shall mean the flexible procurement procedure for use only in complex projects where there is a need for the contracting authority to discuss all aspects of the proposed contract with economic operators
Competitive Procedure with Negotiation	Shall mean the flexible procurement procedure for use in projects where the Council's requirements are not sufficiently well defined to allow for award without some negotiation on those requirements with out some form of negotiation with the economic operators who have submitted a bid

Term	Definition
Confidentiality Agreement	Shall mean a contract through which one or more parties agree not to disclose information covered by the agreement
Constitution	Shall mean the document which sets out the basic -rules governing the Council's business
Contract	A legally binding agreement between two or more parties
Contract Procedures	Shall mean the rules and processes in place to ensure the Council is compliant with legislation, fair and accountable in its dealings with economic operators and obtains value for money
Contract Value	Shall mean the proposed price of the contract to be awarded
Contracting Authority	Shall mean a public authority or body governed by public law
Contracts Finder	Shall mean the government website on which the Council must advertise all opportunities above £50,00 and publish details of the subsequently awarded contracts
Council	Shall mean Torbay Council
Council-wide Contract	Shall mean the contracts to be used by all Officers for frequently purchased goods, works and services, which the Council is contractually bound to use for said goods, works and services and which the economic operator has a legal right to expect all purchases to be made from
Criteria	Shall mean the standards against an economic operator's tender will be assessed
Directives	Shall mean the EU Public Contracts Directives currently in force

Term	Definition
Dynamic Purchasing System	Shall mean a completely electronic system, which may be established by the Council and is open throughout its duration for the admission of economic operators and is used to purchase commonly used goods, works or services
Economic Operator	Shall mean the generic term to cover a contractor, supplier, service provider, applicant, bidder, candidate, tenderer, company or organisation
Electronic Tendering System	Shall mean the internet based system used to facilitate the complete tendering process, covering advertising, issuing and receiving tender related information, evaluation and contract Award
EU	European Union
EU Directives	Shall mean the same as Directives
EU Spend Threshold	Shall mean the contract value thresholds set by the EU above which the Public Contract Regulations 2006 apply
Framework Agreement	Shall mean an 'umbrella agreement' that sets out the terms under which individual contracts (call-offs) can be made through the period of the agreement
Joint Venture	Shall mean the commercial arrangement between the Council and a private sector partner for the purpose of undertaking a particular business activity
Innovation Partnership	Shall mean the procurement procedure to be used only where the Council is aiming to develop an innovative product, service or works, which it then has the intention of purchasing
Light Touch Regime	Shall mean the regime under which certain social and other specific services may be procured
Local SME or VCSE	Shall mean a small or medium sized enterprise or voluntary and community sector enterprise that is located and operated from within the Torbay local authority

Term	Definition
	<p>boundary, i.e. postcodes TQ1 to TQ5</p> <p>Or where, there is no such organisation within the Torbay local authority boundary, one that is located and operated from within Teignbridge or South Hams district councils boundaries, i.e. postcodes TQ6 to TQ14</p>
Main Contractor	Shall mean the economic operator who is responsible for engaging, overseeing and managing sub-contractors
OJEU	Official Journal of the European Union
Open Procedure	Shall mean a procedure leading to the Award of a Contract whereby all interested economic operators may submit a tender without providing the opportunity to short list
Parent Company Guarantee	Shall mean a guarantee given by a parent company in relation to the economic operator's performance of the contract under which the parent company is obliged to remedy any breach or default
PQQ	Shall mean Pre Qualification Questionnaire
Procurement Documents	Shall mean all of the documents required by an economic operator in order to respond to a PQQ or submit a tender
Public Body	Shall mean an organisation whose work is part of the process of government but is not a Government department
Public Contract Regulations	Shall mean the legislation incorporated in to English law concerning public procurement, which can be found at: www.legislation.gov.uk
Regulations	Shall mean the same as Public Contracts Regulations
Reserved Contract	Shall mean a contract that may only be bid for by economic operators who meet specific criteria, as laid out in the Public Contracts Regulations

Term	Definition
Restricted Procedure	Shall mean a two-stage procedure leading to the award of a contract, the first stage following a pre-selection process which determines the economic operators who are subsequently invited to submit a tender.
Selection	Shall mean the process by which applicants will be selected to move forward to the next stage of the procurement process, in accordance with the criteria listed at Regulations 23, 24 and 25 of the Public Contracts Regulations 2006 as amended in 2009.
Selection Questionnaire	Shall mean the questionnaire used to vet economic operators to ensure they meet the required standards
SME	Small and Medium Enterprises
Procedure	Shall mean these Contract Procedures
Standstill	Shall mean a period of at least ten calendar days (communicated via electronic means) following the notification of an award decision, for contracts tendered via OJEU, during which the Council must not enter into the contract or framework agreement.
Sub-Criteria	Shall mean the standards that sit below the main criteria, against which the economic operator's tender will be assessed
Tender	Shall mean an invitation to bid for a contract or an economic operator's written offer for a contract
Tender Award	Shall mean the award of a contract following a procurement process
User Agreement	Shall mean the agreement signed by other public bodies in order to allow them to use a contract or framework agreement
Verifiers	Shall mean the Officers authorised to unseal tenders

Term	Definition
VCSE	Voluntary and Community Sector Enterprise
Weighting	Shall mean the score allocated to each criteria and sub-criteria against which the economic operator's tender will be assessed

Code of Conduct for Members

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CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

Public Duty and Interests: An introduction

1 This Code applies to you as ~~the elected Mayor~~, a Member or a Co-opted Member of the Council of the Borough of Torbay ('the Council'). For the purposes of this code references to 'Member' or 'Member of the Council' include ~~the elected Mayor and Co-opted members~~ unless otherwise stated. A Co-opted Member means a person who is not a member of the authority but who:

- (a) is a member of any committee or sub-committee of the authority, or
- (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.

1.2 When acting in your capacity as a Member of the Council, you should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership. An explanation of what compliance with each of these principles requires is included at appendix A.

1.3 When acting in your capacity as a Member of the Council –

(a) you must act solely in the public interest and should never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, a member of your family, close associate or relevant person;

(b) you must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;

(c) when carrying out your public duties you must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias;

(d) you are accountable to the public for your decisions and actions and must submit yourself to the scrutiny necessary to ensure this;

(e) you must act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing. You should be prepared to give reasons for your decisions and actions in accordance with any statutory requirements and any reasonable additional requirements imposed by the Council or contained in its Constitution,

(f) you must be truthful and declare any interests, whether disclosable or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;

(g) you must, when using or authorising the use by others of the resources of the Council, ensure that such resources are not used improperly for political purposes (including party political purposes) and that any use is in accordance with the Council's reasonable requirements;

(h) you must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council (as set out at Appendix C);

(i) you must promote and support high standards of conduct when serving in your public post. You should exhibit these principles in your own behaviour, actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

- 1.4 Whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any issue which Members have to decide.
- 1.5 You must not do anything as a Member which you could not justify to the public.
- 1.6 It is your responsibility to comply with the provisions of this Code.

Definitions

2. In this Code –

“interest or interests” have the meanings set out in Part 2 of this Code

“relevant person” means:

- you or
- your spouse or civil partner, or
- a person with whom you are living as husband and wife or as if they were civil partners

“relevant period” means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest

“meeting” means any meeting of –

- the Council;
- the ~~Executive of the Council~~ Cabinet;
- any of the Council's or the ~~Executive's~~ Cabinet's, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area committees;

“Member” includes a co-opted member

“Regulations” means the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464)

“sensitive information” has the meaning given to it in paragraph 7.4

Scope

3. You must comply with this Code whenever you are acting in your official capacity, when:
 - (a) you are engaged on the business of the Council; or
 - (b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council or in your capacity as a Member.

General obligations

4. You **must** –
 - (a) treat others with courtesy and respect,
 - (b) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council.
5. You **must not** –
 - (a) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;
 - (b) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010 the requirements of which are included at appendix B);
 - (c) bully any person (bullying may be characterised as any single act or pattern of offensive, intimidating, malicious, insulting or humiliating behaviour; an abuse or misuse of power or authority which attempts to undermine or coerce or has the effect of undermining or coercing an individual or group of individuals by gradually eroding their confidence or capability which may cause them to suffer stress or fear);
 - (d) intimidate or attempt to intimidate any person who is or is likely to be –
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings,in relation to an allegation that any Member has failed to comply with the Council's Code of Conduct; or
 - (e) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;

(f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –

- (i) you have the consent of a person authorised to give it;
- (ii) you are required by law to do so;
- (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
- (iv) the disclosure is –

- (A) in the public interest; and
- (B) made in good faith and
- (C) in compliance with the reasonable requirements of the Council;

(g) prevent another person from gaining access to information to which that person is entitled by law;

(h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

PART 2 INTERESTS

Registration of Interests

6. You must, within 28 days of—

- (a) this Code being adopted by, or applied to, the Council; or
- (b) your taking office as a Member or Co-opted Member of the Council,

whichever is the later, and annually thereafter, provide written notification to the Council's Monitoring Officer of:

- (i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife); and
- (ii) any other personal interest as may be defined by the Council from time to time;

which will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at:

<http://www.torbay.gov.uk/DemocraticServices/mgMemberIndex.aspx?bcr=1>

6.1 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Council's Monitoring Officer.

6.2 Whether or not an interest within paragraphs 7.1 and 7.2 below has been entered onto the Council's register, you must disclose any interest to a meeting at which you are present in any matter being considered, in accordance with paragraph 8 below, unless that matter is 'sensitive information'.

6.3 Following any disclosure of an interest not on the Council’s register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.

6.4 In relation to disclosable pecuniary interests, in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

“body in which the relevant person has a beneficial interest”	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
“director”	includes a member of the committee of management of an industrial and provident society
“land”	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
“relevant authority”	means the authority of which you are a member
“relevant person”	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
“securities”	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

7. The interests you **must** register are:

7.1 those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) as set out below, namely:

(a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;

(b) any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;

(c) any contract which is made between you or, so far as you are aware, a relevant person (as defined at Para 2 above) (in which the relevant person has a beneficial interest) and the Council:

- (1) under which goods or services are to be provided or works are to be executed; and
- (2) which has not been fully discharged

(d) any beneficial interest in land held by you, or so far as you are aware, a relevant person which is within the administrative area of the Council;

(e) any licence (alone or jointly with others) to occupy land in the administrative area of the Council for a month or longer

(f) any tenancy where (to your knowledge):

- (1) the landlord is the Council; and
- (2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.

(g) any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:

(1) that body (to your knowledge) has a place of business or land in the administrative area of the Council and

(2) either:

(A) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or

(B) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

7.2 In addition to the disclosable pecuniary interests prescribed by the Regulations this Code also requires that you **must** register the following interests:

(a) your membership of any body:

- (1) to which you have been appointed by the Council
- (2) which exercises functions of a public nature directed to charitable purposes; or
- (3) whose principal purposes include influence of public opinion or policy

(b) your membership of any political party or trade union.

7.3 In addition to those interests listed at 7.1 and 7.2 above which you are required to register, you **may** wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a Member, such as membership of the Freemasons or any similar body.

7.4 Where the Council's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.

7.5 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

Declaration of Interests

8. Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function which relates to or is likely to affect any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at Para 6(b)(i) .

8.1 Where you have any interest in business of the Council and you attend a meeting at which that business is to be considered, you must:

- (a) disclose to that meeting the existence and nature of that interest but where your interest is sensitive you are not required to disclose the nature of the interest but merely the fact that you have an interest in the matter concerned;
- (b) disclose any interest, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
- (d) not seek to influence improperly any decision about that business;

unless you have obtained a dispensation from the Council's Monitoring Officer.

8.2 Members should note that the following is a criminal offence:

- (a) failing to notify the authority's Monitoring Officer of any disclosable pecuniary interests which the person has at the time when the notification is given, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority,
- (b) failing to disclose a disclosable pecuniary interest to a meeting which has not been previously notified to the monitoring officer and if that interest is not the subject of a pending notification, failing to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure
- (c) participating, or participating further, in any discussion of a matter in which a member has a disclosable pecuniary interest
- (d) participating in any vote, or further vote, taken on the matter at the meeting in which a member has a disclosable pecuniary interest

8.3 You are also required to consider, before taking any decision, whether there is potential for legal challenge on the basis of you having any apparent bias, pre-determination or pre-disposition associated with the decision. The Local Code of Good Practice – Members and Council Officers Involved in the Planning Process provides further guidance on bias, pre-determination and pre-disposition.

**MEMBERS' CODE OF CONDUCT
GENERAL NOTICE OF REGISTERABLE INTERESTS**

~~~~~

I,

being a Member/Co-opted Member of the Council of the Borough of Torbay,

give notice below of those interests which I am required to declare under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and Torbay Council's Code of Conduct:

I understand that in so doing I must declare any interest of my spouse or civil partner or of any person with whom I am living as a husband or wife and acknowledge that all references to 'you' below include reference to my spouse or civil partner or of any person with whom I am living as a husband or wife.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| <p><b>1. Employment, Office, Trade, Profession or Vocation</b></p> <p><b>Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.</b></p> |                           |
| Description of employment, job, vocation, trade or business                                                                                                                                                                                                                                                                                                                                                                                                    | (Empty space for details) |
| Name of Employer, body, firm or company by which you are employed or in which you are a partner or a remunerated Director in which you have a beneficial interest                                                                                                                                                                                                                                                                                              | (Empty space for details) |

**2. Sponsorship**

Please give details of any person or body (other than the Council) who has made any payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a Councillor.

**3. Securities: Interests in Companies**

Please give details of body which has a place of business or owns land in the Council’s area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total share issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body of more than 1/100<sup>th</sup> of the total shares of that class

*Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.*

**4. Contracts: for Goods, Works or Services with the Council**

Please give details of any current, existing contracts for goods, works or services between the Council and you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest, as referred to at 3 above.

**5. Landholdings and Licenses in the Area**

Please give the address or other description (sufficient to identify the location) of any land or property in the Council's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.

You must include the land and house you live in and for example an allotment you own or use.

**6. Corporate Tenancies: Land leased from the Council**

Please give the address or other description (sufficient to identify the location) of any land

leased or licensed from the Council by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).

**7. Membership of Other Bodies**

**Please give details of your membership of, or any position of general control or management, of any bodies in the categories listed below.**

Any Body or Organisation to which you have been appointed or nominated by the Council as its representative

Any body which exercises functions of a public nature directed to charitable purposes

*(e.g., an Industrial and Provident Society or Charitable Body)*

Any Body whose principle purpose is to influence public opinion or policy or which, in your view, might create a conflict of interest in carrying out their duties as a Councillor.

*(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or*



|                                                                                                                      |  |
|----------------------------------------------------------------------------------------------------------------------|--|
| <p><i>Interest Group (e.g. National Trust; RSPB: Greenpeace or membership of the Freemasons or similar body)</i></p> |  |
|----------------------------------------------------------------------------------------------------------------------|--|

**DECLARATION**

I recognise that if I fail to comply with the Code of Conduct for Members of the Council of the Borough of Torbay or:

- (i) omit any information that should be included in this Notice;
- (ii) give false or misleading information; or
- (iii) do not tell the Council of any changes to this Notice or new interests I acquire,

that may be a criminal offence and/or the matter may be referred for investigation.

Signed : .....

**FOR OFFICE USE ONLY**

Received: ..... Update .....

## Appendix A

**General principles of public life**

**Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

**Personal judgement** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Appendix B

**Public sector equality duty (extract from s149 of the Equality Act 2010)**

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [the Equality Act 2010];

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and

(b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

## Appendix C

**Local Authority Code of Publicity**

## Introduction

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.

2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newsheets and maintenance of websites – including the hosting of material which is created by third parties.

3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

**Principles**

4. Publicity by local authorities should:-

- be lawful
- be cost effective
- be objective
- be even-handed
- be appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity

**Lawfulness**

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.

6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.

7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.

8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.

9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

### **Cost effectiveness**

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.

11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.

12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.

13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.

14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

### **Objectivity**

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.

16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.

17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.

18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

### **Even-handedness**

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.

20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the “face” of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.

21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.

22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.

23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.

24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as ~~a directly elected mayor, or the~~ leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.

25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

### **Appropriate use of publicity**

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.

27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.

28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.

29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.

30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newssheets or similar publications published by the local authority, should do this on the front page of the publication.

### **Equality and diversity etc**

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.

32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

### **Care during periods of heightened sensitivity**

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.

34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under

statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.



## Employees Code of Conduct

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## Torbay Council

### Code of Conduct for Employees

#### 1. Introduction and interpretation

- 1.1 The public is entitled to expect high standards of conduct from all employees of Torbay Council. This Code provides guidance as to the standard of conduct which the Council expects of its employees to assist them in their day to day work. Any breach of the Code may be investigated under the Council's disciplinary procedure and action taken where appropriate.
- 1.2 The provisions of this Code of Conduct for Employees are intended to be read consistently with the [Principals of Public Life](#) governing the Code of Conduct for Members. Not all of these principals are relevant to officers. Those which are relevant are set out below:

#### **Selflessness**

Officers should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

#### **Honesty and Integrity**

Officers should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour. Officers must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. Officers should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends and they must declare any such interests.

#### **Objectivity**

Officers must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

#### **Accountability**

Officers are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Respect for Others**

Officers should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

### **Duty to Uphold the Law**

Officers should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

### **Stewardship**

Officers should use the authority's resources prudently and in accordance with the law.

### **Leadership**

Officers should exhibit all the above principles in their own behaviour and actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

1.3 The Council expects high standards from employees because:

- Council services can affect the health, wealth and well-being of local people.
- The Council is subject to democratic control and is accountable to the electorate.
- Local people fund Council spending and take an interest in the way money is spent.

## **2. Status of the Code**

2.1 This Code sets out the minimum standards that apply and lays down guidelines that will help improve standards and protect employees from misunderstandings or criticism. It supplements more detailed provisions in defined areas including terms and conditions of employment, Council policies and the Council's procedure rules.

## **3. Who the Code is aimed at?**

3.1 Inevitably some of the issues covered by the Code will affect senior managerial and professional employees more than it will others.

3.2 The Code is intended to cover all employees under any contract of employment within the Council including office holders such as Registrars.

3.3 Any employee serving as a representative of the Council:

- As a Director of a Company; or
- As a Trustee; or
- On the Management Company of a voluntary organisation,

will be expected to abide by the provisions of this Code when acting in such a capacity unless to do so would cause a conflict of interest with their role as a director, trustee or management committee member.

**Any employee who believes that such a conflict exists or may arise in the future should contact the Director of Corporate Services.**

#### **4. Service Standards**

- 4.1 Council employees must give the highest possible standard of service to the public and, where it is part of their duties, provide appropriate advice to elected Members and fellow employees with impartiality.
- 4.2 Employees will be expected through agreed procedures and without fear of recrimination to bring to the attention of the appropriate level of management any deficiency in the provision of service.
- 4.3 Employees who have serious and genuine concerns relating to impropriety, breach of procedure, unlawfulness or maladministration should be able to come forward and register their concerns without fear of harassment or victimisation.
- 4.4 Employees should show commitment to demonstrating Torbay Council's agreed Core Values - forward thinking, people orientated and adaptable always with integrity and ensure that these values are an integral part of carrying out their job role. The Core Values are available on the intranet or by contacting Human Resources.
- 4.5 Employees' conduct is expected to reflect the standards set out in this Code at all times, irrespective of whether this is within working hours or not. Where an employee engages in inappropriate conduct and risks their integrity and/or the reputation of the Council depending upon the nature and severity of the issue, this could result in disciplinary action and/or criminal proceedings being brought against them.
- 4.6 This is the reason why the Council maintains a range of policies and procedures to help ensure the highest standards of conduct are practised by its employees by encouraging and enabling staff to pursue concerns within the Council rather than disregarding them or airing them publicly.

The most critical of these policy and procedure documents are:

- ~~Financial Regulations and Contracts Procedures. Standing orders relating to contracts and associated rules of procedure.~~
- Financial regulations.
- ~~Local Protocol on Member and Officer Relations~~ ~~Officer—Member protocol.~~
- Local Protocol on gifts and hospitality.
- Whistleblowing policy.
- ~~Prevention of bullying and harassment policy.~~ Acceptable Behaviour Policy.
- ~~Computer security policy.~~ Information Security Policies.
- Prevention of fraud and corruption policy and guidance.
- Disciplinary Policy.
- ~~Acceptable Behaviour Policy.~~

## 5. Disclosure and use of information

- 5.1 The Council embraces the principal of open government and seeks to involve the public in the decision making process. Indeed the law requires that certain types of information must be available to members, auditors, government departments, service users and the public.
- 5.2 In certain circumstances employees may have a legal or professional duty to disclose information to a third party (for example in the course of legal proceedings).
- 5.3 However, some information is by necessity confidential and should not be disclosed e.g. commercially confidential information relating to tendering processes (Contract Procedures Section 40 sets out further requirements) and information which the Council, the ~~Executive Cabinet~~ or any committee has determined as “exempt” information should not be disclosed to the public without the prior permission of the Monitoring Officer.
- 5.4 Employees should not prevent another person from gaining access to information which that person is entitled to by law. If in doubt as to whether or not specific information is disclosable, advice should be sought from the Council's **Information Compliance Team** or the Council's Data Protection Officer. Any employee having custody of documents to which right of access applies commits an offence by obstructing that right.
- 5.5 Employees should not use any information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who may use it in such a way.

5.6 Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Authority should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or sanctioned by the law.

## **6 Criminal Convictions**

6.1 It is a condition of employment that employees must disclose any pending criminal proceedings for which they have been formally charged, any criminal conviction, caution, reprimand, bind-over or final warning received during the course of their employment. Failure to do so may result in disciplinary action being taken, as may the nature of the offence (depending upon its impact on your work) and this may result in your dismissal from Torbay Council's employment.

## **7 Political Neutrality**

7.1 Employees must not do anything which compromises or is likely to compromise their own political impartiality or that of others who work for or on behalf of the Council. In particular, employees should:-

- Provide appropriate advice to all Councillors with impartiality.
- Serve the Council as a whole i.e. all Councillors and not just those of, for example, a particular political group.
- Observe the individual rights of all Councillors (e.g. to have access to relevant information).

7.2 Employees may also be required to advise political groups. They must do so in ways which do not compromise their political neutrality.

7.3 Employees, whether or not politically restricted, must follow every lawful expressed policy of the Council and must not allow their own personal and political opinions to interfere with their work.

7.4 Employees must not infringe the requirements of legislation not to publish any material which in whole or in part, appears to be designed to affect public support for a political party.

7.5 Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set out in Paragraphs 7.1 to 7.4 above.

## **8. Relationships**

### **COUNCILLORS:**

- 8.1 Employees are responsible to the Council through their senior managers.
- 8.2 Some employees are required to give advice to Councillors and senior managers. Mutual respect between employees and Councillors is essential to good local government. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors and should be avoided.

**THE LOCAL COMMUNITY AND SERVICE USERS:**

- 8.3 Employees should always remember their responsibilities to the community they serve and ensure courteous, respectful, efficient and impartial service delivery to all groups and individuals within that community as defined by the corporate aims and policies of the Council.

**CONTRACTORS:**

- 8.4 Employees must make known to their line manager all relationships they have of a business or private nature with external contractors or potential contractors. Orders and contracts must be awarded on merit by fair competition against other tenders and no special favours must be shown to potential contractors (particularly those run by, for example, friends, personal or business associates, spouses or relatives) in the tendering process. No part of the community should be discriminated against.
- 8.5 Pursuant to section 117 of the Local Government Act 1972, if it comes to the knowledge of an employee that a contract in which he/she has a **financial** interest, whether direct or indirect, has been or is proposed to be entered into, the employee must, as soon as practicable, give notice in writing of that interest to:-
  - (1) their line manager; and
  - (2) the Council’s Chief Executive, in writing.

**Failure to declare such an interest could constitute a criminal offence as well as a breach of this Code resulting in disciplinary action.**

[Employees are also required to follow the declaration of interest process for procurements as required under the Public Contracts Regulations 2015 and as set out in Contracts Procedures.](#)

- 8.6 Employees must not seek or receive any gift or personal inducement in connection with the procurement of works, goods or services.

**RELATIVES AND PARTNERS:**

8.7 Employees should not be involved in decisions relating to partners, relatives or close friends. If it comes to an employee's attention that they are involved in any decision which could result in a particular advantage or disadvantage to a partner, relative or close friend, the employee must as soon as practicable, inform his or her line manager.

8.8 In the above paragraph 8.7:-

- (a) "relative" means a spouse, partner, parent, parent-in-law, son, daughter, step-son, step-daughter, child of a partner, brother, sister, grandparent, grandchild, uncle, aunt, niece, nephew or the spouse or partner of any of the preceding persons; and
- (b) "partner" above means a member of a couple who live together in an enduring family relationship; and
- (c) "close friend" is to be given its normal every day meaning.

## **9. Appointments and Other Employment Matters**

9.1 Employees involved in appointments should ensure that these are made on the basis of merit. It would be unlawful for an employee to make an appointment based on anything other than the ability of the candidate to undertake the duties of the post. The Council's recruitment procedures are detailed in the Recruitment Toolkit and should be referred to. In order to avoid any possible accusation of bias, employees should not be involved in an appointment where they are related to an applicant or have a close personal relationship outside work with him or her.

9.2 Employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative, partner or close friend.

## **10. Applications**

10.1 Employees making applications to the Council (e.g. for planning permission or purchase of land) on their own behalf should notify their [Director, Assistant Director or Executive Head](#). However, employees may not make any applications on behalf of a member of the public.

10.2 Employees may not gain financial benefit by way of fees or gratuities or receive any other consideration for advice given to others who submit applications to the Council.

## **11. Outside Commitments**

11.1 Some employees have conditions of service which require them to obtain written consent to take any outside employment. All employees should be clear about their contractual obligations and should not take outside employment which conflicts with



the Council's interests or which may weaken public confidence in the conduct of the Council's business.

- 11.2 No outside work of any sort should be undertaken in the office and use of facilities, e.g. telephones or access to typing facilities for outside work is forbidden.

## **12. Equality Issues**

- 12.1 All members of the local community, customers and other employees have the right to be treated with fairness and equity.
- 12.2 Employees must ensure that the Council's policies (e.g. Equal Opportunities in Employment Policy) concerning equality issues are complied with in addition to any requirements of the law.

## **13. Fairness in Tendering**

- 13.1 The tendering process must be ~~seen to be open and above board~~undertaken in an open, fair and transparent manner. Employees involved in the tendering process and dealing with contractors should be clear on the separation of client and contractor roles within the Council.
- 13.2 Employees in contractor or client units must exercise fairness and impartiality when dealing with all customers, suppliers, potential suppliers, other contractors and sub-contractors.
- 13.3 Employees who are privy to confidential information on tenders or costs relating to either internal or external contractors should not disclose that information to any unauthorised party or organisation. Before disclosing any such information advice should be sought from the Procurement Service.
- 13.4 At all times employees dealing with tenders and contracts must ensure that they comply with the Council's ~~Standing Orders with respect to Contracts and Financial Regulations~~Financial Regulations and Contract Procedures.

## **14. Corruption**

- 14.1 Employees must be aware that it is a serious criminal offence for them to corruptly receive or give any payment, gift (other than a gift of nominal value), loan, fee, reward or advantage for doing or not doing anything or showing favour or disfavour to any person in their official capacity.
- 14.2 Any case of suspected corruption will be fully investigated and any proven cases will be treated as gross misconduct and a criminal prosecution undertaken. Where

an allegation is made it is for the employee to demonstrate that any such rewards have not been corruptly obtained.

- 14.3 The Council's Whistle-blowing policy may be used by members if they become aware of an illegal or dangerous activity by officers.

## 15. Use of Financial Resources

- 15.1 Employees must ensure that they use public funds entrusted to them in a responsible and lawful manner.
- 15.2 They should strive to ensure value for money to the local community and to avoid legal challenge to the Council.

## 16. Gifts and Hospitality

- 16.1 Gifts and hospitality can take many forms, and may include the following:- money, gift vouchers, lottery tickets, discounts for goods/services, tickets to entertainment or sporting events, branded gifts from providers, such as clothing or stationary items, food or drink, including invitations to lunches, dinners or breakfasts.
- 16.2 Employees in the course of their employment shall never seek or accept:
- (a) any gift (or loan) of money; or any gift of gift vouchers, lottery tickets, scratch cards, raffle tickets, or anything else offering the chance of winning a prize; or
  - (b) any discounted or favourable terms of purchase (or hire or loan) of goods or services beyond terms available to the general public or to all Council Employees.

These restrictions shall apply to the seeking of any gift or benefit to any relative or friend of the employee and to any acceptance by the employee of any gift or benefit on behalf of any relative or friend.

- 16.3 Any **offer** of any gift or benefit that would contravene paragraph 16.2 shall be declared to the employee's line manager and recorded on MyView, using the Declaration of Gifts and Hospitality form.
- 16.4 A description of the gift or hospitality will need to be provided, including an estimated cost. This estimate should be based on the brand, size, usual retail cost of the item.
- 16.5 Where an employee is in any doubt about accepting a gift or hospitality this should be discussed with their manager or a member of Human Resources **prior to acceptance**.

**Gifts or hospitality under the value of £25**

- 16.6 Employees in the course of their employment shall never seek and shall not accept any other gift or benefit unless:
- (a) it is a gift of less than £25 in value; and
  - (b) to refuse would cause offence; and
  - (c) the giver is clearly only wishing to express thanks for help given in the past and is not seeking to obtain benefit in the future; and
  - (d) the receipt of the gift or hospitality is declared to the employee's line manager using the Declaration of Gifts and Hospitality form on MyView.
- 16.7 Paragraphs 16.1 to 16.6 shall not prevent employees accepting (but not seeking) modest amounts of promotional materials at conferences, trade fairs and similar events and such items need not be registered under this Code of Conduct.
- 16.8 Where modest promotional materials or items are accepted by an employee from a service provider or customer these should be shared amongst other colleagues wherever possible.
- 16.9 Employees may accept reasonable and appropriate hospitality in the course of their employment where to refuse would appear unusual, or impolite, or be likely to cause offence. This may include the acceptance of a lift in a private or company car or refreshments offered at off-site meetings, conferences etc in the normal course of their duties.

**Gifts or hospitality of £25 and above**

- 16.10 Employees are required to obtain approval from a Senior Manager **before** accepting any gift or hospitality which is to the value of £25 and above.
- 16.11 An employee must, **within 28 days of being offered** any gift or hospitality at the value of £25 or above, declare this and have it authorised by a Senior Manager using the Authorisation of Gifts and Hospitality form which can be completed on MyView. This must be approved by either the Assistant Director, Director (in the case of Assistant Directors) or Chief Executive (in the case of Directors) **before it is accepted**. Receipt of hospitality at the value of £25 or above by any relative or friend of an employee shall be notified in a similar manner if the employee is aware of the receipt of that hospitality.

16.12 Where a gift or hospitality is unauthorized and it has to be refused, the employee should contact the relevant supplier and arrange return of the item. Details of the return must be recorded by the employee and their manager and evidence retained of this, e.g. proof of postage, email to supplier etc.

If an item cannot be returned, i.e. is perishable or the identity of the supplier is not known, it should be offered to a Council's nominated charity and recorded by the employee and manager in the same way.

16.13 Some gifts or hospitality, where authorised, may be classed as a taxable benefit. Payroll will advise employees of this and the process to be followed.

16.14 Acceptance of a gift or hospitality in breach of any of the Council's codes and protocols, or failure to declare receipt of such a gift or hospitality, will lead to disciplinary action and in certain circumstances may lead to a criminal conviction under the Bribery Act 2010 or Local Government Act 1972.

**17. Personal interests of employees holding (1) politically restricted posts and (2) posts involving the negotiation and/or letting of Council contracts**

17.1 In aspiring to best practice in the area of propriety and in the interests of maintaining consistency in relation to the requirements on both members and employees, the Council requires that any employee of Torbay Council holding either:-

(1) a politically restricted post; or

(2) a post involving the negotiation and/or letting of a Council contract,

to declare that interest by providing written notification of that interest to the Council's Human Resources Department in order that it may be held on the employee's file. A Declaration of Financial and Other Interests Form can be downloaded from MyView, under My Documents. ~~registered in the relevant Council Register.~~

17.2 For the purposes of paragraph 17.1, an employee has a personal interest in any business of the Council where either:

(a) it relates to or is likely to affect –

(i) any body of which the employee is a member or in a position of general control or management and to which he is appointed or nominated by the Council;

(ii) any body –

- (aa) exercising functions of a public nature;
  - (bb) directed to charitable purposes; or
  - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),  
  
of which the employee is a member or in a position of general control or management;
  - (iii) any employment or business carried on by the employee;
  - (iv) any person or body who employs or has appointed the employee
  - (v) any person or body who has a place of business or land in the Council's area, and in whom the employee has a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
  - (vi) any contract for goods, services or works made between the Council and the employee or a firm in which he is a partner, a company of which he is a remunerated director, or a person or body of the description specified in paragraph (v);
  - (vii) the interests of any person from whom the employee has received a gift or hospitality with an estimated value of at least £25;
  - (viii) any land in the Council's area in which the employee has a beneficial interest;
  - (ix) any land where the landlord is the Council and the employee is or a firm in which he is a partner, a company of which he/she is a remunerated director, or a person or body of the description specified in paragraph (v) is, the tenant;
  - (x) any land in the Council's area for which the employee has a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.

In sub-paragraph (1)(b), a relevant person is –

- i. a member of the employee’s family or any person with whom he/she has a close association; or
- ii. any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
- iii. any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
- iv. any body of a type described in sub-paragraph a)(i) or (ii).

17.3 In addition to the requirements under paragraph 17.1, such employees are also urged to ~~register~~ declare their additional employment and/or their membership and association with clubs, societies and other organisations not open to the public (e.g. Free Masons, Round Table etc). An Additional Employment Declaration Form should be completed, a copy can be downloaded from MyView, under My Documents. The form should be returned to HR Support to be held on the employee’s file. A Register for this purpose will be kept by Human Resources.

17.4 Without prejudice to the specific requirements of 17.1 to 17.3, in the conduct of their responsibilities, **all employees should**

- immediately declare any relevant interest to their line manager when ever not to do so would undermine public confidence in their activities, so that their line manager may make alternative arrangements to deal with the matter; and
- Declare any personal interest in a matter being discussed at any meeting of;
  - The Council
  - The CabinetExecutive
  - Any of the Council’s Committees, Sub Committees, Joint Committees, Joint Sub Committees or Area Committees and Working Parties

where the matter to be discussed affects their interests.

## 18. Contact with the Media

18.1 Any contact made by the media to employees should be referred to the Communications Team in the first instance.

18.2 Employees on the authorised list are only permitted to release **factual** information in reply to questions from journalists. All comments of a political nature are reserved to Councillors.

18.3 Employees should not use the media as a vehicle to promote personal grievances; the Council's proper processes should be used in this regard (e.g. Grievance Procedure, Bullying and Harassment Procedure etc).

## 19. Appearance

19.1 First impressions count and if a member of staff is inappropriately dressed then at best it presents an obstacle to be overcome in the minds of members of the public. At worst it can create the view that the Council is inefficient. Although many styles of dress are acceptable, employees must dress appropriately for their job and give a positive image of the service they provide.

19.2 Any special clothing, uniform, personal protective equipment or identification provided by the Council should be worn where required.

## 20. Working Safely

20.1 The Council is committed to promoting good health and safe working among its employees. Each employee has a legal obligation to take reasonable care for their own health and safety and for the safety of others who may be affected by his/her acts or omissions. Employees should ensure that they:-

- Follow the Council's safety procedures, instructions, guidance etc.
- Comply with hygiene requirements.
- Wear any personal protective equipment supplied by the Council.
- Report any accidents or near misses at work.
- Never risk injury or danger to themselves or others.

## 21. Information Technology Data Protection, and Data Security and Information Technology

21.1 All employees must comply with Data Protection Law when processing and handling any personal data. Employees must not access information on Council systems and databases where they have no business purpose for accessing that information and must not disclose personal information unless there is a lawful basis to do so. If in any doubt, employees must seek advice must be sought from the Council's Data Protection Officer or the Information Compliance Team.

21.2 All employees are required to notify the Council's Data Protection Officer or Information Compliance Team if they believe there has been a security breach

which may lead to or has resulted in the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data.

21.3 Employees must ensure that they follow the Council's ~~rules and procedures~~ Information Security Policies in relation to the use of computers, mobile devices and the proper use of management and data. Employees must not use personal email accounts or personal devices to conduct any Council business. ~~Particular care should be taken to observe procedures and the use of passwords. The Data Protection Act 1998 requires the Council and its employees to abide by "data protection principles" in the use of data. These principles can be accessed by clicking on the following link: <http://intranet/index/structure/performance-improvement/financialservices/itservices/informationgovernance/dataprotection/dp-principles.htm>~~

~~21.1~~21.4 All employees must ensure they comply with the requirements under Data Protection Law to consult the Council's Data Protection Officer about matters relating to the processing of personal data and the requirement to conduct Data Protection Impact Assessments for any new processing activities or if they are procuring any new technologies to support the processing of personal data.

## 22. Cyber Bullying

- 22.1 Employees must be aware that there are boundaries and consequences of bullying/harassment through social media and therefore cyber bullying is strictly forbidden.
- 22.2 There is the expectation that Council employees will maintain a high level of professionalism at all times when using social networking sites such as Facebook, Twitter, etc or any on-line sites where information can potentially be posted and made available publicly.
- 22.3 Employees should not assume that their entries on any website will remain private and they should never send or post abusive or defamatory messages.
- 22.4 Employees should be careful that comments cannot be perceived as damaging the Council's reputation or that personal comments posted about individuals/work colleagues cannot be interpreted as possible harassment, as they may be legally liable for any damage to reputation.
- 22.5 Derogatory comments about the Council, Members or other employees can lead to disciplinary action, even if this occurs outside of working hours.
- 22.6 Further information is available in the Disciplinary Policy and Acceptable Behaviour Policy both of which ~~are available~~ can be downloaded on the intranet from MyView, under My Documents or by contacting Human Resources.

## 23. Misuse of Drugs and Alcohol



- 23.1 The Council forbids the possession, use or distribution of non-prescribed illegal drugs on any of its sites, vehicles or plant. If anyone on Council business is found to be involved in any of these activities this will be treated as gross misconduct. The police will also be informed.
- 23.2 Anyone who drives, operates machinery or is directly responsible for the care and safety of clients as part of their job is expected to refrain from drinking during working hours or from being under the influence of alcohol or drugs while carrying out their normal duties. All other employees are expected to maintain professional standards in their dealings with the general public and colleagues and to ensure their performance and conduct in the workplace is not adversely affected through consumption of alcohol. When an employee is taking prescribed drugs which may affect their ability to perform their normal duties e.g. driving or operating machinery, the employee must inform their manager.
- 23.3 The misuse of alcohol, drugs and other substances can have a serious consequence in the workplace, especially when this misuse impairs the professional ability of employees. The Council will deal with all employees who are experiencing problems from drug, alcohol or substance misuse in a fair manner and will encourage them to seek support from trained counsellors. However, it is a disciplinary offence for any employee to be unfit for work due to the influence of alcohol, drugs or substances. The Drug and Alcohol Misuse Policy ~~is available~~ can be downloaded from MyView, under My Documents on the intranet or by contacting Human Resources.

## **Code of Corporate Governance**

### **Contents**

1. What do we mean by Corporate Governance
2. Core Principles of Good Governance
3. Applying the Core principles of Good Governance
4. Annual Review and Reporting

**Torbay Council**

**Code of Corporate Governance**

**1. What we mean by Corporate Governance**

- 1.1 Governance is about how the Council ensures that it is doing the right things, in the right way, for the right people, in a timely, inclusive, open, honest and accountable manner.
- 1.2 It comprises the systems, processes and cultures and values by which the Council is directed and controlled and through which it accounts to, engages with, and leads its communities.
- 1.3 This local Code of Corporate Governance has been developed in accordance with, and is consistent with, the CIPFA/SOLACE *Delivering Good Governance in Local Government: Framework*.
- 1.4 Torbay Council is committed to achieving good corporate governance in everything it does in order to meet more effectively the needs, expectations and priorities of local people. In achieving good corporate governance, Torbay Council will:
  - (a) work for and with the communities of Torbay;
  - (b) exercise leadership in the community;
  - (c) undertake an “ambassadorial” role to promote the well-being of Torbay;
  - (d) provide accountability for service delivery at a local level;
  - (e) ensure effectiveness through setting targets and managing performance;
  - (f) demonstrate integrity in dealings with service users;
  - (g) demonstrate openness and inclusivity through consulting with key stakeholders;
  - (h) define the roles and responsibilities of members (~~including the elected Mayor~~) and officers;
  - (i) ensure there is proper scrutiny and review of all aspects of performance and effectiveness;

- (j) demonstrate integrity by ensuring a proper balance of power and authority;
- (k) make public statements on key aspects of the Council's risk management strategy;
- (l) have in place mechanisms for monitoring and reviewing effectiveness against agreed standards and targets;
- (m) display openness and inclusivity by involving all those associated with planning and delivering services; and
- (n) define the standards of personal behaviour that are expected from members ~~(including the elected Mayor)~~ and employees and all those involved in service delivery.

## **2. Core Principles of Good Governance**

2.1 The Council's seven core governance principles are:-

- a) Focusing on the purpose of the Council and on outcomes for the community and creating and implementing a vision for the local area;
- b) Members and Officers working together to achieve a common purpose with clearly defined functions and roles;
- c) Promoting values for the Council and demonstrating the values of good governance through upholding high standards of conduct and behaviour;
- d) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk;
- e) Developing the capacity and capability of Members and Officers to be effective;
- f) Engaging with local people and other stakeholders to ensure robust public accountability; and
- g) Securing continuous improvement in service delivery and ensuring that its agreed policies, priorities and decisions are implemented on time, in a manner consistent with user needs and in the most effective way.

### 3. Applying the Core Principles of Good Governance

3.1 The seven core principles each contain a set of supporting principles, which in turn have a range of specific requirements that apply across the Council's business as outlined in the following tables:

| <b>1. Focusing on the purpose of the authority and on outcomes for the local community and creating and implementing a vision for the local area</b>              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Supporting Principles                                                                                                                                             | Specific requirements to:                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Exercising strategic leadership by developing and clearly communicating the Council's purpose and vision and its intended outcome for citizens and service users. | <p>Develop and promote the Council's purpose and vision.</p> <p>Review on a regular basis the Council's vision for the local area and its implications for the Council's governance arrangements.</p> <p>Ensure that partnerships are underpinned by a common vision of their work that is understood and agreed by all partners. Publish an annual report on a timely basis to communicate the Council's activities and achievements, its financial position and performance.</p> |
| Ensuring that users receive a high quality of service whether directly, or in partnership, or by commissioning.                                                   | <p>Decide how the quality of service for users is to be measured and make sure that the information needed to review service quality effectively and regularly is available.</p> <p>Put in place effective arrangements to identify and deal with failure in service delivery.</p>                                                                                                                                                                                                 |
| Ensuring that the Council makes best use of resources and that taxpayers and service users receive excellent value for money.                                     | <p>Decide how value for money is to be measured and make sure that the authority or partnership has the information needed to review value for money and performance effectively.</p> <p>Measure the environmental impact of policies, plans and decisions.</p>                                                                                                                                                                                                                    |

| <b>2. Members and officers working together to achieve a common purpose with clearly defined functions and roles.</b>                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Supporting Principles                                                                                                                                                                          | Specific requirements to:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p>Ensuring effective leadership throughout the Council and being clear about executive and non-executive functions and of the roles and responsibilities of the scrutiny function.</p>        | <p>Set out a clear statement of the respective roles and responsibilities of the <b>executive Cabinet</b> and of the <b>executive's Cabinet's</b> members individually and the Council's approach towards putting this into practice.</p> <p>Set out a clear statement of the respective roles and responsibilities of other Council Members, Members generally and of senior officers.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>Ensuring that a constructive working relationship exists between Council Members and Officers and that the responsibilities of Members and Officers are carried out to a high standard.</p> | <p>Determine a scheme of delegation and reserve powers within the Constitution, including a formal schedule of those matters specifically reserved for collective decision of the Council, taking account of relevant legislation, and ensure that it is monitored and updated when required.</p> <p>Make a Chief Executive or equivalent responsible and accountable to the Council for all aspects of operational management.</p> <p>Develop protocols to ensure that the Leader <b>of the Council</b> and Chief Executive (or equivalents) negotiate their respective roles early in the relationship and that a shared understanding of roles and objectives is maintained.</p> <p>Make a senior <b>Officer</b> (the S151 Officer/Chief Finance Officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.</p> <p>Make a senior Officer (usually the Monitoring Officer) responsible to the Council for ensuring that agreed procedures</p> |

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|                                                                                                                                   | and protocols are followed and that all applicable Statutes and Regulations are complied with.                                                                                                                                                                                                                                                                                          |
| Ensuring relationships between the Council, its partners and the public are clear so that each knows what to expect of the other. | <p>Develop protocols to ensure effective communication between Members and Officers in their respective roles.</p> <p>Set out the terms and conditions for remuneration of Members and Officers and an effective structure for managing the process, including an effective Remuneration Panel (if applicable). Ensure that effective mechanisms exist to monitor service delivery.</p> |

**3. Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour**

| Supporting principles                                                                                                                            | Specific requirements to:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| Ensuring Council Members and Officers exercise leadership by behaving in ways that exemplify high standards of conduct and effective governance. | <p>Ensure that the Council’s leadership sets a tone for the organisation by creating a climate of openness, support and respect.</p> <p>Ensure that standards of conduct and personal behaviour expected of Members and staff, of work between Members and staff and between the authority, its partners and the community are defined and communicated through Codes of Conduct and Protocols.</p> <p>Put in place arrangements to ensure that Members and employees of the Council are not influenced by prejudice, bias or conflicts of interest in dealing with different stakeholders and put in place appropriate processes to ensure that they continue to operate in practice.</p> |

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| <p>Ensuring that organisational values are put into practice and are effective.</p> | <p>Develop and maintain shared values including leadership values for both the organisation and staff reflecting public expectations, and communicate these with Members, staff, the community and partners.</p> <p>Put in place arrangements to ensure that systems and processes are designed in conformity with appropriate ethical standards, and monitor their continuing effectiveness in practice.</p> <p>Develop and maintain an effective Standards Committee.</p> <p>Use the organisation’s shared values to act as a guide for decision making and as a basis for developing positive and trusting relationships within the Council.</p> <p>In pursuing the vision of a partnership, agree a set of values against which decision making and actions can be judged. Such values must be demonstrated by partners’ behaviour both individually and collectively.</p> |
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| <p><b>4. Taking informed and transparent decisions which are subject to effective scrutiny and managing risk</b></p>                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <p>Supporting principles</p>                                                                                                          | <p>Specific requirements to:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p>Being rigorous and transparent about how decisions are taken and listening and acting on the outcome of constructive scrutiny.</p> | <p>Develop and maintain an effective scrutiny function which encourages constructive challenge and enhances the Council’s performance overall and that of any organisation for which it is responsible.</p> <p>Develop and maintain open and effective mechanisms for documenting evidence for decisions and recording the criteria, rationale and considerations on which decisions are based.</p> <p>Put in place arrangements to safeguard Members and employees against conflicts of</p> |



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|                                                                                                                                                      | <p>interest and put in place appropriate processes to ensure that they continue to operate in practice.</p> <p>Develop and maintain an effective Audit Committee which is independent of the executive and scrutiny functions or make other appropriate arrangements for the discharge of the functions of such a Committee.</p> <p>Ensure that effective, transparent and accessible arrangements are in place for dealing with complaints.</p> |
| <p>Having good-quality information, advice and support to ensure that services are delivered effectively and are what the community wants/needs.</p> | <p>Ensure that those making decisions whether for the Council or the partnership are provided with information that is fit for the purpose – relevant, timely and gives clear explanations of technical issues and their implications.</p> <p>Ensure that proper professional advice on matters that have legal or financial implications is available and recorded well in advance of decision making and used appropriately.</p>               |
| <p>Ensuring that an effective risk management system is in place.</p>                                                                                | <p>Ensure that risk management is embedded into the culture of the Council, with Members and managers at all levels recognising that risk management is part of their jobs.</p> <p>Ensure that effective arrangements for whistle-blowing are in place to which Officers, staff and all those contracting with or appointed by the Council have access.</p>                                                                                      |

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| <p>Using their legal powers to the full benefit of the citizens and communities in their area.</p>                                           | <p>Actively recognise the limits of lawful activity placed on them by, for example, the ultra vires doctrine, but also strive to utilise their powers to the full benefit of their communities.</p> <p>Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on Councils by public law.</p> <p>Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice – into their procedures and decision making processes.</p> |
| <p><b>5. Developing the capacity and capability of members and officers to be effective</b></p>                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>Supporting principles</p>                                                                                                                 | <p>Specific requirements to:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <p>Making sure that Members and Officers have the skills, knowledge, experience and resources they need to perform well in their roles.</p>  | <p>Provide induction programmes tailored to individual needs and opportunities for Members and Officers to update their knowledge on a regular basis.</p> <p>Ensure that the statutory officers have the skills, resources and support necessary to perform effectively in their roles and that these roles are properly understood throughout the Council.</p>                                                                                                                                                                                                                                                                                                                  |
| <p>Developing the capability of people with governance responsibilities and evaluating their performance, as individuals and as a group.</p> | <p>Assess the skills required by Members and Officers and make a commitment to develop those skills to enable roles to be carried out effectively.</p> <p>Develop skills on a continuing basis to improve performance, including the ability to scrutinise and challenge and to recognise when outside expert advice is needed.</p> <p>Ensure that effective arrangements are in place for reviewing the performance of the <del>Executive Cabinet</del> as a whole and of</p>                                                                                                                                                                                                   |

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|                                                                                                                                                             | individual Members and agreeing an action plan which might, for example, aim to address any training or development needs.                                                                                                                                                                                                   |
| Encouraging new talent for membership of the Council so that best use can be made of individual's skills and resources in balancing continuity and renewal. | <p>Ensure that effective arrangements are in place designed to encourage individuals from all sections of the community to engage with, contribute to and participate in the work of the Council.</p> <p>Ensure that career structures are in place for Members and Officers to encourage participation and development.</p> |

| <b>6. Engaging with local people and other stakeholders to ensure robust public accountability</b>                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
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| Supporting principles                                                                                                                                                                                                      | Specific requirements to:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Exercising leadership through a robust scrutiny function, which effectively engages local people and all local institutional stakeholders, including partnerships, and develops constructive accountability relationships. | <p>Make clear to themselves, all staff and the community to whom they are accountable and for what.</p> <p>Consider those institutional stakeholders to whom the Council is accountable and assess the effectiveness of the relationships and any changes required.</p> <p>Produce an annual report on the activity of the scrutiny function.</p>                                                                                                                                                                                                                                                |
| Taking an active and planned approach to dialogue with and accountability to the public to ensure effective and appropriate service delivery whether directly by the Council, in partnership or by commissioning.          | <p>Ensure clear channels of communication are in place with all sections of the community and other stakeholders, and put in place monitoring arrangements and ensure that they operate effectively.</p> <p>Hold meetings in public unless there are good reasons for confidentiality.</p> <p>Ensure that arrangements are in place to enable the Council to engage with all sections of the community effectively. These arrangements should recognise that different sections of the community have different priorities and establish explicit processes for dealing with these competing</p> |

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|                                                                                                                     | <p>demands.</p> <p>Establish a clear policy on the types of issues they will meaningfully consult on or engage with the public and service users about including a feedback mechanism for those consultees to demonstrate what has changed as a result.</p> <p>On an annual basis, publish a performance plan giving information on the Council’s vision, strategy, plans and financial statements as well as information about its outcomes, achievements and the satisfaction of service users in the previous period.</p> <p>Ensure that the Council as a whole is open and accessible to the community, service users and its staff and ensure that it has made a commitment to openness and transparency in all its dealings, including partnerships, subject only to the need to preserve confidentiality in those specific circumstances where it is proper and appropriate to do so.</p> |
| <p>Making best use of human resources by taking an active and planned approach to meet responsibility to staff.</p> | <p>Develop and maintain a clear policy on how staff and their representatives are consulted and involved in decision making.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

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| <p><b>7. Securing continuous improvement in service delivery and ensuring that its agreed policies, priorities and decisions are implemented on time, in a manner consistent with the needs of its user and in the most effective way.</b></p> |                                                                                                                                                                                                                                                                                     |
| <p>Supporting principles</p>                                                                                                                                                                                                                   | <p>Specific requirements to:</p>                                                                                                                                                                                                                                                    |
| <p>Continually improve effective service delivery arrangements.</p>                                                                                                                                                                            | <p>Set realistic and challenging standards and targets for performance in the delivery of services on a sustainable basis and with reference to equality policies.</p> <p>Put in place sound systems for providing management information for performance measurement purposes.</p> |

|  |                                                                                                                                            |
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|  | <p>Monitor and report performance against agreed standards and targets and develop comprehensive and understandable performance plans.</p> |
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**4. Annual Review and Reporting**

- 4.1 Each year the Council will carry out a review of its Governance arrangements to ensure compliance with this Code, the delivery of Good Governance within the local Government Framework and current good practice.
- 4.2 The purpose of the review will be to provide assurance that governance arrangements are adequate and operating effectively or to identify action which is planned to ensure effective governance in the future.
- 4.3 The outcome of the review will take the form of an Annual Governance Statement prepared on behalf of the Leader elected Mayor of the Council and the Chief Executive and submitted to the Audit Committee for consideration and review.
- 4.4 To support the implementation of the Code of Corporate Governance a number of officers from business units are asked from time to time to monitor how effectively specific key documents and activities contribute to good corporate governance and bring forward proposals for change as required to the Director of Corporate Services.
- 4.5 The preparation and publication of the Governance Statement will meet the statutory requirement of the Accounts and Audit Regulations which requires authorities to “conduct a review at least once in a year of the effectiveness of its system of internal control” and to prepare an Annual Governance Statement “in accordance with proper practices”.
- 4.6 As such the Governance Statement will be prepared in accordance with the timetable for completion of financial statements in accordance with the Audit and Accounts Regulations.

## Local Protocol – Member and Officer Relations

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## 1. Introduction

- 1.1 Torbay Council will best serve the interests of local people if members and officers have an excellent working relationship characterised by mutual respect, courtesy and trust. Such a relationship will mean that members and officers speak to one another openly and honestly.
- 1.2 This Protocol is intended to facilitate such a working relationship and to help members and officers to perform effectively. This Protocol gives guidance on members' and officers' respective roles, on what they may expect from each other, and on what to do on the occasions when things go wrong.
- 1.3 This Protocol must be read in the context of the Council's Constitution (especially the Member Code of Conduct and the Employee Code of Conduct). The Council has authorised the Standards Committee to consider alleged breaches of this protocol by members. The Council has also authorised the Chief Executive to take appropriate action where an officer is alleged to have breached this Protocol.

## 2. Interpretation

- 2.1 In this Protocol:

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

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

“Officer” includes all members of staff directly employed by Torbay Council, agency workers or persons seconded to the Council, the Council's arms length companies and all contractors and employees of contractors delivering services on behalf of the Council.

## 3. Guiding Principles

- 3.1 In their dealings with one another members and officers will:
  - (a) Serve only the public interest;
  - (b) Behave properly and not place themselves in situations where their honesty and integrity may be questioned;
  - (c) Make decisions on merit
  - (d) Be open about (and be prepared to give reasons for) their actions;
  - (e) Promote equality by not discriminating unlawfully against any person;
  - (f) Treat people with dignity and respect, accepting that everyone is acting in good faith, and show courtesy in all meetings and contacts, both formal and informal, between members and officers.
  - (g) Uphold the law;

- (h) Seek to ensure that the Council uses its resources prudently;
- (i) Promote and support all these general principles by example, and act in a way that secures or preserves public confidence in local government;
- (j) In addition, members will respect the impartiality and integrity of officers; and
- (k) Officers will work for the Council as a whole, treating members of different party groups fairly, and showing no favour to any particular political group or individual member.

#### **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.

#### **5. The Role of Members – All Members**

- 5.1 Members have three main corporate roles:
  - (a) Determining the budget and policy framework of the Council and giving political leadership;
  - (b) Monitoring and reviewing the performance of the Council in implementing policy and delivering services; and
  - (c) Representing the Council externally.
- 5.2 Members also determine those matters that are not delegated to officers and have the following ward-based roles:
  - (a) Representing their constituents' views; and
  - (b) Dealing with individual casework.
- 5.3 It is not the role of members to involve themselves in the day-to-day management or operation of the Council's services. However, this does not prevent members from raising such matters where they affect local people.



## 6. The Role of Members – Specific Functions

- 6.1 Members have different responsibilities depending upon the specific roles they are undertaking.
- (a) The ~~elected Mayor~~Leader of the Council will provide strategic policy guidance as to his/her political priorities and assist in the formulation of the Council's corporate objectives in line with those priorities.
  - (b) Members of the ~~Executive Cabinet~~ will support the ~~elected Mayor~~Leader of the Council in the formulation of the Council's corporate objectives.
  - (c) Members who sit on the Overview and Scrutiny Board, its sub-committees or any working parties of the Board will be involved in reviewing the Council's decisions and services. They will also contribute towards the development of new Council policies and may be asked to take a key role in the Best Value process. Individual members of the Overview and Scrutiny Board, its sub-committees or any working parties of the Board (including Chairmen/women) have no decision-making powers.
  - (d) Members of the Council's regulatory and other committees will be responsible for taking decisions in relation to the functions of those committees in accordance with the Scheme of Delegation of Council Functions. Individual members of these committees (including Chairmen/women) have no decision-making powers.
- 6.2 The Leader of the Council~~elected Mayor~~, the Chairman/woman of the Council, members of the ~~Cabinet~~Executive, the Overview and Scrutiny Co-ordinator, members of the Overview and Scrutiny Board and Chairmen/women of committees, all have additional responsibilities. Because of those responsibilities, they are entitled to have greater expectations of senior officers. Because of this, their relationships with senior officers may be different from and more complex than those of members without such responsibilities. However, such members must still respect the impartiality of all officers. In particular, such members must not ask officers to undertake work of a party political nature, or to do anything that would put them in difficulty in the event of a change in the political composition of the Council.

## 7. The Role of Officers

- 7.1 Officers are employed by, and serve, the whole Council.
- 7.2 The role of officers is to give advice and information to members and to implement the policies determined by the Council.
- 7.3 In giving advice to members (and in preparing and presenting reports) it is the responsibility of the officer to express his/her own professional views and recommendations. Whilst an officer may report the view of individual members on an issue, if the member wishes to express a contrary view he/she must not seek to pressure the officer to make a recommendation contrary to the officer's professional view. Editorial control of reports lies, ultimately, with the Chief Executive, or, in the case of reports by other statutory officers, with the relevant officer.

- 7.4 The statutory officers have responsibilities in law over and above their obligations to the Council and to individual members. Members must respect these obligations and co-operate with those officers in the discharge of these responsibilities.
- 7.5 The Chief Executive is responsible for ensuring that officers fully and effectively support members in exercising both executive and non-executive functions.
- 7.6 Officers are responsible for implementing the proper decisions of members. However, in terms of line management and disciplinary matters they are responsible to the Chief Executive and not to individual members of the Council, whatever office they might hold.
- 7.7 Officers are required to be politically neutral and act impartially in the best interests of the Council at all times.
- 7.8 Officers are responsible for managing the day-to-day business of the Council in accordance with the Council's Budget and Policy Framework. Officers are also responsible for taking managerial and operational decisions in accordance with the Council's Scheme of Delegation. However, this does not prevent members from raising day-to-day matters where they affect their ward via the Council's on-line member casework system.
- 7.9 Officers are responsible for implementing decisions taken by members (and for taking and implementing decisions where the power to do so is delegated to them).

#### 7.10 **Group Assistants**

Whilst all other officers will treat members of different party groups equally and show no favour to any particular party, different rules apply to any group assistants who are appointed. Unlike other officers, group assistants may be appointed on the basis of party political allegiance. However, they may not have any Council powers delegated to them.

### **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.
  - (e) 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.
  - (f) 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.
  - (g) Awareness of and sensitivity to the political environment.
  - (h) 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 ~~elected Mayor~~Leader of the Council, the ~~Executive Cabinet~~, or ~~Executive Cabinet~~ member, as appropriate.
  - (n) That officers will at all times comply with the Employee Code of Conduct.
  - (o) That when dealing with the media, officers will act in a fair, balanced, reasonable and non-political manner.

## 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.

## 9. What Officers May Expect From Members

9.1 All officers are entitled to expect from members:

- (a) A working partnership.

- (b) An understanding of and support for respective roles, workloads and pressures.
- (c) Political leadership and direction.
- (d) Integrity, mutual support and appropriate confidentiality.
- (e) Courtesy and civility, and not to be subject to bullying or harassment or to be put under undue pressure.
- (f) Not to be personally criticised in meetings of the Council, the Cabinet~~Executive~~, or any Committee, or any other meeting at which members of the public or third parties are present, or in the media. If members are unhappy with an officer's performance they shall raise the issue in private with an appropriate Director, Executive Head or the Chief Executive in the case of posts at Director or Executive Head level and above in accordance with paragraph 16.
- (g) Proper consideration of the seniority of officers in determining what are reasonable requests, having regard to the power relationship between members and officers, and the potential vulnerability of officers, particularly at junior levels. All requests for officer attendance at meetings should be made through the relevant Executive Head or Service Manager.
- (h) That members will not use their position or relationship with officers to advance their personal interests or those of others or to influence decisions improperly.
- (i) That when seeking advice members will do so at the earliest reasonable opportunity and will disclose if another officer has also been approached about the matter.
- (j) When members require officers to attend meetings they should give those officers as much notice as possible to allow sufficient preparation time and for the meeting(s) to be diarised.
- (k) That members will at all times comply with the Member Code of Conduct.

## 10. Officer Advice to Political Groups

- 10.1 Political groups have an important part to play in the development of policy and the political management of the Council. It is in the interest of the Council to support effective operation of political groups, but their operation can pose particular dangers in terms of the impartiality of officers. It is common practice for political groups to give preliminary consideration to many matters of Council business in advance of such matters being considered by the relevant Council decision making body. Party groups may properly call upon officers to support and contribute to such deliberations.
- 10.2 Such support shall only be sought from senior officers and all requests for such support must be made via the appropriate Director. This can take many forms ranging from a briefing meeting with the ~~elected Mayor~~Leader of the Council or Executive~~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.

- 10.3 Officers' support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business and not be expected to be present at meetings (or parts of meetings) when matters of party business are to be discussed.
- 10.4 Party group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or are acted upon as such. Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant decision-making body when the matter in question is considered.
- 10.5 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting that includes persons who are not members of the Council, including external advisors to political groups. Such persons are not bound by this Protocol or by the Member Code of Conduct (including the provisions concerning the declarations of interest and respect of confidentiality). Consequently, officers may not be able to provide the same level of information and advice as they would to a members' only meeting. The Local Protocol for External Advisors to Political Groups sets out provisions for sharing information to appointed external advisors.
- 10.6 Officers must respect the confidentiality of any party group discussions at which they are present and not relay the content of any such discussion to any other party group.

## 11. Support Services to Members

- 11.1 The Council is only allowed to provide support services to members that directly assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. The support services shall never be used in connection with party, political or campaigning activity or for private purposes.
- 11.2 The support services that the Council can provide (for example typing, photocopying, transport, etc) may be discussed and agreed with the Head of Governance Support if officer resources allow.

## 12. Correspondence

- 12.1 Correspondence between an individual member and an officer will not normally be copied (by the officer) to another member without prior consultation with the sender.
- 12.2 Official letters on behalf of the Council will normally be sent out under the name of the appropriate officer.

12.3 Members will use all reasonable endeavours to respond to written requests for information by members of the public within 20 working days using the Council's Members Casework system and in accordance with the member casework guidance issued by the Information Compliance Team. Responses will be provided via the casework system normally within 5 working days. ~~Where members receive written requests for information by members of the public and they are not able to respond, they will forward the correspondence to Governance Support as soon as reasonably practicable (within 5 working days) if they are unsure to which Executive Head to refer the matter. Governance Support will then arrange for an appropriate response.~~

### 13. Members' Access to Information and to Council Documents

13.1 This is covered in the Council's Standing Orders in respect of Access to Information.

### 14. Press and Media Relations

14.1 The Council will work within the Code of Recommended Practice on Local Authority Publicity. Members will not ask officers to publish any material that appears to be designed to affect public support for a political party.

14.2 The following four main criteria may help when checking compliance with the Code:

- (i) Is the publicity likely to influence support for a political party?
- (ii) Is the timing sensitive?
- (iii) Does it reflect Council policy?
- (iv) Is it "information" or "persuasion"?

14.3 Officers when approached by the media will refer all queries to the Council's Communications Team. Members may respond directly to the media when the media are seeking political comment and will refer all other queries to the Communications Team.

14.4 Following the calling of a local, national or European election (excluding any by-elections) or Police and Crime Commissioner election or local/national referendum, members are unable to carry out any activity on behalf of the Council which could call into question political impartiality or which could give rise to criticism that public resources are being used for party political purposes (known as the Pre-election Restriction on Publicity ~~period~~ period).

### 15. Limitations Upon Behaviour

15.1 The distinct roles of members and officers necessarily impose limitations upon behaviour. By way of illustration, and not as an exclusive list:

- (a) Close personal relationships between members and officers can confuse these separate roles and get in the way of the proper discharge of the Council's functions, not least in creating the perception in others that a particular member or officer may secure advantageous treatment.

- (b) The need to maintain the separate roles means that there are limits to the matters on which they may seek the advice of officers, both in relation to personal matters and party political issues.
- (c) Relationships with particular individuals or party groups shall not be such as to create public suspicion that an employee favours that political group above others.
- (d) ~~members~~ Members do not have any responsibility for day to day management of services or employees; the latter is a statutory responsibility of the Head of Paid Service.

## 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 ~~elected Mayor~~ Leader of the Council 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 the appropriate Director or Executive Head. Where the officer concerned is an Executive Head, Assistant Director or Director the matter shall be raised with the Chief Executive. Where the complaint is in respect of the Chief Executive it should be reported to the Monitoring Order who will then follow the national procedure set out in the Chief Executive's Handbook.
- (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 any alleged breach of this protocol. The Chief Executive will decide whether to conduct any investigation or delegate it to a Director.
- (c) The Chief Executive or his/her representative may disregard any complaint that he/she considered 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) If 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 actions 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) or the complaint relates to a breach of the Code of Conduct for Members where it shall be lodged as a formal complaint and the Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members' Code of Conduct shall be followed.

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.

## 17 Involvement of Ward Members



- 17.1 Whenever a public meeting is organised by the Council to consider a local issue, all the Member(s) representing the ward affected should as a matter of course be invited to attend the meeting. Similarly whenever the Council undertakes any form of consultative exercise on a local issue, the ward Member(s) should be notified at the outset of the exercise.

**Local Protocol – Relations between the ~~Mayer~~Leader of the Council and Political Groups**

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# Torbay Council – ConstitutionLP – ~~Leader of the Council~~Mayer and Political Groups Relations

## 1. Introduction

- 1.1 Torbay Council will best serve the interests of local people if there are clear arrangements between the ~~elected Mayor~~Leader of the Council 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 ~~elected Mayor~~Leader of the Council 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.
- 1.2 This Protocol is intended to facilitate such a working relationship and to help members to perform effectively. This Protocol gives guidance on members' roles, and on what to do on the occasions when things go wrong.
- 1.3 This Protocol must be read in the context of the Council's Constitution, the Members' Code of Conduct and the Local Protocol on Member and Officer Relations.

## 2. Interpretation

- 2.1 In this Protocol:

"Council function" means a function that is not the responsibility of the ~~Executive Cabinet~~;

"Executive function" means a function that is the responsibility of the ~~Executive Cabinet~~;

"the ~~Executive Cabinet~~" includes any person or body exercising executive functions including the ~~elected Mayor~~Leader of the Council;

"Member" includes the ~~elected Mayor~~Leader of the Council, 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;

"Officer" includes all members of staff directly employed by Torbay Council, agency workers or persons seconded to the Council, the Council's arms length companies and all contractors and employees of contractors delivering services on behalf of the Council;

"Senior officer" means the Chief Executive, Directors, Assistant Directors and Executive Heads; and

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

## 3. Guiding Principles

- 3.1 In their dealings with one another members will:
  - (a) Serve only the public interest;

- (b) Behave properly and not place themselves in situations where their honesty and integrity may be questioned;
- (c) Make decisions on merit;
- (d) Be open about (and be prepared to give reasons for) their actions;
- (e) Promote equality by not discriminating unlawfully against any person;
- (f) Treat each other with dignity and respect, accepting that everyone is acting in good faith, and show courtesy in all meetings and contacts, both formal and informal;
- (g) Uphold the law;
- (h) Seek to ensure that the Council uses its resources prudently;
- (i) Promote and support all these general principles by example, and act in a way that secures or preserves public confidence in local government; and
- (j) Respect the impartiality and integrity of officers.

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 4(a) of the Code -

*“you must treat others with respect”*

Paragraph 5(h) of the Code -

*“you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.”*

3.3 The ~~elected Mayor~~Leader of the Council and the Group Leaders will use their best endeavours to communicate with each other so as to ensure that Council business is conducted effectively and in the best interest of the whole Council and local people.

#### **4. The Roles of Members and Officers and Member and Officer Relations**

4.1 The roles of members and officers and relations between members and officers are governed by the Local Protocol on Member and Officer Relations.

#### **5. Political Differences and Personal Criticism**

5.1 This Protocol is not intended to restrict or discourage legitimate political debate. However, it is also in the interests of local people that there is a working relationship between the ~~elected Mayor~~Leader of the Council and other councillors and between political groups. That working relationship will be assisted if it is supported by a clear set of guidelines and it is these that this Protocol is intended to provide. The relationship between the ~~elected Mayor~~Leader of the Council and other councillors

and between the political groups will also be supported if all members adhere to high standards of courtesy and mutual respect in their dealings with one another.

- 5.2 As with their relations with officers, in their dealings with fellow members, it is important that robust debate of the issues at stake does not deteriorate into personal criticism of another person who holds a different point of view. Courtesy and civility must be maintained at all times.
- 5.3 Fellow members must not be subject to name-calling, personal criticism or abuse. A fellow member's integrity must not be questioned unless there is clear documentary evidence to substantiate any allegation made. This principle must be adhered to in meetings of the Council, the Executive Cabinet, and any committee meeting, or any other meeting at which members of the public or third parties are present. This principle must also be observed in all dealings with the press and other media.

## 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 Executive Cabinet and working parties). In order to facilitate good inter-party relations, Torbay Council has extended the principle of cross-party representation to Working Parties.
- 6.2 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.
- 6.3 Each political group will be entitled to nominate members to a proportionate number of seats on outside organisations. However, where the outside organisation requests a specific role (e.g. a relevant Cabinet Lead) the Council should accede to the request other than in exceptional circumstances, an appointment relates predominately to an Executive function the appointment will normally be in line with any expressed recommendations of the elected 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 are made every four years following a local government election and will not normally be reviewed after a change of political balance during the four year period. The Chief Executive has delegated authority to determine any new appointments within the four year period. [New Council to review post May 2019](#)
- 6.4 The ~~elected Mayor~~ Leader of the Council 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 is included in the Constitution.
- 6.5 Where the budget is allocated, 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.

6.6 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 Corporate Services. 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 Executive Cabinet Members
- (b) Training for Scrutiny Members
- (c) Training not specifically related to Executive Cabinet or scrutiny functions.

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

Attendance by members at conferences/seminars shall be authorised by the Director, Assistant Director or Executive Head who holds the relevant budget that will cover the costs for the member attending the conference/seminar.

The ~~elected Mayor~~Leader of the Council and the leaders of the two largest political groups, or their representatives will be invited to attend the Local Government Association Annual Conference;

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

~~6.7 The Council has recommended that the elected Mayor endorses the principles of this Section 6 of this Protocol and considers offering places on the Executive to members of more than one political group and makes appointments to outside organisations (if such appointments are an Executive function) and to working parties established by the Executive on a proportionate basis.~~

~~6.8~~6.7 Section 6 of this Protocol may be reviewed in the event that there is a change in the political control of the Council.

## 7. Meetings Between The ~~elected Mayor~~Leader of the Council and Group Leaders and Between Group Leaders

7.1 In order to promote cross-party working, address issues of common concern and to agree appropriate actions, the Chief Executive will from time to time arrange meetings of the ~~elected Mayor~~Leader of the Council, Deputy ~~Leader~~Mayor, Group Leaders, Deputy Leaders and the Overview and Scrutiny Co-ordinator. discuss issues including:-

- (a) Council meeting business and strategic issues;
- (b) Member capacity and performance;
- (b) constitutional issues;
- (c) scrutiny programme; and
- (d) priorities.

## 8. Relations with Members of Other Local Authorities and Members of 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 ~~elected Mayor~~Leader of the Council and members of all political groups will seek to work constructively with members of other local authorities, including as members on Joint Committees, irrespective of their potentially different political allegiances in order to promote the best interests of the Council and local people.
- 8.3 The ~~elected Mayor~~Leader of the Council 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 ~~elected Mayor~~Leader of the Council 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 the potentially different political allegiances in order to promote the best interests of the Council and local people.

## 9. When Things Go Wrong

- 9.1 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 ~~elected Mayor~~Leader of the Council 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.
- 9.2 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 ~~elected Mayor~~Leader of the Council (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 ~~elected Mayor~~Leader of the Council (if appropriate) and the relevant Group Leader(s).
  - (c) The ~~elected Mayor~~Leader of the Council (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 ~~elected Mayor~~Leader of the Council (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 ~~elected Mayor~~Leader of the Council (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 Monitoring Officer.
- (e) Both the complainant and the member complained about shall be advised in writing by the ~~elected Mayor~~Leader of the Council (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 ~~elected Mayor~~Leader of the Council (if appropriate) and the relevant Group Leader(s).

9.3 Exceptions may be made to the procedures outlined in paragraphs 9.2 above if to do otherwise would conflict with the Council’s policy on “Whistleblowing” or potentially prejudice a criminal or other investigation (whether in progress or reasonably contemplated in the future)- or the complaint relates to a breach of the Code of Conduct for Members where it shall be lodged as a formal complaint and the Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members’ Code of Conduct shall be followed.



Local Protocol – ~~The elected Mayor’s Assistant and~~ Group Assistants

Contents

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67. Obligations of ~~The elected Mayor’s Assistant and~~ the Group Assistants
- ~~8. Non-appointment of Assistant to the elected Mayor~~
79. Groups without Group Assistants

## 1. Introduction

1.1 ~~Elected Mayoral and~~ Group Assistants appointed and governed under ~~paragraph 5 of Schedule A1 to the Local Government Act 2000 and~~ section 9 of the Local Government and Housing Act 1989 ~~are governed by these Acts~~ and by the Regulations made under the ~~at~~ these Acts and are subject to a number of restrictions. This Protocol is intended as a guide to the role and responsibilities of ~~the elected Mayor's Assistant and~~ Group Assistants and the support and help they shall be given by other officers. It also sets out the limits of access that ~~the elected Mayor's Assistant and~~ Group Assistants may have.

~~1.2 The elected Mayor may appoint an elected Mayor's Assistant to provide assistance to him/her in accordance with the Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2002.~~

1.23 The three largest political groups (provided that they have more than ten per cent of the Council's elected membership) are entitled to appoint Group Assistants where the budget is allocated. It is recognised, however, that a qualifying group may not wish to take up an allocated post. This is a matter for each group to decide, but a decision by one group to decline to take up an allocated post does not prevent any other qualifying group from having a Group Assistant.

## 2. ~~The elected Mayor's Assistant and~~ Group Assistants as Officers

2.1 ~~The elected Mayor's Assistant and~~ Group Assistants are employees of the Council. Whilst, like all other Council employees, such assistants must be appointed on merit, regard may also be had to their political affiliations and political activities prior to their appointment.

2.2 Unlike other Council employees, ~~the elected Mayor's Assistant and~~ Group Assistants:

- **must not** have any powers of the Council (or Cabinet Executive) delegated to them; and
- **must not** manage any other Council employees (except secretarial and/or administrative support staff).

2.3 Like all other Council employees and members, ~~the elected Mayor's Assistant and~~ Group Assistants may only use Council resources to undertake Council business.

2.4 ~~The elected Mayor's Assistant and~~ Group Assistants are all **politically restricted posts**. In common with other Council employees in politically restricted posts, such assistants **must not**:

- (i) stand as a candidate for election as a member of the House of Commons, the European Parliament, Police and Crime Commissioner or a local authority;
- (ii) act as an agent or sub-agent for a candidate who is standing in such an election;
- (iii) canvas on behalf of any candidate standing in such an election;
- (iv) canvas on behalf any political party; or

- (v) act as an officer of a political party (or branch) if that would be likely to require:
  - (a) participation in the management of the party (or branch); or
  - (b) acting on behalf of the party (or branch) in dealings with non-party members.

2.5 Unlike other Council employees in politically restricted posts, ~~the elected Mayor's Assistant and~~ Group Assistants **also must not:**

- (i) speak to the public in a manner likely to create the impression that they are speaking as an authorised representative of a political party; or
- (ii) publish (or permit the publication of) any written or artistic work of which they are the author (or has acted in an editorial capacity) which is likely to create the impression that the publication is authorised by a political party.

### ~~3. The Role of The elected Mayor's Assistant~~

~~3.1 The role of the elected Mayor's Assistant is to provide assistance to the elected Mayor. The elected Mayor and officers shall expect the elected Mayor's Assistant to do some or all of the following, if asked by the elected Mayor:~~

#### ~~Network to facilitate information gathering~~

- ~~(a) Establish and maintain links with the relevant party headquarters (if appropriate), parliamentary and research bodies, regional local government bodies and other relevant external groups.~~
- ~~(b) Develop a good knowledge of the functions and operations of the Council and its departments and establish effective working relationships with officers of the Council, including the Chief Executive and other senior officers.~~
- ~~(c) Liaise with members of the public and community groups, to collect a wide range of information, including in relation to issues that may be sensitive.~~
- ~~(d) Attend meetings of relevant local and national bodies, groups, agencies and associations.~~
- ~~(e) Liaise with other elected Mayor's Assistants across the Country.~~

#### ~~Assist policy formulation and research for the elected Mayor~~

- ~~(f) Undertake research and analysis, obtain information and investigate matters to assist policy formulation and other developments or queries.~~
- ~~(g) Collate and analyse data for statistical purposes.~~
- ~~(h) Monitor the local media, relevant legislative and political developments, key projects and other issues that may impact on the group or Council policies.~~
- ~~(i) Gather information on and share good practice operated in other organisations.~~
- ~~(j) Advise the elected Mayor on items of interest or concern.~~
- ~~(k) Prepare reports and briefing papers, providing statistical information and recommendations on policy change and formulation, exercising judgement and decision making on likely repercussions on the local community and Council.~~

~~***Provide administrative and organisational support to the elected Mayor as required***~~

- ~~(l) — Carry out general administrative duties.~~
- ~~(m) — Draft speeches, motions, amendments and questions for the elected Mayor~~
- ~~(n) — Liaise with the local media in respect of press statements by and interviews with the elected Mayor and act as a point of contact on behalf of the elected Mayor for media enquiries (but **not** act as a spokesperson on behalf of the elected Mayor (or Council) or issue press statements in their own name (or on behalf of the Council)).~~
- ~~(o) — Pass on enquiries from members of the public, media, voluntary bodies and other local agencies/organisations on all aspects of Council policy and initiatives to the elected Mayor.~~
- ~~(p) — Maintain manual and computerised information retrieval systems used by the elected Mayor.~~
- ~~(q) — Liaise with the Governance Support Manager regarding the provision of training for the elected Mayor.~~
- ~~(r) — Contribute to improving the efficiency and effectiveness of service delivery through maximisation of resources within the office and identifying and implementing initiatives for making improvements.~~

**43. The Role of Group Assistants**

- 4.1 The role of Group Assistants is to support the group to which they are appointed and this includes the smooth running of group meetings and other group discussions. However, it does **not** include undertaking party political campaigning or party activity outside the Council's business.
- 4.2 Members and officers shall expect a Group Assistant to do some or all of the following, if asked to by the Group Leader of the relevant group:

***Network to facilitate information gathering***

- (a) Establish and maintain links with the relevant group's headquarters, parliamentary and research bodies, regional local government bodies, and other relevant external groups.
- (b) Develop a good knowledge of the functions and operations of the Council and its departments and establish effective working relationships with officers of the Council, including the Chief Executive and other senior officers.
- (c) Liaise with members of the public and community groups, to collect a wide range of information, including in relation to issues that may be sensitive.
- (d) Attend meetings of relevant local and national bodies, groups, agencies and associations.

***Assist policy formulation and research for the Group***

- (e) Undertake research and analysis, obtain information and investigate matters to assist policy formulation and other developments or queries.
- (f) Collate and analyse data for statistical purposes.
- (g) Monitor the local media, relevant legislative and political developments, key projects and other issues that may impact on the group or Council policies.
- (h) Gather information on and share good practice operated in other organisations.

- (i) Disseminate information to the group and advise on items of interest or concern.
- (j) Prepare reports and position and briefing papers, providing statistical information and recommendations on policy change and formulation, exercising judgement and decision making on likely repercussions on the local community and Council.

***Providing administrative and organisational support to the Group Leader and group members as required***

- (k) Carry out general administrative duties.
- (l) Draft speeches, motions, amendments and questions for the group.
- (m) Liaise with the local media in respect of press statements by and interviews with the Group and act as a point of contact on behalf of the Group for media enquiries (but **not** act as a spokesperson on behalf of the Group (or Council) or issue press statements in their own name (or on behalf of the Council)).
- (o) Pass on enquiries from members of the public, media, voluntary bodies and other local agencies/organisations on all aspects of Council policy and initiatives to the appropriate officer or group member.
- (p) Maintain manual and computerised information retrieval systems used by and for the Group Leader and group members.
- (q) Organise, prepare agendas for and minute group meetings, ensuring any follow-up action is carried out.
- (r) Liaise with the Group Leader and chairman/woman to oversee and facilitate the effective servicing of group meetings, sub-groups and any associated meetings.
- (s) Act as a point of contact for group members in order to aid group cohesion, co-ordination and efficient conduct of group business, ensuring the group is able to act swiftly and effectively, facilitating excellent group communication and reducing the likelihood of members sending out contradictory messages.
- (t) Identify, in conjunction with the group, individual members' training needs and liaise with the Head of Governance Support regarding the provision of such training.
- (u) Contribute to improving the efficiency and effectiveness of service delivery through maximisation of resources within the office and identifying and implementing initiatives for making improvements.

## **5. Management Arrangements**

- 5.1 The appointment procedures to be followed in relation to ~~the elected Mayor's Assistant and~~ the Group Assistants are set out in the Standing Orders in relation to Officer Employment.
- 5.2 ~~The elected Mayor's Assistant will report for most day-to-day purposes to the elected Mayor.~~ Group Assistants will for most day-to-day purposes report to the Leader of the Group to which they have been appointed. The ~~elected Mayor or~~ Group Leader will agree the work programme of the relevant assistant, set the priorities within that programme and undertake day to day supervision of the work.
- 5.3 The posts will be based in the Democratic Services Team ~~and the elected Mayor's Assistant~~ and Group Assistants will be line managed by the Head of Governance Support (or such other officer to whom he/she may delegate responsibility) in relation to pay and conditions, equipment purchase and expenses claims, leave and

sickness, team briefing, and learning and development. Leave arrangements will be subject to approval by ~~the elected Mayor or~~ relevant Group Leader, as appropriate.

- 5.4 ~~The elected Mayor's Assistant's and the~~ Group Assistants' ~~Results and Development Annual Review (RADAR) annual~~ appraisal will be undertaken either by the Head of Governance Support (after seeking structured feedback from ~~the elected Mayor or~~ the relevant Group Leader, ~~as appropriate~~), or ~~by the elected Mayor or~~ the Group Leader, ~~as appropriate~~, and the Head of Governance Support together.
- 5.5 If ~~the elected Mayor's Assistant or~~ a Group Assistant feels they have been asked to undertake any role inappropriately, or that they have been denied access to people or information unfairly, then the assistant may raise that with ~~either the elected Mayor or~~ the relevant Group Leader, as appropriate, or (if the assistant prefers) with the Head of Governance Support. In the event of a dispute between the ~~elected Mayor or the~~ Group Leader and the Head of Governance Support then the matter will be raised with the Director of Corporate Services or the Chief Executive.
- 5.6 The Head of Governance Support (or such other officer as he/she may delegate responsibility to) shall be responsible for all disciplinary action (including dismissal) in relation to ~~the elected Mayor's Assistant and the~~ Group Assistants, but the Head of Governance Support shall consult with ~~the elected Mayor or the~~ relevant Group Leader in relation to any such disciplinary action.

## 6. Assistants' Rights to Information

- 6.1 ~~The elected Mayor's Assistant and~~ Group Assistants have the same rights to information as ~~the elected Mayor and~~ elected members of the Council and fellow Council officers must be willing to provide the same information to such assistants as they would if ~~the elected Mayor or~~ a member of the Council sought the same help.
- 6.2 The rights of members to be given information are set out in detail in the Council's Constitution. Broadly, ~~the elected Mayor and~~ any member of the Council has a right to all Committee/Executive Cabinet Reports and their background documents unless prohibited under the Constitution. In addition, members have a common law right to information on a "need to know" basis to enable them properly to undertake their duties as ~~the elected Mayor or~~ a councillor.
- 6.3 Most exempt reports and documents may also be available to ~~the elected Mayor and~~ members but there are a limited number of situations (such as matters of high sensitivity in relation to individual employees or legal cases) where documents will not be made available to all members ~~or to the elected Mayor's Assistant~~ or the Group Assistants. Such cases will need to be dealt with on their individual merits and in consultation with the Monitoring Officer.
- 6.4 Where ~~the elected Mayor's Assistant or the~~ Group Assistants have access to exempt or confidential documents they must not disclose their contents to anyone who is not equally entitled to the information, or to anyone outside the Council.
- 6.5 ~~The elected Mayor's Assistant and the~~ Group Assistants will direct all routine requests for information and advice to the relevant manager in the Business Unit concerned. Requests for information about more sensitive matters, or complaints about how a matter has been dealt with initially, shall be addressed to the relevant Director.

**7. Obligations of ~~The elected Mayor's Assistant and the~~ Group Assistants**

- 7.1 Applicants for a post of ~~the elected Mayor's Assistant or~~ a Group Assistant will be asked to disclose any current or past political activities or affiliations.
- 7.2 ~~The elected Mayor's Assistant and~~ Group Assistants will be expected to work mainly under their own discretion and initiative for ~~the elected Mayor or~~ the Group Leader ~~(as appropriate)~~. A day-to-day programme may be assigned by the ~~elected Mayor or~~ ~~the~~ relevant Group Leader.
- 7.3 ~~The elected Mayor's Assistant and~~ Group Assistants will be expected to maintain the highest level of confidentiality and discretion at all times during the course of their work.
- 7.4 ~~The elected Mayor's Assistant and~~ Group Assistants will be expected to maintain up-to-date knowledge of working practices, policy development, techniques and legislation and undertake professional development activities.
- 7.5 ~~The elected Mayor's Assistant and~~ Group Assistants will be expected to adhere to the principles contained in the Council's Protocol in relation to Member and Officer Relations so far as that is not inconsistent with the specific obligations applicable to such assistants.

**~~8. Non-Appointment of Assistant to the elected Mayor~~**

- ~~8.1 It is possible that the elected Mayor may choose not to take up the allocated post of elected Mayor's Assistant. The elected Mayor may change his/her mind at any time by giving written notice to the Chief Executive and the appointed post holder will then be entitled to the same rights as existing Group Assistants and subject to this Protocol.~~

**98. Groups without Group Assistants**

- 98.1 It is possible that a Group that is entitled to a Group Assistant may choose not to take up the allocated post. A Group that has previously decided not to fill its allocated post may change its mind at any time by giving written notice to the Chief Executive and the appointed post holder will then be entitled to the same rights as existing Group Assistants and subject to this Protocol.
- 98.2 There may be other groups in the Council (or individual members), who are not entitled to have a Group Assistant. Officers generally shall take care to ensure that if briefings are given to any one political group then the same level of information is given to groups (or individual members), who do not have a Group Assistant as to those that do. All groups are provided with opportunities to obtain information whether or not they have a Group Assistant.

## **Local Protocol – External Advisors to Political Groups**

### **Contents**

1. Introduction
2. Appointment and withdrawal of advisors
3. Role of advisors
4. Role of Senior Council Officers
5. Training on the functions of the Council



## 1. Introduction

- 1.1 The Political Groups provide the basis for effective overview and scrutiny of Executive functions, and are integral to decision making by Full Council.
- 1.2 This protocol supports the functioning of the Political Groups, by allowing them to compliment the skills and experience of the Group with the appointment of external advisors to provide them with advice and guidance.

## 2. Appointment and withdrawal of Advisors

- 2.1 The Group Leader will identify how they wish to recruit to the role of external advisor. The Group Leader shall consult with the Chief Executive in respect of any proposed appointment, including providing a CV for the proposed external advisor, and will not offer the role to an individual if the Chief Executive objects.
- 2.3 Appointments will be confirmed in writing by the Chief Executive. External Advisors will be appointed to coincide with political terms of office and the number of external advisors shall be limited to three per group.
- 2.4 Appointments will be merit based. In addition, advisors will have appropriate skills and experience relevant to the functions for example:
  - a) boardroom experience and strategic thinking;
  - b) a business background;
  - c) experience in the health or wellbeing sector;
  - d) experience in education;
  - e) experience in social care;
  - f) experience of community engagement;
  - d) recent and relevant commercial expertise;
  - e) experience of company management;
  - f) experience in finance and management accounting; and
  - g) other relevant experience.
- 2.5 The Chief Executive (or his/her deputy in his/her absence) may subsequently withdraw appointments if he/she considers this Protocol has been breached by an External Advisor.
- 2.6 The Council will not reimburse any expenses incurred by external advisors. Political Groups will be responsible for agreeing and reimbursing expenses (including parking in Council car parks) to external advisors whilst carrying out their role on behalf of the group.
- 2.7 External advisors will be provided with an ID card and will have access to the relevant Political Group room within Torquay Town Hall only.

### 3. Role of Advisors

- 3.1 External Advisors to the Political Groups can play an important role in providing guidance and advice to the political groups. The advisors can contribute to the mixture of skills within the Groups and bring relevant expertise, local representation and independence.
- 3.2 Advisors are expected to demonstrate the following personal skills and competencies:
- a) drive, vision, independence and confidence;
  - b) challenging and proactive approach to committee business;
  - c) ability to motivate and engender respect;
  - d) negotiating and communication;
  - e) impartiality and integrity;
  - f) interpersonal skills – the ability to develop good relations;
  - g) ability to work as a team member and to be supportive of colleagues;
  - h) ability to make a constructive contribution to group discussion e.g. able to give a clear expression of ideas;
  - i) analytical approach to problem solving;
  - j) ability to formulate strategy; and
  - k) have a grasp of priorities.
- 3.3 The external advisors are not subject to the Code of Conduct for Members and are not required to register their interests. However, advisors must ensure that they do not unfairly seek to secure an advantage or disadvantage for any person.
- 3.4 Advisors shall consider whether they have individual interests on matters being considered by the Group and declare such interests (including details of those interests). When an advisor has declared an interest, this should be recorded by the Group Leader, and the Group Leader will determine whether it is appropriate for the advisor to remain in any discussions.
- 3.5 Whilst carrying out their duties, the advisors shall:
- a) promote equality by not discriminating unlawfully against any person (including grounds of gender, race, disability, sexual orientation, religion, belief or age);
  - 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.
- 3.6 An advisor must **not** 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 the Council's Monitoring Officer, or unless he/she is required by law to do so. Advisors access to exempt or confidential reports shall be at the discretion of the Chief Executive. External Advisors are required to sign a confidential agreement upon their appointment and will be reminded of the requirements of this Protocol when given confidential/exempt information.

3.7 It may be appropriate for external advisors to attend internal informal meetings. Prior consent from the Council's Monitoring Officer or relevant Director shall be obtained before attending such meetings.

#### **4. Role of Senior Council Officers**

- 4.1 The role of Senior Council Officers is to ensure the efficient and effective operation of the Council, these duties are outlined in the Officer Scheme of Delegation. They are non-political and duty bound to provide professional advice.
- 4.2 The External Advisors to Political Groups shall not seek to interfere directly in the day to day management of the Council. They shall not have access to officers, or place any demands upon officers.

#### **5. Training on the Functions of the Executive**

- 5.1 The External Advisors will be included, at the discretion of the Head of Governance Support, within the training provided to Members, to ensure that they are aware of the Council's powers, duties and decision making processes.

## Local Protocol – Monitoring Officer

### Contents

1. Requirement to designate an employee as Monitoring Officer
2. Employees who cannot be Monitoring Officer
3. Provision of staff, accommodation and resources for Monitoring Officer
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5. Consideration of Monitoring Officer reports
6. Personal obligation of Monitoring Officer and appointment of Deputy Monitoring Officer
7. Disciplinary action against a Monitoring Officer
8. Local arrangements and conventions
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10. Procedure for ~~the elected Mayor and~~ members complaining about Monitoring Officer
11. Procedure for the Monitoring Officer to complain about ~~the elected Mayor or~~ a member
12. Exceptions to complaints procedures

## 1. Requirement to Designate an Employee as Monitoring Officer

- 1.1 The Council is required by Section 5 of the Local Government and Housing Act 1989 ("the 1989 Act") to designate one of its employees as the "Monitoring Officer". That person is required to perform the duties set out in sections 5 and 5A of the 1989 Act.

## 2. Employees who cannot be Monitoring Officer

- 2.1 The 1989 Act prohibits the persons designated as the Council's Head of Paid Service (currently the Chief Executive) and the Council's Chief Finance Officer from also being designated as the Council's Monitoring Officer.

## 3. Provision of Staff, Accommodation and Resources for Monitoring Officer

- 3.1 The Council is required by Section 5(1)(b) of the 1989 Act to provide the Monitoring Officer with "such staff, accommodation and other resources as are, in his opinion, sufficient to allow those duties [under Sections 5 and 5A] to be performed".

## 4. Monitoring Officer to Report Cases of Illegality and/or Maladministration

- 4.1 It is the Monitoring Officer's duty, if he/she believes that any proposal, decision or omission by the Council, has given rise to (or is likely to, or would give rise to) a contravention by the Council of "any enactment or rule of law" to prepare a report ("a Monitoring Officer Report") on the matter. A Monitoring Officer Report must also be prepared where the Local Government Ombudsman has found any "maladministration or injustice".
- 4.2 If the Monitoring Officer Report relates to a proposal, decision or omission by the ~~elected Mayor~~ Leader of the Council, an individual member of the Executive Cabinet or the Executive Cabinet (or on behalf of the Executive Cabinet – i.e. by a committee of the Executive Cabinet or an Officer, or (potentially) an area committee or joint committee) the report must be submitted to the Executive Cabinet. If it relates to a Council function "Council-side" proposal, decision or omission (whether by Council, a Committee, sub-committee, joint committee, or an Officer) the report must be submitted to the Council.
- 4.3 In preparing a Monitoring Officer Report, the Monitoring Officer must, so far as is practicable, consult with the Chief Executive (in his/her capacity as the Council's Head of Paid Service) and the Chief Finance Officer.
- 4.4 As soon as practicable after preparing a Monitoring Officer Report, the Monitoring Officer must arrange for a copy to be sent to the ~~elected Mayor and~~ every member of the Council.

## 5. Consideration of Monitoring Officer Reports

- 5.1 The Executive Cabinet or Council (as appropriate) must consider a Monitoring Officer Report within 21 days of copies being first sent to the ~~elected Mayor and~~ all members. The Executive Cabinet or Council (as appropriate) are also under a duty to ensure that no step is taken to give effect to any proposal or decision to which such a report relates until the end of the first business day after the day on which

consideration of the report is concluded. The ExecutiveCabinet and Council's responsibilities under this paragraph may not be delegated.

- 5.2 As soon as practicable after the ExecutiveCabinet has concluded its consideration of a Monitoring Officer Report, the ExecutiveCabinet must prepare a report and send a copy to every member of the Council and to the Monitoring Officer. This report must specify what action (if any) the ExecutiveCabinet has taken in response to the Monitoring Officer Report; what action (if any) it proposes to take (and when); and the ExecutiveCabinet's reasons for taking (or not taking) action. (There is no equivalent obligation upon the Council to prepare a report in response to a Monitoring Officer Report.)

## 6. Personal Obligation of Monitoring Officer and Appointment of Deputy Monitoring Officer

- 6.1 The Monitoring Officer must perform his/her duties under the 1989 Act personally. However, where he/she is unable to act owing to absence or illness, these duties may be performed by such member of his/her staff as the Monitoring Officer has nominated as his/her deputy.

## 7. Disciplinary Action against a Monitoring Officer

- 7.1 The Local Authorities (Standing Orders) (England) Regulations 2001 require all local authorities to adopt certain mandatory Standing Orders in relation to the taking of any "disciplinary action" (as defined in those Regulations) against the Monitoring Officer. Similar provisions also apply in relation to the Head of Paid Service and the Chief Finance Officer. These are all contained in the Council's Standing Orders in relation to Officer Employment (see in particular Standing Order G8).

## 8. Local Arrangements and Conventions

- 8.1. This protocol applies to the Monitoring Officer, any Deputy Monitoring Officer/s and to any person/s appointed in line with paragraph 6.113 above. This Protocol also applies to the ~~elected Mayor and~~ all members, including co-opted and independent members.
- 8.2 The Council expects that the Monitoring Officer will discharge his/her statutory responsibilities with determination and in a manner that will enhance the reputation of the Council.
- 8.3 In addition to the Monitoring Officer's formal statutory responsibilities the Council expects and encourages him/her to take a positive and proactive approach to promoting and encouraging high standards in ethics and probity amongst ~~the elected Mayor,~~ members and officers.
- 8.4 The Council expects the Monitoring Officer to draw to ~~the elected Mayor's and~~ members' attention in clear terms not only matters where the Council may be at risk of being accused of illegality or maladministration, but also where the Council may be failing to have proper regard to Government guidance or best practice.
- 8.5 The Council recognises that, in general terms, the Monitoring Officer's ability to discharge his/her duties depends not only on excellent working relations with

~~colleagues, officers the elected Mayor~~ and all members but also on the flow of information and access to debate, particularly at early stages.

8.6 The Council expects the following arrangements and understandings to be followed by all officers, ~~the elected Mayor~~ and members, in order to help ensure the effective discharge of the Monitoring Officer's functions:

- (a) If not a member of the ~~Strategic Directors' Management Team~~ Senior Leadership Team, the Monitoring Officer will have advance notice of those meetings (and immediate access to all agendas and reports) and the right to attend meetings and speak.
- (b) The Monitoring Officer will be given ample advance notice of meetings (whether formal or informal) between Directors, the ~~elected Mayor~~ Leader of the Council and members of the ~~Executive Cabinet~~ (or Committee Chairmen/women), especially where the Chief Executive or any Director or Assistant Director or Executive Head considers that it is reasonably likely that any issues may arise in relation to probity, legality, procedure or the Council's Constitution.
- (c) ~~Directors and other officers~~ All officers must immediately alert the Monitoring Officer to all issues of concerning probity, legality, procedure or the Council's Constitution, as soon as they become aware of those matters.
- (d) The Monitoring Officer (or his/her staff) will be provided with copies of all reports to ~~the elected Mayor and~~ members before they are published and shall be entitled to have his/her advice included in those reports.
- (e) The Monitoring Officer shall use all reasonable endeavours to develop good working relations with ~~Standards for England,~~ the Council's External Auditor and the Local Government Ombudsman.
- (f) The Monitoring Officer shall use all reasonable endeavours to develop good working relations with the ~~elected Mayor and~~ all members, particularly the Leader of the Council, Chairman of Council, Chairman of the Council's Standards Committee and the Overview and Scrutiny Co-ordinator.
- (g) The Council expects and encourages that the Monitoring Officer, Chief Finance Officer and the ~~Head of Devon Audit Partnership~~ Council's Head of Internal Audit to meet on a regular basis to consider and recommend action in connection with current governance issues and other matters of concern regarding ethics and probity. The Council also expects that these three Officers will keep the Chief Executive (as Head of Paid Service) informed of any matters that any of them consider shall be brought to his/her attention.
- (h) The Council expects ~~and encourages~~ the Monitoring Officer to make enquiries into any ~~signed~~ written complaint alleging misconduct by ~~the elected Mayor or~~ any member falling short of a possible breach of the Members' Code of Conduct in accordance with the Council's Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of Conduct.
- (i) In carrying out any investigation (whether under the preceding paragraph or otherwise) the Monitoring Officer will have unrestricted access to any information held by the Council, any Council employee, ~~the elected Mayor or~~

any member as he/she may require, subject only to any legal rights an individual may have to withhold information or to decline to answer any question.

- (j) The Monitoring Officer will have control of a budget sufficient to enable him/her to seek Counsel's opinion or other expert advice on any matter concerning his/her functions.
- (k) The Monitoring Officer will be responsible for arranging training for ~~the elected Mayor and~~ members on ethics, probity and legality.
- (l) The Monitoring Officer will recommend report to the Council ~~from time to time changes to the on the~~ Constitution ~~and any necessary of desirable changes where agreement is not reached with the Leader of the Council and Group Leaders (in accordance with Article 13 paragraph 13.02 (a))~~, following consultation with the Head of Paid Service, the Chief Finance Officer and any other person he/she considers appropriate.
- (m) The Monitoring Officer may make a report to the Council from time to time, as he/she considers appropriate, on the staff, accommodation and resources necessary to discharge his/her function.

## 9. What Happens When Things Go Wrong?

- 9.1 From time to time the relationship between the ~~elected Mayor or~~ 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 ~~elected Mayor~~ Leader of the Council or the appropriate Group Leader, this is not always possible.

## 10. Procedure for ~~The elected Mayor or~~ Members Complaining About the Monitoring Officer

- 10.1 Where ~~the elected Mayor or~~ a member considers that the Monitoring Officer has acted in breach of this Protocol and informal resolution of the matter has not proved possible, ~~the elected Mayor or~~ the member may put his/her complaint in writing to the Chief Executive ~~and send a copy to the Monitoring Officer~~. The written complaint must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol.
- 10.2 The Chief Executive may disregard any complaint that he/she considers to be unreasonable, frivolous or vexatious, and that shall be the end of the matter. ~~Otherwise Where~~ the Chief Executive ~~receives a written complaint he/she~~ shall provide a copy of the written complaint to the Monitoring Officer and allow him/her to respond in writing. If the Chief Executive considers it appropriate, he/she may then invoke the Council's Disciplinary Procedure in accordance with **Standing Order G9** of the Council's Standing Orders in relation to Officer Employment. Where the Chief Executive receives a written complaint he/she shall write to the ~~elected Mayor or~~ member making the complaint to inform him/her of the outcome.
- 10.3 A complainant may at any time withdraw a complaint by notice in writing to the Chief Executive.



**11. Procedure for the Monitoring Officer to complain about ~~the elected Mayor or a member~~**

- 11.1. If attempts at resolving matters informally have not been successful, where the Monitoring Officer considers that ~~the elected Mayor or a~~ member has acted in breach of this Protocol he/she may make a written complaint to the Chief Executive. The written complaint must specify all incidents that the Monitoring Officer intends to raise and set out the alleged breach of this Protocol and (if applicable) any other Council protocol/s.
- 11.2 The Chief Executive 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 ~~elected Mayor or~~ member concerned and invite his/her written comments (if any) within 10 working days.
- 11.3 The Chief Executive will give a copy of the ~~elected Mayor's or~~ member's response to the Monitoring Officer and invite his/her further written comments (if any) within 10 working days. If any material new issues are raised the Chief Executive may give the respective parties such further opportunities to make written comments as he/she shall consider reasonable.
- 11.4 The Chief Executive 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.
- 11.5 ~~A complainant~~The Monitoring Officer may at any time withdraw his/hers~~hera~~ complaint by notice in writing to the Chief Executive.

**12. Exceptions to Complaints Procedures**

- 12.1 Exceptions may be made to the above procedures 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).

## **Local Code of Good Practice – Members and Council Officers Involved in the Planning Process**

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## 1. Introduction

- 1.1 Town and country planning is often highly contentious. It is seldom, if ever, an exact science: rather, it relies on informed judgement within a complex legislative and policy framework. Planning decisions frequently affect the daily lives of local people and the private lives of individuals. It is therefore essential that planning decisions be taken openly and impartially, with sound judgement and for justifiable reasons. The planning process must leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.
- 1.2 An elected member on a planning committee has to balance representing the needs and interests of individual constituents and the community, with the need to maintain public confidence in the fairness and impartiality of the planning decision-making process. As the Nolan Committee (in its third report in 1997) acknowledged, this dual role can give rise to great tensions.
- 1.3 The purpose of this Local Code is to provide clarity in the way in which Members and officers of the Council will deal with planning matters and to set the standard of conduct, that other parties to the process are entitled to expect of the Council. Whilst this Local Code deals primarily with the determination of planning applications, the principles it endorses must be taken into account when considering forward planning (the Development Plan) and other planning policy issues, planning enforcement and all other planning matters.
- 1.4 In this Local Code, 'member' includes ~~the elected Mayor and~~ all elected members of the Council.
- 1.5 This Local Code is intended to ensure that the planning process is characterised by open and transparent decision making. Adherence to the Local Code will help to protect the Council against allegations of maladministration, legal challenges to its decisions and applications for costs based on grounds of 'unreasonable behaviour'. The Local Code's main principles are that decision-makers must:
- (a) **not** favour unfairly (or appear to favour unfairly) any individual or group.
  - (b) **not** make decisions in advance of being presented with all the relevant facts.
  - (c) take into account all relevant considerations and not take into account irrelevant considerations
  - (d) not be biased in favour of any individual, bodies or locality or put themselves in a position where they appear to do so.
  - (e) by law determine all applications in accordance with the statutory development plans, unless material considerations indicate otherwise.
  - (f) have mutual respect for the positions of Officers and Members.

## 2. Relationship with the Council's Codes Of Conduct

- 2.1 This Code is concerned with the integrity of the planning process and maintaining public confidence in the planning system. Whilst there is a degree of overlap with the Council's Codes of Conduct for Members and Employees, this Local Code of Good Practice also imposes additional obligations in the specific context of Town and

Country Planning.

- 2.2 This Local Code contains advice based upon recommendations from the Local Government Association, the Royal Town Planning Institute (RTPI) and the Local government and Social Care Ombudsman ('the Ombudsman'). Failure to follow this Local Code may be taken into account in investigations into possible maladministration and may result in allegations that a Member or Council Officer has breached the Council's Codes of Conduct (and a Member being referred to the Monitoring Officer or an officer being subject to disciplinary action).

### 3. Application of this Local Code

- 3.1 This Local Code applies to both Members and Council Officers who become involved in the planning system. It applies to all planning decisions (whether taken at Council, committee, or by Council Officers under delegated powers).
- 3.2 The Code also applies to site visits, site review meetings and all other formal and informal contacts between Members, Council Officers, applicants, agents, objectors, landowners and other members of the public involved in the planning process. Whilst this Code primarily addresses the determination of planning applications, its underlying principles must also be applied to forward planning (the Development Plan process) and to the enforcement of planning control.
- 3.3 When determining whether there has been a breach of this Local Code the standard to be applied will be that of the reasonable member of the public with knowledge of the relevant facts and the standard of proof will be that of the balance of probabilities.

### 4. The Roles and Conduct of Members and Council Officers

- 4.1 Members and Council Officers have different but complementary roles. These are explored in detail in the Council's Local Protocol on Member and Officer Relations contained in Part 5 of the Council's Constitution. The guidance contained in that Protocol is relevant to the planning process.
- 4.2 Both members and Council Officers are subject to formal Codes of Conduct adopted by Torbay Council. In addition, Council Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI's) Code of Professional Conduct, breaches of which may lead to disciplinary action by the Institute.
- 4.3 The Council's Codes of Conduct for Members and Employees cover issues central to the preservation of an ethical approach to Council business. In particular, Members must register and declare pecuniary and non-pecuniary interests (as defined in the Code of Conduct for Members). Similarly, certain Council Officers must register and declare personal interests (as defined in the Employees Code of Conduct). However, the Codes also govern relationships between Members, Council Officers and the public and these provisions will impact on the way in which Members and Council Officers participate in the planning process. Of particular relevance to Members and Council Officers involved in planning decisions is the requirement under the Code of Conduct for Members that they;

*'must act solely in the public interest and should never not attempt to use [their] position as a Member improperly to confer an advantage or disadvantage on any*

*~~person or act to gain financial or other material benefits for themselves, a member of their family, close associate or relevant person or secure for [themselves] or any other person, an advantage or disadvantage~~*

- 4.4 The planning system involves the consideration of private proposals in the context of the wider public interest. Much is often at stake in this process and opposing views are frequently very strongly held by those involved. Whilst Members and Council Officers need to listen to these views, if they are involved in the **determination** of a planning matter, they must **not** unfairly favour (or appear to unfairly favour) any person, body or organisation, or any group or locality, nor put themselves in a position where they **appear** to do so. **Members or Council Officers who do not feel that they can act in this way must ensure that they do not take part in the determination of a planning matter.**
- 4.5 Members and Council Officers must be especially cautious about accepting gifts or hospitality in the context of the planning process. As a minimum standard, they must comply with the requirements of the Council's Codes of Conduct and the Local Protocol on Gifts and Hospitality (see Part 5 of the Council's Constitution).
- 4.6 It is wholly unacceptable for any Member or Council Officers ever to be offered, receive or seek any gift as part of the planning process. It exposes the recipient to the most serious allegations of impropriety and may result in criminal charges for corruption (punishable on conviction by a long prison term and/or heavy fine) and/or referral to the Monitoring Officer.
- 4.7 All offers of hospitality (greater than a cup of tea, or equivalent) from people with any interest in a planning proposal should also be politely but firmly declined. If the refusal of very modest hospitality is likely to cause real offence, Members and Council Officers should ensure that it is of the minimum level and declare its receipt as soon as possible. Occasionally, in appropriate circumstances, it may also be reasonable to accept hospitality by way of a modest working lunch (or other meal) if that is conducive to the effective and professional conduct of a matter. Any hospitality accepted (or offered) should be recorded in the relevant member or employee Hospitality Book.
- 4.8 The functions of Council Officers are:
- (a) To carry out the administrative tasks associated with planning applications and inquiries, to negotiate, where appropriate (and in accordance with this Local Code), with consultees, applicants and their agents.
  - (b) To prepare a comprehensive and balanced report normally with a clear recommendation of either conditional approval and/or with a requirement for a planning obligation, or refusal of an application when it is to be determined by a planning committee. (For further information see Section 13).
  - (c) To determine planning matters as authorised by the Council's Scheme of Delegation and in accordance with planning law and policies.
  - (d) To advise and assist Members and the general public in respect of any queries falling within the planning function.
- 4.9 In carrying out these responsibilities, Council Officers will provide:

- (a) Impartial guidance to all parties including applicants, objectors, consultees and members and provide professional advice to the Council in accordance with the Royal Town Planning Institute’s Code of Professional Conduct.
- (b) Ensure, so far as possible, that all information necessary to make a decision has been obtained, evaluated and properly taken into account (when making a decision or formulating a recommendation) and (if applicable) properly reported to the decision making person or body.

## 5. Registration and Declaration of Interests

- 5.1 The Council’s Codes of Conduct for Members require pecuniary and non-pecuniary interests to be registered and declared. These requirements **must** be followed scrupulously. Responsibility for fulfilling the requirements rests individually with each member and includes an obligation to ensure that their entries in the Registers of Interests are kept up to date.
- 5.2 All relevant pecuniary and non-pecuniary interests must be declared by members at every Council, committee or working party meeting where the interest is relevant to an item for discussion and on all other relevant occasions (such as site visits).
- 5.3 As the Council’s planning function is a quasi judicial one, Members are also required to consider whether they have interests other than pecuniary and non-pecuniary interests that would mean a reasonable member of the public might consider a conflict of interest to arise members need to ensure that there can be no question of predetermination or bias. Where a specific planning application might reasonably be regarded as affecting your well-being or financial position, or the wellbeing or financial position of a relevant person, to a greater extent than the majority of other council taxpayers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, the Member should declare that interest and, depending on the nature of that interest, may wish to exclude him or herself from taking part in the decision.
- (2) In the above paragraph “relevant person” would be –
- (a) a member of the Member’s family or any person with whom he or she has a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000.
- 5.4 All Council Officers must comply with the Council’s Employee Code of Conduct which is contained at Part 5 of the constitution and which imposes several requirements on employees including an obligation to declare any interests at meetings of the Council in which they are in attendance. When involved in the planning process Council Officers should also consider whether they should remain at meetings whilst a discussion and/or decision is taking place that relates to their interests and employees must always inform their line manager when any interest arises regardless of who is making the decision.

will not be present when the application is under discussion (see part 7), he/she may attend the meeting, but only for the purpose of making representations, provided that the public are also allowed to attend the meeting for the same purpose. Having made his/her representations he/she must withdraw from the meeting room and can not vote on the matter.

Members and Council Officers are required ~~To~~ register ~~your~~ requests to speak on a planning application, ~~please refer to Standing Order A23, as set out in~~ Standing Orders in relation to Council Meetings.

- 5.5 If a Member is ~~you are~~ a member in a personal capacity of an outside body that is making (or supporting or objecting to) a planning application it is very likely that you they have a declarable personal non-pecuniary interest and quite likely that you they have a personal prejudicial pecuniary interest that will preclude you them from taking part in the matter or even being in the room when the committee consider the matter. In these circumstances Members are ~~it is~~ strongly recommended that ~~you to~~ seek advice from the Monitoring Officer.
- 5.6 If a planning matter under consideration relates to an outside body to which a Member has been nominated by the Council, careful thought must be given by the member before deciding that it is appropriate to rely the general dispensation provided by the Monitoring Officer that Members appointed to such bodies can take part in decisions affecting those organisations.
- 5.7 Due to the nature of planning it may not be appropriate for a Member who is a Council representative on an outside body to vote on a planning matter affecting that body if they are a director or trustee of the outside body. This is because those roles impose very onerous legal obligations to act in the best interests of the outside body and may create an inherent conflict with the member's role as a councillor. If in doubt, the advice of the Monitoring Officer should be sought on this issue.
- 5.10 Where a Member who is a Council representative on an outside body (in whatever capacity, not just as a director or trustee) has taken a firm view on a planning matter, either in meetings of the outside body or otherwise, they may be open to an accusation of predetermination and must **not** vote on the matter at any Council meeting. This is discussed more fully in part 6 below. Failure to follow this advice may result in a planning decision being challenged in the courts.

## 6. Bias, Pre-determination and Pre-disposition

- 6.1 Irrespective of whether a Member or Council Officer has a non-pecuniary or personal pecuniary interest in a planning matter, they must not determine (i.e. vote on, or take a decision in relation to) a planning matter if it would render such decision liable to challenge in the courts on the grounds of bias, pre-determination or pre-disposition. These are common law concepts which have been developed by the courts over the years and which are continuing to evolve.
- 6.2 The test for bias (or apparent bias) was summarised by Mr Justice Richards in the case of *Georgiou v. Enfield London Borough Council* in 2004 as follows:

*'... in considering the question of apparent bias in accordance with the test in Porter v Magill, it is necessary to look beyond ... personal interests and to consider in addition whether, from the point of a view of a fair-minded and informed observer,*

*there was a real possibility that the Planning Committee or some of its' members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of all relevant planning issues.'*

- 6.3 The courts will quash a decision even if just one person involved in the decision is tainted by bias. This would have very serious financial consequences for the authority and very likely result in significant reputational harm to it and the member or employee in question.
- 6.4 Pre-determination is very like bias, but probably has a less pejorative connotation. The Localism Act 2011 states that a decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and (b) the matter was relevant to the decision. **Regardless of this provision, Members must be aware that the courts can still determine a Member has not considered the application fairly and therefore quash any decision made. Should Members have any doubts as to whether they should take part in a decision of the planning committee they should seek advice from the Monitoring Officer in advance of the meeting.**
- 6.5 Pre-disposition is a more complex concept than pre-determination or bias. However, a Member who is associated with policy statements that are relevant to an application is at risk of being accused of having a pre-disposition to determinate that application in a certain manner. In these circumstances the Member should give very careful consideration before deciding that it is appropriate to vote on the matter at committee and if in any doubt seek the advice of the Monitoring Officer.
- 6.6 This situation might arise, for example, where an ~~Executive Cabinet~~ Member is perceived as advocating certain types of development as part of their portfolio responsibilities. It would best preserve public confidence in the impartiality of the planning process if the member in question does not vote in the determination of planning applications that are relevant to his/her portfolio responsibilities. Members should seek advice at the earliest possible stage from the Monitoring Officer but should avoid a potential conflict of roles wherever possible.
- 6.7 **The overriding principle is that a person should avoid being both an advocate for (or against) a planning proposal prior to the committee meeting and a member of the committee when the application is determined.**

## 7. Development Proposals by Members and Council Officers

- 7.1 Applications by Members, ~~the Chief Executive,~~ Directors, Assistant Directors, Executive Heads or Council Officers involved in the planning process (or by their friends or relatives as defined in the Code~~s~~ of Conduct) will not be determined under powers delegated to Council Officers and must be determined by the Development Management Committee unless they are of a minor nature and there are no objections. A record will be kept of such instances. The ~~Executive Head of Assets and Business Services~~ Assistant Director of Planning and Transport may decide that this procedure will apply to any other officer of the Council on a case by case basis. The paramount consideration in exercising this discretion will be to maximise public confidence in the impartiality of the planning process.
- 7.2 Any Member or Council Officer ~~who makes an application~~ **Page 672** 7.1 applies who makes an application



(or who has any other interest in an application which means they will not be taking part in the decision) shall:

- (a) Promptly inform the ~~Assistant Director of Planning and Transport~~~~Executive Head of Assets and Business Services~~. The ~~Executive Head of Assets and Business Services~~~~Assistant Director of Planning and Transport~~ shall ensure that a written record of such interest is placed on the application file.
- (b) Take no part in the processing or determination of the application.
- (c) At the meeting of the Development Management Committee, exercise the same rights to speak as a member of the public. In these circumstances the Member or Council Officer with an interest in the planning application may **not** speak at committee unless the general public has a right to do so. Nor may they even remain in the public gallery to observe or listen to the committee debate (failure to adhere to this requirement has been found to be maladministration). In these circumstances, the Member or Council Officer with the interest which excludes them from the decision-making may request a spouse/partner/agent/friend to attend and speak on their behalf.
- (d) If in any doubt as to the nature of any interest, take advice from the Monitoring Officer in relation to the matter.

7.3 A Member or Council Officer who has an interest that means they will not be taking part in the decision may:

- (a) make written representations in a private capacity, to the Planning Officer, disclosing the nature of the interest and not seeking any preferential treatment;
- (b) use a professional representative, or arrange for a partner, close associate or family member, to make the application or representations; or
- (c) in the case of Members, arrange for another Member to represent the views of the Member's constituents on such matters.

7.4 Where a Member or Council Officer has an interest in a planning matter, the Council's Codes of Conduct also require that they must not seek **improperly** to influence a decision about a matter.

7.5 It is important to emphasise that *improperly* does not imply that a Member or Council Officer is to be precluded from seeking to explain and justify their proposal to a planning officer (whether over the phone, face to face or in writing) in advance of consideration of the matter by committee.

## 8. Planning Applications by the Council

8.1 The Council itself requires planning permission to carry out or authorise certain types of development on land it owns. These applications will generally be determined by the Development Management Committee (or Council) and this Local Code will apply to such applications. The ~~Executive Head of Assets and Business Services~~~~Assistant Director of Planning and Transport~~ may determine such applications if they are (a) applications of a minor nature and there have been no objections, (b) applications which are a repeat of, or contain only non-material amendments or material minor amendments

## 9. Lobbying of and by Members

- 9.1 If Members are to undertake fully their constituency roles, it is inevitable that they will be subject to lobbying on planning matters. **Lobbying is a normal and perfectly proper part of the political process.** Local concerns about development proposals need to be adequately aired as part of the planning process. **However, a Member must not lobby or act as advocate for (or against) a planning proposal and vote on the determination of the matter.** Members must comply with the guidance in relation to pre-determination as set out in part 6 of this Local Code.
- 9.2 Members may organise support for or against a planning application or lobby other Members. However, whilst they may be able to speak at the committee meeting when the application is determined they must not vote on the item.
- 9.3 Great care is required by Members and Council Officers in order to maintain public confidence in the integrity and the impartiality of the planning process and the Council. A failure to follow the advice in this section may result in a finding of maladministration against the Council or a legal challenge to the Council's decision.
- 9.4 When being lobbied members in general, but members of the Development Management Committee in particular, must take care about stating how they will vote before they have considered all relevant matters at committee. In such circumstances it is preferable for a Member to restrict their comments to procedural advice and to encourage those lobbying to speak or write to the planning officer in order that their opinions can be included as part of the decision-making process.
- 9.5 Where the Monitoring Officer (or his/her representative at committee) reasonably believes that a Member has prejudiced his/her position by expressing a conclusive view on an application before its determination by the committee, he/she will advise the member that it would be inappropriate for the member to vote on the application however **it is the Member's decision on whether to vote.**
- 9.6 Whilst lobbying is a normal and perfectly proper part of the political process, in order to protect their impartiality and integrity from being called into question, Members of the Development Management Committee must so far as is practicable, minimise their contacts (including social contacts) with known developers and agents.
- 9.7 Members shall normally avoid requesting information from professional applicants or objectors and direct their enquiries to the planning officer. If interested parties provide members with new information or additional documents they shall pass this to the planning officer as soon as possible. Where a person requires planning or procedural advice, he/she shall be referred to the appropriate officer but this will not preclude Members from giving information to general members of the public to assist them in understanding the planning process.
- 9.8 If a Member is approached in their role as ward councillor by a third party, neighbour, potential objector or supporter of a planning application, then it is natural that they will want to consider the representations. This can help Members' understanding of the issues and concerns associated with an application. However, Members must take care to avoid expressing an opinion which may be taken as indicating that they have already made up their minds on an issue before they have heard all the evidence and arguments at committee.
- 9.9 Unless a Member is prepared to refrain from voting on an application (i.e. to be regarded as an advocate for (or against) the proposed development) they must take

great care to maintain impartiality when attending public meetings in relation to planning matters, or during telephone discussions with a constituent. During such meetings or discussions it is preferable for no view on the merits or otherwise of a proposal to be given

- 9.10 Where a Member is lobbied they shall explain clearly that whilst they can listen to what is said, it would prejudice their impartiality to express an intention to vote one way or the other. Where Members are invited to attend such meetings, wherever possible they shall only do so in the presence of a Council Officer and, in any event, shall always declare such attendance prior to the consideration of the item at committee. Any written representation received should be passed to the Planning Officer for inclusion on the application file and placing in the public domain. Requests for information on procedural advice relating to planning applications should be directed to the Planning Officer to avoid misrepresentation and the possibility of a poor perception being gained of the impartiality of the planning process.
- 9.11 Members are encouraged where practicable (and particularly if the application is highly contentious) to keep a dated written record of lobbying and the response given. Appendix 1 contains a form designed for this purpose. In accordance with this Local Code it will be considered to be good practice for members to hand in any completed form at the relevant committee meeting. All completed records must be made available to the Monitoring Officer on request.
- 9.12 Where a Member's ward may be affected by a planning application which is to be considered by the Development Management Committee, but that councillor is not a member of the committee, he/she may address the committee in order to represent the views of residents. The procedure is laid down in the Council's Standing Orders.
- 9.13 Non-voting Members should remember that to be effective in representing the views of interested parties, and not mislead them about the planning decision process, they should be fair in their representations and not just act as an advocate for one point of view without considering the broader planning context. When lobbied, they should, (and advise others to), consider all aspects of the development which includes the relevant planning policies and the wider interests of the community as a whole. Members should advise that local opposition to, or support for, a planning proposal is not in itself a ground for refusing or granting permission unless founded upon valid planning reasons which can be substantiated. Where opposition to/support for a scheme is not founded upon real planning argument they should avoid giving the impression that such representations can be given weight and be careful about promoting that opposition/support both before and at the Development Management Committee. To do so may raise false expectations of a decision which cannot be justified when it comes to objective formal consideration, potentially resulting in disillusionment and confusion over both the decision process and the role of that Member.

## **10. Pre-application Discussions**

- 10.1 It is both proper and important that Members involve themselves in discussions with developers, their constituents and others about planning matters. However, potential difficulties will be minimised if all members adhere to the general guidelines that are set out in Appendix 3. These have been derived from 'Probity in Planning' and 'Positive Engagement – a guide for planning councillors', produced collaboratively by

a number of organisations including the Government, Local Government Association, Royal Town Planning Institute and Standards for England.

## **11. Discussions and Negotiations with Applicants**

- 11.1 Formally convened pre-application meetings are organised by officers to negotiate, where possible, an acceptable scheme prior to a planning application being submitted.
- 11.2 In any discussions on planning issues, it will always be made clear at the outset that the discussion and any views expressed are based on the planning officer's professional judgement but will not bind the Council to any particular decision. This is because, by the nature of such meetings, not all the relevant information will be to hand and consultations with interested parties will not normally have taken place.
- 11.3 Advice given will be consistent and based on the Development Plan, relevant national, regional and local planning policies and any other material planning considerations. Every effort will be made to ensure consistent interpretation of planning policies by different planning officers.
- 11.4 Written notes shall be taken at all such meetings detailing attendees, the nature of the proposal, advice sought and given and any other matters discussed. Notes shall be retained in a form readily retrievable by planning officers and their managers. Any request to inspect such notes shall normally be granted during the pre-application stage unless confidentiality has been requested (for example, if the developer's interest in the site is commercially sensitive).
- 11.5 Confidentiality will not be expected to apply once a proposal has become the subject of an application. However, in exceptional circumstances, some limited information relating to the commercial viability of a development may need to remain confidential. Where appropriate more than one officer will attend meetings on major planning issues. As a matter of good practice, a follow-up letter will be sent recording the planning officer's comments. In the event that a planning application is subsequently received any such letter shall be referred to in any committee report and included in the schedule of representations.
- 11.6 Members may request or be encouraged to take part in the pre-application discussions with potential applicants. When Members are involved, they will normally be advised by appropriate officers (which will normally include a senior planning officer). Member involvement in such discussions will be recorded on the planning file.

## **12. Officer Reports to Committee**

- 12.1 Reports to committee on planning matters must be accurate and cover all relevant points and no irrelevant matters.
- 12.2 The planning officer's report will include a full description of the site and any related planning history. It will refer to the provisions of the Development Plan and all other relevant material planning considerations and, where appropriate, any relevant issues arising under the Human Rights Act 1998 and any other relevant legislation. It will include the substance of representations and the views of consultees. The only information which may be taken into account in determining planning application is that formally submitted to the planning officer in advance of the meeting date, so that he or she can assess it. The purpose of the Committee being misled or the

decision being challenged on grounds of legality or maladministration. No papers shall be permitted to be circulated on the day of the meeting.

- 12.3 The report will clearly identify the key planning issues and material considerations to be taken into account. The report shall contain the merits for and against the application and will give a technical appraisal that clearly justifies the stated recommendation. Oral reporting to the committee (other than to up-date an existing report), will not normally occur unless a late representation identifies a material planning consideration which has not been addressed in the report in which case it will be reported by the planning officer together with any response by the applicant.
- 12.4 All reports will normally have a written recommendation either to conditionally approve or refuse the application. A planning officer may recommend that the matter is deferred if information needed for the meeting has not arrived or if significant issues have arisen since the preparation of the report which warrants deferment.
- 12.5 Where the recommendation is one of conditional approval, then all the proposed conditions will normally be attached to the report unless there is some substantial and exceptional reason preventing this. To be lawful a planning condition must meet the six tests specified in the National Planning Practice Guidance.

To be lawful a condition must be:

- (a) Necessary; and
  - (b) Relevant to planning; and
  - (c) Relevant to the development to be permitted; and
  - (d) Enforceable; and
  - (e) Precise; and
  - (f) Reasonable in all other respects.
- 12.6 The report must also give full details of any requirement for a Planning Agreement under Section 106 of the 1990 Act (as amended). The subject matter of the planning obligations to be included in the Agreement should be justified in order to facilitate discussion at the Planning Committee. The National Planning Practice Guidance provides advice on the use of planning obligations.
- 12.7 Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Planning obligations should not be used where the development proposed could be made acceptable through the use of planning conditions. A planning obligation may only be sought where all of the following tests are satisfied:
- (a) it is necessary to make the proposed development acceptable in planning terms; and
  - (b) it is directly related to the proposed development; and
  - (c) it is fairly and reasonably related in scale and kind to the proposed development.

- 12.8 The Secretary of State emphasises that the use of planning obligations must be governed by the fundamental principle that planning permission may not be bought and sold. It is not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.
- 12.9 The officer's recommendation must specify the reasons for refusal/approval and refer to all Development Plan policies and all relevant policy guidance which justify that decision.
- 12.10 Where the planning officer's recommendation is contrary to the provisions of the Development Plan this must be clearly stated together with the material considerations which justify the recommendation.

### 13. The Decision-Making Process - General

- 13.1 In determining all types of applications submitted pursuant to the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Hazardous Substances Act 1991, the Council will follow the relevant Government guidance, as interpreted by the courts.
- 13.2 The planning system involves making decisions about the use and development of land. Section 38(6) of the Planning and Compulsory Purchase Act requires that all planning applications are determined in accordance with the Local Development Plan/Framework unless material planning considerations indicate otherwise.
- 13.3 When determining planning matters Members and Council Officers must approach each application with an open mind and carefully weigh up material planning considerations, particularly with reference to the Development Plan and national policy guidance. They must disregard all considerations that cannot lawfully be taken into account (for example, that a planning application has been made retrospectively).
- 13.4 No group of Members (for example, from the same political group, or from the same ward) and no informal meeting of a particular group on a committee may be used to decide how Members shall vote in a committee determining an application. **It is unlawful for a planning decision to be subjected to the discipline of the political whip and to do so would also constitute maladministration.** This does not preclude the holding of pre-meetings prior to the commencement of a formal planning related meeting in order to discuss the business management of the forthcoming public meeting (but **not** the merits of individual agenda items). However, such pre-meetings must be open to **all** members entitled to attend the subsequent public meeting and the rules relating to the declaration of interests must be strictly applied.
- 13.5 Where an application is to be determined by the Development Management Committee there will be an opportunity for interested parties to address the committee prior to the determination of the application. The procedure is laid down in Council's Standing Orders. No papers shall be permitted to be circulated on the day of the meeting.
- 13.6 Members and Council Officers with a personal interest in an application must declare the interest in accordance with the Council's Codes of Conduct and this Local Code and, if required by the relevant Code of Conduct, they shall then withdraw from the meeting before any discussions take place on the matter.

- 13.7 Members and officers will address one another during the debate in a proper manner and through the Chairman/woman. Members shall respect the impartiality and integrity of officers.
- 13.8 Senior legal and planning officers shall always attend meetings of the Development Management Committee to ensure that procedures have been properly followed and planning issues properly addressed.
- 13.9 In discussing and determining a planning application, Members will confine themselves to the planning merits of the case and the reasons for making a final decision shall be clear, convincing and supported by planning evidence.
- 13.10 On occasions the Development Management Committee will disagree with the planning officer's recommendation. Planning committees are entitled to reach their own decisions by attaching different weight to the various planning criteria which are relevant to the application. However, the same strict legal requirements have to be met, as the reasoning in the planning officer's report will no longer apply.
- 13.11 Where Members propose approval with conditions or wish to impose additional conditions, they must apply the same criteria referred to at paragraph 12.5 above. They must be of the opinion that if the condition were not applied then the planning application ought to be refused. Conditions shall be tailored to tackle specific problems rather than impose general control. Where Members are of the view a planning agreement is appropriate, then the same considerations as outlined in paragraph 12.7 above shall be applied.
- 13.12 The committee shall not approve any application (or other matter) which would (in the opinion of the ~~Executive Head of Assets and Business Services~~Assistant Director of Planning and Transport) not be in accordance with the Development Plan unless the ~~Executive Head~~Assistant Director has recommend approval and the decision of the Committee is consistent with the ~~Executive Head~~Assistant Director's recommendation.
- 13.13 If, contrary to the recommendation of the ~~Executive Head of Assets and Business Services~~Assistant Director of Planning and Transport, the Committee consider that an application (or other matter) shall be approved and such approval is not in accordance with the Development Plan, then the item shall be referred to Council for determination.
- 13.14 Where a Member proposes to recommend approval contrary to an officer's recommendation of refusal, the Chairman/woman will give the planning officer an opportunity to respond to that recommendation and to discuss any appropriate conditions (and/or Planning Agreement). The planning officer may request further time in order that appropriate conditions (and/or the terms of a Planning Agreement) may be drafted.
- 13.15 Where a Member moves refusal of an application contrary to the officer recommendation, the Member must give reasons based upon planning grounds as the Member may be required to speak at any subsequent appeal hearing. Such reasons must be sufficiently clear and precise to enable the planning officer to apply relevant Development Plan policies to those reasons.
- 13.16 Where it is the planning officer's professional view that a proposal for refusal is improper, this advice will be given to the committee and, where necessary, further advice shall be given by the ~~Solicitor~~ Assistant Director the potential implications of such a

decision.

- 13.17 Before any matter is put to the vote any member of the committee may request the Chairman/woman to ask the clerk to read to the meeting the full text of the proposal to be voted upon. This is a mandatory requirement if a proposal does not follow the officer recommendation.

#### 14. Planning and Human Rights

- 14.1 The Human Rights Act 1998 requires all public bodies to exercise their powers and duties in ways that do not breach the rights of individuals, as identified in the European Convention on Human Rights.

- 14.2 The following provisions of the European Convention on Human Rights are most likely to be relevant to the planning system:

**Article 6: the right to a fair trial.** In the context of planning, this means that where their property or life is affected by a decision, everyone is entitled to a fair and public hearing (within a reasonable time) by an independent and impartial tribunal established by law. This is provided for applicants who are dissatisfied with a planning decision through the appeals process and for objectors through the availability of judicial review. However, the principles underpinning this Article also require openness and transparency throughout the decision-making process.

**Article 8: the right to respect for private and family life.** Everyone has the right to respect for his or her private and family life, home and correspondence. This may only be subject to interference by a Public Authority in accordance with the law and only *so far as is necessary in a democratic society*. This means that any such interest must be justifiable on the grounds of national security, public safety, the national economic well being, the prevention of disorder or crime, the protection of health or morals or for the protection of the rights and freedoms of others.

**The First Protocol – Article 1: protection of property.** Every person (including legal persons, such as companies) is entitled to the peaceful enjoyment of their possessions. This may only be restricted or prevented in the public interest in accordance with the law. Accordingly, whilst the Council may enforce planning laws where it is necessary to control the use of property in accordance with the general interest, its action must be *proportionate* in all the circumstances.

#### 15. Decision Making – Delegation to Council Officers

- 15.1 The Council's Scheme of Delegation specifies clearly the categories of applications that may be determined by officers; those that will be referred to the Development Management Committee; and those that must be determined by Council. The Chairman/woman or (in his/her absence) the Vice Chairman/woman of the Development Management Committee may in exceptional circumstances request the ~~Executive Head of Assets and Business Services~~ Assistant Director of Planning and Transport to refer a planning application which would normally be delegated to Council Officers to the Development Management Committee. The terms of reference of the Development Management Committee are set out in Part 3, Schedule 5 of the Council's Constitution.
- 15.2 Where officers are determining applications under their delegated powers, the Case Officer processing the application will complete an officer report which must record



that all material planning considerations have properly been taken into account. The Case Officer will then make a recommendation to the Team Leader. The Team Leader will assess the report and recommendation and make the final decision on behalf of the ~~Executive Head of Assets and Business Services~~ Assistant Director of Planning and Transport.

- 15.3 In the case of a divergence of view and the rejection of the Case Officer's recommendation, the Team Leader's decision and planning justification must be recorded in full on the file. In the event that the Case Officer is a team leader then any delegated decisions taken by that officer will be referred to the ~~Executive Head of Business Services~~ Assistant Director of Planning and Transport for the final decision, which shall be recorded in the same manner.

## 16. Public Speaking at Planning Committees

- 16.1 Members of the public are entitled to speak at meetings of the Development Management Committee and Council when planning applications are being considered. Details of this procedure are set out in Standing Orders in relation to Council Meetings A23 in the Council's Constitution.

## 17. Role of Council Officers Where a Recommendation is not Followed

- 17.1 The Nolan Report considered the role of officers in the planning process and concluded that "*Planning Officers exist to advise Planning Committees, which are entitled to reach their own decisions, by attaching different weights to the various planning criteria which are relevant to an application*".
- 17.2 Council Officers shall, therefore, give full support to the Council's case where an appeal is made against the Local Authority's decision whether it be by written representations, informal hearing or public inquiry. However, in doing so, planning officers shall adhere to the good practice advocated by the Royal Town Planning Institute and 'shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions'. The same principles shall apply to other Council Officers who have to act in accordance with their own professional codes.
- 17.3 Where, however, a planning officer believes that a committee decision is based on no reasonable planning grounds and is therefore "improper" they will normally seek to draw this to the attention of the Committee and must draw this to the attention of the Council's ~~Executive Head of Assets and Business Services~~ Assistant Director of Planning and Transport and the Monitoring Officer.
- 17.4 Where a planning officer has advised a committee that its decision is, in their professional opinion, improper then that officer will only be required to give evidence on appeal in exceptional circumstances and having regard to any limitations imposed by the Royal Town Planning Institute's Code of Professional Conduct. The advice of the Council's Monitoring Officer will be sought if such a situation arises. In such circumstances members may be asked to give evidence on behalf of the Council at any appeal.

## 18. Committee Site Visits

- 18.1 Council Officers will make arrangements for site visits by all committee members prior to the scheduled committee meeting. Site visits can be requested by a Member

but shall only be requested where a site visit will clearly assist the Members in determining the planning application. For example:-

- (a) When the impact of the proposed development is difficult to visualise from the plans and supporting material.
- (b) There is a good reason why the comments of the applicant or objectors or consultees cannot be adequately understood from written or verbal presentation at the Committee meeting.
- (c) When the proposal is particularly contentious.

18.2 Efforts will be made to ensure that all Members involved in the decision and the Planning Officers attend each site at the same time. This is because:-

- (a) Members have no right of access to land.
- (b) Members may be subject to lobbying or to accusations of bias.
- (c) Separate visits are likely to result in confusion about the material planning considerations.
- (d) Planning officers will be able to explain the plans and answer any technical questions.

18.3 Site visits will only be used for gathering factual information, seeking clarification from the planning officer and making a visual assessment. Therefore, Members must not discuss the merits of the case at the site inspection with any applicants, agents, objectors (or supporters) or members of the public who are present. The site visit is not part of the formal consideration of the application and public rights of attendance do not apply.

## **19. Site Review Meetings**

19.1 The overwhelming majority of planning applications can be dealt with quite appropriately by Council Officers under delegated powers. However, given the inherently controversial nature of planning it is sometimes the case that even very straight forward applications excite strong feelings and generate objections. In an attempt to increase public confidence in the transparency and fairness of the planning system the Council has adopted a system of holding informal Site Review Meetings as a mechanism for hearing concerns from local residents and deciding whether an application will be determined under delegated powers or referred to the Development Management Committee for determination.

19.2 The Council has adopted a protocol in relation to Site Review Meetings and this is set out in Appendix 2.

## **20. Reviews of Decisions**

20.1 The Development Management Committee will review, at least annually, a sample of the implemented decisions made by that committee to assess the quality of those decisions. Visits will be incorporated into the schedule of site visits arranged for that committee. The purpose is to improve the quality and consistency of decision making and will assist in reviews of planning policy and monitoring the quality of decisions as required by Best Value Performance Indicators. Members and officers

will undertake reviews together and include consideration of whether there is a need to initiate a review of any policies or practices.

- 20.2 At quarterly meetings of the Development Management Committee, the results of recent Planning Inspectorate decisions will be reported. A short report will be provided to identify whether the decision was a delegated officer decision or one taken by the committee and briefly outlining the main issues.

## 21. Enforcement of Planning Control

- 21.1 The Council has various powers to take enforcement action in respect of breaches of planning control. These powers may arise for example if development has been carried out without the requisite planning permission or a person has failed to comply with a condition imposed on a planning permission. Enforcement powers also exist in relation to special controls such as planning obligations, listed buildings, Tree Preservation Orders and untidy land.
- 21.2 The Council has dedicated Planning Investigation Officers who can be contacted by a Member or member of the public if they believe a breach of planning control has occurred. The Planning Investigation Officer will need the address of the planning site and brief details of the alleged breach in order to undertake initial inquiries. The Planning Investigation Officer has specific powers under the 1990 Act to investigate breaches of planning control and therefore once the matter has been referred to the officer he/she will take responsibility for the investigation. The officer will keep the Member or member of the public informed as to progress as appropriate.
- 21.3 The completion of the Planning Investigation Officer's investigation may lead to one or more of the following:
- A finding of fact that no breach of planning control has occurred;
  - A finding that although there has been a breach of planning control it is purely technical in nature or so minor that it is not expedient or in the public interest that it does not justify any further action being taken;
  - Where there has been a breach of planning control, but the officer considers a conditional grant of planning permission might be acceptable, an invitation to the landowner/developer to submit an application for planning permission;
  - In controversial or difficult cases, or those cases outside officers' delegated powers, a report being submitted to the Development Management Committee for determination
  - Where the planning merits of the case so justify, instructions to the Council's Legal Services Manager to take enforcement action.
- 21.4 Starting development in anticipation of receiving planning permission (premature development) is not in itself a ground for justifying refusal of planning permission or the taking of enforcement action. However, the ~~Executive Head of Assets and Business Services~~ Assistant Director of Planning and Transport will put in place systems to ensure that where practical Planning Investigation Officers are notified of instances of premature development and the landowners/developers advised in writing that such activity is carried out at their own risk and may be the subject of planning enforcement action.

## 22. Training in the Planning Process for Members

- 22.1 ~~In accordance with Council's Standing Orders a~~All members of the Council on being elected must undertake initial training on the planning process. This will be provided by the Council in a seminar and/or workshop programme. This training will include guidance on Town and Country Planning with particular reference to the material considerations which Members have to take primarily into account. Members of the Development Management Committee will be given refresher training when changes are made to planning law or procedure and will also receive ongoing training in relation to development management.
- 22.2 All elected Members are required to comply with the core requirements of the Council's annual Members' Development Programme which includes Development Management training. ~~This is a core requirement of the Council's Code of Conduct for Members.~~
- 22.3 Members who have not undertaken the relevant Development Management training shall not be permitted to be a member of or substitute for other Members on the Development Management Committee, or take part in consideration of any Development Management matters referred to full Council, and should not make themselves available for attending Site Review Meetings.(See Para 19).
- 22.4 Any failure to comply with the core Development Management training requirements may be referred to the Monitoring Officer ~~in accordance with the Code of Conduct for Members~~ and to the appropriate Group Leader.

## 23. Complaints

- 23.1 Any issues of concern arising from this Code may, in the interest of speed, be raised informally with the Monitoring Officer in the first instance. Should a member of the public wish to make a formal complaint within the framework of the Council's complaints system then they shall write to the ~~Executive Head of Assets and Business Services~~Assistant Director of Planning and Transport, Torbay Council, Town Hall, Castle Circus, Torquay, Devon, TQ1 3DR.
- 23.2 Where a Member alleges a breach of this Code in respect of another Member, they will refer the matter to the Council's Monitoring Officer.
- 23.3 Where there are issues of maladministration, these can be referred to the Local Government Ombudsman.

**Appendix 1**

**Planning Attendance Note**

|                              |
|------------------------------|
| Planning application Number: |
| Development Site:            |
| Enquiry from:                |
| Nature of Representations:   |
| Response Given:              |
| Member:                      |
| Date:                        |

## Appendix 2

**Revised Site Review Meetings Protocol**

1. The Government has made it clear to Local Planning Authorities that in order to speed up the planning process the vast majority of planning applications should be determined by officers using delegated powers.
2. Most planning applications are now initially identified as being appropriate for determination by the ~~Executive Head of Business Services~~Assistant Director of Planning and Transport under delegated powers. Only major applications (those for 10 or more residential units, or over 1000 square metres of new floor area) will automatically be referred to the Development Management Committee. The ~~Executive Head of Business Services~~Assistant Director of Planning and Transport may refer other applications to the Committee for determination if he considers it appropriate. In determining whether to refer other applications to the Committee for determination the ~~Executive Head of Business Services~~Assistant Director of Planning and Transport may consult with the Chairman/woman of the Development Management Committee and/or any relevant Ward Members.
3. In deciding whether or not to refer a planning application to the Development Management Committee for determination, the ~~Executive Head of Business Services~~Assistant Director of Planning and Transport will have regard to the number and complexity of planning issues the application raises. This is not necessarily reflected in the number of objections received and no particular number of objections (or letters of support) will ensure that any particular application is referred to Committee.
4. Where officers are recommending approval of an application and there are objections on valid planning grounds made within the 21 day period for response, the Ward Councillors will be advised of the objections by e-mail and be given 5 days to respond to officers, either by telephone or e-mail. Having considered the merits and significance of the application, Ward Members may, in exceptional circumstances, request that a Site Review Meeting (SRM) is arranged. The Ward Member must be available in the next 7-10 days so that the SRM can be arranged in that timeframe. Officers will proceed to arrange the meeting unless in exceptional circumstances there are clear differences of opinion between the officers and the Member about whether such a meeting is necessary. In these circumstances the matter will be referred to the Chairman/woman of the Development Management Committee for decision.
5. Where there are 5 or more objections to an application and officers are recommending approval, the same procedure as described above will apply in relation to the need for an SRM. Officers will however automatically discuss with the Chairman/woman of the Development Management Committee whether the application should be heard at Committee. Again, it will be the decision of the Chairman/woman as to whether that application should be determined at Committee or under delegated powers.
6. The purpose of a Site Review Meeting is to decide whether a decision should be made under delegated powers or referred to the Development Management Committee for determination. The meeting is not intended to debate or argue about the issues but to allow everyone to look at the site, view and understand fully the proposals and hear the views of the applicant and the objector(s).

7. After the Site Review Meeting, the Senior Planning Officer present will discuss the matter with the Ward Councillor(s) in attendance and then make a recommendation to the ~~Executive Head of Business Services~~Assistant Director of Planning and Transport as to whether or not the matter should be referred to Committee for determination. If in exceptional circumstances the ~~Executive Head of Business Services~~Assistant Director of Planning and Transport is not minded to agree with the views expressed by any Ward Member as to whether or not to refer the matter to Committee, he will consult with the Chairman/woman of the Development Management Committee who will make a decision.
8. All parties will be informed in writing of the outcome of the Site Review Meeting.
9. Site Review Meeting may be terminated by the Planning Officer in attendance in the event that any person present fails to adhere to the principles of this Protocol or fails to treat other people present with courtesy and respect.
10. In all cases, Officers will continue to make recommendations in reports either for signing off by team leaders or for consideration at Committee, and Officer Reports will highlight and discuss the merits of objections, indicating how the objections raised have been considered in reaching the decision.

## Appendix 3

## Discussions with Third Parties – Do's and Dont's

It is important that members involve themselves in discussions with applicants, their constituents and others about planning matters. The Audit Commission has recommended that councils should develop effective approaches to pre-application discussions involving councillors, to ensure the issues relating to proposed planning applications are identified, discussed and, if possible or necessary, accommodated early in the process. Such discussions have no binding effect on either party; the Council encourages developers to engage in full and transparent public consultation at an early stage so that both the Council and the applicant are aware of issues arising and members can observe and listen to a range of points of view. Potential difficulties will be minimised if all members adhere to the following general guidelines.

**Do**

- Read the Council's Local Code of Good Practice in relation to Planning Matters
- Attend discussions organised by officers before a planning application is made, **not** after it has been submitted to the Council
- Structure discussions and always be accompanied by a planning officer
- Keep an open mind; refrain from expressing strong views directly to a prospective applicant rather than via the planning officer during the pre-determination stage; preface any discussion with appropriate and clear disclaimers; keep a dated note of meetings and calls; and make **clear at the outset** (and in subsequent contacts) that discussions are **not** binding
- Adhere to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- Where appropriate encourage positive outcomes
- Request and participate in training on planning and probity issues
- Refuse any gift however insistently offered
- Attend developer presentations to be fully informed prior to an application being submitted
- Attend public consultation meetings as part of your role in taking fully into account public opinion and relevant planning issues emerging

**Do Not**

- Meet applicants alone, or put yourself in a position where you may appear to favour unfairly any person, body or group or may be misinterpreted. Even a 'friendly' private discussion with an applicant may cause others to question your impartiality
- Accept hospitality unless refusal of minimal hospitality would be impolite
- Expect to lobby and actively support (or resist) an application and still vote at Committee
- Remain in any public meeting where you have a ~~personal prejudicial pecuniary~~ interest
- Seek improperly to influence others or put pressure on them to support a particular outcome in relation to a planning matter
- Invent local guides on probity in planning which are incompatible with current national guidance and best practice
- Advise, correspond or negotiate (or give the appearance of so doing) with applicants



This list of do's and don'ts is derived from a range of national documents including principally "Positive Engagement" (a guide for planning councillors), and "Probity in Planning" produced collaboratively by a number of organisations including the Government, LGA, RTPI and Standards for England.

## Local Code of Good Practice – Members and Employees Involved in the Licensing Process

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- ~~Appendix 2: Hearings Required Under Licensing Act 2003~~

## 1. Introduction

- 1.1 The Council has a variety of duties to undertake in relation to permits, consents and licences set out within legislation, some of which have been in effect for centuries. This sets down rules by which certain activities can only be lawfully carried out if a formal permission has been issued. This process is necessary to ensure that appropriate checks are made and any necessary conditions imposed on the activity in order to preserve the amenity of an area, minimise inconvenience to the public and ensure fairness and equality of opportunity. There may also be a need to enquire into the background of an applicant, assess their suitability for the matter under consideration and, in some cases, their honesty. This is because the public must have confidence in the robustness of such processes and be sure that the Council's corporate responsibility is being satisfactorily discharged. ~~In this respect, there is a need to act strongly and effectively against those who do not observe the necessary controls.~~
- 1.2 Every member of the public will at some time encounter a service or business which has been required to obtain an appropriate permission for its activities. Licensing decisions will therefore impact frequently upon the daily lives of ~~local people and the private lives of~~ individuals. It is therefore essential that licensing decisions be taken openly and impartially, ~~with sound judgement and for justifiable reasons.~~ The licensing process must leave no grounds for suggesting that a decision has been partial, biased or not well founded in any way.
- 1.3 On the passing of the Licensing Act in 2003, it was decided by Parliament that decisions in relation to alcohol, entertainment and late night refreshment licensing would best be left to elected members who would be accountable to the local electorate. An elected member is required to take forward concerns, drive change, participate in community and action groups and made decisions for the community as a whole. As the Standards Board for England noted in 2004, these roles and responsibilities can often conflict and there needs to be a balance between representation and ensuring that the authority can even-handedly decide matters on their merits. Not only that but it must be seen doing so by maintaining public confidence in the fairness and impartiality of the licensing decision-making process.
- 1.4 The purpose of this Local Code is to provide clarity in the way in which members and employees of the Council (or 'officers') will deal with licensing matters and to set the standard of conduct that other parties to the process are entitled to expect of the Council. Whilst this Local Code deals primarily with the determination of licensing applications under the Licensing Act 2003, the principles it endorses must be taken into account when considering how other licensing and registration activities are to be dealt with, how local policies are considered and followed, how applicants are dealt with during the process and what involvement members can have with such matters prior to their determination.
- 1.5 In this Local Code, 'member' includes ~~the elected Mayor and~~ all elected members of the Council.
- 1.6 This Local Code is intended to ensure that the licensing process is characterised by open and transparent decision making. Adherence to the Local Code will help to protect the Council against allegations of maladministration, legal challenges to its decisions and applications for costs based on the grounds of such decisions being

~~unfair, unsound or~~ unlawful. The Local Code is based on three main principles:

- (a) Decision-makers must **not** favour unfairly (or appear to favour unfairly) any individual or group.
- (b) Decision-makers must **not** make decisions in advance of being presented with all the relevant facts.
- (c) Members and employees have different but complementary roles in consequence of which a successful relationship must be based upon mutual trust and respect for the positions of each other.

## 2. Relationship with the Council's Codes of Conduct

2.1 This Local Code is concerned with the integrity of the licensing process and maintaining public confidence in the licensing system. Whilst there is a degree of overlap with the Council's Codes of Conduct for Members and Employees, this Local Code of Good Practice also imposes additional obligations in the specific context of licensing and control.

2.2 ~~This Local Code contains advice based upon recommendations from the Local Government Association, the former Standards for England and the Local Authority Co-ordinators of Regulatory Services (LACORS).~~ Failure to follow this Local Code may be taken into account in investigations into possible maladministration and may result in allegations that a member or employee has breached the Council's Codes of Conduct (and a member being referred to the Monitoring Officer for investigation or an employee being subject to disciplinary action).

## 3. Application of This Local Code

3.1 This Local Code applies to both members and employees who become involved in licensing issues. It applies to all licensing decisions (whether taken at Council, Committee, Sub-Committee or by employees under delegated powers).

3.2 The Local Code also applies to site visits, meetings, forums and all other formal and informal contacts between members, employees, applicants, agents, objectors, legal advisors and other members of the public involved in the licensing process. Whilst this Local Code primarily addresses the determination of licensing applications its underlying principles must also be applied to the processes up to that stage and subsequent enforcement issues.

3.3 When determining whether there has been a breach of this Local Code the standard to be applied will be that of the reasonable member of the public with knowledge of the relevant facts and the standard of proof will be that of the balance of probabilities.

## ~~4. Licensing and Human Rights~~

~~4.1 The Human Rights Act 1998 requires all public bodies to exercise their powers and duties in ways that do not breach the rights of individuals, as identified in the European Convention on Human Rights.~~

~~4.2 The following provisions of the European Convention on Human Rights are most~~

likely to be relevant to the licensing system:

~~**Article 6: the right to a fair trial.** In the context of licensing, this means that where their property or life is affected by a decision, everyone is entitled to a fair and public hearing (within a reasonable time) by an independent and impartial tribunal established by law. This is provided for applicants and objectors alike, who may be dissatisfied with a licensing decision, through the appeals process or, in appropriate circumstances, through the availability of judicial review. However, the principles underpinning this Article also require openness and transparency throughout the decision-making process.~~

~~**Article 8: the right to respect for private and family life.** Everyone has the right to respect for his or her private and family life, home and correspondence. This may only be subject to interference by a Public Authority in accordance with the law and only so far as is necessary in a democratic society. This means that any such interest must be justifiable on the grounds of national security, public safety, the national economic well being, the prevention of disorder or crime, the protection of health or morals or for the protection of the rights and freedoms of others.~~

~~**The First Protocol – Article 1: protection of property.** Every person (including legal persons, such as companies) is entitled to the peaceful enjoyment of their possessions. This may only be restricted or prevented in the public interest in accordance with the law. A licence or permission can be considered to be a possession. Accordingly, whilst the Council may enforce licensing laws where it is necessary to exercise the necessary controls in accordance with the general interest, its action must be *proportionate* in all the circumstances.~~

## **54. The Roles and Conduct of Members and Employees**

- 54.1** Members and employees have different but complementary roles. These are explored in detail in the Council's Local Protocol on Member and Officer Relations contained in Part 5 of the Council's Constitution. The guidance contained in that Protocol is relevant to the licensing process.
- 54.2** Both members and employees are subject to formal Codes of Conduct adopted by Torbay Council **and set out in the Constitution**. These cover issues central to the preservation of an ethical approach to Council business. In particular, members **must register and declare pecuniary and non-pecuniary interests** and employees must register and declare personal interests **in accordance with the Employee Code of Conduct (see Part 6 of this Local Code)**. However, the Codes also govern relationships between members, employees and the public and these provisions will impact on the way in which members and employees participate in the licensing process. Of particular relevance to members and employees involved in licensing decisions is the requirement that they;
- 'must not in his/her official capacity, or any other circumstances, use his/her position as a member/employee improperly to confer on or secure for him/herself or any other person, an advantage or disadvantage'**
- 54.3** The licensing system involves the consideration of proposals which often impact greatly upon wider public interest. Much is often at stake in this process and opposing views are frequently very strongly held by those involved. Whilst members

and employees need to listen to these views, if they are involved in the **determination** of a licensing matter, they must **not** unfairly favour (or appear to unfairly favour) any person, body or organisation, or any group or locality, nor put themselves in a position where they **appear** to do so. **Members or employees who do not feel that they can act in this way must ensure that they do not take part in the determination of a licensing matter.**

~~5.4 — Members and employees must be especially cautious about accepting gifts or hospitality in the context of the licensing process. As a minimum standard, they must comply with the requirements of the Council's Codes of Conduct and the Local Protocol on Gifts and Hospitality (see Part 5 of the Council's Constitution).~~

5.4.5 It is wholly unacceptable for any member or employee ever to receive (or seek) any gift or hospitality as part of the licensing process. It exposes the recipient to the most serious allegations of impropriety and may result in criminal charges for corruption (punishable on conviction by a long prison term and/or heavy fine and/or referral to the Monitoring Officer).

~~5.6 — All offers of hospitality (greater than a cup of tea, or equivalent) from people with any interest in a licensing proposal should also be politely but firmly declined. If the refusal of very modest hospitality is likely to cause real offence, members and employees should ensure that it is of the minimum level and declare its receipt as soon as possible. Occasionally, in appropriate circumstances, it may also be reasonable to accept hospitality by way of a modest working lunch (or other meal) if that is conducive to the effective and professional conduct of a matter. Any hospitality accepted (or offered) should be recorded in the relevant member or employee Hospitality Book should be dealt with in accordance with the Local Protocol on Gifts and Hospitality in respect of members and the Employee Code of Conduct for officers (see Part 5 of the Council's Constitution).~~

5.7 The functions of employees are:

- (a) To carry out the administrative tasks associated with licensing applications and enquiries, to negotiate, where appropriate (and in accordance with this Local Code), with consultees, applicants, respondents, those who have made representations and their agents.
- (b) To prepare a comprehensive and balanced report indicating the background and relevant issues arising from the application. Where Licensing Act 2003 applications are concerned, details will, in particular, include matters relating to the promotion of the licensing objectives but, in order to retain the required position of neutrality, no recommendation will be made. WithIn respect of other licensing matters, the report maywill include a clear recommendation which will be determined by a Licensing Committee or (Sub-Committee). of either approval, either with or without a requirement for a licensing condition, or refusal of an application which is to be determined by a Licensing Committee (or Sub-Committee). (For further information see Section 13).
- (c) To determine licensing matters as authorised by the Council's Scheme of Delegation and in accordance with licensing law and policies and fulfil any duties, other than determinations, provided for within that Scheme.
- (d) To advise and assist members and the general public in respect of any

queries falling within the function of the Licensing Section.

5.8 In carrying out these responsibilities, employees will:-

- (a) Provide impartial guidance to all parties including applicants, [respondents](#), objectors, consultees and members and provide professional advice to the Council.
- (b) Ensure, so far as possible, that all information necessary to make a decision has been obtained, evaluated and properly taken into account (when making a decision or formulating a recommendation) and (if applicable) properly reported to the decision making person or body.

## 6. Registration and Declaration of Interests

6.1 The Council's Codes of Conduct for Members and Employees (set out in Part 5 of the Constitution) require certain personal interests to be registered and declared. These requirements **must** be followed scrupulously, by Members and Employees when dealing with Licensing matters. ~~Responsibility for fulfilling the requirements rests individually with each member and employee and includes an obligation to ensure that their entries in the Registers of Interests are kept up to date.~~

~~6.2 All relevant personal interests must be declared at every Council, Committee, Sub-Committee or working party meeting where the interest is relevant to an item for discussion and on all other relevant occasions (such as site visits).~~

~~6.3 The Codes of Conduct define personal interests as in any business of the Council where either:~~

~~(a) it relates to or is likely to affect –~~

~~(i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;~~

~~(ii) any body –~~

~~(aa) exercising functions of a public nature;~~

~~(bb) directed to charitable purposes; or~~

~~(cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union),~~

~~of which you are a member or in a position of general control or management;~~

~~(iii) any employment or business carried on by you;~~

~~(iv) any person or body who employs or has appointed you;~~

~~(v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;~~

- (vi) ~~any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);~~
- (vii) ~~any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi);~~
- (viii) ~~the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;~~
- (ix) ~~any land in your authority's area in which you have a beneficial interest;~~
- (x) ~~any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated director, or a person or body of the description specified in paragraph (vi) is, the tenant;~~
- (xi) ~~any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or~~
- (b) ~~a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the wellbeing or financial position of a relevant person to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision.~~
- (2) ~~In sub-paragraph (1)(b), a relevant person is—~~
- (a) ~~a member of your family or any person with whom you have a close association; or~~
- (b) ~~any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or~~
- (c) ~~any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or~~
- (d) ~~any body of a type described in sub-paragraph (1)(a)(i) or (ii).~~
- 6.4 ~~If a member or employee considers that they have a personal interest in a matter under discussion, they must declare the interest on every occasion it is relevant, even if the interest is recorded in the Register of Interests. However, **it does not then necessarily follow that the personal interest debars the member/employee from participation in the discussion.**~~
- 6.5 ~~The member/employee then needs to consider whether the personal interest is a **prejudicial** one. The Codes of Conduct provide that a personal interest becomes a prejudicial one when~~
- ~~‘... if the interest is one which a member of the public **with knowledge of the relevant facts** would **reasonably** regard as so significant that it is **likely** to prejudice the~~



~~member/employee's judgement of the public interest'.~~

~~If a member/employee has such an interest, they must not participate in any discussion on the matter and **must** withdraw from the room. In addition, they **must not** seek **improperly** to influence the decision.~~

~~6.2~~ Where a member has a pecuniary interest or an /employee has a ~~prejudicial~~ personal interest in a licensing matter, he/she may attend a meeting, but only for the purpose of making representations, provided that the public are also allowed to attend the meeting for the same purpose. In the case of a member, Hhaving made his/her representations he/she must withdraw from the meeting room and can not vote on the matter.

~~6.36~~ Where an application is made under the Licensing Act 2003 in respect of which ~~you~~ a member or an officer can be considered to live “in the vicinity” of the premises, ~~you~~ the member or officer will be entitled to raise, on a personal basis, a representation, as to whether the licensing objectives will be promoted by that application. Representations will then be dealt with in accordance with the Licensing Hearing Regulations. ~~However, it is clear that the member will also have a pecuniary interest or an officer you will also have a personal prejudicial interest and will not be able to take part in or be present at any hearing of the matter.~~

~~6.47~~ If ~~a member is you are~~ a member of an outside body that is making (or supporting or objecting to) a licensing application it is very likely that ~~you~~ the member will have a declarable personal non-pecuniary interest and quite likely that ~~the member you will~~ have a personal prejudicial pecuniary interest that will preclude ~~you he/she~~ from taking part in the matter or even being in the room when the Committee (or Sub-Committee) consider the matter. In these circumstances it is strongly recommended that ~~members you~~ seek advice from the Monitoring Officer.

~~6.85~~ ~~The Codes of Conduct include some exceptions where a member/employee may regard a personal interest as not being prejudicial. These are listed in the respective Codes. The most important exception is where a member has been appointed by the Council as its representative on an ‘outside body’.~~

~~6.96~~ ~~If a licensing matter under consideration relates to an outside body to which a member has been nominated by the Council, careful thought must be given by the member before deciding that it is appropriate to rely upon the potential exemption in the Code of Conduct and participate in the decision-making process; i.e. that membership of the outside body does not constitute a prejudicial interest which should bar the member.~~

6.10 It will **not** normally be appropriate for a member who is a Council representative on an outside body to decide on a licensing matter affecting that body if they are a director or trustee of the outside body. This is because those roles involve some obligation to act in the best interests of the outside body and may create an inherent conflict with the member's role as a councillor. In the case of bodies such as trusts, the obligation to act in the best interests of the trust is a legal one and overrides duties as a Councillor. If in doubt, the advice of the Monitoring Officer should be sought on this issue.

6.11 Where a member who is a Council representative on an outside body (in whatever

capacity, not just as a director or trustee) has taken a firm view on a licensing matter, either in meetings of the outside body or otherwise, they may be open to an accusation of predetermination and must **not** vote on the matter at any Council meeting. This is discussed more fully in part 7 below. Failure to follow this advice may result in a licensing decision being challenged in the courts.

## ~~7. Bias, Pre-Determination and Pre-Disposition~~

~~7.1 Irrespective of whether a member or employee has a personal interest in a licensing matter, they must not determine (i.e. vote on, or take a decision in relation to) a licensing matter if it would render such decision liable to challenge in the courts on the grounds of bias, pre-determination or pre-disposition. These are common law concepts which have been developed by the courts over the years and which are continuing to evolve.~~

~~7.2 The test for bias (or apparent bias) was summarised by Mr Justice Richards in the case of *Georgiou v. Enfield London Borough Council* in 2004 as follows:~~

~~‘... in considering the question of apparent bias in accordance with the test in *Porter v Magill*, it is necessary to look beyond ... personal interests and to consider in addition whether, from the point of a view of a fair minded and informed observer, there was a real possibility that the Licensing Committee or some of its’ members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of all relevant licensing issues.’~~

~~7.3 The courts will quash a decision even if just one person involved in the decision is tainted by bias. This would have very serious financial consequences for the authority and very likely result in significant reputational harm to it and the member or employee in question.~~

~~7.4 Pre-determination is very like bias, but probably has a less pejorative connotation. **Any member or employee who wishes to vote on (or take a decision in relation to) a licensing matter must ensure that they do not appear to pre-determine the issue by stating in advance how they will vote at Committee (or Sub-Committee) or how they propose to determine the matter.**~~

~~7.5 Any member or employee taking a licensing decision must have regard to all material considerations and must consider all relevant views, representations, consultation responses and any other relevant matters before coming to their definitive conclusion. **If a member indicates prior to Committee (or Sub-Committee) that he/she is ‘for’ or ‘against’ a licensing matter, he/she must not vote on the matter at Committee (or Sub-Committee).**~~

~~7.6 In addition, in order to maintain public confidence in the licensing process, a member when deciding whether or not to vote at Committee (or Sub-Committee) must have regard to any remarks that have been **attributed** to him/her by the press/media. Whilst a swift and clear public rebuttal of any inaccurately attributed statements will normally enable a member to continue to vote in the determination of a licensing matter, this is an area where great care must be exercised and the advice of the Monitoring Officer sought in any cases of doubt.~~

~~7.7 Pre-disposition is a more complex concept than pre-determination or bias. However,~~

~~a member who is associated with policy statements that are relevant to an application is at risk of being accused of having a pre-disposition to determine that application in a certain manner. In these circumstances the member should give very careful consideration before deciding that it is appropriate to vote on the matter at Committee (or Sub-Committee) and if in any doubt seek the advice of the Monitoring Officer.~~

~~7.8 This situation might arise, for example, where an Executive Cabinet Member is perceived as advocating certain types of development as part of their portfolio responsibilities. It would best preserve public confidence in the impartiality of the licensing process if the member in question does not vote in the determination of licensing applications that are relevant to his/her portfolio responsibilities.~~

~~7.9 The overriding principle is that a person must not be both an advocate for (or against) a licensing proposal prior to the Committee (or Sub-Committee) meeting and then vote on the determination of the application at Committee.~~

## 8. Licensing Applications by Members and Employees

8.1 Any councillor or employee involved in the licensing process who makes an application (or who has any other ~~personal prejudicial councillor pecuniary~~ interest or employee personal interest in an application) shall:

- (a) Promptly inform the ~~Assistant Director Community and Customer Services~~ Assistant Director of Community Services who shall ensure that a written record of such interest is placed on the application file.
- (b) Take no part in the processing or determination of the application.
- (c) If in any doubt as to the nature of any ~~personal~~ interest, take advice from the Monitoring Officer in relation to the matter.

(This does not preclude members or employees from exercising their right to make written representations as a private individual following the requirements set out in paragraph 6.5 above.)

8.2 The ~~Assistant Director Community and Customer Services~~ Assistant Director of Community Services will ensure that all applications in which an officer involved in the licensing process has a personal ~~prejudicial~~ interest are determined by a Committee (or Sub-Committee) and not under powers delegated to officers.

8.3 Applications by officers or by their friends or relatives (as defined in the Employee Code of Conduct) will not be determined under powers delegated to officers. The ~~Assistant Director Community and Customer Services~~ Assistant Director of Community Services may decide that this procedure will apply to any other employee of the Council on a case by case basis. The paramount consideration in exercising this discretion will be to maximise public confidence in the impartiality of the licensing process.

~~8.4 Where appropriate, prior to the determination of an application which has been made by a member (or their immediate family) or on behalf of a political group (or related body) an opinion shall be sought from an independent external person as to the merits of the application. All members will determine such applications in an~~

~~impartial and professional manner having regard only to consideration in relation to the promotion of licensing objectives, policies and legal requirements.~~

- 8.5 Where a member has a pecuniary interest or employee has a personal **prejudicial** interest in a licensing matter, the Council's Codes of Conduct also require that they must not seek **improperly** to influence a decision about a matter.
- 8.6 It is important to emphasise that *improperly* does not imply that a member or employee is to be precluded from seeking to explain and justify their proposal to a Licensing Officer (whether over the phone, face to face or in writing) in advance of consideration of the matter by Committee (or Sub-Committee).
- ~~8.7 However, the effect of the Codes of Conduct is that where a member has a pecuniary interest or an employee has a personal prejudicial interest in a licensing matter, they **do** have fewer rights than an ordinary member of the public. In particular, the courts have made clear that they may **not** speak at Committee (or Sub-Committee) under the standing orders enabling public participation. Nor may they even remain in the public gallery to observe or listen to the Committee debate (and failure to adhere to this requirement has been found to be maladministration). In these circumstances, the member with a pecuniary interest or the employee with the personal prejudicial interest may request a spouse/partner/agent/friend to attend and speak on their behalf.~~
- 8.8 References to the right to appear and speak at hearings and meetings, or to nominate others as representatives, will be relevant only where the legal procedures allow such attendance and participation.

## ~~9. Licensing Applications by the Council~~

- ~~9.1 The Council itself requires licensing permission to carry out or authorise certain types of development on land it owns. These applications will be determined by the Licensing Committee (or Sub-Committee) (or Council) and this Local Code will apply to such applications.~~

## 10. Lobbying Of and By Members

- 10.1 If members are to undertake fully their constituency roles, it is inevitable that they will be subject to lobbying on licensing matters. **Lobbying is a normal and perfectly proper part of the political process.** Local concerns about licensing developments and proposals need to be adequately aired as part of the licensing process. **However, a member must not lobby or act as advocate for (or against) a licensing proposal and vote on the determination of the matter.** Members must comply with the guidance in relation to pre-determination as set out in part 7 of this Local Code.
- 10.2 Members may organise support for or against a licensing application or lobby other members. However, whilst they may be able, following the submission of a relevant representation, ~~to~~ speak at the Committee (or Sub-Committee) meeting when the application is determined they must not preside at the Committee that determines the matter~~vote on the item.~~
- ~~10.3 Great care is required by members and employees in order to maintain public confidence in the integrity and the impartiality of the licensing process and the Council. A failure to follow the advice in this section may result in a finding of~~

- ~~maladministration against the Council or a legal challenge to the Council's decision.~~
- 10.4 When being lobbied, members in general, but members of the Licensing Committee in particular, must take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have considered all relevant matters at Committee (or Sub-Committee). In such circumstances it is preferable for a member to restrict their comments to procedural advice and to encourage the lobbyist to make a representation to the Licensing Authority~~those lobbying to speak or write to the Licensing Officer~~ in order that their opinions can be ~~included~~considered as part of the decision-making process, if they can be considered to be relevant under the legislation.
- 10.5 Where the Monitoring Officer (or his/her representative at Committee) reasonably believes that a member has prejudiced his/her position by expressing a conclusive view on an application before its determination by the Committee (or Sub-Committee), he/she will advise the member that it would be inappropriate for the member to vote on the application. ~~In addition, where the member has a personal prejudicial~~pecuniary ~~interest in the matter under discussion, he/she shall withdraw from the meeting room whilst the application is considered.~~
- ~~10.6 Whilst lobbying is a normal and perfectly proper part of the political process, in order to protect their impartiality and integrity from being called into question, Members of the Licensing Committee must, so far as is practicable, minimise their contacts (including social contacts) with prominent members of the licensed trade.~~
- ~~10.7 Members shall normally avoid requesting information from professional applicants or objectors and direct their enquiries to the Licensing Officer. If interested parties provide members with new information or additional documents they shall pass this to the Licensing Officer as soon as possible. Where a person requires licensing or procedural advice, he/she shall be referred to the appropriate officer but this will not preclude members from giving advice to general members of the public to assist them in understanding the licensing process.~~
- 10.8 If a member is approached in their role as ward councillor by a third party, neighbour, potential objector or supporter and they will preside over that application then the Member must direct such persons to officers of the Licensing Authority and not express opinions which may be of a licensing application, then it is natural that they will want to consider the representations. ~~This can help members' understanding of the issues and concerns associated with an application. However, members must take care to avoid expressing an opinion which may be~~ taken as indicating that they have already made up their minds on an issue before they have heard all the evidence and arguments at Committee (or Sub-Committee). Where a Member believes it is more suitable to represent their constituents, the Member must withdraw from determining the matter.
- ~~10.9 Unless a member is prepared to refrain from voting on an application (i.e. to be regarded as an advocate for (or against) the application) they must take great care to maintain impartiality when attending public meetings in relation to licensing matters, or during telephone discussions with a constituent. During such meetings or discussions it is preferable for no view on the merits or otherwise of a proposal to be given. If a view is expressed it must be made clear that this view is a provisional opinion and will be reconsidered in the light of all the information at the Committee (or Sub-Committee) meeting.~~

~~10.10 Where a member is lobbied they shall explain clearly that whilst they can listen to what is said, it would prejudice their impartiality to express a firm point of view or an intention to vote one way or the other. Where members are invited to attend such meetings, wherever possible they shall only do so in the presence of an officer and, in any event, shall always declare such attendance prior to the consideration of the item at Committee (or Sub-Committee).~~

10.11 Members are encouraged where practicable (and particularly if the application is obviously highly contentious) to keep a dated written record of lobbying and the response given. Appendix 1 contains a form designed for this purpose. In accordance with this Local Code it will be considered to be good practice for members to hand in any completed form at prior to the relevant Committee (or Sub-Committee) meeting. All completed records must be submitted to the Head of Governance made available to the Monitoring Officer on request.

~~10.12 Where a member's ward may be affected by a licensing application which is to be considered by the Licensing Committee (or Sub-Committee), but that councillor is not a member of the Committee (or Sub-Committee), he/she may address the Committee (or Sub-Committee) in order to represent the views of residents who live in the vicinity. The procedure is laid down in the Council's Standing Orders. In circumstances where the views of residents are being put forward, it will be necessary, if required, to identify the individuals concerned. This is so that a determination may be made as to whether they are "interested parties" who live in the vicinity of the subject premises and who have given notice of their representations within the necessary time scale and, consequently, have been determined to be a "party" to the hearing. However, it should be borne in mind that the applicant will, in most cases, also be a constituent and may ask you also to support the application on their behalf or ask you why you have chosen not to take an opposite view in their personal or business interests.~~

~~10.13 It is advisable that, in circumstances where you a member are is asked to present the views of such interested parties, a written authority is obtained to this effect.~~

## ~~11. Pre-Application Discussions~~

~~11.1 It is both proper and important that members involve themselves in discussions with their constituents and others about licensing matters. However, potential difficulties will be minimised if all members adhere to the general guidelines that are set out in Appendix 3 to this Local Code. These have been derived from advice given by the Local Authorities Co-ordinators of Regulatory Services.~~

## 12. Employees' Discussions and Negotiations with Applicants

12.1 It is recognised that employees undertake differing, but complementary, tasks which may overlap. Legislation, and in particular the Licensing Act 2003, requires that a distinction be drawn between the duties of the Council as Local Authority and, separately, as a Licensing Authority. Consequently, those involved with the administration of applications will be required to adopt a position of neutrality where this is required. Other employees may be acting as statutory consultees in these matters and providing representations to be considered when the matter is determined. The way in which discussions and negotiations are conducted will be affected by the type of application and matter under consideration.

~~12.2—Pre-application meetings and informal discussions between employees, and potential applicants and responsible authorities are an unavoidable and integral part of the licensing process. They are most often instigated by enquirers and potential applicants and this approach is encouraged to negotiate and determine, where possible, an acceptable application and, where relevant, plan and operating schedule prior to a licensing application being submitted.~~

12.3 In any discussions on licensing issues, the position of the employee concerned will always be made clear at the outset. This will be either that:-

the discussion and any views expressed are based on the employee's professional judgement but will not bind the Council to any particular decision. This is because, by the nature of such meetings, not all the relevant information will be to hand and consultations with interested parties will not normally have taken place;

or

the intention of the discussion will be to assist the formulation of an application which addresses the appropriate licensing objectives, so reducing the likelihood of a representation being provided and, consequently, consideration of the matter at a hearing.

12.4 Advice given will be consistent and based on the legislation, relevant guidance, local licensing policies and any other material licensing considerations. Every effort will be made to ensure consistent interpretation of licensing policies by different employees. It will be made clear, however, when the employee is providing a personal view or interpretation rather than qualified legal advice which should be confirmed by the enquirer from an independent source.

~~12.5—Written notes shall be taken at all such meetings detailing attendees, the nature of the proposal, advice sought and given and any other matters discussed. Notes shall be retained in a form readily retrievable by employees and their managers. Any request to inspect such notes shall normally be granted during the pre-application stage.~~

~~12.6—Confidentiality will not normally be an issue, in view of the necessity to involve other parties, authorities and those living in the vicinity early in the process. However, it is recognised that, if requested by the applicant, some information relating to the proposal may need to remain confidential where this is not relevant to the licensing objectives. Where appropriate more than one officer will attend meetings on major licensing issues.~~

~~12.7—Members will not normally be encouraged to take part in the pre-application discussions with potential applicants but should deal directly with appropriate Licensing Officers. When members are involved, which will be a rare occurrence, they will normally be advised by appropriate officers (which will normally include a Senior Licensing Officer). Member involvement in such discussions will be recorded on file.~~

~~12.8—In order to assist the Council in meeting the strict requirements of consultation under the legislation and achieving best practice, it is the Council's policy normally not to enter into negotiations once an application has been submitted, particularly where formal pre-application negotiations have taken place. If, however, the best interests of local people and the Council would be best served by reaching agreement on, for~~

~~example, the specific wording of a licence condition, such discussions may be undertaken.~~

~~12.9 Amendments that, in the Licensing Officer's view, improve submitted applications may be considered, provided the nature of the application is not significantly altered to a degree which could reasonably require additional consultation. No further negotiations or significant amendments will be permitted after the Committee (or Sub-Committee) agenda has been printed. An exception to this policy may be made if to do so would be in the best interests of local people or the Council. The reasons for making an exception to this policy will be reported to any Committee (or Sub-Committee) determining the application. The decision as to whether such exceptional circumstances exist will be taken by the Assistant Director Community and Customer Services Executive Head of Community Services in consultation with the Chairman/woman of the Licensing Committee.~~

### ~~13. Officer Reports to Committee~~

~~13.1 Reports to Committee (or Sub-Committee) on licensing matters must be accurate and cover all relevant points and no irrelevant matters.~~

~~13.2 The report will clearly identify the key licensing issues and material considerations to be taken into account. The report shall, where appropriate, contain factual information, which is relevant to the matter, legislation, licensing objectives and any local policies. It will refer to the provisions of the legislation and all other relevant material, licensing considerations and, where appropriate, any relevant issues arising under the Human Rights Act 1998 and any other relevant legislation. It will include the substance of representations and the views of consultees.~~

~~13.3 The report shall also contain the merits for and against the application and will give an appraisal that clearly justifies the stated recommendation, if one is given. Oral reporting to the Committee (or Sub-Committee) (other than to up-date an existing report), will not normally occur unless a late representation identifies a material licensing consideration which has not been addressed in the report in which case it will be reported by the Licensing Officer together with any consequent action which has been taken.~~

~~13.4 All reports, unless in relation to applications under the Licensing Act 2003, will normally have a written recommendation either to conditionally approve or refuse the application. Where such a recommendation is made, appropriate reasons will be provided for it. Any conditions suggested will be worded in such a way that they can be seen to be relevant and proportionate to the issues, reasonable, necessary, precise and enforceable.~~

~~13.5 Alternative options, and their effect, will also be shown. A Licensing Officer may recommend that the matter is deferred if information needed for the meeting has not arrived or if significant issues have arisen since the preparation of the report which warrants deferment.~~

~~13.6 For applications to be determined under the Licensing Act 2003, the report will not contain a recommendation as the Committee (or Sub-Committee) deals with the matter as Licensing Authority. Consequently, it, and any employees dealing with the application (who are not also Responsible Authorities who have been involved in the consultation process), must retain a neutral position. Where a recommendation is~~



~~made that the matter be deferred, it must be shown that it is in the public interest to do so. The Licensing Officer, although maintaining a neutral position, may be able to assist the Committee (or Sub-Committee) in deciding whether sufficient information has been received to reach a determination or whether a deferment is necessary.~~

#### ~~14. Employees' Role Where a Recommendation Is Not Followed~~

~~14.1 By the provisions of LACORS (Local Authority Co-ordinators of Regulatory Services) Guidance Document: "The Role Of Elected Members In Relation To Licensing Committee Hearings Under The Licensing Act 2003", Licensing Officers have no ability under the Licensing Act 2003 to make representations or to be a party to the hearing. There is no legal provision for Licensing Officers to make recommendations to the Committee (or Sub-Committee) in terms of the outcome of the Committee (or Sub-Committee) hearing as is seen in planning cases. However, a summary report of the application, the representations, and the officer's comments as to how these relate to the Licensing Act 2003, the Guidance and the local Licensing Policy Statement may be useful.~~

~~14.2 In respect of other licensing matters, recommendations can be made so that the officer concerned can, from their own experience, judgement and professional expertise, provide guidance to the Committee (or Sub-Committee).~~

~~14.3 Employees shall, therefore, give full support to the Council's case where an appeal is made against the Local Authority's decision whether it be by written representations, informal hearing or appeal to the Magistrates' Court or Crown Court. However, in doing so, Licensing Officers shall adhere to the good practice advocated by professional bodies, used in other aspects of the Council's duties, and shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions.~~

~~14.4 Where, however, a Licensing Officer believes that a Committee (or Sub-Committee) decision is based on no reasonable licensing grounds and is therefore "improper", they will normally seek to draw this to the attention of the Committee (or Sub-Committee) and must also draw this to the attention of the Council's Executive Director of Operations and Finance Chief Executive and the Monitoring Officer.~~

~~14.5 Where a Licensing Officer has advised a Committee (or Sub-Committee) that its decision is, in their professional opinion, improper then that officer will only be required to give evidence on appeal in exceptional circumstances and other limitations may also apply. The advice of the Council's Monitoring Officer will be sought if such a situation arises. In such circumstances members may be asked to give evidence on behalf of the Council at any appeal.~~

#### **15. The Decision-Making Process - General**

~~15.1 In determining all types of applications submitted applications pursuant to the Licensing Act 2003 and the Gambling Act 2005, the Licensing Committee or Sub-Committee Council will follow the procedure laid down in the Hearing Regulations – Licensing Act 2003 (Hearings) Regulations 2005. relevant Government guidance, as interpreted by the courts.~~

~~15.2 The licensing system involves making decisions about the use and development of land, building, roads and property for activities such as the sale of alcohol, music,~~

~~dancing, refreshments, fund raising and taxis.~~

- 15.3 When determining licensing matters members and employees must approach each application with an open mind and carefully weigh up material licensing considerations, particularly with reference to the local Statement of Licensing Policy and [national statutory](#) guidance. They must disregard all considerations that cannot lawfully be taken into account. ~~(for example, the fact that a licensing application may be made retrospectively).~~
- 15.4 No group of members (for example, from the same political group, or from the same ward) and no informal meeting of a particular group on a Committee (or Sub-Committee) will be used to decide how members shall vote in a Committee (or Sub-Committee) determining an application. **It is unlawful for a licensing decision to be subjected to the discipline of the political whip and to do so would also constitute maladministration.** ~~This does not preclude the holding of pre-meetings prior to the commencement of a formal licensing related meeting in order to discuss the business management of the forthcoming public meeting (but not the merits of individual agenda items). However, such pre-meetings must be open to all members entitled to attend the subsequent public meeting and the rules relating to the declaration of interests must be strictly applied.~~
- ~~15.5 Where an application is to be determined by the Licensing Committee (or Sub-Committee) there will be an opportunity for interested parties to address the Committee (or Sub-Committee) prior to the determination of the application. The procedure is laid down in Council's Standing Orders.~~
- 15.6 Members [with a pecuniary or non-pecuniary interest](#) and employees with a personal interest in an application must declare the interest in accordance with the Council's Codes of Conduct [for Members and Employees](#) and this Local Code.–
- 15.7 Members and officers will address one another during the debate in a proper manner and through the Chairman/woman. Members shall respect the impartiality and integrity of officers.
- 15.8 Senior Legal and Licensing Officers shall always attend meetings of the Licensing Committee (or Sub-Committee) to ensure that procedures have been properly followed and licensing issues properly addressed.
- 15.9 In discussing and determining a licensing application, members will confine themselves to the licensing merits of the case and the reasons for making a final decision shall be clear [and reasoned based.](#) ~~convincing and supported by appropriate evidence.~~
- 15.10 On occasions the Licensing Committee (or Sub-Committee) will disagree with the officer's recommendation, where one has been made. Licensing Committees (or Sub-Committees) are entitled to reach their own decisions by attaching different weight to the various licensing criteria which are relevant to the application. However, the same strict legal requirements have to be met, as the reasoning in the officer's report will no longer apply.
- ~~15.11 Where members propose approval with conditions or wish to impose additional conditions, they must apply the same criteria referred to at paragraph 13.4 above. They must be of the opinion that if the condition were not applied then the licensing application ought to be refused. Conditions shall be tailored to tackle specific~~

~~problems rather than impose general control.~~

- 15.12 Where a member proposes to recommend approval contrary to an officer's recommendation of refusal, the Chairman/woman will give the Licensing Officer an opportunity to respond to that recommendation and to discuss any appropriate conditions. The officer may request further time in order that appropriate consideration can be given to the proposed recommendations~~conditions may be drafted.~~
- ~~15.13 Where a member moves refusal of an application contrary to the officer's recommendation, the member must give reasons based upon licensing grounds and objectives. Such reasons must be sufficiently clear and precise to enable the officer to apply the appropriate legislation and provide details of such reasons to the applicant and any other interested party or responsible authority.~~
- ~~15.14 Where it is the Licensing Officer's professional view that a proposal for refusal is improper, this advice will be given to the Committee (or Sub-Committee) and, where necessary, further advice shall be given by the Senior Legal Officer as to the potential implications of such a decision.~~
- 15.15 Before any matter is put to the vote any member of the Committee (or Sub-Committee) may request the Chairman/woman to ask the clerk to read to the meeting the full text of the proposal to be voted upon.

## 16. Decision Making – Delegation to Employees

- 16.1 The Council's Scheme of Delegation specifies clearly the categories of applications that may be determined by officers; those that will be referred to the Licensing Committee (or Sub-Committee) and those that must be determined by Council. ~~The Chairman/woman or (in his/her absence) the Vice Chairman/woman of the Licensing Committee may in exceptional circumstances request the Assistant Director Community and Customer Services~~Executive Head of Community Services ~~to refer a licensing application which would normally be delegated to employees to the Licensing Committee (or Sub-Committee). The terms of reference of the Licensing Committee and Licensing Sub-Committee are set out in Part 3, Schedule 5 of the Council's Constitution.~~
- ~~16.2 Where officers are determining applications under their delegated powers, the officer(s) processing the application will complete an audit sheet which must record that all material licensing considerations have properly been taken into account. Where a decision has been made to determine the matter by the issue of a licence, this decision will be confirmed by the appropriate licence being issued and signed by the Assistant Director Community and Customer Services~~Executive Head of Community Services. ~~In the absence of the Assistant Director~~Executive Head of Community Services, ~~this task shall be undertaken by the Principal Officer (Safety and Licensing).~~
- ~~16.3 In cases where the issue of documents, licences and identity cards is generated by an integrated software system, appropriate audit documentation shall be kept in the case file which must record that all material licensing considerations have properly been taken into account before the appropriate permission was issued. This will be entered with details of the officer(s) undertaking the various stages of the application and appropriate regular checks of the procedures will be undertaken by the Assistant~~

~~Director Community and Customer Services~~Executive Head of Community Services

## 17. Public Speaking At Licensing Committees (Or Sub-Committees)

- 17.1 Members of the public are entitled to speak at meetings of the Licensing Committee, ~~Licensing Sub-Committee and Council when licensing applications~~, apart from when the Licensing Committee (or Sub-Committee) are considering matters pursuant to those under the Licensing Act 2003, are being considered. -For applications under the Licensing Act 2003 'Interested parties~~relevant persons~~' or 'responsible authorities~~'~~ can make written representations, these representations must be valid and submitted to the Licensing Authority within the prescribed consultation period (for further detail refer to the Licensing Act 2003 (Hearings) Regulations 2005). ~~Definitions of 'interested parties' and 'responsible authorities' are as follows:~~

### ~~Interested parties are any of the following:~~

- ~~—— (i) —— a person living in the vicinity of the premises;~~
- ~~(ii) —— a body representing persons who live in that vicinity;~~
- ~~(iii) —— a person involved in a business in the vicinity of the premises;~~
- ~~(iv) —— a body representing persons involved in these businesses.~~

### ~~Responsible authorities are any of the following:~~

- ~~(i) —— the chief officer of police for the area in which the premises are situated;~~
- ~~(ii) —— the fire authority for the area in which the premises are situated;~~
- ~~(iii) —— the health and safety authority with responsibility for enforcement for the area in which the premises are situated;~~
- ~~(iv) —— the local planning authority for the area in which the premises are situated;~~
- ~~(v) —— the local authority for the area in which the premises are situated who has responsibility for preventing the risk of pollution of the environment or of harm to human health (environmental health);~~
- ~~(vi) —— the body recognised as being responsible for protection of children from harm for the area in which the premises are situated (Local Safeguarding Children's Board);~~
- ~~(vii) —— with regard to a vessel —— the relevant navigation authority, the Environment Agency, British Waterways Board or the Secretary of State (maritime coastguard agency); and~~
- ~~(viii) —— inspectors of Weights and Measures (trading standards officers).~~

- 17.2 For a representation to be relevant it must:

- relate to the effect of the grant of the licence on the promotion of the licensing objectives and be submitted within the prescribed consultation period;
- be made by ~~an interested party or responsible authority~~ relevant person, within the prescribed consultation period;
- not have been withdrawn
- not be ‘frivolous or vexatious’ or, in the case of a review, ‘repetitious’ if made by an interested party; or
- if it concerns the premises supervisor be made by a chief officer of police and include a statement explaining the reasons for the objection.

17.3 On receipt of relevant written representations ~~from interested parties and/or responsible authorities~~, a hearing is required and notices are sent to the applicant, as well as those making representations, requiring them to return a second notice, within five days advising the Licensing Authority whether or not they will be attending the hearing which will determine the application.

17.4 If a notice is not received from interested parties, relevant authorities or the applicant it is at the discretion of the Committee/Sub-Committee to allow that person to speak at the hearing.

## 18. Committee Site Visits

18.1 ~~Where the Licensing Authority determines that a site visit is deemed necessary, the Licensing Authority will make the relevant arrangements. LACORS has provided guidance to the effect that “site visits by Licensing Committee/Sub-Committee members are generally unnecessary and can put the Members and the Licensing Authority at risk of accusations of bias”. If a Licensing Authority believes that there might be occasions where visits are required then it would be advised to have set out the reasons why this might be the case in local guidance, so that there are clear criteria for justifying any visit, which can be documented. Licensing Authorities would also be advised to have clear guidance as to how the visits are conducted.”~~

~~18.2 In these circumstances, if such clear and necessary reasons for site visits can be established and recorded, a request shall be made in the first instance to the Governance Support Manager~~

## 19. Reviews of Decisions

19.1 The Licensing Committee will regularly review, at least annually, details of decisions made under the Licensing Act 2003, including those made under Delegated Powers, to maintain an overview of the general situation, the purpose is to improve the quality of decisions. ~~Members and officers may undertake reviews together and include consideration of whether there is a need to initiate a review of any policies or practices. Visits to licensed premises will not normally be incorporated into this, or any other, Committee process. (See Section 18).~~

## ~~20. Enforcement of Licensing Control~~

~~20.1 The Council has various powers to take enforcement action in respect of breaches of licensing control. These powers may arise for example if activities have been carried out without the requisite licensing permission or a person has failed to comply with a~~

~~condition imposed on any licensing permission. Enforcement Protocols, as required by legislation or guidance, may be entered into with other Responsible Authorities to facilitate a partnership approach.~~

~~20.2 The Council has dedicated licensing enforcement officers who can be contacted by a member or member of the public if they believe a breach of licensing control has occurred. The licensing enforcement officer will investigate such matters as appropriate and necessary, obtaining the information which it is believed to be necessary to adequately deal with the issues arising.~~

~~20.3 The licensing enforcement officer will also follow up any matter which comes to his or her notice as a result of their normal day to day inspections. Full details of such matters will be noted on any case file and/or the personal notebook of the officer concerned, together with details of any final action taken.~~

~~20.4 All enforcement activity, and any resulting recommendations for formal action, will be in accordance with any appropriate Council Enforcement Policy. In addition, the Enforcement Concordat and/or the Regulatory Compliance Code will be observed, as will any appropriate legislation which controls the activities of investigating officers, i.e. the Regulation of Investigatory Powers Act 2000.~~

## 21. Training in the Licensing Process for Members

~~21.1 In accordance with Council's Standing Orders a~~All members of the Council on being elected must undertake initial inductionlicensing training. ~~This will be provided by the Council in a seminar and/or workshop programme. This training will include guidance on Licensing Act, the Local Government (Miscellaneous Provisions) Acts and other relevant legislation covering matters which are likely to come before the Committee (or Sub-Committee) for determination.~~ Members of the Council may be given refresher training when changes are made to licensing law or procedure.

~~21.2 All elected Members are required to comply with the core requirements of the Council's annual Members' Development Programme which includes Licensing training. This is a core requirement of the Council's Code of Conduct for Members.~~

~~21.23~~ Members who have not undertaken the relevant licensing training shall not be permitted to be a member of or substitute for other members on the Licensing Committee (or Sub-Committee) ~~or take part in consideration of any licensing matters referred to full Council.~~

~~21.34~~ Any failure to comply with the core licensing training requirements may be referred to the Monitoring Officer in accordance with the Code of Conduct for Members and to the appropriate Group Leader.

## ~~22. Complaints~~

~~22.1 Any issues of concern arising from this Code may, in the interest of speed, be raised informally with the Monitoring Officer in the first instance. Should a member of the public wish to make a formal complaint within the framework of the Council's complaints system then they shall write to the Executive Director of Operations and Finance~~Chief Executive, Torbay Council, Town Hall, Castle Circus, Torquay, Devon, TQ1 3DR.

~~22.2 Where a member alleges a breach of this Local Code in respect of another member,~~

~~they will refer the matter to the Council's Monitoring Officer who will investigate the complaint, make a preliminary finding and, if necessary, report the matter to the Council's Standards Committee which has been authorised by the Council to enforce this Local Code.~~

~~22.3 Where there are issues of maladministration, these can be referred to the Local Government Ombudsman.~~

**Licensing Attendance Note**

|                             |
|-----------------------------|
| Licensing application type: |
| Premises and address :      |
| Enquiry from:               |
| Nature of Representations:  |
| Response Given:             |
| Member:                     |
| Date:                       |



Appendix 2

Hearings Required Under Licensing Act 2003

~~Where the Council receives a representation, notice or request from an Interested Party or Responsible Authority which, according to the Act, confirms that determination of any licensing application, notice, review or order of a licence or an application must not take place using Delegated Powers, it must hold a hearing by a Sub-Committee/Committee. To be a relevant representation under the Act, it must be made and received within the appropriate consultation period and not withdrawn. It must also relate to the likely effect of the matter in hand on the promotion of the Licensing Objectives. These are:-~~

- ~~The Protection of Children~~
- ~~The Prevention of Crime and Disorder~~
- ~~The Prevention of Public Nuisance~~
- ~~Public Safety~~

~~The only exceptions to the requirement to hold a hearing are where a representation is considered to be:-~~

~~not relevant;~~

~~and/or, where the representation is made by an interested party, is~~

- ~~frivolous~~
- ~~vexatious~~
- ~~repetitious (in the case of a review)~~

~~Determination of these aspects is delegated to the Assistant Director Community and Customer Services~~Executive Head of Community Services.

~~Under the Licensing Act 2003, hearings may arise in a variety of circumstances, including determining applications:-~~

~~For a premises licence;~~

~~For a provisional statement;~~

~~To vary a premises licence;~~

~~To vary the details of an individual specified in a premises licence as the designated premises supervisor;~~

~~For transfer of a premises licence;~~

~~For a review of a premises licence;~~

~~For review of a premises licence following a closure order issued by the Police and the exercise of powers by a Magistrates Court;~~

~~For a club premises certificate;~~

~~To vary a club premises certificate;~~

~~For a review of a club premises certificate;~~

~~For the grant of a personal licence;~~

~~For renewal of a personal licence;~~

~~They can also arise in the context of:~~

~~The cancellation of an interim authority notice following a police objection;~~

~~A counter notice following a Police objection to a temporary event notice; and~~

~~Convictions coming to light after grant or renewal of a personal licence.~~

~~The Committee (or Sub-Committee) may grant, refuse or partly approve and partly refuse an application, impose conditions, review the premises licence/club premises certificate, suspend or revoke a licence, exclude specific licensable activities from the licence or modify the operating times and conditions.~~

~~The Licensing Authority is only empowered to dispense with a hearing if all other parties (specified in the Act) agree that a hearing is unnecessary. It must, in these circumstances determine the matter without hearing from the parties concerned. The licensing authority may extend time limits required to hold a hearing if such extension would be in the public interest.~~

~~All hearings must:~~

~~Be held in public (except where it considers that the public interest in doing so outweighs the public interest in the hearing taking place in public);~~

~~Provide the Licensing Authority with the discretion to disregard any evidence produced by parties or witnesses which is not relevant;~~

~~Provide the Licensing Authority with the discretion to take into account any documentary or other evidence produced by a party in support of their application, representations or notice, (as applicable) either before the hearing or, with the consent of all parties, at the hearing.~~

~~The Licensing Authority will disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations or notice (as applicable), and the promotion of the licensing objectives or, in the case of a hearing to consider a notice given by a chief officer of police, the crime prevention objective.~~

### **Failure of Parties To Attend A Hearing**

~~A Hearing may proceed in the absence of any party who has informed the Authority that he/she does not intend to attend or be represented at a hearing. Where a party who has not so notified the Authority fails to attend, the Authority may, if considers it to be necessary in the public interest, adjourn the hearing to a specified date. Such adjournments must be notified to all the parties forthwith. Alternatively the Authority may decide to proceed with the hearing in the party's absence. Where the licensing authority decides to proceed, it~~

~~must consider the application, representations or notice (as applicable) made by the absent party. There is no requirement for a party to attend and, in these circumstances, no adverse view shall be taken of a party who does not attend and their representations must be given appropriate weight.~~

### **Determination of Applications**

~~In the case of hearing relating to the following matters, the Licensing Authority must give its determination at the conclusion of the hearing:~~

~~Police objections to temporary event notices;  
Reviews of premises licences following closure orders;~~

~~In any other case, the Licensing Authority must make its determination within a period of 5 working days beginning with the day or the last day on which the hearing was held. However, where Hearings have been dispensed with, the Authority must make its determination within 10 working days beginning with the day the Authority gives notice informing the parties that the hearing has been dispensed with.~~

~~All decisions shall be limited to consideration of the four licensing objectives and how they may be promoted. Reasons for decisions shall therefore include appropriate reasons.~~

### **Record of Proceedings**

~~The Licensing Authority must keep a permanent and intelligible record of the hearing and keep it for 6 years from the date of determination or, where an appeal is brought against the determination, from the disposal of the appeal.~~

## Local Protocol – Working Parties

### Contents

1. Introduction
2. Appointment of Working Parties
3. Agendas, Report and Minutes and Methods of Working
4. Access to Meetings by the Press and Public
5. Access to Information by the Press and Public
6. Access to Information by Non Working Party Members
7. Interests of members and officers
8. Procedures at Meetings of Working Parties
  - 8.1 Election of Chairman/woman
  - 8.2 Participation of the Press and Public
  - 8.3 Formulation of Recommendations
9. Application of Standing Orders

## 1. Introduction

- 1.1 There is no legal definition of a working party. Generally, however, a working party consists of a small group of members (but with officers in attendance at meetings to provide support and advice) with the remit to consider policies and specific matters. They have a particular role in relation to projects which need to be completed within a specified time period.
- 1.2 A working party conducts its business on a less formal basis than that of a committee. It does not have any decision-making powers and can only make recommendations to the body from which it was formed, or to such other body as the parent body decides, or to an officer.
- 1.3 The term “working parties” refers to all informal bodies appointed by the Council, its committees (including the Overview and Scrutiny Board), the ~~Executive Cabinet~~ and ~~Executive Cabinet~~ committees.
- 1.4 The purpose of this Protocol is to give guidance in relation to the operation of working parties. ~~A Good Practice Guide for overview and scrutiny has been prepared and provides supplementary guidance to this Protocol (and the Constitution generally is set out at Article 5) in relation the work of overview and scrutiny.~~

## 2. Appointment of Working Parties

- 2.1 The Council, its committees, the ~~elected Mayor~~Leader of the Council, other individual members of the ~~Executive Cabinet~~ (where they have been give delegated authority to do so), the ~~Executive Cabinet~~, ~~Executive Cabinet~~ Committees and the Chief Executive may establish a working party or amend the terms of reference or membership of existing working parties. In establishing working parties, the appointing body or person will determine the precise terms of reference of the working party (having regard to the terms of reference of any other working parties), initial membership and (if appropriate) duration of the working party.
- 2.2 In exercising the powers under paragraph 2.1 above the appointing body or individual shall seek to ensure that member and officer time and the financial resources of the Council are used in such way as he/she/it considers to be ~~is~~ supporting the delivery of the Council’s priorities and in the best interest of the Council and local people.
- 2.3 Working parties considering non-executive functions will be appointed in accordance with the principles of political balance.

## 3. Agendas, Reports and Minutes and Methods of Working

- 3.1 Sometimes working parties will act in the manner of “consultative panels” receiving reports from officers on potentially sensitive or controversial matters on which they will be expected to provide guidance to the decision maker. On other occasions working parties will be tasked with investigating complex policy issues and will be expected to formulate recommendations for the Council, the ~~Executive Cabinet~~ (including the ~~elected Mayor~~Leader of the Council, individual members of the ~~Executive Cabinet~~ and committees of the ~~Executive Cabinet~~), officers with delegated authority or the Overview and Scrutiny Board.

- 3.2 The working party will be expected to conduct its business in accordance with its terms of reference.
- 3.3 An agenda for a working party meeting will normally be sent out prior to a meeting of the working party setting out its business. The Governance Support Team will assist in the preparation and despatch of agendas where required.
- 3.4 Where a working party is undertaking consultative work or policy development, the relevant Director or Executive Head (or his/her nominated representative) will provide the principal support to the working party (in the form of advice on the subject concerned) and will be responsible for arranging for notes of working party meetings to be produced and circulated to members of the working party. He/she will also be responsible for drafting reports on behalf of the working party.
- 3.5 It is at the discretion of each working party whether it shall invite external representatives e.g. stakeholders or business representatives and members of public to assist with its work. The role of such representatives would be to act as advisors to the working party using their particular expertise/experience. External representatives attending consultative working parties do so in a voluntary capacity and will not receive any remuneration.

#### **4. Access to Meetings by the Press and Public**

- 4.1 It is at the discretion of the Chairman/woman of each working party whether the press and public shall be permitted to attend any meetings. Details of meetings where the press and public can attend will be set out on the Council's published notice of meetings. A working party may resolve to exclude the press and public if they consider it to be in the best interests of the Council or local people.

#### **5. Access to Information by the Press and Public**

- 5.1 Agendas for those working party meetings that are open to the press and public will be sent to the press prior to the meeting. Supporting documentation supplied to the working party may be provided to the press and public where appropriate. Documentation that, in the opinion of the lead officer, contains exempt and/or confidential information will not be available to the press and public.

#### **6. Access to Information by Non Working Party Members**

- 6.1 All non-working party members including the ~~elected Mayor~~Leader of the Council will be entitled to receive documentation submitted to working parties in accordance with Standing Order E210 in relation to Access to Information and the need to know principles.

#### **7. Interests of Members and Officers**

- 7.1 ~~The elected Mayor,~~All elected members, co-opted members and officers when attending meetings of working parties shall declare any interests and shall not take part in any discussions where the nature of the interest means that to take part would be in breach of the respective Codes of Conduct for Members and Employees.

## 8. Procedures at Meetings of Working Parties

### 8.1 Election of Chairman/woman

Working parties shall elect a chairman/woman at their first meeting. In the case of the Chairman/woman being absent a Chairman/woman shall be elected for that meeting. ~~The Chairman/woman will have a second or casting vote.~~ The chairman/woman will normally be an elected member. However, it may be appropriate to elect an external representative as a working party's chairman/woman depending on the type of its work. Members of the Cabinet Executive shall not normally chair meetings of working parties unless a majority of members of the working party are also members of the Cabinet Executive.

### 8.2 Participation of the Press and Public

Members of the public and the press may wish to make a contribution at a meeting of a working party. The Chairman/woman has the discretion to determine whether he/she allows a member of the public or the press to speak at a meeting of a working party. If a member of the public or the press wishes to speak they shall advise the Chairman/woman prior to the meeting or indicate their wish to speak by raising their hand during the meeting.

### 8.3 Formulation of Recommendations

A recommendation arising from the deliberations of a working party will normally be reached by a consensus. It may, however, be appropriate to determine a way forward by taking a vote on a proposal. In such circumstances, the recommendations before the working party shall be determined by a simple majority of those members present in the room at the time proposal was put. The Chairman/woman will have a second or casting vote.

## 9. Application of Standing Orders – TO BE CHECKED ONCE DOCUMENT FINALISED TO ENSURE NUMBERS CORRECT

9.1 The following Standing Orders shall be used as guidance only in relation to the operation of working parties:-

- a) Standing Order A4 – Time and place of meetings
- b) Standing Order A11 – Duration of meeting
- c) Standing Order A21 – Record of attendance
- d) Standing Order A26 – Disturbance by members of the public
- e) Standing Order A27 – Use of Cameras and tape and video recorders
- f) Standing Order B2 – Appointment of substitute members

g) Standing Order E10 – Exclusion of access by the public to meetings

f) Standing Order E11 – Exclusion of access by the public to reports  
E20 – Exempt and confidential information

References to the “Council” or the “Committee” shall be read as the “Working Party” and references to the “Chairman/woman of the Council” or “Vice-chairman/woman of the Council” being read as the “Chairman/woman” or “Vice-Chairman/woman”.



## Local Protocol – Gifts and Hospitality

### Contents

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6. Definition of Gifts and Hospitality
7. Breaches of this Local Protocol

Appendix 1      Registration of Gifts and Hospitality

## 1. Introduction

- 1.1 In this Protocol, "member" includes ~~the elected Mayor~~, all elected members of the Council and all non-elected members of any Committee (or any Sub-Committee) irrespective of whether or not they have any voting rights.
- 1.2 The acceptance of gifts and hospitality reflects directly upon the public perception of members and the Authority. Therefore, it is imperative that members only act in the public interest and not for personal advantage. This also applies to any relative or friend that receives any gift or hospitality due to a member's position as an elected member.
- 1.3 This protocol does not apply to gifts and hospitality that are not related to a member's role, such as Christmas presents from friends and family. However, a member shall always consider whether any gifts and hospitality could be seen as being inappropriately connected with their position.
- 1.4 Acceptance of a gift or hospitality in breach of any of the Council's codes and protocols, or failure to declare receipt of such a gift or hospitality, ~~may result in criminal proceedings. can lead to disqualification from holding any public office for a period of up to five years. Corrupt acceptance of a gift or hospitality can lead to a heavy fine or up to seven years' imprisonment.~~
- 1.5 This Local Protocol sets out:
- (a) the principles which members shall apply whenever they have to decide whether it would be proper to accept any gift or hospitality;
  - (b) a procedure for obtaining consent to accept a gift or hospitality when a member considers it would be proper to accept it; and
  - (c) a procedure for declaring any gift or hospitality received by a member and for accounting for any gift to the Authority.
- 1.6 This Local Protocol does not apply to the acceptance of any facilities or hospitality which may be provided to members by Torbay Council.

## 2. General Principles

- 2.1 In deciding whether it is proper to accept any gift or hospitality, the following principles shall be applied. Even if the gift or hospitality comes within one of the general consents set out later in this Protocol, it shall not be accepted if to do so would be in breach of one or more of these principles.
- 2.2 Gifts or hospitality shall never be accepted as an inducement or reward for anything done as a member.**
- 2.2.1 Members must act in the public interest and must not be swayed in the discharge of their duties by the offer, prospect of an offer or the non-offer of any inducement or reward for discharging those duties in a particular manner.

2.2.2 The Code of Conduct for Members provides that members must act solely in the public interest. This includes, serving the Authority and the whole community, rather than acting in the interests of any particular individual or section of the community. It is a breach of the Code of Conduct to improperly confer any advantage or disadvantage on any person ~~(including the member)~~ or act to gain financial or other material benefits for the member, a member of the members' family, a close associate or relevant person.

**2.3 Gifts or hospitality shall only be accepted if there is a commensurate benefit to the Authority.**

2.3.1 The only proper reason for accepting any gift or hospitality is that there is a commensurate benefit to the Authority which would not have been available but for the acceptance of that gift or hospitality (for example, the opportunity to progress the business of the Authority expeditiously through a working lunch). The acceptance of a gift is much less likely to produce such an advantage.

2.3.2 Unless the benefit to the Authority is clear and is commensurate with the value of the gift or hospitality, the presumption must be that the gift or hospitality is purely for the member's personal benefit.

**2.4 Gifts or hospitality shall not be accepted if acceptance might be open to misinterpretation.**

2.4.1 The appearance of impropriety can be as damaging to the Authority and individual members as actual impropriety. The Authority's ability to govern rests upon its reputation for acting fairly and in the public interest.

2.4.2 Members shall consider whether the acceptance of the gift or hospitality is capable of being interpreted as a sign that they or the Authority favours any particular person, company or section of the community. Similarly consideration shall be given to whether acceptance of the gift or hospitality could be seen to place the member or the Authority under any improper obligation to any person or organisation.

2.4.3 This principle shall be particularly considered on occasions when the Authority is:

(a) undertaking a competitive procurement/tendering process in line with the Council's Contracts Procedures; or

(b) acting in a regulatory role, such as determining planning or licensing applications or setting planning policy; or

(c) determining a grant application by any person or organisation; or

(d) awarding leases; or

(e) disposing of council assets; or

(f) granting concessions for use of council land.

2.4.4 Members shall always be aware of the possibility that the person or company offering gifts or hospitality may have dealings elsewhere in the Council of which the member is unaware.

**2.5 Gifts or hospitality shall never be accepted if it puts the member under an improper obligation.**

- 2.5.1 All members shall recognise that some commercial organisations and private individuals see the provision of gifts and hospitality as a means of gaining influence.
- 2.5.2 Equally, if others note that a member has been prepared to accept a gift or hospitality, they may feel that they will no longer be able to secure impartial consideration from the Authority.

**2.6 Gifts or hospitality shall never be solicited**

- 2.6.1 Members shall never solicit or invite an offer of a gift or hospitality in connection with their position as a member unless the acceptance of that gift or hospitality would be permitted under this Protocol. Care shall be taken to ensure that members avoid giving any indication that they might be open to such an improper offer.

**3. Consent Regimes**

- 3.1 There may be occasions where it may not be appropriate for a member refuse a gift or hospitality in the course of their duties as it would appear unusual, or impolite, or be likely to cause offence. In such situations the following provisions shall apply.

**3.2 General Consent Provisions**

- 3.2.1 Subject to the General Principles set out in this Local Protocol, members may accept gifts and hospitality in the following circumstances:
- (a) civic hospitality provided by another public authority;
  - (b) reasonable refreshment in connection with any meeting or visit in the ordinary course of a councillor's duties, such as tea, coffee, soft drinks and biscuits;
  - (c) tickets for sporting, cultural and entertainment events which are sponsored by the Authority;
  - (d) small gifts of low intrinsic value below £25 branded with the name of the company or organisation making the gift, such as pens, pencils, mouse pads, calendars or diaries;
  - (e) modest working lunch provided to allow parties to discuss business;
  - (f) modest souvenir gifts with a value below £25 from another public authority given on the occasion of a visit by or to the authority;
  - (g) reasonable hospitality received at external visits or conferences provided that this is in line with that available to all delegates;
  - (h) attendance at events organised by or on behalf of registered charities;
  - (i) goods or services on special terms where those terms whilst not necessarily available to the general public are available to all the Authority's employees (including where publicised by way of 'all staff' emails).

- 3.2.2 Other unsolicited gifts may be accepted where it is impracticable to return them to the person or organisation making the gift. However, as soon as practicable after the receipt of the gift, it shall be passed (together with a written statement identifying the information set out in paragraph 3.3 below) to the officer responsible for administering the Council's civic and ceremonial functions who will allocate the gift to an appropriate local registered charity. The officer will write to the person or organisation making the gift thanking them on the member's behalf for the gift and informing them where the gift will be donated.
- 3.2.3 Where branded gifts are accepted in accordance with the guidance in this Protocol, care shall be taken so as to not display the item when this might be taken as an indication of favour to a particular person, supplier or contractor.

### 3.3 Special Consent Provisions

- 3.3.1 Members who wish to accept any gift or hospitality in accordance with the General Principles set out in paragraph 2 but which is not within any of the General Consents set out in paragraph 3.2 must apply for specific consent to the Monitoring Officer, in writing setting out the following:
- (a) the nature and estimate of the market value of the gift or hospitality;
  - (b) who the offer or invitation has been made by or on behalf of;
  - (c) the connection which the member has with the person or organisation making the offer or invitation;
  - (d) any work, permission, concession or facility which the member is aware that the person or organisation making the offer or invitation may seek from the Authority;
  - (e) any special circumstances which leads the member to believe that acceptance of the gift or hospitality will not be improper.
- 3.3.2 Gifts or hospitality must not be accepted until consent (in writing or by email) has been received from the Monitoring Officer.
- 3.3.3 The Monitoring Officer will ~~enter-publish the~~ details of any approval ~~in a register which will be available for public inspection during normal office hours at Torquay Town Hall on the Council's website~~. This does not remove the obligation on the member to register the receipt of gifts or hospitality in accordance with paragraph 4 below.

## 4. Registering the Receipt of Gifts or Hospitality

- 4.1 Any member who accepts any gift or hospitality with an estimated market value of £25 or greater must, as soon as possible after receipt of the gift or hospitality, make a declaration in writing to the Monitoring Officer, setting out the information in paragraph 3.3.1 above. This applies regardless of whether the gift or hospitality falls within the General Consent Provisions or if the Monitoring Officer has authorised the acceptance of the gift or hospitality under the Special Consent Provision.

- 4.2 A form for this purpose is attached to this Protocol (and is available electronically at W:/TCDOCS/Members' Forms/Gifts and Hospitality Form.doc) although the information can be submitted by any other convenient (written) means.
- 4.3 The Monitoring Officer will ~~maintain a register of~~publish any such declarations ~~within the Register of Members' Financial and Other Interests. The register will be available for public inspection during normal office hours at Torquay Town Hall and~~ on the Council's Website.
- 4.4 Members may voluntarily register the receipt of gifts and hospitality under £25 in value (or the offer of a gift or hospitality of any value which has been declined) if they are concerned that its acceptance (or offer) might be misinterpreted, particularly if it comes from a contractor or tenderer.

## 5. Gifts to the Authority

- 5.1 Gifts to the Authority may take the form of the provision of land, goods or services, either to keep or to test with a view to future acquisition, an offer to carry out works or sponsorship of a function which is organised or supported by the Authority.
- 5.2 Members shall not solicit any such gift on behalf of the Authority except where the Authority has formally identified the opportunity for participation by an external party and how that participation is to be secured.
- 5.3 If a member receives such an offer on behalf of the Authority, they must refer details of the offer to the Chief Executive or relevant Director who will first consider whether it is appropriate for the Authority to accept the offer (in terms of whether the acceptance of the gift might be seen as putting the Authority under any improper obligation, whether there is a real benefit to the Authority which would outweigh any dis-benefits). The Chief Executive or relevant Director will then write to the person or organisation making the offer to record the acceptance or non-acceptance of the offer, record the gift for audit purposes and to ensure that the gift is properly applied for the benefit of the Authority.
- 5.4 ~~If the~~The member does not have delegated authority to accept the gift, the offer shall also be reported directly to the Monitoring Officer. ~~together with the member's recommendation. The Monitoring Officer will then write to the person or organisation making the offer to record the acceptance or non-acceptance of the offer, record the gift for audit purposes and to ensure that the gift is properly applied for the benefit of the Authority.~~
- 5.5 If members have any concerns about the motive of the person or organisation making the offer or whether it would be proper for Authority to accept the gift, they shall consult the Monitoring Officer directly.

## 6. Definition of Gifts and Hospitality

- 6.1 Gifts or hospitality includes any:
- (a) free gift of any goods or services;
  - (b) money (or loan), gift vouchers, lottery tickets, scratch cards, raffle tickets or anything else offering the chance of winning a prize;

- (c) opportunity to acquire any goods or services at a discount or on terms which are more advantageous than those which are available to the general public;
  - (d) opportunity to obtain any goods or services which are not available to the general public;
  - (e) offer of food, drink, accommodation or entertainment, or the opportunity to attend any cultural, sporting or entertainment event.
- 6.2 References to the “value” or “cost” of any gift and hospitality are references to the higher of:
- (a) your estimate of the cost to the person or organisation of providing the gift or consideration; or
  - (b) the open market price which a member of the public would have to pay for the gift or hospitality, if it were made available commercially to the public, less the cash sum of any contribution which you would be required to make toward that price to the person or organisation providing or offering the gift or hospitality.

## 7. Breaches of This Local Protocol

- 7.1 If a member becomes aware of any conduct by another member that he/she reasonably believes involves a failure to comply with this Local Protocol, he/she shall make a written allegation to that effect to the Council’s Monitoring Officer as soon as it is practicable for him/her to do so. The Monitoring Officer shall then [consider the allegation in accordance with the Local Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of conduct](#)~~report the alleged breach to the Standards Referrals Sub-Committee for investigation.~~



### Registration of Gifts and Hospitality Accepted or Declined

In accordance with the Council's Protocol on Gifts and Hospitality, I am writing to record that I have received the following gift or hospitality over the value of £25. (This form may also be used to register the offer of any gift or hospitality that has been declined in line with paragraph 4.4 of the Council's Local Protocol on Gifts and Hospitality.)

|                                                                                                                                                                      |  |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Nature of gift/hospitality and estimated market value                                                                                                                |  |
| Name of individual or organisation arranging the gift or hospitality                                                                                                 |  |
| Relationship with the individual/organisation                                                                                                                        |  |
| Details of any permission, concession or facility that the individual/organisation may seek from the Council                                                         |  |
| Date of acceptance (or offer) of the gift or hospitality.<br><small>(Please indicate whether the gift or hospitality was accepted or declined.)</small>              |  |
| Type of General Consent Provision<br><small>(Please refer to paragraph 3.2 of the Gifts and Hospitality Protocol.)</small>                                           |  |
| Date Consent Obtained from Monitoring Officer for Special Consent Provision<br><small>(Please refer to paragraph 3.3 of the Gifts and Hospitality Protocol.)</small> |  |
| Any special circumstances justifying the acceptance of the gifts or hospitality                                                                                      |  |

Name .....

Signed .....

Date .....

-o0o-

Signed .....  
Monitoring Officer

Date .....



## Local Protocol – Members' IT

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## 1. Introduction

- 1.1 Torbay Council recognises that Members' access to email and internet facilities and access to internal Torbay Council Information Systems from their own home is an essential tool in effectively performing their role and executing their duties as elected representatives.
- 1.2 Torbay Council will offer to provide all Members with iPads, software, support and other iPad associated equipment to facilitate the performance of their duties as elected representatives.
- 1.3 In the case of iPads, software and other equipment provided by the Council, the Council will also provide the necessary training and support that individual Members may require to enable them to use the equipment and services provided. The minimum training requirement for a Member is to complete IT Induction/Data Protection and Information Security training.
- 1.4 All equipment provided by the Council is subject to this protocol. Members are required to sign a copy of the iPad agreement before receiving the equipment.

## 2. Equipment and registration of equipment – to be updated with Members' IT 2019 provision

- 2.1 Each Member will be provided with an iPad Air 2, keyboard and protective cover which they will have the option to 'lease to buy' over a four year period. If a Member chooses to lease to buy deductions will be made from their monthly Members' allowance spread over their term of office.
- 2.3 In order for the iPad to be activated, each Member will be required to set up an Apple account which is different to any other Apple accounts they have. This will avoid app's etc being downloaded onto the Council managed iPad which are from other personal devices etc.
- 2.4 Members will be encouraged to use the iPad for meetings and will only be supplied hard copies of agendas for the Council meeting, or any other meeting they specifically request. The iPads will be configured so a Member is unable to send a document/email to a printer therefore Members will no longer be supplied with printers, print cartridges or reams of paper for use at home.
- 2.5 As Members will be able to access their emails on their iPad's, iPhones will not be automatically provided to Members. If requested, an iPhone can be issued, which line rental and any call costs will be deducted from their monthly allowance. If the Council does not have iPhones available, the Member will be required to pay for a new handset with an upfront payment for the full amount (this will be deducted from their allowance).
- 2.6 All Members will have access to PC's, printer and a photocopier at the Town Hall, Torquay.

- 2.7 No other IT equipment will be issued to Members, unless it's to meet disability needs.

### **3 Training and technical support**

- 3.1 All Members will be required to attend IT training during their induction with ongoing training being available upon request. Support from the Governance Support Team will be available for less technical questions and support from the IT Service desk will also be available during normal working hours.
- 3.2 During their term of office, the Council will assist Members with any software updates etc issued by Apple.
- 3.3 IT Services will configure the iPad with apps and links to Council systems, such as Mod.gov, Numbers, Keynote, Pages, Intranet, File Access, Facebook, Twitter. IT Services will also assist Members in setting up any personal email accounts onto the iPad e.g. Gmail, Yahoo, Hotmail etc.

### **4. Security of the iPad and Provided Equipment**

- 4.1 The Member accepts responsibility for the safe-keeping of the iPad and any other associated equipment.
- 4.2 The iPad and any other related equipment will be covered by the Council's insurance policy for the whole of the Members term of office. Where a Member has opted to lease to buy the equipment, it will be covered for the four year lease to buy period, after which time it becomes the Member's personal property and would not be covered by the Council's insurance policy. "Good Practice" guidelines should be followed. These can be found in the Council's "Information Security Policies". Members must take reasonable precautions to keep the iPad and any other related equipment secure from theft or criminal damage. A variable excess may be payable in respect of an insurance claim where there has been a failure to take reasonable security precautions and the Council may look to the Member responsible to meet or contribute to such a cost arising from any failure to comply with this paragraph. Claims are likely to be declined by the insurer if there has been a blatant breach of security whilst equipment is in transit (e.g. equipment **left kept** in full view or left in an unlocked or unattended vehicle). iPads will not be permitted to be taken out of the country unless in exceptional circumstances which are agreed with by the Head of Governance Support.
- 4.3 "Cyber Risk" is not covered by the Council's insurance policy. This is where there is a wilful breach in the security of the computer or otherwise where it is hacked or attacked, usually by a third party.
- 4.4 Access to Torbay Council's Information Systems is subject to password security. The Member shall ensure that no-one other than the Member is given access to those Torbay Council Information Systems and shall not reveal any such password

to any other person.

- 4.5 Failure to act in accordance with this Members IT Protocol “when, using or authorising the use by others, of Council provided equipment”, may be considered a breach of the Members Code of Conduct.
- 4.6 The Member are their own data controller and could be liable for any breaches, any loss or breach of personal data/equipment must be reported immediately to [infocompliance@torbay.gov.uk](mailto:infocompliance@torbay.gov.uk) in order to comply with Data Protection requirements.

## **5. Use for Council Business**

- 5.1 The iPad and related equipment is provided to the Member specifically to facilitate the discharge of the Member’s function as a Member. The Member must therefore not use the iPad and related equipment in any manner which will interfere with its use for that purpose.
- 5.2 The use of the iPad and provided equipment is subject to the Council’s policies and guidelines relating to the use of IT equipment prevailing at the time.
- 5.3 Accordingly, the Member must not:
- (a) deliberately misuse the iPad in such a manner as to cause it to cease to function; or
  - (b) install or add any equipment or software without the written prior consent of the Council’s Executive Head of Customer Services (CIO) .
- 5.4 The Member must:
- (a) report any faults promptly to the IT Service Desk; and
  - (b) provide access to Council officers to service, maintain and repair the iPad and any other related equipment.
- 5.5 The Council provides the iPad and any related equipment and materials required for the Member’s functions as a Member. Accordingly, the Council may decline to provide further equipment or material beyond what is reasonable for Council-related use.
- 5.6 Members should be aware that the personal use of any equipment provided may attract a tax liability.

## **6. Use of Council Provided Equipment for Personal Purposes**

- 6.1 The Member is permitted to use the iPad for reasonable personal purposes in line

with the existing Council's Information Security Policies which may be found on the Council Intranet. The Member may also permit reasonable personal use of the computer by Members of his/her immediate family (spouse/partner and children (including step children and adopted children)). Should this Protocol be breached as result of such use, the Member may be in breach of the Members Code of Conduct. Where personal emails are sent using the Council's email address, the email should make it clear to the intended recipient that the message is sent by the user in their personal capacity and not in their capacity as a representative of the Council. All such emails are subject to the Council's email monitoring systems.

- 6.2 The Member shall not use the iPad or permit its use by others for commercial purposes. It should not be used for activities that are unlawful or which might give rise to a suggestion of impropriety.
- 6.3 The Council is prohibited from publishing material of a party political nature. The Member shall not use the iPad for the preparation of any material of such nature. See further details in Appendix 1. The Member may use the iPad to send emails of political nature to Members of his/own political group/party, but the iPad shall not be used to send any other emails of a political nature and Council provided paper shall not be used for printing of political material.
- 6.4 The Council has obtained the necessary software licenses for the use of the iPad by the Member in an elected capacity. Reasonable personal use of the supplied software by the Member is permitted. Use for business or a political purpose is not permitted. The Executive Head of Customer Services (CIO) will issue guidance as to the interpretation of "reasonable use" from time to time.
- 6.5 The Council accepts no responsibility for any such personal use of the iPad or any loss, costs or liability which the Member or any other person may suffer as a result of the use of the iPad.
- 6.6 The iPad will be configured to disallow the installation of software by anyone other than authorised Council staff. Circumventing, or attempting to circumvent, this lock-down to install third-party or personal software is prohibited. The intentional downloading of software from the internet is prohibited.
- 6.7 The Member will be able to download work related apps onto the device. This is to protect the data available on the device and systems will be put in place on the iPad in the event an inappropriate app is downloaded. Should a Member require an unauthorised app, an application must be made to the Executive Head of Customer Services.
- 6.8 To protect the data available on the iPad, Members will not be permitted to utilise the iCloud facility.
- 6.9 When using the iPad particular attention should be paid to the Council's Health and Safety policies. The Member should be familiar especially with the requirements

pertaining to Display Screen Equipment. Note that these apply equally to desktop computers.

## 7. Inspection and Audit

- 7.1 The Council reserves the right to inspect the iPad at any time. The Member is required to give Council officers access at any reasonable time for such inspection and audit, which may be undertaken remotely and without notice to the Member. Members are advised that the iPad includes a history file which records its use.
- 7.2 As this equipment is supplied and up until the point of full payment having been made, owned by Torbay Council, a public body, data held on the computer may be subject to access under both the Data Protection Act 1998 and the Freedom of Information Act 2000. It may also be subject to audit by third parties for unlicensed or illegal copies of installed software (Copyright, Designs & Patents Act 1988).
- 7.3 The Council is permitted, and may, monitor the use of IT equipment and services in particular circumstances. These circumstances are governed by prevailing legislation, but may include use of IT equipment by Members.
- 7.4 Any material breach discovered as a result of any monitoring, inspection or audit will be reported to the Monitoring Officer who has the authority to decide if the Member will be permitted to continue to be provided with these facilities. Breaches of this protocol may also constitute a breach of the Members' Code of Conduct and, as such, will be reported to the Monitoring Officer.
- 7.5 If, as part of any monitoring, inspection or audit, the Council becomes aware of any lawful reason to inform the Police or other enforcement authorities it will do so.

## 8. Costs

- 8.1 In addition to the costs set out in 2.1 there will be a data tariff per month and will be met by the Council. If any Member exceeds this, all additional costs will be their responsibility and will be deducted from their monthly allowance. – to be updated with Members' IT 2019 provision
- 8.3 The Member will be responsible for any payments which are charged to their Apple account for the purchase of apps etc. The Member can either find the initial cost with a debit/credit card, or it could be deducted from their allowance at source.
- 8.4 The cost of the installation of broadband at a Member's home will have to be met by the Member.
- 8.5 The Council will meet the cost of providing electrical charging facilities at the Town Hall and provide extension leads for electrical charging of iPads at other venues

where Council meetings are being held.

- 8.6 Each Member is responsible for his/her own electricity bill.
- 8.7 During the first year the Council will meet any costs incurred by the Council in replacing, repairing or correcting any part of the supplied equipment unless the damage was as a result of deliberate or reckless misuse by the Member who will be required to repay the cost of repairs to the Council on demand.

## **9. Return and Recovery of the iPad**

- 9.1 The iPad and all supplied ancillary equipment, including software, remains a Council managed device until the end of the Member's term of office, even if the Member has chosen to pay for the device.
- 9.2 The Council reserves the right to require the Member to return the iPad at any time and the right to recover the iPad whilst a serving Member.
- 9.3 At the end of their four year term of office all loaned devices must be returned to the Council prior to the election. If a Member enters into a payment plan, subject to the terms of the plan having been met, at the end of their four year term of office, and in the event of not being re-elected/not standing, IT will configure the iPad so the Member cannot access the Council's network. IT will also unlock any previous restrictions imposed on the device to allow the Member to download App's etc in order for the iPad to be used as their personal device. At the end of the four year term Members will have the option to lease to buy a new iPad from the Council or loan one from the Council.
- 9.4 If a Member resigns during their term of office all council managed devices and accessories must be returned within a timescale agreed with the Head of Governance Support. If a Member enters a payment agreement then the remaining balance of the plan must be paid in full within four weeks before the restrictions imposed by the Council's IT department will be relaxed.
- 9.5 If the Member no longer wishes to use the iPad or any of the supplied equipment or if the Monitoring Officer determines that the Member should not be permitted to continue using the supplied equipment, the Member must promptly make all the Council supplied equipment, including any cables, software and consumables available for collection during normal business hours. Any costs incurred in respect of the use of the iPad and/or equipment and/or services will become payable as a debt immediately by the Member and maybe deducted by the Council against any outstanding payments due to the Member by way of Members' Allowances or otherwise.

## **10. Confidentiality**

- 10.1 The Member will be able to access confidential and/or exempt Council information using the equipment provided. The Member is responsible for ensuring the

continued security of any such information which they receive. The Member is reminded of their obligations under the Council's Code of Conduct for Members not to disclose such information to any third party. This includes the forwarding of any information by way of email or any other method.

10.2 Some of the data will be personal data relating to individuals. The unauthorised processing or disclosure of such data is prohibited under the Data Protection Act 1998 and its associated statutory instruments and the Member is responsible for ensuring that there is no such unauthorised disclosure from the iPad or from the Council's Information Management systems.

10.3 Some of the data available on the iPad may be subject to request under the Freedom of Information Act 2000, the Data Protection Act 1998 or Environmental Information Regulations 1992 (amended 1998). As such the Member must make available any such data in response to a request received by the Council.

## **11. Restrictions upon use**

11.1 The Member shall not use the iPad (or knowingly permit its use by others) for any purposes that might reasonably be thought by an ordinary member of the public to bring the Member or his/her office or the Council into disrepute.

11.2 The Member shall only use the equipment provided in line with the existing Council policies for IT equipment and service usage. This especially includes the Information Security Policy.

11.3 Legislation applies to the use and operation of the computer and associated equipment. Members need to be aware that this includes the following statutes and that they should therefore exercise all due care to avoid infringing them:

- (a) Data Protection Act 1998;
- (b) Freedom of Information Act 2000;
- (c) Computer Misuse Act 1990;
- (d) Copyright, Designs & Patents Act 1988;
- (e) Human Rights Act 1998;
- (f) Regulation of Investigatory Powers Act 2000;
- (g) Malicious Communications Act 1988;
- (h) Anti-Terrorism, Crime & Security Act 2001; and



- (i) Obscene Publications Acts 1959, 1966.
  - (j) Code of Connection (also known as CoCo compliance)
- 11.4 The Council reserves the right to restrict the use of the iPad and associated equipment if it has reason to believe that the use of the iPad is likely to offend against any legislative requirement.
- 11.5 The Council reserves the right to restrict the use of the iPad and associated equipment if it has reason to believe that the use of the iPad is likely to offend any provision in this Local Protocol.
- 11.6 In particular the Council reserves the right to:
- (a) remove or disable any software or equipment; and
  - (b) remove any information stored on the device.
- 11.7 Special rules apply to the use of Council resources in relation to publicity. These are set out in Appendix 1.
- 11.8 No auto forwarding of emails is allowed outside of the Torbay Council Network. [Whilst Members take personal responsibility for data as Data Controllers, personal emails should not be used for handling personal or sensitive data and must not be used for communicating with constituents, officers or outside organisations.](#)

## **12. Breaches of this Protocol**

- 12.1 Breaches of this protocol may also constitute a breach of the Members' Code of Conduct and, as such, be referable to the Monitoring Officer.

**Appendix 1**

Special rules apply to the use of Council resources in relation to 'publicity' which is defined as 'any communication in whatever form addressed to the public at large or to a section of the public'. This will include press releases and letters to the media (unless clearly marked "not for publication") but does not cover letters or emails to individuals, unless this is on a scale which could constitute 'a section of the public'.

The local authority is prohibited from publishing political material by virtue of section 2 of the Local Government Act 1986. The Act states that:

**"Section 2**

1. A local authority shall not publish any material which, in whole or in part, appears to be designed to affect public support for a political party.
2. In determining whether material falls within the prohibition regard shall be had to the content and style of the material, the time and other circumstances of publication and the likely effect on those to whom it is directed and, in particular, to the following matters:
  - a. whether the material refers to a political party or to persons identified with a political party or promotes or opposes a point of view on a question of political controversy which is identifiable as the view of one political party and not of another.
  - b. where the material is part of a campaign, the effect which the campaign appears to be designed to achieve.
3. A local authority shall not give financial or other assistance to a person for the publication of material which the authority are prohibited by this section from publishing themselves."

Although Section 2 applies to all publicity produced by the local authority it is obviously particularly important to be sensitive to the provisions of the Act at election time. Further guidance on the subject of publicity is contained in the Code of Recommended Practice on Local Government Publicity which is attached to the Code of Conduct for Members in this Constitution.

### Protocol for the Assessment and Determination of Allegations of Breaches of the Members Code of Conduct

#### 1. Introduction and role of Independent Persons

- 1.1 Torbay Council and Brixham Town Council are required to have a Code of Conduct which deals with the conduct expected of their elected and co-opted members when they are acting in their official capacity. The Code of Conduct is also required to include appropriate provisions relating to the registration and disclosure of pecuniary and other interests.
- 1.2 The obligations in the Code of Conduct only apply when a Member is acting, holding themselves out as acting or giving the impression that they are acting in their official capacity.
- 1.3 ~~There is no national regulator since the abolition of Standards for England.~~ Torbay Council is responsible for administering its own Code of Conduct and the Code for Brixham Town Council. Torbay Council is therefore required to have in place arrangements under which allegations against members can be investigated and decisions on allegations can be made.
- 1.4 Torbay Council is required to appoint at least one Independent Person whose views may be sought by the Council, usually through the Monitoring Officer, or by subject members whether they are members of Torbay or Brixham Councils. The Council must seek the views of an Independent Person before making a decision on an allegation that has been referred for investigation. There is no right for the complainant to seek the views of the Independent Person and no such contact will be permitted.
- 1.5 The Independent Persons do not represent and nor are they advisors to the subject member or the Council. They must remain completely impartial and objective. Their only role is to assess complaints and form a view on them.
- 1.6 This protocol sets out the procedure for submitting a complaint alleging that a member has breached the Code of Conduct and the procedures that will be followed in dealing with such complaints. It also sets out the criteria for assessing a complaint.
- 1.7 All allegations will be dealt with objectively, fairly and consistently. Regard will be had to the public interest and the Council's fiduciary duty to council tax payers.
- 1.8 Within this protocol references to the Monitoring Officer include the Monitoring Officer or his/her nominated representative(s).
- 1.9 In this protocol the term 'Code of Conduct' means the Code of Conduct applicable to the subject member.
- 1.10 In this protocol the term 'member' means ~~the mayor~~, any councillor or co-opted member.
- 1.11 In this protocol the term 'subject member' means the member against whom the allegation has been made.

## 2. Submitting a complaint

- 2.1 All complaints must be submitted in writing to the Monitoring Officer, but this includes fax and electronic submissions. We will assist complainants if they have a disability that prevents you them from making or makes it difficult for you them to submit their your complaint in writing. We can also help if English is not your the complainant's first language.
- 2.2 Complainants are encouraged to use our complaints form which we can send out as a hard copy or which is available in electronic format from our web site. Further information and the complaint form are available at:  
<http://www.torbay.gov.uk/index/yourcouncil/councillorsdecisions/behaviourinterestsstandards.htm>
- 2.3 If a complainant you makes a verbal complaint we will ask that the complaint is confirmed in writing unless the Monitoring Officer is satisfied that the circumstances justify a departure from the requirement that complaints are made in writing. If you make a verbal complaint and simply decline to confirm the complaint in writing for reasons which we do not consider to be justifiable we will take no further action on the complaint.
- 2.4 Anonymous complaints will be rejected. This does not include complaints where the complainant requests confidentiality (see section 7 below and on the complaint form).
- 2.5 Some complaints will fall outside of the scope of this protocol. If that happens the complaints will be forwarded to the relevant officers in the Council and where appropriate referred to the Council's corporate complaints, the complainant will be advised of this.
- 2.6 To submit complaints electronically complainants are requested to ~~please~~ use the on-line form at the link in paragraph 2.2 above.

All complaints must be sent or delivered to:

The Monitoring Officer  
% Governance Support  
Torbay Council  
Town Hall  
Castle Circus  
Torquay TQ1 3DR

## 3. Processing and determination of complaints

### Initial Assessment – Stage 1

- 3.1 When a complaint is received which is within the scope of this protocol we will aim to acknowledge receipt within 5 working days.
- 3.2 The Monitoring Officer will carry out an initial assessment of whether the alleged behaviour could amount to a breach of the Code of Conduct and therefore within this protocol. This will normally be done within 10 working days. If the allegation could not amount to a breach of the Code of Conduct or is considered to be within one or more of the criteria set out below the complaint will not be progressed beyond this

initial assessment stage:-

- If the complaint is the same or substantially the same as a complaint previously dealt with within the subject member's term of office
- If the period since the alleged behaviour is so significant that it is considered to be inequitable, unreasonable or otherwise not in the public interest to pursue
- If the complaint is insubstantial
- If the complaint discloses a minor or technical breach of the Code that it would not be in the public interest to pursue
- If the complaint is or appears to be malicious, politically motivated, tit-for-tat or otherwise submitted with an improper motive
- If the complaint is not considered to disclose sufficiently serious potential breaches of the Code to merit further consideration
- If the complaint is covered by the Council's policy on persistent and vexatious complaints
- If the member against whom the allegation has been made has remedied or made reasonable endeavours to remedy the matter
- If the complaint is about a person who is no longer a member of a relevant council and there are no overriding public interest reasons to merit further consideration
- The complainant has suffered no significant injustice or emotional upset from the breach complained about

Provided always that if the complaint falls into one or more of the above categories, but is deemed sufficiently serious by the Monitoring Officer, then the complaint may be progressed at the Monitoring Officer's discretion.

- 3.3 At this stage, if the complaint is not to progress further the Monitoring Officer will notify the complainant in writing of that fact and with the reasons. The Monitoring Officer will also write to the subject member with details of the complaint, the decision made and the reasons for the decision. Where the subject member is a member of Brixham Town Council, the Monitoring Officer will also provide the same information to Brixham Town Council's Clerk. The name of the complainant will be disclosed to the subject member and, where appropriate, the Brixham Town Council's Clerk unless confidentiality has been requested and the Monitoring Officer considers the request to be justified.
- 3.4 Notwithstanding paragraph 3.2, the Monitoring Officer will in appropriate circumstances pass to the police or Director of Public Prosecutions any allegations it receives which disclose behaviour that may constitute a criminal offence, whether under the ethical standards provisions of the Localism Act or otherwise.

### **Assessment of Complaints – Stage 2**

- 3.5 For those complaints which are to be taken beyond the process detailed in the preceding paragraphs, the following steps will be followed. The Monitoring Officer and the subject member may seek the views of the nominated Independent Person at any time during this process. If considered necessary by the Monitoring Officer he or she may convene a panel of members of the Standards Committee to assist him or her with the consideration and determination of the complaint including any preliminary hearing. The Monitoring Officer may do this at any time during the process. Where a complaint is in respect of a breach of Brixham Town Council's code of conduct the Monitoring Officer will ask the Clerk to Brixham Town Council to

nominate a member of Brixham Town Council to sit on any such panel.

| Step | Action                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1    | The Monitoring Officer will write to the subject member with details of the complaint, including those of the complainant unless any confidentiality request has been agreed, and also the name and contact details of the Independent Person who has been nominated for the complaint and who the subject member may contact to seek their views. If the Monitoring Officer considers it appropriate the Clerk to Brixham Town Council will be notified of the complaint. At this stage the subject member will be given an opportunity to provide the Monitoring Officer with a written response to the complaint. Ordinarily we will ask the subject member to restrict their written comments to two sides of A4 but they will be permitted to provide copies of supporting documents.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2    | The Monitoring Officer will consider the complaint again in the context of any written submissions and supporting documentation provided by the subject member.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 3    | <p>The Monitoring Officer will determine the complaint in accordance with the Assessment Criteria set out in Annex A. The options the Monitoring Officer has are:</p> <ul style="list-style-type: none"> <li>(i) to make no finding as to whether there has been a breach of the Code and take no further action;</li> <li>(ii) to make no finding as to whether there has been a breach of the Code but determine that some action other than an investigation is appropriate;</li> <li>(iii) to find no breach of the Code;</li> <li>(iv) to find a breach of the Code without an investigation but impose no sanction;</li> <li>(v) to find a breach of the Code without an investigation;</li> <li>(vi) to require the complaint to be investigated to determine whether there has been a breach of the Code and the seriousness of the breach;</li> <li>(vii) No further action;</li> <li>(viii) Referral for other action; and</li> <li>(ix) to conclude that the circumstances of the complaint indicate that an offence under Chapter 7 of Part 1 of the Localism Act 2011 may have been committed and that the complaint ought to be investigated, by the police where appropriate, to determine whether a prosecution should be brought.</li> </ul> |
| 4    | The outcome of the determination of the complaint will be notified in writing to the complainant, the subject member and, where appropriate, the Clerk to Brixham Town Council within 5 working days of the determination.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

3.6 The above steps 1 to 4 will normally be conducted within 28 days of receipt of the complaint. If it is not possible to do this within this time the complainant, subject member and, where appropriate, the Clerk to Brixham Town Council will be contacted and advised of the delay and provided with an estimate of when the Steps will be completed.

#### **4 What happens following assessment of complaints?**

- 4.1 Any action or investigation will be implemented. If other action is determined as appropriate and either party declines to cooperate that will be reported to the Monitoring Officer who may decide to deal with the complaint under another option under step 3 in the table above. Where the subject member belongs to a political group any failure by that subject member to cooperate will be reported to their group leader by the Monitoring Officer.
- 4.2 If potential criminal offences are identified and the complaint referred for investigation with a view to prosecution the appropriate procedures of the police or the Council will be followed so as to protect the integrity of the investigation.
- 4.3 A report setting out all the complaints received and what action was taken regarding them will be forwarded to members of the Standards Committee on a quarterly basis.
- 4.4 Where an investigation is deemed appropriate investigations will be carried out in accordance with the guidance on 'How to Conduct and Investigation' produced by Standards for England that was applicable to the Code of Conduct for Members pursuant to the Local Government Act 2000. Prior to the final investigation report being issued the Independent Person shall be asked for any comments they may have in respect of the investigation report and the investigator must take into account these comments but is not obliged to follow them. Any comments of the investigator will be included as part of the final report.
- 4.5 Any hearings following investigation will be dealt with in accordance with Annex B to this protocol.

#### **5 General rules concerning assessments – public access to meetings and information**

- 5.1 Should the Monitoring Officer decide to convene a panel of the Standards Committee to assist him or her in the consideration or determination of a complaint such meetings shall be deliberative only and shall not be open to the public. The decision as to how the matter should be progressed shall remain the decision of the Monitoring Officer. The press, members, officers (except the Monitoring Officer and Governance Support Officer), members of the public, the subject member and the complainant will not be permitted to attend the meetings.
- 5.2 Data protection requirements will be complied with and may prevent the public disclosure of information relating to complaints.
- 5.3 On completion of the assessment a written summary will be published in the form of a decision notice. Once this has been sent to the subject member and the complainant a copy will be placed on the Councils web site.

#### **6 Withdrawal of complaints by Complainants**

- 6.1 Request to withdraw complaints will normally be granted but in considering such a request from the complainant the Monitoring Officer will consider the following factors:
- (i) Whether the public interest in taking action on the complaint outweighs the

- complainant's desire to withdraw it;
- (ii) Whether the complaint is such that action can or should be taken on it without the complainant's participation; and
- (iii) Whether there appears to be an identifiable underlying reason for the request to withdraw the complaint such as whether there is information to suggest that the complainant may have been pressurised into withdrawing the complaint.

## **7 Complainant confidentiality**

- 7.1 The subject member will, in normal circumstances, be told from the outset who has complained about them. If a complainant asks for their identity to be withheld their request will be considered by the Monitoring Officer prior to the member being notified that a complaint has been made.
- 7.2 Each request for confidentiality will be considered on its merits and in determining such a request the following will be considered:
- (i) Whether the complainant reasonably believes that they, or those connected to them, will be at risk of harm if their identity is disclosed;
  - (ii) That the complainant is reasonably concerned about the consequences to their employment, or those connected to them, if their identity is disclosed;
  - (iii) That the complainant, or somebody closely connected to them, suffers from a medical condition and there is evidence of medical risks associated with their identity being disclosed or confirmation from an appropriate medical professional that that is the case; and
  - (iv) Whether the public interest in proceeding with the complaint outweighs the complainant's wish to have their identity withheld.
- 7.3 If it is not considered appropriate to grant a request for confidentiality the complainant will be offered the opportunity to withdraw the complaint rather than proceed with it.



## Annex A - Complaint Assessment and Determination Procedure

### Assessment Criteria

#### 1. Introduction

- 1.1 All complaints and reviews will be considered on their merits and according to the facts.
- 1.2 The Monitoring Officer will determine when it is appropriate to seek the views of the Independent Person.
- 1.3 These assessment criteria, will be used as guidance in the consideration and determination of complaints. However, due to the wide variety of complaints received by the Council, avoiding the perception of inconsistency, even in assessing complaints, is no easy task. For example two complaints may be about the same aspect of the Code but differ considerably in terms of the facts, how serious they are and there may be huge differences in the relevance and amount of detail regarding the complaint. For these reasons the assessment criteria can only be a guide.

#### 2. The Assessment Criteria

##### Overriding criteria

These three tests will be applied during the initial assessment of a complaint:

- Is the complaint about one or more named members of a relevant authority?
- Was the subject member in office at the time of the alleged conduct?
- If proven, would the complaint disclose a breach of the Code of Conduct?

##### No finding of whether there is a breach of the Code

If, based on the facts, it is not possible to determine whether there has been or may have been a breach of the Code and the alleged conduct does not merit an investigation, having regard to the public interest, this is the appropriate finding to make.

##### No finding of whether there is a breach of the Code but action other than investigation is appropriate

Where, based on the facts, it is not possible to determine whether there has been or may have been a breach of the Code and having regard to the public interest, the alleged conduct does not merit an investigation. If the allegation and any response from the subject member disclose an underlying issue that action such as mediation or training on the Code or council procedures might assist with, this is the appropriate finding to make.

##### Finding of no breach of the Code

If the facts available demonstrate on the balance of probabilities that there has been no breach of the Code, this is the appropriate finding to make. If there is no breach of the Code a sanction cannot be imposed but other action such as mediation or training might still be considered.

##### Finding of a breach of the Code without an investigation

A finding that the Code of Conduct has been breached without the need for an investigation

will usually be appropriate in the following circumstances:

- It can clearly be shown that from the information that has been provided by the subject member and the complainant that a breach of the Code has occurred without the need for an investigation;
- The subject member has admitted to the breach of the Code, whether or not they have offered to remedy the breach;
- It can be shown that an investigation is unlikely to be able to establish any further independent relevant evidence regarding the complaint or that the cost of obtaining any further evidence would not be justified having regard to the public interest and that on the evidence supplied a breach of the Code can be shown.

A breach of the Code without investigation can only be found if the complaint satisfies the first three initial tests and that it can be clearly shown, on the balance of probabilities, that a breach of the Code of Conduct has occurred.

#### No Further Action

If a breach of the Code is found but it is trivial, a technical breach or otherwise of limited effect it may be appropriate to take no further action.

#### Referral for other action

A complaint may be referred for other action in the circumstances listed below. Other action may be appropriate whether a breach is found or not. However, in general, other action may be used where the complaint discloses a widespread problem rather than a specific one concerning the members conduct.

The following should be considered in determining whether it is appropriate to refer a complaint for other action:

- Does taking further action provide an opportunity to resolve the issue and to prevent any similar issues arising in the future and promote good governance?
- Does the complaint present a potentially less serious breach of the Code than would require the matter to be referred for investigation and is any benefit to be gained from referring the matter for investigation?
- Is the council of which the subject member is a member suffering from a widespread breakdown in internal relationships and trust where a course of action other than an investigation of a complaint may be more appropriate and beneficial to that council?

#### Referral for Investigation

A complaint should usually be referred for investigation in the following circumstances:

- The complaint has passed all three of the initial tests
- The subject member has denied the allegations but the information presented indicates that there may be a breach of the Code
- On the information provided the potential breach of the Code of Conduct is sufficiently serious that an investigation should be undertaken to either discount or substantiate the complaint and to determine what sanction, if any, is appropriate

Potential offences under the Localism Act 2011

If it is considered that the allegation concerned may disclose an offence under the Localism Act it should be referred to the police or other appropriate person(s) for further consideration as to whether there should be an investigation with a view to prosecution. No prosecution can be brought without the consent of the Director of Public Prosecutions.

If it transpires that no offence was committed, whether following trial or otherwise, the complaint ought to be reintroduced to this procedure for determination of any breach of the code and appropriate sanction, if any.

**Annex B – Actions Following Completion of Investigation Report****1. Processing the Investigator's Report**

1.1 As soon as possible following receipt of the Investigator's report the Governance Support Team will write to the complainant and the subject member enclosing a copy of the report.

1.2 Where the investigation report makes a finding of no breach, the Monitoring Officer, in consultation with the Chairman/woman of the Standards Committee, will consider the most appropriate course of action. ~~no further action will be taken in respect of the complaint and both parties will be informed of this when the report is sent to them. A press release will also be made confirming that there the report found there to be no breach.~~

1.3 Where the investigation report does find there to be a breach of the Code of Conduct the Governance Support Team will arrange for three members of the Standards Committee (plus one member of Brixham Town Council where the complaint is in respect of a breach of Brixham Town Council's Code of Conduct) to make up the Hearing Sub Committee and set a date a Hearing is to take place. The complainant and subject member will be contacted with details of when the Hearing is to take place and given a deadline by which to submit the following:-

- Whether they will be attending the hearing and if they will be represented
- The names of any witnesses they will be bringing to the hearing
- What findings of fact (if any) they dispute in the investigator's report
- Any other matters that they would like to be take into consideration

1.4 Prior to the Hearing taking place and after the deadline for responses to the above paragraph from the complainant and the subject member the nominated members of the Hearing Sub Committee will meet with the Monitoring Officer in private to discuss:

- (a) The findings of fact in the Investigator's report that are agreed.
- (b) The findings of fact in the Investigator's report that are not agreed.
- (c) Whether or not the complainant, the subject member and/or the Investigator will attend or be represented or should be asked to attend.
- (d) The names of any witnesses who the complainant and/or subject member intend to invite
- (e) The comments of the Independent Person in respect of the investigation report
- (f) An outline of the proposed procedure for the hearing.
- (g) Any other matters the Monitoring Officer considers appropriate.

Following this pre hearing discussion the complainant and the subject member will be informed in writing of persons who will be present at the Hearing and the agenda for the Hearing. At this stage the complaint and/or subject member may also be asked to attend the Hearing if they have not already indicated that they will be attending.

## 2. The Hearing

2.1 Unless otherwise specified following the pre hearing meeting referred to at paragraph 1.4 above, those required to attend the Hearing shall be the Hearing Sub Committee members, the investigator and a legal adviser (who shall not be the investigator) nominated by the Monitoring Officer. The subject member and complainant and any witnesses either may have nominated cannot be required to attend the meeting although will be expected to attend if requested following the pre hearing meeting.

2.2 The subject member or the complainant may be represented or accompanied during the meeting by a solicitor, counsel or, with the permission of the Hearing Sub Committee, another person. Where representation is required by either party subject to this clause the party should notify the Monitoring Officer as soon as possible and failure to notify in good time may mean that the request for representation is refused. **Note:** the member or complainant (as the case may be) must meet the cost of their representation.

2.3 The Hearing Sub Committee may take legal advice from its legal advisor at any time during the hearing or while they are considering the outcome. The Hearing Sub Committee may adjourn to hear legal advice but this advice will then be repeated by the legal advisor in the public forum.

2.4 At the Hearing Sub-Committee, it will not normally be permitted to raise new disagreements over findings of fact in the final report unless there are good reasons for doing so (for example, new evidence becoming available). It is therefore important that the subject member raises any issues of concern with the Monitoring Officer or the [Governance Support Manager/Head of Governance Support](#) before the hearing.

## 3. Preliminary Procedural Issues

3.1 Before the Hearing Sub-Committee considers the Investigator's report it will consider any procedural issues, including requests for paperwork to be withheld from the public and/or for any part of the meeting to be held in private. The Hearing Sub-Committee will then resolve any other issues or disagreements about how the hearing should continue, which have not been resolved during the pre-hearing process.

3.2 The Hearing Sub-Committee may adjourn at any time to require further information or a further investigation to be carried out.

## 4. Making Findings of Fact (Stage 1)

4.1 After dealing with any preliminary issues, the Hearing Sub-Committee will then move to consider whether or not there are any significant disagreements about the facts contained in the investigator's report.

4.2 If there is no disagreement about the facts, the Hearing Sub-Committee will move on to the next stage of the hearing.

4.3 If there is a disagreement, the Investigator, will be invited to make any necessary representations to support the relevant findings of fact in the report. With the Hearing Sub-Committee's permission, the Investigator may call any necessary supporting witnesses to give evidence. The Hearing Sub-Committee may give the subject member an opportunity to challenge any evidence put forward by any witness called by the Investigator.

4.4 The subject member will then have an opportunity to make representations to

support his or her version of the facts and, with the Hearing Sub Committee's permission, call any necessary witnesses to give evidence.

4.5 At any time, the Hearing Sub-Committee may question any of the people involved or any of the witnesses and may allow the Investigator to challenge any evidence put forward by witnesses called by the member of the complainant.

4.6 If the subject member disagrees with any relevant fact in the Investigator's report, without having given prior notice of the disagreement during the pre-hearing process, he or she must give good reasons for not mentioning it before the hearing. After considering the member's explanation for not raising the issue at an earlier stage, the Hearing Sub Committee will then:

- (a) continue with the hearing, relying on the information in the Investigator's report;
- (b) allow the subject member to make representations about the issue, and invite the Investigator to respond and call any witnesses as necessary; or
- (c) adjourn the hearing to arrange for appropriate witnesses to be present but only if they believe that those witnesses will attend any adjourned hearing.

4.7 The Hearing Sub Committee will normally move to another room to consider the representations and evidence in private unless there are no significant disagreements about the facts contained in the Investigator's report.

4.8 If the Hearing Sub Committee have withdrawn they will then return for the Chairman to announce its findings of fact.

## **5. Did the Subject Member Fail to Follow the Code of Conduct for Members? (Stage 2)**

5.1 The Hearing Sub Committee will then consider whether or not, based on the facts it has found, the subject member has failed to follow the Code of Conduct.

5.2 The subject member will be invited to give relevant reasons why the Hearing Sub Committee should not decide that he or she has failed to follow the Code.

5.3 The Hearing Sub Committee will then consider any verbal or written representations from the Investigator.

5.4 The Hearing Sub Committee may, at any time, question anyone involved on any point they raise in their representations.

5.5 The subject member will be invited to make any final relevant points.

5.6 The Hearing Sub Committee will then move to another room to consider the representations.

5.7 If the Hearing Sub-Committee have withdrawn when they return the Chairman will announce its decision as to whether or not the subject member has failed to follow the Code of Conduct.

**6. If the Subject Member has not Failed to Follow the Code of Conduct for Members**

6.1 If the Hearing Sub Committee decides that the member has not failed to follow the Code of Conduct, it will move on to consider whether it should make any recommendations to the authority.

**7. If the Subject Member has Failed to Follow the Code of Conduct (Stage 3)**

7.1 If the Hearing Sub Committee decides that the subject member has failed to follow the Code of Conduct, it will consider any verbal or written representations from the Investigator and the member (in that order) as to:

- (a) whether or not the Hearing Sub Committee should set a sanction; and
- (b) what form any sanction should take.

7.2 The Hearing Sub Committee will move to another room to consider whether or not to impose a sanction on the subject member and, if so, what that sanction should be. On their return, the Chairman will then announce the Hearing Sub Committee's decision.

7.3 When deciding on a sanction, the Hearing Sub-Committee will make sure that it is reasonable and in proportion to the subject member's behaviour.

**8. Recommendations to the Council**

8.1 After considering any verbal or written representations from the Investigator, the Hearing Sub-Committee will consider whether or not it should make any recommendations to the Council, with a view to promoting high standards of conduct among members.

**9. The Written Decision**

9.1 The Hearing Sub Committee will announce its decision on the day and provide a short written decision on that day. A full written decision prepared by the Head of Governance Support ([or his/her representative](#)) and approved by the Monitoring Officer and Chairman of the Hearings Sub-Committee will be published within ten working days.

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- Annex 1 - Possible Roles of Member Champions



## 1. Introduction

- 1.1 Member champions are elected members who act as an advocate or spokesperson for a specific area of the Council's business. The main responsibility of each member champion is to encourage communication and positive action over the issue they represent.

## 2. Appointment of Member Champions

- 2.1 The ~~elected Mayor~~Leader of the Council is responsible for appointing all the member champions ~~\_listed below\_~~. All group leaders will be consulted before any appointments are confirmed by the ~~elected Mayor~~Leader of the Council. Any member of the Council may be member champion, including the ~~elected Mayor~~Leader of the Council. ~~The Council has the following member champions:~~

- ~~(a) — Armed Forces (this role is undertaken by the Executive Lead for Tourism, Culture and Harbours);~~
- ~~(b) — Corporate Parenting;~~
- ~~(c) — Design Review (this role is undertaken by the Executive Lead for Planning, Transport and Housing);~~
- ~~(d) — Early Years Group;~~
- ~~(e) — Heritage (this role is undertaken by the Executive Lead for Tourism, Culture and Harbours);~~
- ~~(f) — Youth Trust;~~

- 2.2 Member champions will be appointed following the whole local government elections that take place every four years and will normally be expected to serve for the period of his/her term of office to ensure some stability in the role. However, an appointment may be made during the four year period to any new position that is established or to a position where there is a vacancy. The appointments made by the ~~elected Mayor~~Leader of the Council must be communicated in writing to the Chief Executive and a record of decision published.

- 2.3 Although there is no legal requirement to apply the political balance rules to the appointments, there will be an expectation that the roles will normally be shared proportionately to reflect the political balance of the Council. However, any appointment should have due regard to the suitability for the role and relevant national and local guidance.

- 2.4 A member champion may be removed from office at any time by the ~~elected Mayor~~Leader of the Council by written notice to the Chief Executive, the member champion being removed and all the group leaders.

- 2.5 Any member champion may resign from office by giving written notice to the Chief Executive and the ~~elected Mayor~~Leader of the Council.

### 3. Role of Member Champions

- 3.1 All member champions will have a ~~job~~ description ~~setting out of~~ their respective roles ~~provided by the decision-maker~~. ~~These Roles~~ will be developed by the relevant Director/Executive Head in consultation with the ~~elected Mayor~~ Leader of the Council and the champion concerned. ~~A generic role description~~ Examples of possible roles for champions ~~that may be appropriate to include in a job description are~~ is set out in Annex 1 to this protocol.

### 4. The Parameters of the Member Champion Role

- 4.1 All member champions must act reasonably in their role and recognise and work effectively within the political management and working arrangements adopted by the Council.
- 4.2 A champion cannot make decisions (unless the champion is the ~~elected Mayor~~ Leader of the Council or an ~~Cabinet member~~ Executive Lead with delegated authority from the ~~elected Mayor~~ Leader of the Council) and must not commit the Council in any way or in a manner that could be interpreted as being contrary to established policy and practice. They may, however, confirm a position as stated in a published policy.

### 5. ~~Elected Mayor~~ Leader of the Council/Executive Leads Cabinet Members – Working Relationship with Member Champions

- 5.1 The ~~Leader of the Council~~ elected Mayor/Executive Leads Cabinet Members will normally:
- (a) acknowledge the right of champions to be consulted on matters relating to their area of interest;
  - (b) take full account of any views offered by champions prior to any decision taken (by the ~~elected Mayor~~ Leader of the Council or an ~~Executive Lead~~ Cabinet Member with delegated authority from the mayor) on matters within their area of interest;
  - (c) co-operate with champions in the formulation of action plans they have agreed with the relevant officer; and
  - (d) consider nominating the relevant champion to represent the Council at a relevant conference/seminar on the subject matter of the champions interest.

### 6. Overview and Scrutiny Co-ordinator/Scrutiny Leads – Working Relationship with Member Champions

- 6.1 The Overview and Scrutiny Co-ordinator/scrutiny leads will normally:
- (a) acknowledge the right of champions to be consulted and to participate in discussions on matters relating to their interest;
  - (b) ensure there is appropriate engagement or consultation with champions in the formulation of policy;

- (c) ensure champions are specifically invited to be contributors to any reviews that have a direct bearing on their interest; and
- (d) ensure an opportunity is provided for champions to contribute or to comment on the Overview and Scrutiny Work Programme.

## **7. Officer Support to Member Champions**

- 7.1 The member champions play an important role in promoting their area of interest on behalf of the Council. In recognition of the importance of the respective roles of champions, officer support will be provided at a senior level.
- 7.2 Each member champion will be advised by an appropriate officer (normally Executive Head or above). The officer will meet with the relevant member champion as regularly as the officer and the relevant member champion consider necessary to discuss action plans, current activities, national developments or any other matters relating to the interest being championed.
- 7.3 The officer concerned will give reasonable support to the member champion, including the provision of Council information, government communications and national publications within their remit.

## **8. Accountability**

- 8.1 At the beginning of each municipal year, each member champion may agree with the relevant Executive LeadCabinet Member and officer a programme of activity, with SMART (specific, measurable, achievable, realistic, time-bound) targets, taking into account the Council's priorities.
- 8.2 A member champion may be questioned by another member of the Council on their respective area of interest at a meeting of Council in accordance with **Standing Order A13.1** in relation to council meetings.

## **9. Training**

- 9.1 All member champions will normally have the opportunity to attend appropriate training courses contained in the Council's Member Development Programme in accordance with the Protocol on Relations between the MayorLeader of the Council and Political Groups.

## **10. Attendance at Seminars Conferences**

- 10.1 The attendance of member champions at conferences/seminars relevant to their roles will be in accordance with the Protocol on Relations between the MayorLeader of the Council and Political Groups.

## **11. Allowances**

- 11.1 None of the member champions are entitled to receive a Special Responsibility Allowance (SRA) for carrying out their role. The Independent Remuneration Panel may consider whether the position of a member champion should attract an SRA.

**12. Dispute Mechanism**

- 12.1 In the event that a dispute arises in relation to the operation of this protocol such dispute must be referred to the Chief Executive whose decision on the dispute shall be final. The parties to any dispute are expected to provide the Chief Executive (or any person nominated by him/her to determine the dispute) such information as he/she may reasonably require to make a decision on the dispute.

## Annex 1

**Possible Roles of Member Champions**

The following examples of roles for member champions may be appropriate to include in a job description:

- (a) To champion the adopted policy of this Council for the relevant theme;
- (b) To promote their area of interest both within and outside the Council;
- (c) To contribute to the review and development of policies pertaining to the area of interest;
- (d) To challenge and question the Council and (other) ~~Executive Leads~~Cabinet Members on issues affecting their area;
- (e) To attend meetings of the Council, its Committees and the ~~Executive Cabinet~~ and speak on issues (when permitted by the person presiding the meeting) relevant to their area;
- (f) To act as a catalyst for change and improvement in service delivery;
- (g) To monitor the Forward Plan and seek information from the relevant officers and (other) ~~Cabinet~~ ~~m~~Members about forthcoming business and exert influence on behalf of the interest;
- (h) To monitor overview and scrutiny plans and activity and seek information and offer views on relevant review subjects and exert influence on behalf of the interest;
- (i) To seek to place appropriate items on member meeting agendas;
- (j) To keep other councillors up-to-date with activities relevant to the area of interest;
- (k) To network with member champions from other local authorities with the same interest to keep up-to-date with current developments;
- (l) To provide positive support, and on occasions, constructive challenge to officers in driving forward the Council's agenda on relevant issues; and
- (m) To act as the Council's representative on relevant external bodies where Council representation is required or sought.

**Local Protocol – Consultation Arrangements with Brixham  
Town Council in Connection with Planning Applications  
Relating to the Brixham Area**

**Contents**

1. Introduction .....

2. Notification Procedures.....

3. Access to Information .....

4. Determination of Planning Applications .....

5. Public Participation at Meetings of Development Management Committee .....

6. Training.....

7. Review of Protocol.....

## 1. Introduction

- 1.1 Torbay Council is the statutory Local Planning Authority with responsibility for implementing planning legislation contained in the Town and Country Planning Act 1990, and subsequent related legislation.
- 1.2 Planning applications are determined by Torbay Council's Development Management Committee, by Council (in exceptional circumstances, or by officers using powers delegated to them by the Council).
- 1.3 Brixham Town Council has a right under paragraph 8 of Schedule 1 of the Town and Country Planning Act 1990 to be notified of all planning applications that relate to its area. The Town Council may also request to be notified of any amendments to a planning application unless the alterations are trivial as stated in the 1990 Act.

## 2. Notification Procedures

- 2.1 Torbay Council will notify Brixham Town Council of all planning applications within its area.
- 2.2 The Town Council has a statutory period of 14 days to make representations, but Torbay Council will normally extend this period to 21 days.
- 2.3 Torbay Council will whenever practicable notify the Town Council of all amendments (other than trivial ones) to a planning application.
- 2.4 If representations are not received within the 21 day deadline, Torbay Council will determine any application without the views of the Town Council.
- 2.5 The Town Council may request an extension of time should it be unable to make representations within the 21 day period. Any reasonable requests to delay consideration of applications so as to allow full comment to be made by the Town Council will be at the discretion of the Chief Executive (following consultation with the Chairman/woman of the Development Management Committee in the case of major applications), but will not prejudice statutory determination times.
- 2.6 Torbay Council will continue to advertise details of applications in Brixham as it does elsewhere in the Borough. It currently advertises every planning application on site in accordance with the site notice procedures in the local newspaper and via neighbour notification.
- 2.7 Torbay Council will notify the Town Council of every planning decision made by the Development Management Committee, Council or by an officer who has authority to determine a planning application under delegated powers.
- 2.8 Torbay Council will only accept a formally constituted view from the Town Council in response to a planning application. This will normally be from the Town Clerk following a Committee meeting. It will not be the view of an individual member of the Town Council. However, a town councillor may make representations in a personal capacity, but in doing so he/she should-will not seek to associate the town council with those views.

2.9 Torbay Council will notify the Town Council of any planning appeal within the Town Council area.

**3. Access to Information**

3.1 Torbay Council will provide full, unrestricted access to all public information held on planning application files (on request), and will provide photocopies of relevant documents (subject to copying charges applicable at the time).

**4. Determination of Planning Applications**

4.1 Torbay Council's Development Management Committee will determine all major applications, as defined in the terms of reference for that Committee, that relate to the Town Council area. In exceptional circumstances, applications may be referred to Council for determination. All other applications may be determined by an officer under delegated powers subject to 4.2 below.

4.2 If an officer is minded to approve an application under delegated powers and an objection on valid planning grounds has been submitted by the Town Council or a member of the public, a meeting will be convened on site with an officer, the applicant, a member of the Town Council, a ward member from Torbay Council and a representative of any objector. The purpose of the meeting will be to consider whether there are any valid planning grounds to warrant a referral of the application to the Development Management Committee. The decision as to whether or not to refer the application will be made by the Chief Executive in consultation with the Ward member, having regard to the outcome of the discussions from the site meeting.

**5. Public Participation at Meetings of Development Management Committee**

5.1 The meetings of the Development Management Committee are open to the public and therefore members of the Town Council may attend all or part of these meetings (except for confidential and exempt items where the public are excluded) and may nominate a representative to speak on a planning application in relation to its area.

**6. Training**

6.1 Torbay Council will when practicable arrange for training on planning matters for town councillors.

~~7. Review of Protocol~~

~~7.1 Torbay Council will review this protocol after a period of 12 months from the date of its adoption.~~



## **Local Protocol – DBS Checks for Members**

### **Contents**

1. Introduction
2. Purpose of Enhanced Disclosure
3. Using an Existing Disclosure
4. Frequency of Disclosure
5. Confidentiality, Retention, Security and Disposal of Disclosed Information
6. Positive Disclosure
7. Challenging a Disclosure
8. Refusal to Undertake Disclosure

## 1. Introduction

- 1.1 Torbay Council recognises its moral and legal responsibility to provide a duty of care for all children, young people and vulnerable adults. Those Members with regular direct contact with young people and vulnerable adults including ~~the Executive Leads~~Cabinet Members and Scrutiny Leads with responsibility for children and adults will therefore be required within 28 days of their appointment to undergo an Enhanced Disclosure check from the Disclosure and Barring Service (DBS). The Director of Corporate Services and the Chief Executive have authority to determine which additional Members shall be subject to DBS checks. Arrangements will be made to ensure that all prospective candidates are aware of this before becoming a Council candidate.
- 1.2 The aim of this Local Protocol is to ensure that Members who have regular contact (or are in a position of authority over those with regular contact) with children or vulnerable adults in their official capacity do not present a risk to those persons. Non-elected members who do not have any role in respect of children or vulnerable adults are not required to undergo an Enhanced Disclosure check from the DBS.

## 2. Purpose of Enhanced Disclosure

- 2.1 Information contained on the disclosure document for an enhanced DBS check will include details of the following: spent/unspent convictions, cautions, reprimands and final warnings held at national level, (plus information on pending prosecutions or relevant non-conviction information – this additional information is **not** sent to individuals).
- 2.2 The purpose of Enhanced Disclosure is to protect the public from harm and to protect the reputation of the Council by identifying Members who are unsuitable for positions involving contact with children and vulnerable people. Torbay Council will comply with the DBS Code of Practice and will not discriminate unfairly against the Member on the basis of conviction or other details revealed.
- 2.3 Any Member who wishes to be considered by the Council for appointment to any position within or outside the Council in which they will have regular contact (or are in a position of authority over those with regular contact) with children or vulnerable adults will be disqualified from such appointment where their disclosure reveals a relevant conviction or caution.

## 3. Using an Existing Disclosure

- 3.1 Disclosures from other organisations will not be accepted by the Council. All Members referred to in 1.1 above will be required to undertake a Torbay Council DBS check.

## 4. Frequency of Disclosure

- 4.1 Applicable Members will be required to undergo an Enhanced Disclosure check from the Disclosure and Barring Service (DBS) within 28 days of their appointment. Members may be required to undertake further checks within three years of their original disclosure.

## 5. Confidentiality, Retention, Security and Disposal of Disclosure Information

- 5.1 Disclosure information will only be made available to staff authorised to receive it in the course of their duties. All positive disclosure information will be sent directly to the Lead Counter signatory in the Human Resources Department and will only be divulged to the Monitoring Officer.
- 5.2 A record will be kept of the date of issue of a disclosure, the name of the subject, the type of disclosure requested, the appointment for which the disclosure was requested, the reference number of the disclosure and the details of any decision taken whether or not the Member was disqualified from holding a specific position of responsibility. The record will be kept on a computerised system. Positive disclosures will be destroyed by means of shredding once the disclosure has been discussed with the individual.

## 6. Positive Disclosure

- 6.1 Following a positive disclosure, the Member will be given the opportunity to be interviewed by the Monitoring Officer and a member of the Human Resources Department so that further consideration may be given, clarifying the circumstances relating to the matters appearing on the disclosure. If the Member declines the opportunity to be interviewed or fails to co-operate in the process, the Monitoring Officer may draw a negative inference from this refusal or failure and act accordingly. The Monitoring Officer will give proper and reasonable consideration to any representations made by the Member. The Monitoring Officer may, where appropriate, in view of the nature of the positive disclosure(s) received, make proportionate recommendations in accordance with paragraphs 6.2 and 6.3. These recommendations may relate to:
- (a) whether or not the disclosure should disqualify the Member from holding a specific position of responsibility or appointment to outside bodies; and/or
  - (b) whether any other restrictions should be made in relation to the Member.

Examples of this might include:

- (i) a recommendation that a Member previously convicted of defrauding a vulnerable adult should not be nominated by the Council to serve on the Board of the Integrated Care Organisation or have portfolio responsibility for this area; or
  - (ii) a recommendation that a Member alleged (but not convicted) to have committed offences against children should not be appointed as Children's Champion or have portfolio responsibility for this area.
- 6.2 The Monitoring Officer will inform the Chief Executive of all positive disclosures (following the review process, if requested by the Member) and may make recommendations to the relevant Group Leader and Deputy Group Leader (or other senior Group Member(s) if the Member is the Leader or Deputy Group Leader) and/or the Leader of the Council if the Member concerned is a Cabinet Member regarding the suitability of the Member for appointments to positions of special responsibility or outside body.

- 6.3 The Monitoring Officer may make recommendations to the Member concerned (for example that they do not serve on certain bodies).
- 6.4 The purpose of this Protocol is to protect children and vulnerable adults and in promoting this objective a precautionary approach shall be adopted. Unless a Member who is the subject of an apparently relevant positive disclosure is able to satisfy the Monitoring Officer (on the balance of probabilities) that the disclosure does not relate to him/her the Monitoring Officer shall normally assume that the disclosure does relate to the Member and act accordingly.

## **7. Challenging a Disclosure**

- 7.1 If a disclosure has been received and the contents discussed with the Member and they inform the Monitoring Officer that the information is incorrect, the person will be referred to the Disclosure Dispute Line, telephone 0300 0200 190. Unless the Member co-operates fully with this referral, the Monitoring Officer may draw a negative inference from this refusal and act accordingly.
- 7.2 The disclosure will not be retained for more than six months after the resolution of the dispute. If it is necessary to retain the disclosure information for a longer period, the Disclosure and Barring Service (DBS) will be consulted. In dealing with such a case, the DBS will give full weight to the rights of the subject of such information under the Human Rights and Data Protection Acts.

## **8. Refusal to Undertake Disclosure**

- 8.1 The requirement for Members to undertake an Enhanced Disclosure check from the DBS is a local provision adopted by Torbay Council.
- 8.2 Any Member who refuses to undertake an Enhanced Disclosure will be disqualified from being appointed to any position of special responsibility or outside body.

## Local Protocol – Members of Harbour Committee

### Contents

1. Introduction
2. Specific objectives of the Harbour Committee
3. Proportionality
4. The roles and conduct of councillor committee members
5. Appointment of advisors
6. Role of advisors
7. Role of the ~~Executive Head of Business Services~~Head of Tor bay Harbour Authority and Tor Bay Harbour Master
8. Role of the Harbour Liaison Forums and relationship with the Harbour Committee
9. Training on the functions of the Harbour Committee
10. Consultation

**Note: This Protocol to be reviewed if the Council determines that the Harbour function moves from a local choice council function to an executive function.**

## 1. Introduction

- 1.1 The Harbour Committee provides an open, accountable and fit for purpose body for the strategic management of Tor Bay Harbour. In turn the Committee provides an expert and more responsive form of governance. It also provides harbour management with the appropriate level of independence and flexibility.
- 1.2 It's terms of reference have been revised in the light of the Government's publication 'Opportunities for Ports in Local Authority Ownership Ports Good Governance Guidance; – A review of municipal ports in England and Wales' and following a comprehensive review of this document by the Municipal Ports Working Party. The terms of reference of the Harbour Committee and its composition (including external non-voting advisors) seeks to ensure that Tor Bay Harbour is playing a full and accountable part of the local and regional economy.
- 1.3 This protocol compliments the Committee's terms of reference and outlines the roles and relationships of the ~~elected Mayor~~Leader of the Council, Council members, external advisors, Officers and the Harbour Liaison Forums, together with the appointment process for the advisors.

## 2. Specific Objectives of the Harbour Committee

- 2.1 The overall objective of the Harbour Committee is to maintain, protect and enhance the harbour whilst at the same time deriving sustainable economic and social benefit, as outlined in the Tor Bay Harbour and Maritime Strategy.
- 2.2 The specific objectives of the Harbour Committee are:
  - a) to act as the 'Duty Holder' and be individually and collectively accountable for compliance with the Port Marine Safety Code and their performance in ensuring safe marine operations in the harbour and its approaches;
  - b) to review and be aware of the Committee's existing powers under local and national legislation and seek additional powers if required to promote safe navigation;
  - c) to appoint a Designated Person to provide independent assurance about the operation of the marine safety management system;
  - d) ensure all marine risks are formally assessed and are eliminated or reduced as low as reasonably practicable in accordance with good practice;
  - e) monitor, review and audit the risk assessment and marine safety management system on a regular basis;
  - f) publish a safety plan showing how the standards of the Port Marine Safety Code will be met and report performance against that plan at least every three years;
  - g) ensure the effective financial management of the harbour;
  - h) have an appropriate awareness and regard for relevant environmental

considerations:

- ~~ij)~~ maintain and develop the harbour infrastructure;
- ~~je)~~ support the local economy;
- ~~ek)~~ provide a positive contribution towards the character and attraction of Tor Bay;
- ~~el)~~ comply with legal and regulatory requirements as listed in the ~~Executive Head of Business Services~~Head of Tor bay Harbour Authority and Tor Bay Harbour Master specific delegations;
- ~~f)~~ ~~have an appropriate awareness and regard for relevant environmental considerations;~~
- ~~gm)~~ provide open and transparent governance;
- ~~hn)~~ develop harbour employees;
- ~~io)~~ ~~produce a business plan that looks at the future prospects of the harbour and how it will meet the requirements of the stakeholders, who should be fully involved in its development~~consider issues relating to risk management; and
- ~~jp)~~ make a positive contribution to the social wellbeing of the local community.

**3. Proportionality**

- 3.1 Ideally the composition of the Committee will provide representation from all parts of the harbour and relevant areas of expertise.
- 3.2 The Harbour Committee is appointed by the Council each year at the Annual Council meeting. ~~The Committee shall be politically balanced and will include specific membership, as far as the~~ As a Council Committee, the elected members on the Committee must be appointed in a manner that is proportionate to the size of the various political groups represented on the Council, unless the Council resolves differently (with no Councillor voting against such variation). Subject to this proportionally rules allow, as set out the Committee's terms of reference (Schedule 4 of this Constitution), the membership of the Committee, ideally, will include one councillor from each of three towns (Torquay, Paignton and Brixham), three other councillors (preferably with harbour experience) and at least one member of the Executive. In addition, the Harbour Committee will appoint up to 6 non-voting external advisors.

**4. ~~The Roles and Conduct of Councillor of~~ Committee Members**

- 4.1 ~~The councillor members play a key role on the Committee as they have voting rights. A job description for councillors serving on the Harbour Committee will be developed in due course and will be included in this Constitution.~~ As harbour management is a specialist area and requires specialist knowledge, ideally the councillors who will be appointed to the Committee will have a particular interest and experience in this the subject the maritime sector and will be willing to serve for a number of years on the Committee. In this way a body of expertise will be developed and continuity maintained.
- 4.2 Committee members shall be aware of the need for decisions relating to Tor Bay

Harbour to be based on sound advice from officers who have a clear understanding of the special needs of ports and harbours and the circumstances in which they operate.

## 5. Appointment of Advisors

5.1 The Harbour Committee will appoint a Harbour Appointments Sub-Committee. The role of the Sub-Committee will be to consider applications for the five external advisor positions on the Harbour Committee and recommend to the Harbour Committee the persons who should be appointed to those posts.

~~5.2 The sixth advisor to the Committee will be a private sector Director of the Board of TDA, and will be recommended to the Committee by the Board.~~

~~5.3 The recommendations of the Harbour Appointments Sub-Committee and the Board of TDA, shall not be binding on the Harbour Committee.~~

5.42 Advisors will normally be appointed for a term of 34 years. However, initial appointments will be of varied durations to ensure that vacancies occur on a rolling programme, for example at least one advisor will retire each year.

5.35 A recruitment exercise will be undertaken for the appointment of advisors to the Committee and will be made following open advertisement and an appropriate recruitment exercise. Appointments will be merit based, but have regard to the desirability of securing reasonable representation from stakeholders. In addition, advisors will have appropriate skills and experience relevant to harbour functions for example:

- a) boardroom experience and strategic thinking;
- b) a business background in the marine leisure industry;
- c) recent and relevant commercial expertise;
- d) recent and relevant health and safety expertise;
- e) experience of company management;
- f) business background in shipping, fishing or cargo activity;
- g) experience in finance and management accounting;
- h) recent and relevant legal expertise;
- i) recent and relevant environmental expertise; and
- j) other relevant experience.

5.46 Before recruiting, the Harbour Appointments Sub-Committee will undertake a skills audit to assess the balance of skills required to effectively govern the harbour and deliver against the business plan. These skills should be considered for both councillor members and advisors. The results of the skills audit will then identify the skills gap and inform the recruitment process.



**6. Role of Advisors**

- 6.1 Although external advisors to the Harbour Committee do not have voting rights, they play an important role in providing guidance and advice to the Committee. Also the advisors contribute to the mixture of skills on the Committee and bring relevant expertise, local representation and independence.
- 6.2 Advisors are expected to demonstrate the following personal skills and competencies:
- a) drive, vision, independence and confidence;
  - b) challenging and proactive approach to committee business;
  - c) ability to motivate and engender respect;
  - d) negotiating and communication;
  - e) impartiality and integrity;
  - f) interpersonal skills – the ability to develop good relations inside and outside of the Committee;
  - g) ability to work as a team member and to be supportive of colleagues;
  - h) ability to make a constructive contribution to group discussion e.g. able to give a clear expression of ideas;
  - i) analytical approach to problem solving;
  - j) ability to formulate strategy; and
  - k) have a grasp of priorities.
- 6.3 Harbour Committee advisors are not subject to the Code of Conduct for Members and are not required to register their interests. However, advisors must ensure that they do not unfairly seek to secure an advantage or disadvantage for any person. Advisors shall act and/or advise only for and on behalf of the harbour as a whole.
- 6.4 Advisors shall consider whether they have individual interests on matters being considered by the Committee and declare such interests (including details of those interests) at Committee meetings. When an advisor has declared an interest, it will be recorded in the minutes, but the advisor may normally remain in the meeting and speak on the matter unless the Committee resolves otherwise.
- 6.5 Whilst carry out their duties, in relation to the Harbour Committee advisors shall:
- a) promote equality by not discriminating unlawfully against any person (including grounds of gender, race, disability, sexual orientation, religion, belief or age);
  - 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.
- 6.6 A Harbour Committee advisor must not 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 the Harbour Committee or the Council's Monitoring Officer, or unless he/she is required by law to do so. Harbour Committee advisors access to exempt or confidential reports shall be at the discretion of the Chairman/woman and advisors shall be permitted to remain in the meeting when consideration is given to such matters where the press and public would be excluded. Any report of this nature given to the advisors must be returned to the Governance Support Officer at the end of the meeting and the advisors must not divulge the contents of the report to any third party. At the end of each meeting of the Committee where confidential/exempt information has been disclosed in the presence of the advisors, a formal undertaking must be signed by each of the advisors to adhere to the requirements of this Protocol with respect to the non-disclosure of such information. The Harbour Committee may resolve to exclude the Harbour Committee advisors, should they consider it necessary, following advice from the Monitoring Officer or his/her representative.

## **7. ~~Role of the Executive Head of Business Services~~ Head of Tor bay Harbour Authority and Tor Bay Harbour Master**

- 7.1 The role of the ~~Executive Head of Business Services~~ Head of Tor bay Harbour Authority and Tor Bay Harbour Master is to ensure the safe and ~~efficient and effective~~ operation of the statutory harbour of Tor Bay (including the harbour estate) and its enclosed harbours-ports and to undertake the day to day management of Marine Services in support of that role. The ~~Executive Head of Business Services~~ Head of Tor bay Harbour Authority and Tor Bay Harbour Master also carries out all the statutory duties of Harbour Master for Tor Bay Harbour, these duties are outlined in the Officer Scheme of Delegation.
- 7.2 In relation to the Harbour Committee, the role of ~~Executive Head of Business Services~~ Head of Tor bay Harbour Authority and Tor Bay Harbour Master is to provide advice and guidance to the Harbour Committee, such as:
- a) assisting in the recruitment process for the advisors;
  - b) providing the Committee with strategic advice to inform its decision-making;
  - c) providing the Committee with clear financial and operational reports to enable the Committee to make accurate and balanced decisions; and
  - d) being responsible for ensuring that the Harbour's statutory and legislative framework is fully fit for purpose.
- 7.3 The Harbour Committee shall not seek to interfere directly in the day to day management of Tor Bay Harbour. However, the Committee should understand how its decisions impact on the running of Tor Bay Harbour and the wider economy.

## **8. Role of the Harbour Liaison Forums and Relationship with the Harbour Committee**

- 8.1 Two Harbour Liaison Forums have been established namely Torquay/Paignton Harbour Liaison Forum (covering Torquay and Paignton Harbours) and Brixham Harbour Liaison Forum (covering Brixham Harbour). The membership of the Forums includes a full range of stakeholders such as harbour users and others who derive direct benefit from Marine Services, together with those who derive an indirect benefit.

- 8.2 The role and remit of the Forums is to provide a method of consultation on day to day management and operational issues in relation to the three enclosed harbours. They also used for consultation on strategic matters.
- 8.3 The Harbour Committee will have regard to the views expressed by the Harbour Liaisons Forums by receiving the minutes of Forum meetings. Further details of consultation are set out in paragraph 10 below.
- 8.4 As part of the Harbour Committee’s terms of reference, it will recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review. The Harbour Committee will seek to encourage openness and transparency in the Forums’ selection of their membership.

## 9. Training on the Functions of the Harbour Committee

- 9.1 All members and advisors will undertake appropriate training. This training will cover port and harbour operation, statutory and regulatory obligations, the role of the Duty Holder under the Port Marine Safety Code and governance issues. The training will also link to the Members’ Development Programme. ~~If members unreasonably decline to undertake training the matter will be referred to the Standards Committee.~~

## 10. Consultation

- 10.1 In light of the overall and specific objectives of the Committee, it is important that, at all times, a balance is struck that respects all stakeholders (not just one group). In achieving this the Committee will take into account what constitutes the common good for all stakeholders (current and future) and the harbour itself. This will ensure that the needs and views of both beneficiary and non-beneficiary stakeholders are not overlooked or discounted. This balance is met by ensuring a representative of the Committee is a member on the Harbour Liaison Forums and by the Harbour Committee receiving the minutes of the Harbour Liaison Forums (as referred to in paragraph 8.3 above).

- ~~10.2 Forthcoming decisions that are regarded as ‘key decisions’ (as defined in Article 11 of this Constitution) shall be published in the Forward Plan in accordance with the Standing Orders in relation to Access to Information.~~

**Local Protocol on Civic and Ceremonial**

**(Note: The recommended names of Ceremonial Mayor and Deputy Ceremonial Mayor used throughout this Protocol are subject to Council approval.)**

**1. Introduction**

1.1 This Protocol is provided to ensure a consistent approach in respect of civic and ceremonial events, ensure that the role of civic and ceremonial promotes the reputation of the Council and to ensure the correct etiquette is applied.

**2. Key responsibilities of the Ceremonial Mayor and Deputy Ceremonial Mayor**

2.1 These are set out in the Job Descriptions for the Ceremonial Mayor and Deputy Ceremonial Mayor in this Constitution. The Ceremonial Mayor acts as ambassador for the Council and also for Torbay. By being a non-political, impartial figure, he or she represents the whole community. The Ceremonial Mayor visits communities and businesses, representing the Council and the Borough, and he or she can also welcome delegates and visitors to Torbay on behalf of the community. For clarity, the Leader of the Council's role is to act as an ambassador for the Council promoting its work and acting as its principal political spokesperson.

2.2 The Ceremonial Mayor, Deputy Ceremonial Mayor and their Consorts/Escorts, when undertaking their civic and ceremonial roles shall:

- i. not bring the Council into disrepute through abuse of office;
- ii. have regard to advice given by the Governance Support Team;
- iii. not attend any function or otherwise give support to any organisation or person, whose objectives are contrary to law and/or Council policy;
- iv. not solicit engagements or visits at home or otherwise procure favours by virtue of office;
- v. not overspend the budget/allowance allocated to the Ceremonial Mayor;
- vi. be of good health to undertake the role (for example to be able to: maintain high levels of concentration during long Council meetings; to cope and manage controversial debate at Council meetings; attend a large number of civic events, including during unsocial hours, without becoming fatigued; hold and engage an audience at civic events for long periods of time; and attend civic events which may be held outside in inclement weather); and
- vii. shall behave in a manner appropriate and fitting to their positions.

**3. Annual Meeting of the Council**

3.1 The election of a Ceremonial Mayor of the Council shall be the first item of business conducted by the Council in accordance with the Local Government Act 1972. The Ceremonial Mayor's term of office is one municipal year and during this time he/she continues to be a member of the Council. The Ceremonial Mayor presides the meetings of Council and is a non political role. A new Deputy Ceremonial Mayor is also elected at this meeting.

3.2 The incoming Ceremonial Mayor and Deputy Ceremonial Mayor will make a declaration of acceptance of office and oath of allegiance in the presence of two Justice of the Peace when accepting the Term of Office at the Annual Meeting of Council. It is for the Ceremonial Mayor to identify the Justice of the Peace representatives.

- 3.3 When considering which members to nominate for election to Ceremonial Mayor and Deputy Ceremonial Mayor, those members' ability to meet all the responsibilities outlined in paragraph 2 above shall be taken into account. Particularly the member's physical health for carrying out the role in order that the Council maintains its duty of care for elected members.
- 3.4 Where the Ceremonial Mayor wishes to have a civic lunch, this will be held on the same day as the Annual Council meeting with an adjournment for the Council meeting to reconvene at 5.30 pm to consider the remainder of the Council business on the agenda.

#### **4. Civic Events**

Below is a list of typical events which are organised during the Ceremonial Mayor's Year in Office.

##### **4.1 Civic Service**

The Civic Service is normally held at the Ceremonial Mayor's Chaplain's place of worship or other venue as the Ceremonial Mayor requests. Determination of the date of the Service is by the Ceremonial Mayor in consultation with the minister or other person identified by the Ceremonial Mayor and the Events Team. The date for the Service will not clash or coincide with any other elected member events or Council or Committee meetings or major events that the Events Team manage.

The Civic Service can be held at any time during the Civic year, but historically it is held in late September/October. Care should be taken to avoid clashing with similar events organised by neighbouring authorities.

Civic Dignitaries from the Council's designated list together with other individuals identified by the Ceremonial Mayor will be invited to attend and partake in any refreshments the Ceremonial Mayor wishes to provide after the service.

##### **4.2 Remembrance Sunday**

Remembrance Sunday is held on the Sunday nearest to the anniversary of Armistice Day held on 11 November at 11 am. The Service of Remembrance is led by the Ceremonial Mayor's Chaplain or other representative of the Ceremonial Mayor, following which the Ceremonial Mayor will lay a wreath in memory of those Torbay men and women who gave their lives for their country.

##### **4.3 Miscellaneous events**

Various miscellaneous events are attended by the Ceremonial Mayor, examples of which are listed below:

- a. Hosting Royal Visits where requested by the Lord Lieutenants Office
- b. Twinning events – Torbay is twinned with the German town of Hameln and Hellevoetsluis in The Netherlands
- c. events to raise funds for the Ceremonial Mayor's chosen charities
- d. Education Awards and Graduation Ceremonies
- e. Opening of Fayre's/Fetes/Garden Parties/Coffee Mornings/100<sup>th</sup> Birthday celebrations
- f. Presenting Awards and Prizes to individuals and organisations

- g. Art Exhibitions and presentations at local schools
- h. Firework Displays
- i. Armed Forces Day
- j. Other authority's Civic events

## **5. Civic Invitations**

5.1 Public organisers of events may request the Ceremonial Mayor to attend events. Duties which the Ceremonial Mayor may carry out at such events include:

- a. Attending functions within Torbay, or on occasions outside the Bay as a Ceremonial Representative of the Council;
- b. Undertaking official openings or presentations within Torbay on behalf of the Council; and
- c. Representing the Council during royal visits to the town when requested by the Lord Lieutenant's Office.

5.2 All invitations for the Ceremonial Mayor to attend such events shall be sent to the Governance Support Team.

5.3 Priority will be given to events within the Borough and promote Torbay. Attendance at events held outside Torbay will only be accepted if it enhances the promotion of Torbay. Invitations will not normally be accepted if the invitation cannot be reciprocated for example civic dinners hosted by other local authorities.

5.4 Event organisers are required to give as much notice as possible of their upcoming event. In the case of invitations being received less than 72 hours before an event, the Head of Governance Support reserves the right to decline attendance at the event on behalf of the Ceremonial Mayor.

5.5 If the Ceremonial Mayor is unable to attend an event to which they have been invited, the Deputy Ceremonial Mayor will be invited to attend and represent the Council. In the event of the Ceremonial Mayor or Deputy Ceremonial Mayor not being able to attend and it is appropriate to invite an alternative representative, the most recent former Chairman will be invited to attend. This will be determined by the Head of Governance Support in consultation with the Ceremonial Mayor.

5.6 Invitations to functions should not be sent to the Deputy Ceremonial Mayor. The Deputy Ceremonial Mayor will not normally attend functions in his/her own right, except when deputising for the Ceremonial Mayor.

5.7 It is not normal practice for the Deputy Ceremonial Mayor to attend the same events as the Ceremonial Mayor. There are exceptions such as, Remembrance Sunday, Civic Church Service/Carol Concert, Civic Ball/Garden Party, Civic Lunch/Dinner. Other requests will be determined by the Head of Governance in consultation with the Ceremonial Mayor.

The Ceremonial Mayor will also determine if the Deputy Ceremonial Mayor is permitted to wear civic regalia.

5.8 Where a commitment has been given for the Ceremonial Mayor or Deputy Ceremonial Mayor to represent the Council at an event, the commitment will

normally be honoured. The only exceptions to this will be in the event of illness or other personal circumstances.

## **6. Consort or Escort**

- 6.1 It is usual for the Ceremonial Mayor to identify one person who will accompany them to all or most of the civic and social activities which they attend. The choice of companion is at the Ceremonial Mayor's discretion. The Ceremonial Mayor may choose to attend events alone or perhaps only take a guest to some events.
- 6.2 The position of Consort/Escort is not provided for in law and therefore has no legal status. However, if a Consort/Escort is appointed, they are expected to uphold high standards of conduct as outlined in 2.2 above and not bring the Council into disrepute, specifically as the role of Ceremonial Mayor is a politically neutral role, their Consort/Escort will maintain political neutrality at all times during their appointment i.e. not only when undertaking Consort/Escort duties. The Consort/Escort cannot represent the Ceremonial Mayor at civic events, their role is purely to accompany the Ceremonial Mayor. The Consort/Escort is not entitled to receive any benefits afforded to the Ceremonial Mayor or Councillors as part of their role.
- 6.3 It will be for the Ceremonial Mayor to determine whether his/her guest will be referred to as a Consort or Escort. It is traditional for a female guest to be referred to as a Consort if married to the Ceremonial Mayor and Escort if not. A male guest, irrespective of marital status, is normally known as the Escort.

## **7. The Role of the Deputy Ceremonial Mayor**

- 7.1 The Deputy Ceremonial Mayor shall assist the Ceremonial Mayor as requested and shall if necessary assist the Ceremonial Mayor in representing the Council on civic or formal occasions.
- 7.2 If an organisation makes a specific request/invite direct to the Deputy Ceremonial Mayor, this shall be directed to the Ceremonial Mayor. The Deputy Ceremonial Mayor will deputise on those occasions where the Ceremonial Mayor is unable to carry out a civic duty due to illness, holidays or other personal circumstances.
- 7.3 On occasions when the Deputy Ceremonial Mayor is invited to a function in his/her own right, this will be confirmed with the Head of Governance Support in consultation with the Ceremonial Mayor.
- 7.4 In particular if the Ceremonial Mayor is not able to be present at a Council meeting, the Deputy Ceremonial Mayor will take the Chair. When the Ceremonial Mayor is present at Council, the Deputy Ceremonial Mayor will sit to the Ceremonial Mayor's side on the Dias in order to assist the Ceremonial Mayor in chairing the meeting (for example, identifying councillors who wish to speak about an item under discussion).
- 7.5 Like the Ceremonial Mayor, the Deputy Ceremonial Mayor usually identifies a companion to accompany them to civic and social events attended in their official capacity as Deputy Ceremonial Mayor. The Deputy Ceremonial Mayor may choose not to have a Consort/Escort or attend events alone.
- 7.6 The position of Deputy Ceremonial Mayor's Consort/Escort is the same as the Ceremonial Mayor's Consort/Escort and is outlined in paragraph 6 above.

## 8. Ceremonial Mayor's Charity

- 8.1 The Ceremonial Mayor's Charity traditionally raises funds for local charities. The Ceremonial Mayor may decide to support a maximum of two charities. The chosen charity must be registered with the Charity Commission and provide benefit to Torbay's community and assists the Council in meeting its Corporate Plan priorities.
- 8.2 The Ceremonial Mayor announces the chosen charity at the Annual Council when they are elected. If the Ceremonial Mayor has chosen to support two charities, it will be for the Ceremonial Mayor to determine how the proceeds raised will be split between the organisations.
- 8.3 Any cheques or proceedings from fund raising events are to be processed by the Events Team. All cheques must be made payable to 'Torbay Council'. The Council's Finance department will keep accurate records of income raised for the Ceremonial Mayor's Charity and arrange for payments to be made to the Ceremonial Mayor's charity/charities when the Ceremonial Mayor's Term of Office ends in accordance with the Council's Financial Regulations.
- 8.4 Funds raised for the Ceremonial Mayor's charities cannot be used for any other purpose other than as a donation to the charity identified when the funds were raised.
- 8.5 Other events may be organised by local organisations, clubs or institutions, with proceeds given to the Ceremonial Mayor's Charity. If the Ceremonial Mayor wishes to hold his/her own charity event, the details and arrangements will be agreed with the Executive Head of Business Services.
- 8.6 To enable the Ceremonial Mayor to raise funds for local charities, the Council relies on local businesses donating prizes to be used on raffles and tombolas, etc. It is the responsibility of the Ceremonial Mayor to organise such prizes or raffles.
- 8.7 The Ceremonial Mayor's Charity/Charities may be invited to give presentations at appropriate civic events and guidance on such presentations will be provided by the Governance Support or Events Teams as appropriate.

## 9. Ceremonial Mayor's allowance and other costs

- 9.1 In accordance with the Members' Allowances Scheme, the Ceremonial Mayor is paid a Special Responsibility Allowance. The Ceremonial Mayor is also paid an additional allowance which is separate from the Members' Allowances Scheme to meet expenses such as:
- a. Clothing
  - b. Partner's clothing
  - c. Donations to charities
  - d. Collections at events
  - e. Personal hospitality (including lunches and dinners)
  - f. One-off events held by the Ceremonial Mayor
- 9.2 It should be noted that the purchase of the above items would not necessarily qualify towards the allowance for tax-deductible purposes; it merely suggests that the items relate to maintaining the dignity of the Office.



- 9.3 The Council will also retain a proportion of the Ceremonial Mayor's allowance for certain civic events including Remembrance Sunday and Civic Service. This retained allowance will also be used where Council's Security Team is required to transport the Ceremonial Mayor to events where the Ceremonial Mayor is required to wear the full Chain of Office. The Ceremonial Mayor is required to plan the use of the retained allowance over the year.
- 9.4 The Council will meet the cost for printing the Annual Council booklet. The Council will fund up to £100 towards the printing costs for the Torbay Civic Awards certificates.
- 9.5 If the Ceremonial Mayor chooses to hold a Civic Lunch or Civic Ball or Garden Party and/or a Civic Carol Concert, the full cost of the event (including the cost of officer time) shall be self funding and covered by the sale of tickets. Once all the costs have been met, any additional revenue received will be donated to the Ceremonial Mayor's Charity account. All guests will be expected to purchase their tickets with the exception of the past Ceremonial Mayor and their guest and the Ceremonial Mayor's Chaplain and guest - these tickets will be paid from the Ceremonial Mayor's retained allowance. Any loss made as a result of the any such events shall be paid in full by the Ceremonial Mayor.
- 9.6 Once the budget level has been reached, no payments can be made or further orders placed by Council staff and there shall be no overspend of this budget.
- 9.7 At the end of the term of office, the retiring Ceremonial Mayor is able to purchase a Past Ceremonial Mayor's badge plus a badge for their Consort/Escort. The cost will be met personally by the Ceremonial Mayor and will be ordered on a blue ribbon.

## **10. The Role of the Ceremonial Mayor's Chaplain**

- 10.1 The Ceremonial Mayor is invited (but not required) to choose a Chaplain to provide spiritual guidance and/or reflection during their term of office.
- 10.2 If a Chaplain is requested by the Ceremonial Mayor, they shall ensure that their chosen Chaplain is made aware, that the Council is committed to the values of equality and diversity for all. The Chaplain must be inclusive of those from all faiths/beliefs as well as those who choose none in the delivery of their prayers or reflection.
- 10.3 It is an honorary title and the Chaplain is invited to attend and take part in various civic events for example: Annual Council, Armed Forces Day, Remembrance Day, Civic Service, Civic Carol Service and the Ceremonial Mayor's Ball or Garden Party. Any costs associated with attending these events will be met from the Ceremonial Mayor's allowance retained by the Council.
- 10.4 If the Ceremonial Mayor requests they may ask their Chaplain to open Council meetings with a short inclusive prayer or reflection (no more than 2 minutes) and in accordance with paragraph 10.2 above. The Ceremonial Mayor must confirm their intention for their Chaplain at Council meetings for the entire municipal year with the Head of Governance prior to the Annual Council meeting.

## **11. Civic Regalia**

- 11.1 The Ceremonial Mayor's robes of office consist of a red robe, trimmed with fur, a black cocked hat, a lace stock (Jabot) worn around the neck and white gloves. The Ceremonial Mayor may use the Council's robe and hat and it is for the Ceremonial Mayor to purchase their own jabot and gloves.
- 11.2 Robes can not be worn without chains of office.
- 11.3 The Ceremonial Mayor will determine whether or not they wear the robes throughout their term of office. If the Ceremonial Mayor chooses to wear the robes of office during their term, then they are only permitted at the following ceremonial occasions:
- a. Civic Service,
  - b. Remembrance Sunday,
  - c. Royal Visits,
  - d. Council meetings,
  - e. Civic Lunch/Dinner,
  - f. any events arranged by the Lord Lieutenants Office requesting the robes be worn.
  - g. Receiving guests from Cruise Ships (land based only)

Any additional requests for the robes to be worn will be determined by the Head of Governance.

- 11.4 The full Chain of Office shall only be permitted to be worn at the following ceremonial occasions:
- a. Civic Service,
  - b. Remembrance Sunday,
  - c. Royal Visits,
  - d. Annual Council meetings,
  - e. Civic Lunch/Dinner,
  - f. any events arranged by the Lord Lieutenants Office requesting the robes be worn.

For all other events the Ceremonial Mayor shall wear the smaller chains of office with the Torbay fob and these chains shall not be worn with the robes, with the exception of Council meetings where the Ceremonial Mayor wishes to wear robes.

- 11.5 The Ceremonial Mayor shall not wear the civic insignia in another local authority area without express permission from the Council for that area.
- 11.6 Civic chains should never be worn with a military uniform. However, a Ceremonial Mayor who is a member of the clergy may wear full canonicals with the chain over the gown. Similarly, the chain may be worn over academic dress.
- 11.7 The Deputy Ceremonial Mayor's robe consists of a blue robe, trimmed with fur. The Deputy Ceremonial Mayor will wear the Deputy Ceremonial Mayor's civic chains provided by Torbay Council.
- 11.8 The Deputy Ceremonial Mayor shall be permitted to wear chains of office when the Ceremonial Mayor is wearing them at an event.

- 11.9 The main chain of office and Torbay fob should only be used within the United Kingdom and when the Ceremonial Mayor is accompanied by a Security Officer of the Council. Arrangements must be confirmed with the Council's insurers before any civic regalia is taken out of the country.
- 11.10 A ribbon and Torbay Fob only must always be used when boarding a ship or boat or event on water. Chains are not permitted to be worn on these occasions.
- 11.11 The Ceremonial Mayor's Consort/Escort, if female, may choose to wear a Chain of Office when accompanying the Ceremonial Mayor at Civic events.
- 11.12 The Deputy Ceremonial Mayor's Consort/Escort will not be entitled to wear a Chain of Office when accompanying the Deputy Mayor at Civic Events.
- 11.13 All Chains and Fobs must be transported in their appropriate storage boxes to prevent any damage to them.
- 11.14 Due the fragility of the Council's Mace, it shall only be used at Council meetings and Remembrance Sunday. There is no legal requirement for the mace to be present at any Council meeting or event.
- 11.15 It is not permissible for the Ceremonial Mayor/Deputy Ceremonial Mayor to remove civic regalia from its secure storage without the prior notification from the Governance Support Team to the Security Team.

## **12. Addressing the Ceremonial Mayor**

- 12.1 The Ceremonial Mayor shall be verbally addressed as 'Mr/Madam Ceremonial Mayor' or other address requested by the Ceremonial Mayor. When writing to the Ceremonial Mayor the letter/invite should be addressed 'To the Ceremonial Mayor of Torbay Council'.

## **13. Receipt of Gifts**

- 13.1 In the course of the duty of being Ceremonial Mayor, often gifts will be offered to the Ceremonial Mayor. The Ceremonial Mayor or Deputy Ceremonial Mayor may accept gifts on behalf of the Council and they will ensure that these are passed to the appropriate Director or Executive Head who will ensure any gifts are logged on the Council's inventories in accordance with the Council's Financial Regulations. The Members' Code of Conduct and Local Protocol on Gifts and Hospitality shall be followed by the Ceremonial Mayor and Deputy Ceremonial Mayor when any offer of a gift, favour or hospitality is made to them personally.

## **14. Civic Car**

- 14.1 The Council does not have an official Civic Car and the Council's Security car may be used by the Ceremonial Mayor on the following occasions, when available:-
- a. Attendance at major civic events organised by Torbay Council where the Ceremonial Mayor will be wearing the main chain of office (e.g. Remembrance Sunday, Civic Lunch/Dinner and Civic Service); and

- b. Attendance at major civic events where an official invitation requests the Ceremonial Mayor to wear the main Chain of Office (e.g. Devon Legal Sunday Parade).

## **15. Use of the Torbay Coat of Arms**

- 15.1 Applications for the use of the Coat of Arms and Badge should be made in writing to the Chief Executive indicating the purpose for which it is required. All applications for use of the Coat of Arms will be determined by the Chief Executive in consultation with the Ceremonial Mayor.
- 15.2 The Coat of Arms will be used solely by the Ceremonial Mayor for the Ceremonial Mayor's correspondence and for use in conjunction with the Order of Proceedings for Civic Events (i.e. Ceremonial Mayor Making, Honorary Freeman, Freedom of the Borough Ceremony, Civic Service, Civic Lunch/Dinner).

## **16. Honorary Freeman of the Borough**

- 16.1 The title of Honorary Freeman is the highest honour that a Council of a City or Borough can bestow and, in the view of many, should not be given freely. All nominations for Honorary Freemen shall be kept confidential and submitted to the Head of Governance. The Council's procedure for applications for Honorary Freeman shall be followed. Honorary Freeman will be presented with a badge on a green ribbon.
- 16.2 Honorary Freemen are invited to the following Civic Functions: -
  - a. Annual Council
  - b. Civic Service
  - c. Remembrance Sunday
  - d. Civic Lunch/Dinner
  - e. Honorary Freedom of the Borough Ceremonies
  - f. Various "one-off" events e.g. Jubilee celebrations
- 16.3 Honorary Freemen have no legal, social, or royal precedence.

## **17. Freedom of the Borough**

- 17.1 Freedom of the Borough will be bestowed upon an organisation at a Council meeting. Any processions or parade will be held on a date and time mutually convenient for the Council and the nominated organisation. Such a parade would be organised and funded by the organisation, but hosted by the Torbay Council which will join in the planning of the event. All organisations will be presented with a scroll.
- 17.2 A representative from organisations who have been honoured with Freedom of the Borough are invited to the following Civic Functions:-
  - a. Annual Council
  - b. Civic Service
  - c. Remembrance Sunday

- d. Civic Lunch/Dinner
- e. Honorary Freedom of the Borough Ceremonies
- f. Various “one-off” events e.g. Jubilee celebrations

17.3 The award of the Honorary Freedom of the Borough does not convey with it any legal rights or responsibilities, other than a ceremonial role at civic functions.

## **18. Flag Flying**

- 18.1 The Union Flag shall be flown continuously from the flagpole sited on the Town Hall, Torquay. Exceptions to this are:
- a. St. George’s Day, 23 April, each year, the St. George’s Flag will be flown in place of the Union Flag; and
  - b. For the week prior to Armed Forces Day, each year, the Armed Forces Day Flag will be flown in place of the Union Flag.
- 18.2 There may be occasions when requests are received for other flags to be flown, for special events or festivals. Such requests will be considered by the Chief Executive in consultation with the Ceremonial Mayor.
- 18.3 Should an event requiring the flying of the Union Flag occur during the same period, that event shall take precedence.
- 18.4 Half-mast means the flag is flown two thirds of the way up the flagpole, with at least the height of the flag between the top of the flag and the top of the flagpole, allowing space for the traditionally invisible flag of death.

The Union Flag shall be flown at half mast on the following occasions:

- a. From the announcement of the death until after the funeral of the Sovereign, except on Proclamation Day when they are hoisted right up.
- b. The funerals of members of the Royal Family, subject to special commands from Her Majesty in each case.
- c. The funerals of Prime Ministers and Ex-Prime Ministers of Great Britain.
- d. Other occasions by special command of Her Majesty.
- e. On the death of the Ceremonial Mayor from the announcement of the death until sunset after the funeral.
- f. From the announcement of the death until sunset after the funeral of:-
  - i. An Honorary Freeman of the Borough
  - ii. A Serving Councillor
  - iii. An Ex-Ceremonial Mayor/Ceremonial Mayor (where the Council is formally notified)
  - iv. A Chief Official

18.5 If a Flag Day occurs on a day when flags are flying at half mast the flag should still be flown at half mast.

**19. Invitations to Royal Garden Parties**

19.1 The Council is allocated a number of places each year for persons to attend one of Her Majesty's Garden Parties. This should be specifically to celebrate past service. The Chief Executive shall determine who will attend to represent the Borough based on the principles set out below, unless directed otherwise by the Lord Chamberlain's office via the Local Government Association:

places shall be offered equally between elected members and Torbay Council staff. Where only one place is allocated, the Chief Executive shall determine whether this is offered to an elected member or Torbay Council staff based on length of service;

for elected members, places shall be offered to the longest serving elected member on Torbay Council (to exclude breaks in service) in recognition of past service;

for staff, places shall be offered to those with the longest years of continuous service working for Torbay Council; and

places shall only be offered to those who haven't previously attended a Royal Garden Party as a representative of Torbay Council or any other organisation..

(Note: The Local Government Association reserve the right to change the number of invitees, some years with a greater number and some with less).

**20. Marking the Death of a significant public figure.**

20.1 In the event of the death of a significant public figure, the Chief Executive will instigate the relevant action plan and consult with the Ceremonial Mayor and Deputy Ceremonial Mayor on Torbay's response to such news.

# Agenda Item 12

## Members' Allowances Scheme

### Appendix 54

Torbay Council has made the following scheme for the payment of allowances to members from 1 April 2018 to ~~31 March~~ 5 May 2019, in accordance with the Local Authorities (Members' Allowances) Regulations 2003.

1. In this scheme:

“councillor” means a n elected member of Torbay Council ~~who is a councillor or elected mayor~~;

“co-opted member” means the following:

(a) Statutory co-optees (diocesan authority and parent governor representatives).

### Basic Allowance

2. Subject to paragraph 10, an annual Basic Allowance (BA) will be paid to each councillor. For the year commencing 1 April 2017 the Basic Allowance is £8,498. This is intended to recognise the time commitment of councillors on constituency duties and attending meetings and travel on non-approved duties etc; dealing with correspondence; and costs relating to the use of the councillors' home such as telephone charges, broadband, stationery, postage and office equipment.

### Special Responsibility Allowances

3. (a) Subject to paragraph 10, an annual Special Responsibility Allowance (SRA), will be paid in addition to the Basic Allowance to those councillors who hold the special responsibilities listed below. The SRA is paid to recognise the additional commitment and time required to fulfil each role and covers subsistence and travel for attending meetings not listed in Schedule 1.

|                                                                                          |         |
|------------------------------------------------------------------------------------------|---------|
| <b>Elected Mayor</b>                                                                     | £56,651 |
| <b>Deputy Mayor</b>                                                                      | £21,046 |
| <b>Executive Members:</b>                                                                |         |
| □ Individual decision making                                                             | £14,031 |
| □ Collective decision making                                                             | £10,523 |
| □ Advisory                                                                               | £7,015  |
| <b>Overview and Scrutiny Co-ordinator</b>                                                | £10,523 |
| <b>Scrutiny Lead Members</b>                                                             | £3,508  |
| Chairman/woman of <b>Development Management Committee</b>                                | £7,015  |
| Chairman/woman of <b>Licensing Committee</b>                                             | £3,508  |
| Chairmen/women of <b>Licensing Sub-Committees:</b>                                       |         |
| □ 20-40 meetings                                                                         | £2,266  |
| □ 15-19 meetings                                                                         | £1,699  |
| □ 10-14 meetings                                                                         | £1,132  |
| □ 5-9 meetings                                                                           | £567    |
| Chairman/woman of <b>Council</b>                                                         | £3,508  |
| Chairman/woman of <b>Harbour Committee</b>                                               | £3,508  |
| Chairman/woman of <b>Audit Committee</b>                                                 | £4,223  |
| Chairman/woman of <b>Health and Wellbeing Board</b>                                      | £3,508  |
| Chairman/woman of <b>Investment and Regeneration Committee</b>                           | £3,508  |
| Chairman/woman of <b>Housing Committee</b>                                               | £3,508  |
| <b>Leaders of Political Groups:</b> (an allowance per member excluding the Group Leader) | £340    |

- (b) No councillor will be entitled to receive more than one Special Responsibility Allowance.

### Co-optees' Allowance

4. Subject to paragraph 10, an annual co-optees' allowance of £118 shall be paid to each co-opted member (to include expenses for travel and subsistence).

### Civic Allowances

5. The Council has chosen to pay a Civic Allowance for each Municipal Year (which is outside of the Members' Allowances Scheme) to the Chairman/woman and Vice-Chairman/woman of the Council to assist them in carrying out their civic and ceremonial role. This is in addition to the SRA received by the Chairman/woman of the Council.

### Individual's Acceptance of Allowances

6. A councillor or a co-opted member may choose to not accept all or part of his or her entitlement to an allowance under this scheme by giving written notice to the Head of Governance Support.

### Part-year Entitlements

7. Councillors and co-opted members will be paid for the period they serve and if this is less than a whole year payments will be made on a pro-rotta basis on the number of days applicable. This also applies to those holding positions of special responsibility and if the Scheme is amended during the year.
8. In the year of a local election the Chairman/woman of the Council and Vice-Chairman/woman of the Council will continue to receive their SRA and Civic Allowances up to the day of the Annual Council meeting. This includes where they are not re-elected. *Note: The Independent Remuneration Panel requested to identify whether this provision applies the Leader of the Council.*

### Tax and National Insurance Contributions

9. The Basic Allowance and any Special Responsibility Allowances are subject to Tax and National Insurance contributions by the PAYE process operated by the Council and these allowances will be paid automatically to councillors in twelve monthly instalments. Co-optees Allowances are also subject to Tax and National Insurance contributions and are paid in a single payment at the end of each financial year.

### Suspension

10. Where a councillor is suspended or partially suspended their Basic and/or Special Responsibility Allowance and any other allowances they would normally be entitled to will be stopped for the period of the suspension.



### Travelling and Subsistence Allowances

11. Councillors and co-opted members may claim Travelling and Subsistence Allowances for approved duties listed in Schedule 1 at the rates set out in Schedule 2. These are not subject to tax. Prior written approval should be obtained from the Head of Governance Support for travel abroad or first class travel.

### Childcare and Dependent Carers' Allowance

12. (a) An Allowance equal to the cost incurred may be claimed when a carer has been engaged to enable a councillor or a co-opted member to carry out an approved duty listed in Schedule 1.
- (b) The Allowance will cover paid care for the following who live with the claimant:-
- children aged 15 years and under;
  - elderly relative requiring constant care;
  - disabled relative requiring constant care; or
  - relative with learning disabilities requiring constant care.
- (c) The paid carer cannot be a member of the immediate family or household.

### Duties which fall outside the Scheme

13. The Head of Governance Support is authorised to approve Travel and Subsistence and Childcare and Dependent Carer's Allowances for duties that technically fall outside the scheme (provided, that in the case of childcare and dependent carer's allowances, they meet the requirements of 12 above) where he/she is satisfied that the expenses incurred are essential to the proper conduct of Council-related business.

### Up-rating of Allowances

14. The Basic Allowance, Special Responsibility Allowances and Co-optees Allowances will be indexed, on the 1 April each year from 2017, to the annual local government pay percentage increase as agreed by the National Joint Committee for Local Government Services. The Travel and Subsistence Allowances will be up-rated as and when the officers' scheme is adjusted, subject to the requirement in the Regulations for this index to apply for no longer than four years without a further review of the Allowances Scheme by an Independent Remuneration Panel.

### Claims and Payments

15. A claim for a Travel and Subsistence Allowance and a Childcare and Dependent Carers' Allowance under this scheme must be made in writing [or the Council's MyView system](#) within **three months** of the date of the meeting and must be supported by appropriate receipts.
16. Monthly, quarterly and annual claims for broadband expenses will be permitted provided that they are supported with a copy of the bill.

17. Claims must be submitted to the Governance Support Team by 1st of the month (or the next working day if the 1st falls on a weekend or bank holiday). Payments will be made on 25th of each month by BACS.
18. All questions about the interpretation and application of any of the allowances should be emailed to the Chief Executive.

## Schedule 1

The following duties are recognised as approved duties for the payment of Travel and Subsistence Allowances and Childcare and Dependent Carers' Allowances.

- i) attendance at meetings as a duly appointed member of:
  - (a) the Council and any committee of the Council;
  - (b) any sub-committee appointed by a committee;
  - (c) the Executive or committee of the Executive (if appointed);
  - (d) working parties (including the Member Development Group and Leadership Group);
  - (e) scrutiny review panels;
  - (f) policy development groups;
  - (g) any outside organisation and their sub-groups appointed by the Council or the elected Mayor, provided that the organisation does not pay any such expenses (these are listed on each Councillor's details page on the Council's website at [www.torbay.gov.uk/DemocraticServices/mgMemberIndex](http://www.torbay.gov.uk/DemocraticServices/mgMemberIndex));
- (ii) attendance at site visits for planning or licensing purposes or as part of overview and scrutiny by committee/board members;
- (iii) attendance at member development sessions;
- (iv) attendance at seminars and all member briefings organised by Torbay Council, except for those held immediately prior to a meeting of Council;
- (v) attendance at non-political conferences/seminars, subject to prior approval by the relevant Group Leader and Head of Governance Support and funding for the conference being available (in accordance with the Local Protocol for the Mayor and Political Groups);

Schedule 2

**Travelling and Subsistence Allowances**

The following travelling allowance may be claimed with effect from 1st April 2007 (the date the rates came into force) and rates for travel will be the same as those set out in the Torbay Council Expenses Policy for those duties listed in Schedule 1:

**Travelling Allowances**

- (a) Motor Cars – 40p per mile
- (b) Electric Car – 40p per mile
- (c) Motor Cycles - 40p per mile
- (c) Bicycles - 40p per mile
- (d) Taxi - councillors and co-opted members may claim taxi fares provided that the journey is necessary to undertake an approved duty of the Council and where no public transport is reasonably available.

A member may claim a maximum of 40 miles for a round trip for attending approved duties within Torbay. However, where a member is temporarily residing outside of Torbay and is required to attend an approved duty in Torbay they will be able to claim the travel allowance from their temporary residence on a one-off ad hoc basis with the prior agreement of the Head of Governance Support (such travel should be by the most cost effective means).

**Notes:** For all journeys, councillors and co-opted members will be expected to use the most appropriate means of transport possible. This includes public transport. For travel outside Torbay, councillors and co-opted members should agree in advance with the Head of Governance Support whether travel by car, train or other public transport is appropriate before any journey is undertaken.

All claims for travel on public transport must be accompanied by a receipt.

All claims for travel by car or motor cycle must be accompanied by a VAT fuel receipt which must be for at least one-third of the total amount of the claim. One receipt may be used for more than one journey provided it covers at least one-third of the total amount claimed. This is to enable the Council to reclaim the VAT on the fuel element of the mileage claims.

**Subsistence**

The following subsistence allowances may be claimed with effect from 27 July 2007 (the date the rates came into force) for those duties listed in Schedule 1:

- (i) **Breakfast** allowance (departure from home before 8.00 a.m.)..... **£6.22**
- (ii) **Lunch** allowance (absent from normal place of work during 12.00 noon and 2.00 p.m.) ..... **£7.35**
- (iii) **Evening** meal allowance (not home before 6.00 p.m.)..... **£10.17**

**Notes:** Subsistence rates for councillors and co-opted members are calculated on a meals basis dependent on the time of day the meal would be taken and the time away from home. All claims for subsistence must be accompanied by a receipt. The maximum allowance will

only be paid where the cost of the subsistence is equal to, or greater than, the maximum amount.

Where subsistence is provided by the Council or event organiser, subsistence claims will not be paid, even where a member declines to accept the subsistence provided and makes their own provision.

**Other expenses**

The actual amount incurred on any tolls, ferries or parking fees shall be reimbursed. All claims for such expenses must be accompanied by a receipt.

In the case of an absence overnight from their usual place of residence, councillors and co-opted members may be entitled to claim reasonable expenses by agreement in advance with the Head of Governance Support.

## Job Descriptions

**Job title:** Elected Member (to apply to all members)

**Responsible to:** Torbay Council and the local people

**Role purpose:** To represent the views of his/her local community within and outside the Council.

~~Links to Members' Skills Framework: Firm Foundations, Members' Core Skills, Making a Difference and Community Leadership~~

### Main Duties and Responsibilities

1. To represent the individual constituents within their Wards ~~(or in the case of the elected Mayor constituents within Torbay)~~, undertaking casework on their behalf and serving all equally.
2. To liaise with the ~~elected Mayor~~ Leader of the Council, Executive Cabinet members, other council members, officers and other service providers in ensuring that local community needs are considered and identified.
3. To be a channel of communication for the local communities about the decisions of Council and Council procedures.
4. Acting as community leader, to represent the views, aspirations and concerns of the people of Torbay as a whole, providing the focus for local democracy.
5. To participate in Council meetings to carry out the functions of Council meetings as set out in Article 4 of the Constitution.
6. To participate as a member of the Executive Cabinet, committee, advisory panel or other body to which the member is appointed.
7. If appointed, to represent the Council on outside organisations.
8. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and to develop good working relationships with the relevant officers of the Council.
9. To develop and maintain a good knowledge of the corporate policies of the Council.
10. To uphold the Council's Constitution and to promote high ethical standards. To act in accordance with the Members' Code of Conduct and the Protocols as set out in the Council's Constitution.
11. To establish and maintain effective working relations with other members (including independent members and those who are members of different political groups).
12. To promote and enhance the Council's reputation through participating constructively in the governance of Torbay.
13. To undertake in a constructive manner such training and development as the Council, the Standards Committee or the member's own group (if applicable) may recommend from time to time and to disseminate learning from attendance at

conferences with their colleagues where appropriate, including feedback to all members.

14. To be aware and understand his/her duties as a corporate parent and act to promote positive outcomes for all children looked after by Torbay Council.
15. To ensure that relevant health and safety responsibilities are taken into account when undertaking all aspects of the role.

## Job Description

**Job title:** The ~~elected Mayor~~Leader of the Council

**Responsible to:** Torbay Council and local people.

**Role purpose:** To represent the aspirations of the people of Torbay and to provide overall strategic leadership to the Council.

~~Links to Members' Skills Framework: The elected Mayor, Firm Foundations, Members' Core Skills, Making a Difference and Community Leadership~~

### **Main Duties and Responsibilities – in addition to those duties of all elected members**

1. To appoint the ~~Executive~~Cabinet and Deputy ~~Mayor~~Leader.
2. To manage and lead the work of the ~~Executive~~Cabinet including deciding the scheme of delegation for ~~Executive~~Cabinet functions.
3. To lead on decision making and to make individual decisions in relation to ~~Executive~~Cabinet functions.
4. To work closely with other ~~Executive~~Cabinet members to ensure the development of effective Council policies, and the delivery of high quality services (reflecting the principles of Best Value) to local people.
5. To represent the Council on the ~~Torbay Local~~Torbay Together ~~Strategic~~ Partnership and on such other outside organisations he/she is appointed.
6. To lead the ~~Executive~~Cabinet's work in:
  - (a) providing strategic direction to the Council by identifying a vision, corporate objectives and priorities for services;
  - (b) providing a lead on the development of corporate policies and strategies;
  - (c) using the Council's objectives and priorities to drive the development of services and budget process;
  - (d) seeing continuous improvement by establishing the appropriate culture within the Council and associated systems;
  - (e) monitoring performance;
  - (f) ensuring probity and financial monitoring;
  - (g) keeping under review the organisation and management processes of the Council, including the democratic structures; and
  - (h) developing, in consultation and partnership with others, a strategy for providing the social, economic and environmental well-being of the Borough of Torbay.



7. In consultation, with the Chief Executive, draw up a ~~four-month~~-forward plan of ~~Executive Cabinet~~ business and to keep it under review.
8. To represent the Council at events which relate to the promotion of the business of the Council or Torbay.
9. To act as an ambassador for the Council:
  - (a) promoting its work and acting as its principal political spokesperson;
  - (b) participating in consultation;
  - (c) listening to, and taking account of, the views of organisations, the public and businesses; and
  - (d) representing the Council at all appropriate levels.
10. To appear before the Overview and Scrutiny Board, its sub-committees or any working parties of the Board.
11. To liaise with the Chief Executive on a regular basis in relation to the strategic vision and direction of the Council, the management roles of officers and the development of policy issues.
- ~~12. To uphold the Council's Constitution and to promote high ethical standards. To act in accordance with the Members' Code of Conduct and the Protocols as set out in the Council's Constitution.~~
- 1~~2~~3. To liaise with the Group Leaders to ensure the effective and proper management of the Council's business in the best interests of local people.
- ~~14. To develop and maintain a working knowledge of the Council's services, management arrangements, powers/duties and constraints and to develop good working relationships with the relevant officers of the Council.~~
- 1~~3~~5. To assist in the delivery of ~~undertake in a constructive manner such~~ training and development as identify within the Members' Development Programme ~~the Council, the Standards Committee or the elected Mayor's political group (if applicable) may recommend from time to time.~~
- 1~~4~~6. So far as it is an Executive function, to make (or delegate the making of) appointments to outside organisations.
- 1~~5~~7. To use his/her best endeavours to work constructively with the Group Leaders to ensure that the Council sets a lawful budget and adopts (and keeps under review) an appropriate policy framework.
- ~~18. To be aware and understand his/her duties as a corporate parent and act to promote positive outcomes for all children looked after by Torbay Council.~~

## Job Description

**Job title:** Deputy ~~Leader~~Mayor

**Responsible to:** Torbay Council and local people.

**Role purpose:** To deputise for the ~~elected Mayor~~Leader of the Council and to be the Council's main representative and spokesperson on their nominated areas of responsibility.

~~Links to Members' Skills Framework: The elected Mayor~~

### **Main Duties and Responsibilities – in addition to those duties of all elected members**

1. To deputise for the ~~elected Mayor~~Leader of the Council, in his/her absence, but excluding any roles in relation to civic and ceremonial functions.
2. To represent the ~~elected Mayor~~Leader of the Council, as required (but excluding any roles in relation to civic and ceremonial functions).
3. To support and assist the ~~elected Mayor~~Leader of the Council in managing and leading the work of the ~~Executive~~Cabinet.
4. To participate in the ~~Executive~~Cabinet in respect of all areas of collective decision-making with particular emphasis on any areas for which he/she has been given a particular responsibility by the ~~elected Mayor~~Leader of the Council.
5. To act as the spokesperson and advocate for the Council in respect of any areas of responsibility assigned to them by the ~~elected Mayor~~Leader of the Council.
6. To lead the development of the Council's policy framework within his/her area of responsibility and make recommendations to the Council.
7. To provide guidance to the ~~elected Mayor~~Leader of the Council on the management and implementation of functions in relation to activities within his/her area of responsibility.
8. To give guidance to the ~~elected Mayor~~Leader of the Council on budget priorities within his/her area of responsibility.
9. To monitor through appropriate officers the Council's performance within his/her area of responsibility.
10. To respond to reports of the Overview and Scrutiny Board, its sub-committees or any working parties of the Board.
11. To appear before the Overview and Scrutiny Board, its sub-committees or any working parties of the Board.
12. To lead the process of continuous improvement and responsiveness of Council services within his/her area of responsibility.

13. To ensure that activities within his/her area of responsibility take proper account of the Council's vision, core values and guiding principles.
14. To represent the Council politically at national and local level, on outside organisations or in partnership with other agencies.

## Job Description

**Job title:** Group Leader

**Responsible to:** Torbay Council and local people.

**Role purpose:** To lead his/her political group and contribute to the effective and proper management of Council business

~~Links to Members' Skill Framework: Group Leader~~

### **Main Duties and Responsibilities – in addition to those duties of all elected members**

1. To lead his/her political group in accordance with the law and the internal rules and procedures of that group.
2. To lead or facilitate the development of clear strategic priorities for his/her group and (if required) communicate these to the Chief Executive.
3. To use best endeavours to liaise with the ~~elected Mayor~~Leader of the Council, the leaders of other political groups and the Chief Executive to ensure the effective and proper management of Council business.
4. To use best endeavours to work constructively with the ~~elected Mayor~~Leader of the Council and other Group Leaders to ensure that the Council sets a lawful budget and adopts (and keeps under review) an appropriate policy framework.
5. By example (and by using all lawful powers available as group leader) to promote high ethical standards amongst the members of his/her political group and adherence to the Council's Protocols.
6. By example (and by using all lawful powers available as group leader) to encourage the members of his/her political group to participate constructively in such training as the Council or the Standards Committee may recommend from time to time. To include assisting in the delivery of training and development as identify within the Members' Development Programme
7. To use best endeavours to resolve disputes between any member of his/her group with any other member (of any or no political group) or any officer in accordance with the Council's Codes and Protocols.

## Job Description

**Job title:** ~~Executive Cabinet~~ Member

**Responsible to:** Torbay Council and local people.

**Role purpose:** To be the Council's main representative and spokesperson on their nominated areas of responsibility as appointed by the ~~elected~~ MayerLeader of the Council.

Links to Members' Skills Framework: ~~Executive Cabinet~~ Member

### **Main Duties and Responsibilities – in addition to those duties of all elected members**

1. To participate in the ~~Executive Cabinet~~ in respect of all areas of collective decision-making with particular emphasis on any areas for which he/she has been given a particular responsibility by the ~~elected~~ MayerLeader of the Council.
2. If required, to deputise for the ~~elected~~ MayerLeader of the Council and/or Deputy MayerLeader.
3. To act as the spokesperson and advocate for the Council in respect of any areas of responsibility assigned to them by the ~~elected~~ MayerLeader of the Council.
4. To lead the development of the Council's policy framework within their areas of responsibility and make recommendations to the ~~elected~~ MayerLeader of the Council.
5. To provide guidance to the ~~elected~~ MayerLeader of the Council on the management and implementation of functions in relation to activities within their areas of responsibility.
6. To give guidance to the ~~elected~~ MayerLeader of the Council on budget priorities within their areas of responsibility.
7. To monitor through appropriate officers the Council's performance within their areas of responsibility.
8. To respond to reports of the Overview and Scrutiny Board, its sub-committees or any working parties of the Board.
9. To appear before the Overview and Scrutiny Board, its sub-committees or any working parties of the Board.
10. To lead the process of continuous improvement and responsiveness of Council services within their areas of responsibility.
11. To ensure that activities within their areas of responsibility take proper account of the Council's vision, core values and guiding principles.
12. To represent the Council politically at national and local level, on outside organisations or in partnership with other agencies.

## Job Description

**Job title:** Chairman/Woman of the Council

**Responsible to:** Torbay Council and the local people

**Role purpose:** To chair meetings of the Council and carry out such traditional and civic and ceremonial duties of the Council as requested by the ~~elected Mayor~~Leader of the Council.

~~Links to Members' Skills Framework: Chairman/woman of Committees and other bodies~~

### **Main Duties and Responsibilities – in addition to those duties of all elected members**

#### Chairing the Council meeting

1. To uphold and promote the purposes of the Constitution and in particular the Local Protocol for Civic and Ceremonial.
2. To preside over meetings of the Council so that its business can be carried out efficiently and with regard to the rights of councillors and the interests of the community.
3. To ensure that the Council meeting is a forum for debate of matters of concern to the local community and the place at which members who are not on the ~~Executive Cabinet~~ are able to hold the ~~Executive Cabinet~~ to account.
4. To promote public involvement in the Council's activities.
- ~~5.~~ 5. Civic Role
5. To be the first citizen of the Borough and to take precedence as he/she deems appropriate and undertake such civic and ceremonial duties as he/she considers appropriate. (Note: the Vice-Chairman/woman of the Council or an appropriate ward or other Member shall act as the Chairman/woman's deputy in relation to civic and ceremonial functions at the Chairman/woman's request. The ~~elected Mayor~~Leader of the Council (where invited by the event organiser) will also attend those civic and ceremonial events which promote the business of the Council and the Bay.) To conduct themselves such a manner as prescribed in the Local Protocol for Civic and Ceremonial when undertaking civic and ceremonial duties.

#### Vice-Chairman/woman of the Council

The Vice-Chairman/woman of the Council shall undertake the role and functions of the Chairman/woman of the Council in his/her absence or at his/her request.

(Note: The Chairman/woman of the Council shall not be a member of any committee, sub-committee or working party)

## Job Description

**Job title:** Overview and Scrutiny Co-ordinator

**Responsible to:** Torbay Council and local people

**Purpose of role:** To co-ordinate and take a lead role in the effective overview and scrutiny of policies, budget, strategies, and service delivery within Torbay with a view to ensuring public accountability and continuous improvement.

### **Main Duties and Responsibilities – *in addition to those duties of all elected members***

1. To Chair meetings of the Overview and Scrutiny Board, having particular regard to the Council's Overview and Scrutiny Standing Orders.
2. To ensure the work of the Overview and Scrutiny Board (and any sub-committees and working parties it establishes) is conducted at all times in a positive, balanced, independent and non-partisan manner, and in the best interests of local people.
3. To ensure Overview and Scrutiny is an open, transparent process that informs, consults, and engages with local people, particularly traditionally excluded groups.
4. To establish a critical friend relationship with the ~~elected Mayor~~Leader of the Council, ~~Executive Cabinet~~ members, senior officers, and key partners.
5. To lead the development and delivery of an annual overview and scrutiny work programme.
6. To ensure the effective operation of an overview and scrutiny function that:
  - (a) examines and reviews decisions made by, and the performance of, the ~~elected Mayor~~Leader of the Council, members of the ~~Executive Cabinet~~, other appropriate committees, officers, and the Council's partners;
  - (b) questions the ~~elected Mayor~~Leader of the Council, members of the ~~Executive Cabinet~~, other appropriate committees, senior officers, and partner organisations about their decisions and performance;
  - (c) assists in policy development and proposes evidence-based recommendations to relevant decision-makers;
  - (d) assists, examines, and challenges the formulation of the Council's annual budget, and ensures the budget setting process is efficient and transparent and that outcomes accord with the Council's plans and priorities;
  - (e) reviews the performance of partnerships and other public bodies in the area, including requesting them to address the Overview and Scrutiny Board, its sub-committees, or any working parties; and
  - (f) ensures adequate scrutiny of external reports on the Council's performance and that of its partners.

7. To be fully aware of the Council's Forward Plan and ensure that overview and scrutiny is able to consider all relevant issues within the timescale set.
8. To ensure that the call-in process is managed by the Overview and Scrutiny Board.
9. To be responsible for the constitutional arrangements relating to the waiving of call-in where decisions are urgent.
10. To consult relevant decision makers in the preparation of overview and scrutiny reports and influence them to implement recommendations.
11. To ensure findings of overview and scrutiny are communicated to the Council, the ~~elected Mayor~~Leader of the Council, partners, the press, and public as appropriate.
12. To ensure the Overview and Scrutiny Board reports annually to Council on the workings of overview and scrutiny at Torbay.
13. To represent Torbay at regional and national forums concerned with overview and scrutiny.
14. To ensure the implementation of overview and scrutiny recommendations is monitored.
15. To arrange and attend such meetings of the Overview and Scrutiny Board (and any sub-committees and working parties it establishes) as may be necessary for the effective and efficient operation of the overview and scrutiny function.
16. To liaise with Scrutiny Leads to help ensure effective co-ordination of the overview and scrutiny function.
17. To support and motivate members in the overview and scrutiny process.
18. To develop and maintain a working knowledge of the practices, procedures, services, and functions that fall within the Overview and Scrutiny Board's terms of reference.
19. To have an understanding and be aware of legislation that impacts on the Council.
20. To ensure overview and scrutiny have regard to ~~the Overview and Scrutiny~~ Good Practice e.g. promoted by the Centre for Public Scrutiny Guide, prepared as supplementary guidance to the Council's Constitution.
21. To ensure member champions are invited to be contributors to any reviews that have a direct bearing on their interest, have an opportunity to contribute or comment on the overview and scrutiny work programme, and are engaged and consulted appropriately in the development of policy.



23. To keep the Deputy Overview and Scrutiny Co-ordinator and Scrutiny Leads briefed adequately on all relevant issues.

## Job Description

**Job title:** ~~\_\_\_\_\_~~ Deputy Overview and Scrutiny Co-ordinator (Vice Chairman/woman of the Overview and Scrutiny Board)

**Responsible to:** Torbay Council and local people

**Role purpose:** To assist, support, and deputise for the Overview and Scrutiny Co-ordinator.

### **Main Duties and Responsibilities** *– in addition to those duties of all elected members*

1. In the absence of the Overview and Scrutiny Co-ordinator, to Chair meetings of the Overview and Scrutiny Board, having particular regard to the Council's Overview and Scrutiny Standing Orders.
2. To assist and support the Overview and Scrutiny Co-ordinator in the delivery of his/her duties – as outlined the Overview and Scrutiny Co-ordinator's job description above. ensure the work of the Overview and Scrutiny Board (and any sub-committees and working parties it establishes) is conducted at all times in a positive, balanced, independent and non-partisan manner and in the best interests of local people.
3. ~~To ensure overview and scrutiny is an open, transparent process that informs, consults and engages with local people, particularly traditionally excluded groups.~~
4. ~~To establish a critical friend relationship with the elected Mayor, Executive members, senior officers and key partners.~~
5. ~~To support the Overview and Scrutiny Co-ordinator in the development and delivery of an overview and scrutiny work programme.~~
6. ~~To ensure the effective operation of an overview and scrutiny function that:~~
  - (a) ~~examines and reviews decisions made by, and the performance of, the elected Mayor, members of the Executive, other appropriate committees, officers and the Council's partners;~~
  - (b) ~~questions the elected Mayor, members of the Executive, other appropriate committees, senior officers and partner organisations about their decisions and performance;~~
  - (c) ~~assists in policy development and proposes evidence-based recommendations to relevant decision makers;~~
  - (d) ~~assists, examines and challenges the formulation of the Council's annual budget and ensures the budget setting process is efficient and transparent and that outcomes accord with the Council's plans and priorities;~~
  - (e) ~~reviews the performance of partnerships and other public bodies in the area, including requesting them to address the Overview and Scrutiny Board, it's sub-committees, or any working parties; and~~

~~(f) ensures adequate scrutiny of external reports on the Council's performance and that of its partners.~~

~~7. To be fully aware of the Council's Forward Plan.~~

~~8. To assist the Scrutiny Co-ordinator and Scrutiny Leads in communicating the findings of overview and scrutiny to the Council, the Executive, partners, the press and public as appropriate.~~

39. To attend, and in the absence of the Scrutiny Co-ordinator arrange, such meetings of the Overview and Scrutiny Board (and any sub-committees and working parties it establishes) as may be necessary for the effective and efficient operation of the overview and scrutiny function.

410. To take responsibility for and to lead on specific issues which are within the remit of the Overview and Scrutiny Board but not necessarily in the remit of a Scrutiny Lead Member, as delegated by the Overview and Scrutiny Co-ordinator.

415. To develop and maintain a working knowledge of the practices, procedures, services and functions that fall within the Overview and Scrutiny Board's term of reference.

612. To have an understanding and be aware of legislation that impacts on the Council.

~~13. To have regard to the Overview and Scrutiny Good Practice Guide, prepared as supplementary guidance to the Council's Constitution.~~

## Job Description

**Job Title:** Overview and Scrutiny Lead

**Responsible to:** Torbay Council and local people

**Role purpose:** To lead the effective overview and scrutiny of policies, budget strategies, and service delivery within the area(s) for which they have particular responsibility as Scrutiny Lead.

### **Main Duties and Responsibilities** *– in addition to those duties of all elected members*

1. To chair meetings of overview and scrutiny sub committees and working parties in the areas for which they have particular responsibility as Scrutiny Lead, having particular regard to the Council's Overview and Scrutiny Standing Orders.
2. To ensure the work of the Overview and Scrutiny Board (and any Sub-Committees and Working Parties it establishes) is at all times conducted in a positive, balanced, independent and non-partisan manner and in the best interests of local people.
3. To ensure overview and scrutiny is an open, transparent process that informs, consults and engages with local people, particularly traditionally excluded groups.
4. To take overview and scrutiny into the locality and community as appropriate.
5. To support the Overview and Scrutiny Co-ordinator in the development and delivery of an annual overview and scrutiny work programme, especially in the area(s) for which they have particular responsibility as Scrutiny Lead.
6. To establish a critical friend relationship with appropriate ExecutiveCabinet members, senior officers and key partners.
7. To support the Overview and Scrutiny Co-ordinator, especially in the areas for which they have particular responsibility as Scrutiny Lead, in ensuring the effective operation of an overview and scrutiny function that:
  - (a) examines and reviews decisions made by, and the performance of, the elected MayorLeader of the Council, members of the ExecutiveCabinet, other appropriate committees, officers and the Council's partners;
  - (b) questions the elected MayorLeader of the Council, members of the ExecutiveCabinet, other appropriate committees, senior officers and partner organisations about their decisions and performance;
  - (c) assists in policy development and proposes evidence-based recommendations to relevant decision-makers;
  - (d) assists, examines and challenges the development of the Council's annual budget and ensures the process is efficient and transparent and that outcomes accord with the Council's plans and priorities;

- (e) reviews the performance of partnerships and other public bodies in the area, including requesting them to address the Overview and Scrutiny Board, its sub-committees, or any working; and
  - (f) ensures adequate scrutiny of external reports on the Council's performance and that of its partners.
8. To be fully aware of the Council's Forward Plan, especially in the areas for which they have particular responsibility as Scrutiny Lead.
  9. To keep under review and call-in as appropriate, decisions or actions taken, especially in the area(s) for which they have particular responsibility as Scrutiny Lead.
  10. To consult relevant decision makers in the preparation of overview and scrutiny reports and influence them to implement recommendations.
  11. To communicate the findings of overview and scrutiny reviews to the Council, the ~~elected Mayor~~Leader of the Council, partners, the press and public as appropriate.
  12. To lead in monitoring the implementation of overview and scrutiny recommendations in areas for which they have particular responsibility.
  13. To attend such meetings of the Overview and Scrutiny Board (and any sub-committees and working parties it establishes) as may be necessary for the effective and efficient operation of the overview and scrutiny function.
  14. To take responsibility for and to lead on overview and scrutiny in-depth reviews in areas for which they have particular responsibility as Scrutiny Lead, including the arrangement of such meetings as may be necessary for the effective and efficient operation of such reviews.
  15. To support and motivate members to contribute actively to the Overview and Scrutiny process.
  16. To develop and maintain a working knowledge of the practices, procedures, services and functions that fall within the Overview and Scrutiny Board's terms of reference, especially in the areas for which they have particular responsibility as Scrutiny Lead.
  17. To ensure members champions are invited to contribute to relevant overview and scrutiny reviews.
  18. To have an understanding and be aware of legislation that impacts on the Council, especially in the areas for which they have particular responsibility as Scrutiny Lead.

## Job Description

**Job title:** Chairman/Woman of a Regulatory Committee

**Responsible to:** Torbay Council and the local people

**Role purpose:** To ensure that the regulatory responsibilities of the Council are undertaken in accordance with the Council's policies and procedures.

~~Links to Members' Skills Framework: Chairman/woman of Committees and Other Bodies~~

### **Main Duties and Responsibilities – in addition to those duties of all elected members**

1. To chair meetings of one of the regulatory committees in accordance with the relevant terms of reference and the Council's Standing Orders and Constitution.
2. To assist the Chief Executive in selecting agenda items for committee meetings.
3. To consider the submission of late items and to determine whether or not these are sufficiently urgent to be considered by the Committee.
4. To arrange proper consideration of the issues presented to the Committee and ensure that it has all the necessary information before it to make informed decisions.
5. If appropriate, to represent the Council in all dealings with the public, media and other bodies in respect of regulatory matters.
6. To maintain awareness of national and local issues and regulations relating to the particular Committee.
7. To liaise with officers as to the training and development requirements for committee members.



**Meeting:** Council

**Date:** 5 December 2018

**Wards Affected:** All Wards

**Report Title:** Provisional Calendar of Meetings for 2019/2023

**Is the decision a key decision?** No

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

**Executive Lead Contact Details:** Mayor Oliver, The Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Regeneration and Transformation

**Supporting Officer Contact Details:** June Gurry, Head of Governance Support, (01803) 207012, [june.gurry@torbay.gov.uk](mailto:june.gurry@torbay.gov.uk)

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## 1. Proposal and Introduction

- 1.1 To seek approval for the provisional calendar of meetings for the 2019 to 2023 term of office.

## 2. Reason for Proposal

- 2.1 The provisional calendar of meetings for 2019 to 2023 (attached at Appendix 1) has been prepared based on the Council's proposed decision-making structure and in accordance with the Council's Standing Orders.

## 3. Recommendation(s) / Proposed Decision

- 3.1 That subject to the Provisional Constitution for Leader and Cabinet System of Governance May 2019 – Constitution Working Party Recommendations being approved, the provisional calendar of meetings for 2019 to 2023, set out in Appendix 1 to the submitted report, be approved for final ratification at the Annual Council Meeting.
- 3.2 That meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Head of Governance in consultation with the relevant Chairman/woman.

## Supporting Information

### 4. Position

- 4.1 The draft Constitution for Leader and Cabinet System of Governance requires the Council to approve a programme of ordinary meetings of the Council for the four

year term in the year of a whole Council election. Before the end of each Municipal Year the Council will review and consider the provisional calendar of meetings for the following Municipal Year, which is then ratified at the Annual Council Meeting.

The following meetings that reflect the Leader and Cabinet system of governance have been scheduled in the calendar for the 2019 to 2023:

- Council;
- Cabinet
- Overview and Scrutiny Board;
- Planning Committee;
- Licensing Committee;
- Licensing Sub-Committee;
- Health and Wellbeing Board;
- Standards Committee;
- Audit Committee.

4.2 The meetings of the Council have been programmed to allow sufficient reporting time between the meetings for the plans and strategies which are required to be approved through the Council's Policy Framework process and for the budget setting process.

4.3 The draft calendar has also been structured to allow, wherever possible, for each type of meeting to be allocated a certain day e.g. Development Management Committee to meet on Mondays, Licensing Sub-Committees and Council on Thursdays.

4.4 Meetings of the Employment Committee and Civic Committee are proposed to be held on an ad hoc basis, to be determined by the Head of Governance in consultation with the relevant Chairman/woman.

## **5. Possibilities and Options**

5.1 Wherever possible the timings of meetings have been set in accordance with the needs of the Committee Members and the public, for example the Licensing Sub-Committees convene at 9:30 a.m. which is suitable for those making representations. Timings are kept under constant review by the Head of Governance. There is a small risk that some people will still not be able to attend these meetings, however, in most cases where public participation is permitted, the Council will accept written representations to enable people to put their points of view across.

## **6. Preferred Solution/Option**

6.1 Members may wish to set alternative dates for meetings. However, the meetings have been timetabled to allow sufficient time for the reporting of the plans and strategies which make up the Council's Policy Framework and the Council's budget setting process. A calendar of meetings is required under Standing Orders and facilitates the organisation of the Municipal Year.



## **7. Consultation**

- 7.1 The Elected Mayor, Group Leaders, Head of Financial Services and the Chief Executive have been consulted on the draft provisional calendar of meetings for 2018/2019.

## **Appendices**

Appendix 1: Provisional Calendar of Meetings 2019 to 2023

## **Background Documents**

Constitution of Torbay Council -

<http://www.torbay.gov.uk/DemocraticServices/ieListMeetings.aspx?CIId=458&info=1>

| Schedule of Meetings               |                 |                                                            |                     |                     |                          |                     |                           |                     |               |                     |                     |                     |                          |                                                   |
|------------------------------------|-----------------|------------------------------------------------------------|---------------------|---------------------|--------------------------|---------------------|---------------------------|---------------------|---------------|---------------------|---------------------|---------------------|--------------------------|---------------------------------------------------|
| May 2019 - May 2020                |                 |                                                            |                     |                     |                          |                     |                           |                     |               |                     |                     |                     |                          |                                                   |
|                                    |                 | MAY                                                        | JUN                 | JUL                 | AUG                      | SEP                 | OCT                       | NOV                 | DEC           | JAN                 | FEB                 | MAR                 | APR                      | MAY                                               |
| <b>Audit Committee</b>             | 2.00 pm (Wed)   | 29                                                         |                     | 24                  |                          | 25                  |                           |                     |               | 22                  |                     | 25                  |                          |                                                   |
| <b>Cabinet</b>                     | 5.00 pm (Tue)   |                                                            | 4                   | 2                   |                          | 3                   | 1<br>29                   |                     | 3             | 21                  | 20<br>(Thurs)       | 3                   | 7                        | 5                                                 |
| <b>Council</b>                     | 5.30 pm (Thurs) | 16<br>Annual Council<br><br>21 (Tue)<br>Adj Annual Council |                     | 18                  |                          | 26                  |                           |                     | 5             |                     | 6<br>13 (Adj)<br>27 |                     |                          | 14<br>Annual Council<br>and Adj<br>Annual Council |
| <b>Planning Committee</b>          | 2.00 pm (Mon)   |                                                            | 10                  | 8                   | 12                       | 9                   | 14                        | 11                  | 9             | 13                  | 10                  | 9                   | 14<br>(Tue)              | 11                                                |
| <b>Health and Wellbeing Board</b>  | 2.00 pm (Thurs) |                                                            | 20                  |                     |                          | 12                  |                           |                     | 12            |                     |                     | 19                  |                          |                                                   |
| <b>Licensing Sub-Committee</b>     | 9.30 am (Thurs) | 16<br>23<br>30                                             | 6<br>13<br>20<br>27 | 4<br>11<br>18<br>25 | 1<br>8<br>15<br>22<br>29 | 5<br>12<br>19<br>26 | 3<br>10<br>17<br>24<br>31 | 7<br>14<br>21<br>28 | 5<br>12<br>19 | 9<br>16<br>23<br>30 | 6<br>13<br>20<br>27 | 5<br>12<br>19<br>26 | 2<br>9<br>16<br>23<br>30 | 7                                                 |
| <b>Overview and Scrutiny Board</b> | 5.30 pm (Tue)   |                                                            | 11                  | 9                   |                          | 10                  | 8                         | 12                  | 10            | 14                  | 11                  | 10                  | 21                       | 12                                                |
| <b>Standards Committee</b>         | 2.00 pm (Wed)   |                                                            | 26                  |                     |                          |                     |                           |                     |               | 29                  |                     |                     |                          |                                                   |

| Schedule of Meetings               |                 |                                             |                     |                          |                     |                     |                          |                     |               |                     |                     |                     |                          |                                          |
|------------------------------------|-----------------|---------------------------------------------|---------------------|--------------------------|---------------------|---------------------|--------------------------|---------------------|---------------|---------------------|---------------------|---------------------|--------------------------|------------------------------------------|
| May 2020 - May 2021                |                 |                                             |                     |                          |                     |                     |                          |                     |               |                     |                     |                     |                          |                                          |
|                                    |                 | MAY                                         | JUN                 | JUL                      | AUG                 | SEP                 | OCT                      | NOV                 | DEC           | JAN                 | FEB                 | MAR                 | APR                      | MAY                                      |
| <b>Audit Committee</b>             | 2.00 pm (Wed)   | 27                                          |                     | 29                       |                     | 30                  |                          |                     |               | 20                  |                     | 24                  |                          |                                          |
| <b>Cabinet</b>                     | 5.00 pm (Tue)   |                                             | 2                   | 7                        |                     | 1                   | 6<br>27                  |                     | 1             | 19                  | 18<br>(Thurs)       | 9                   | 6                        | 4                                        |
| <b>Council</b>                     | 5.30 pm (Thurs) | 14<br>Annual Council and Adj Annual Council |                     | 16                       |                     | 24                  |                          |                     | 3             |                     | 4<br>11 (Adj)<br>25 |                     |                          | 13 Annual Council and Adj Annual Council |
| <b>Planning Committee</b>          | 2.00 pm (Mon)   |                                             | 8                   | 13                       | 10                  | 14                  | 12                       | 9                   | 14            | 11                  | 8                   | 8                   | 12                       | 10                                       |
| <b>Health and Wellbeing Board</b>  | 2.00 pm (Thurs) |                                             | 18                  |                          |                     | 10                  |                          |                     | 17            |                     |                     | 18                  |                          |                                          |
| <b>Licensing Sub-Committee</b>     | 9.30 am (Thurs) | 21<br>28                                    | 4<br>11<br>18<br>25 | 2<br>9<br>16<br>23<br>30 | 6<br>13<br>20<br>27 | 3<br>10<br>17<br>24 | 1<br>8<br>15<br>22<br>29 | 5<br>12<br>19<br>26 | 3<br>10<br>17 | 7<br>14<br>21<br>28 | 4<br>11<br>18<br>25 | 4<br>11<br>18<br>25 | 1<br>8<br>15<br>22<br>29 | 6                                        |
| <b>Overview and Scrutiny Board</b> | 5.30 pm (Tue)   |                                             | 9                   | 14                       |                     | 8                   | 13                       | 10                  | 8             | 12                  | 16                  | 16                  | 13                       | 11                                       |
| <b>Standards Committee</b>         | 2.00 pm (Wed)   |                                             |                     | 1                        |                     |                     |                          |                     |               | 27                  |                     |                     |                          |                                          |

| Schedule of Meetings               |                 |                                                |                     |                          |                     |                          |                     |                     |                    |                     |                     |                           |                     |                                                   |
|------------------------------------|-----------------|------------------------------------------------|---------------------|--------------------------|---------------------|--------------------------|---------------------|---------------------|--------------------|---------------------|---------------------|---------------------------|---------------------|---------------------------------------------------|
| May 2021 - May 2022                |                 |                                                |                     |                          |                     |                          |                     |                     |                    |                     |                     |                           |                     |                                                   |
|                                    |                 | MAY                                            | JUN                 | JUL                      | AUG                 | SEP                      | OCT                 | NOV                 | DEC                | JAN                 | FEB                 | MAR                       | APR                 | MAY                                               |
| <b>Audit Committee</b>             | 2.00 pm (Wed)   | 26                                             |                     | 28                       |                     | 29                       |                     |                     |                    | 26                  |                     | 23                        |                     |                                                   |
| <b>Cabinet</b>                     | 5.00 pm (Tue)   |                                                | 1                   | 6                        |                     | 7                        | 5<br>26             |                     | 7                  | 18                  | 17<br>(Thurs)       | 1                         | 5                   | 3                                                 |
| <b>Council</b>                     | 5.30 pm (Thurs) | 13<br>Annual Council and<br>Adj Annual Council |                     | 15                       |                     | 16                       |                     |                     | 2                  |                     | 3<br>10 (Adj)<br>24 |                           |                     | 12<br>Annual Council<br>and Adj<br>Annual Council |
| <b>Planning Committee</b>          | 2.00 pm (Mon)   |                                                | 14                  | 12                       | 9                   | 13                       | 11                  | 8                   | 13                 | 10                  | 14                  | 14                        | 11                  | 9                                                 |
| <b>Health and Wellbeing Board</b>  | 2.00 pm (Thurs) |                                                | 3                   |                          |                     | 9                        |                     |                     | 9                  |                     |                     | 17                        |                     |                                                   |
| <b>Licensing Sub-Committee</b>     | 9.30 am (Thurs) | 20<br>27                                       | 3<br>10<br>17<br>24 | 1<br>8<br>15<br>22<br>29 | 5<br>12<br>19<br>26 | 2<br>9<br>16<br>23<br>30 | 7<br>14<br>21<br>28 | 4<br>11<br>18<br>25 | 2<br>9<br>16<br>23 | 6<br>13<br>20<br>27 | 3<br>10<br>17<br>24 | 3<br>10<br>17<br>24<br>31 | 7<br>14<br>21<br>28 | 5                                                 |
| <b>Overview and Scrutiny Board</b> | 5.30 pm (Tue)   |                                                | 8                   | 13                       |                     | 14                       | 12                  | 9                   | 14                 | 11                  | 8                   | 8                         | 12                  | 10                                                |
| <b>Standards Committee</b>         | 2.00 pm (Wed)   |                                                | 30                  |                          |                     |                          |                     |                     |                    | 19                  |                     |                           |                     |                                                   |

| Schedule of Meetings               |                 |                                                         |                          |                     |                     |                          |                     |                     |                    |                     |                    |                          |                     |                                                                  |
|------------------------------------|-----------------|---------------------------------------------------------|--------------------------|---------------------|---------------------|--------------------------|---------------------|---------------------|--------------------|---------------------|--------------------|--------------------------|---------------------|------------------------------------------------------------------|
| May 2022 - May 2023                |                 |                                                         |                          |                     |                     |                          |                     |                     |                    |                     |                    |                          |                     |                                                                  |
|                                    |                 | MAY                                                     | JUN                      | JUL                 | AUG                 | SEP                      | OCT                 | NOV                 | DEC                | JAN                 | FEB                | MAR                      | APR                 | MAY                                                              |
| <b>Audit Committee</b>             | 2.00 pm (Wed)   | 25                                                      |                          | 27                  |                     | 28                       |                     |                     |                    | 25                  |                    | 22                       |                     |                                                                  |
| <b>Cabinet</b>                     | 5.00 pm (Tue)   |                                                         | 7                        | 5                   |                     | 6                        | 4<br>25             |                     | 6                  | 10                  | 16 (Thurs)         | 7                        | 4                   |                                                                  |
| <b>Council</b>                     | 5.30 pm (Thurs) | 12<br>Annual<br>Council<br>and Adj<br>Annual<br>Council |                          | 21                  |                     | 15                       |                     |                     | 1                  |                     | 2<br>9 (Adj)<br>23 |                          |                     | 16 (Tue)<br>Annual<br>Council<br><br>25 Adj<br>Annual<br>Council |
| <b>Planning Committee</b>          | 2.00 pm (Mon)   |                                                         | 13                       | 11                  | 8                   | 12                       | 10                  | 14                  | 12                 | 9                   | 13                 | 13                       | 17                  |                                                                  |
| <b>Health and Wellbeing Board</b>  | 2.00 pm (Thurs) |                                                         | 9                        |                     |                     | 8                        |                     |                     | 8                  |                     |                    | 9                        |                     |                                                                  |
| <b>Licensing Sub-Committee</b>     | 9.30 am (Thurs) | 19<br>26                                                | 2<br>9<br>16<br>23<br>30 | 7<br>14<br>21<br>28 | 4<br>11<br>18<br>25 | 1<br>8<br>15<br>22<br>29 | 6<br>13<br>20<br>27 | 3<br>10<br>17<br>24 | 1<br>8<br>15<br>22 | 5<br>12<br>19<br>26 | 2<br>9<br>16<br>23 | 2<br>9<br>16<br>23<br>30 | 6<br>13<br>20<br>27 |                                                                  |
| <b>Overview and Scrutiny Board</b> | 5.30 pm (Tue)   |                                                         | 14                       | 12                  |                     | 13                       | 11                  | 8                   | 13                 | 24                  | 21                 | 21                       | 18                  |                                                                  |
| <b>Standards Committee</b>         | 2.00 pm (Wed)   |                                                         | 29                       |                     |                     |                          |                     |                     |                    | 18                  |                    |                          |                     |                                                                  |



**Meeting:** Overview and Scrutiny Board **Date:** 20 November 2018  
 Council 5 December 2018

**Wards Affected:** All Wards

**Report Title:** Budget Monitoring 2018/19 – Quarter Two

**Is the decision a key decision?** No

**When does the decision need to be implemented?** n/a

**Executive Lead Contact Details:** Elected Mayor Oliver, [mayor@torbay.gov.uk](mailto:mayor@torbay.gov.uk)

**Supporting Officer Contact Details:** Martin Phillips, Head of Finance,  
[Martin.phillips@torbay.gov.uk](mailto:Martin.phillips@torbay.gov.uk), 01803 207285

## 1. Purpose and Introduction

- 1.1. This report provides a **high level** budget summary of the Council’s revenue and capital income and expenditure for the financial year 2018/19.
- 1.2 As at the end of quarter one 2018/19 the Council’s **Revenue** budget is predicting an over spend of £2.4m for the financial year, primarily as a result of demand pressures resulting in expenditure pressures in children’s social care. This is a clear improvement from the quarter one position however both the overall overspend and, within that, the overspend of £3.5m within Children’s Services is a real cause for concern and in the absence of more compensating savings in other services the Council will continue to identify options to fund the over spend.
- 1.3 The Council’s Senior Leadership Team have already put in place arrangements for a moratorium on all spend or recruitment that is not urgent or required to meet statutory duties. The Chief Finance Officer has arranged additional processes to monitor and challenge orders and contracts placed by the Council. The Chief Finance Officer has also provisionally allocated the entirety of the uncommitted balance on the Comprehensive Spending Review (CSR) Reserve in order to contribute to meeting the in-year overspend pending other recovery options including any proposals from the 2019/20 Review of Reserves.
- 1.3 The **Capital** Plan budget totals £200m for the 4 year programme, with £83m currently scheduled to be spent in 2018/19, including £45m on Investment Fund acquisitions, £2.6m on the Western Corridor and £12m on various Regeneration projects. The Capital Plan requires £0.9 million from (new) capital receipts and capital contributions over the life of the Plan.
- 1.4 Appendix Three is an expanded narrative of the **capital schemes** expected to incur expenditure in 2018/19 with a specific update for each project. This aims to provide

members with greater oversight of the progress on capital projects rather than a focus exclusively on financial issues.

## 2. Recommendation (s) / Proposed Decision

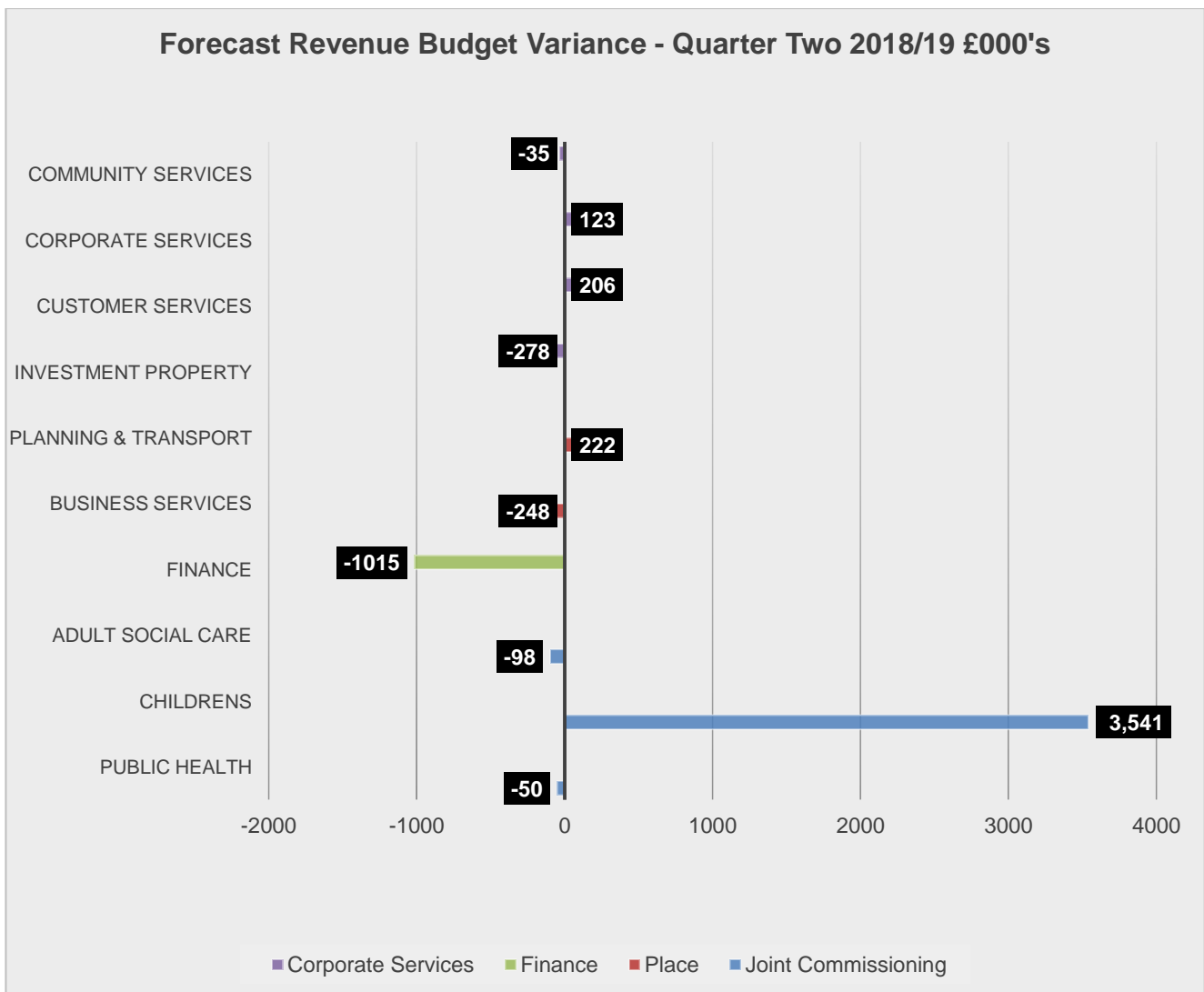
2.1 Overview and Scrutiny Board: That the Board considers the current position and make any comments and/or recommendations to the Council.

## 3. Reason for Recommendation/ Proposed Decision

3.1 Council: Monitoring Report for noting

## 4. 2018/19 Revenue Budget Summary Position

4.1 As at Quarter 2 the Council's revenue budget is predicting an over spend for 2018/19 of £2.4m, primarily as a result of a £3.5m overspend in Children's Services, offset in part by under spends in other services. The budgets are presented in line with the Council's management structure (applicable from 1<sup>st</sup> August 2018). A bar chart summarising the projected budget variance by service for 2018/19 is as follows:



### Children's Social Care

- 4.2 The 2018/19 budget for Children's social care was increased by £3m, a 10% increase on the 2017/18 budget to reflect the levels of spend, in particular on looked after children.
- 4.3 As previously reported in the six months to end of June 2018 the service experienced a 20% increase in looked after children numbers. In December 2017 the number of looked after children was 293 which had increased to 358 by the end of June 2018. Anecdotally other Councils in the south west and nationally are also experiencing a rise in numbers, but not at the percentage increase Torbay is currently experiencing.
- 4.4 Although in the past quarter there has not been a net increase in the numbers of looked after children, the Director of Children's Services with the support of her team and finance colleagues have, for each child, reviewed the care plans, their duration and their costs for the remainder of the financial year. This has increased the forecast overspend for the year to £3.5m. There is a clear trend that the complexity and unit cost of many care plans are increasing, in part as a result of the national increase in demand for care.
- 4.5 It is also clear that the current position of increasing demand for social care combined with ongoing reductions in core funding is not sustainable. It is important that the Council continues to ensure that its voice is heard to ensure that future funding for local government recognises these increased and unavoidable costs.
- 4.6 Partly as a result of the increased national demand for children's social care there is an ongoing challenge to attract and retain experienced social care staff. As a result at the end of June 2018 the service was employing 50 agency staff which created an additional financial pressure upon the service. Action has been taken by the Director of Children's Services and her team to reduce this number to below 40 by the end of September.

### Higher Needs Block – Special Education Needs

- 4.7 As previously reported the schools' higher needs block in the Dedicated Schools Grant (DSG) has been under financial pressure as a result of an increasing level of referrals from schools for higher needs support for children, resulting in a forecast over spend in 2018/19 of £2.6m. The Council does not receive any funding for schools therefore the over spend will remain in the DSG to be funded in future years and is not a cost that the Council will fund. The overspend in previous years has already resulted in a "negative" DSG reserve of £1m. The 2018/19 projected overspend will increase that to a cumulative deficit of £3m. This overspend has been "made good" by DSG funding in future years.
- 4.8 The Council will continue to work directly with schools to jointly work on a solution to this issue. For 2019/20 the Schools Forum, with support from the higher needs recovery group, have agreed both a package of funding and have supported the Council's "disapplication" request to the Department of Education to move funding from the schools block to the higher needs block within the Dedicated Schools Grant.. This will aim to set a balanced budget for the higher needs service in 2019/20. A consultation on the proposed changes was launched in October 2018.



- 4.9 If the Department for Education approve the disapplication, the movement of funding from the schools block to the higher needs block (within the total Dedicated Schools Grant) will be classed as an in-year virement as defined in the Council's Financial Regulations, with decision-making resting with the Chief Finance Officer, in consultation with the Director of Children's Services.

#### Investment Property

- 4.9 In the second quarter of 2018/19 the Council completed the purchase of two further properties, one in Exeter and one in Torquay, for a total of £22m including purchase costs. The costs of the borrowing required for the purchases are to be funded from future rental streams. In line with the Council's approved MRP policy, no MRP is charged in year of purchase which has enabled one off gain of £0.3m to be realised in year.

#### Adult Social Care

- 4.10 The majority of spend is with the ICO under a fixed contract payment. The Council will continue to work with its partners to allocate the Improved Better Care Fund in the most effective way for all partners. The Council has in October 2018 been allocated £0.829m of one off funding in 18/19 to support winter pressures in social care.

#### NNDR

- 4.11 As previously reported the initial monitoring of the 2018/19 position of all the Devon Councils in the Pilot is positive with a higher level of gain forecast for the Pilot. The quarter two Devonwide forecast position is in line with the first quarter therefore an additional £0.6m additional NNDR income above budget is now forecast. As the Pilot is not confirmed for next year this gain will be for the current year only.

#### Budget 2018

- 4.12 The Chancellor in his Budget 2018 announced late October 2018 announced additional national allocations of one off funding for Disabled Facilities Grants (£55 million nationally) and for Highways including potholes. These will be introduced into the Council's budget monitoring when Torbay's specific allocations are announced.

4.13 Detailed Position- The budget position for each service is shown in the table below:

| Service                     | 2018/19 Budget       |                  |                | Forecast Full Year Variance |
|-----------------------------|----------------------|------------------|----------------|-----------------------------|
|                             | Expenditure<br>£000s | Income<br>£000's | Net<br>£000's  | £000's                      |
| Adult Social Care           | 52,936               | (12,278)         | 40,658         | (98)                        |
| Children's Services         | 81,879               | (50,043)         | 31,836         | 3,541                       |
| Public Health               | 10,097               | (721)            | 9,376          | (50)                        |
| <b>Joint Commissioning</b>  | <b>144,912</b>       | <b>(63,042)</b>  | <b>81,870</b>  | <b>3,393</b>                |
| Business Services           | 31,119               | (16,864)         | 14,255         | (248)                       |
| Planning and Transport      | 10,317               | (2,599)          | 7,718          | 222                         |
| <b>Director of Place</b>    | <b>41,436</b>        | <b>(19,463)</b>  | <b>21,973</b>  | <b>(26)</b>                 |
| Community Services          | 4,362                | (2,444)          | 1,918          | (35)                        |
| Corporate Services          | 7,008                | (2,073)          | 4,935          | 123                         |
| Customer Services           | 66,890               | (63,468)         | 3,422          | 206                         |
| Investment properties       | 5,871                | (8,923)          | (3,052)        | (278)                       |
| <b>Corporate Services</b>   | <b>84,131</b>        | <b>(76,908)</b>  | <b>7,223</b>   | <b>16</b>                   |
| <b>Finance</b>              | 20,942               | (20,002)         | 940            | (1,015)                     |
| <b>Gross Revenue Budget</b> | <b>291,421</b>       | <b>(179,415)</b> | <b>112,006</b> | <b>2,368</b>                |
| Sources of Funding          | 397                  | (112,403)        | (112,006)      | <b>0</b>                    |
| <b>Net Revenue Budget</b>   | <b>291,818</b>       | <b>(291,818)</b> | <b>0</b>       | <b>2,368</b>                |

A narrative of the position in each service area is as follows:

| <b>Service</b>        | <b>Variance to Budget £m</b> | <b>Main Variances in 2018/19</b>                                                                                                                                                 |
|-----------------------|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Adult Social Care     | (0.1)                        | Fixed payment agreed with ICO for 2018/19, with small underspends on some client budgets.                                                                                        |
| Children's Services   | 3.5                          | As detailed earlier                                                                                                                                                              |
| Public Health         | (0.1)                        | Primarily a ring fenced budget                                                                                                                                                   |
| Director of Place     | 0                            | Projected over spend primarily linked to staffing issues in planning, offset by expected savings in concessionary fares and lower than budgeted waste tonnages.                  |
| Corporate Services    | 0.4                          | Projected over spend in governance, human resources, legal services and an income shortfall in printing offset in part by salary savings elsewhere in the services in this area. |
| Finance and Central   | (1.0)                        | Primarily the £0.6m additional gain on NNDR Pilot with continued reductions on pension costs, additional investment income and a net saving within financial services.           |
| Investment Properties | (0.3)                        | As detailed earlier                                                                                                                                                              |
| Sources of Funding    | 0                            |                                                                                                                                                                                  |
| <b>Total</b>          | <b>2.4</b>                   | Projected over spend                                                                                                                                                             |

## **5 Action to Mitigate Overspend**

- 5.1 A reduced forecast overspend of £2.4m is a positive position in the light of the £3.5m overspend for Children's Services and shows the impact of the recovery action taken in the year so far and the staff and the Elected Mayor's support for this approach should be recognised.
- 5.2 However the projected overspend of £2.4m for the year based on the second quarter is still a cause for concern. The estimated "unallocated" balance on the Comprehensive Spending Review Reserve is insufficient to fund the projected overspend. In order to protect what remains of the CSR Reserve the Chief Finance Officer has provisionally allocated the balance to contribute to meeting the in-year overspend.
- 5.2 As previously reported the Chief Finance Officer continues to discuss the position with the Elected Mayor and his Executive Leads and the Senior Leadership Team and as a result a moratorium on all spend that is not urgent or required to meet statutory duties was been initiated along with other controls and checks.
- 5.3 The Chief Finance Officer with the support of the Senior Leadership Team will continue to:
- a) Review earmarked reserves to both; apply reserves to spend in 18/19 where possible and transfer any "surplus" earmarked reserves to the CSR reserve.

Proposals arising from this will be included in the 2019/20 Review of Reserves report.

- b) Review the Capital Plan to “return” any revenue funding allocated to as yet unspent capital projects.
- c) Review corporate expenditure to consider whether any expenditure can be transferred to future years.
- d) Review the Capital Plan to consider the “pausing” of capital projects, including schemes using prudential borrowing that are funded from the Council’s revenue budget.

5.4 All the above are short term or “one off” measures to support the current position. The implications of the 2018/19 forecast on both the 2019/20 budget and reserve levels are included in the Elected Mayor’s budget proposals issued in early November 2018.

5.5 The impact of the actions taken/proposals will continue to be included in future monitoring reports.

### Risks & Sensitivity

5.6 The predictions for the full year outturn in this report are based on six months of financial information and will be subject to changes in assumptions, demand and the impact of the action taken in year to mitigate the projected overspend.

5.7 There are a number of financial risks facing the Council. Key risks are shown below:

| <b>Risk</b>                                                                                                           | <b>Impact</b>                                  | <b>Mitigation</b>                                                                                                                                                                                                                                                |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Achievement of approved savings for 2018/19                                                                           | Medium                                         | 18/19 Budget monitoring and "saving tracker" monitored by senior staff.                                                                                                                                                                                          |
| Achievement of Children’s Services cost reduction plan                                                                | High                                           | Regular monitoring of performance and recovery plan.                                                                                                                                                                                                             |
| Identification, and achievement, of £14.7m of savings for 2019/20 to 2021/22 per Medium Term Resource Plan March 2018 | 19/20<br>Low<br><br>20/21 and<br>21/22<br>High | Transformation Team set up to coordinate the implementation of potential transformation savings. Mayor’s 2019/20 budget proposals issued in early November 2018.<br><br>Senior Leadership Team and Mayor’s Executive Group considering options for future years. |
| Unable to recruit staff and need to use agency staff.                                                                 | High                                           | Children’s Services have experienced difficulties for several years. This issue is now appearing in other services including planning and legal services.                                                                                                        |
| Pressure achieving income targets in some services                                                                    | Low                                            | A small number of services are not meeting their income targets (which increase by 3% each year).                                                                                                                                                                |
| Additional demand for services particularly in children’s social care                                                 | High                                           | 18/19 Budget monitoring, use of service performance data and recovery plan.                                                                                                                                                                                      |

|                                    |     |                                                 |
|------------------------------------|-----|-------------------------------------------------|
| Investment Property Income changes | Low | Regular review of income and tenant negotiation |
|------------------------------------|-----|-------------------------------------------------|

## 6. Balance Sheet issues

### Borrowing

- 6.1 In quarter two the Council borrowed a further £5m, primarily to fund investment property acquisitions. Total borrowing as at 30<sup>th</sup> September 2018 was £282m. Borrowing is below the approved Operational and Authorised limits for the year.

### Council Subsidiary Companies

- 6.2 The Council has interests in a number of companies. The financial performance for 2017/18 of these companies is included in the Council's statement of accounts (link below). <http://www.torbay.gov.uk/council/finance/statement-of-accounts/>
- 6.3 All of these companies form part of the Council's group boundary, therefore Members should be aware of the assets and liabilities of these companies.

## 7 Capital Plan Summary Position

- 7.1 The Capital Plan Budget has been updated for any further revision to both projects and timing, resulting in the latest revision attached at Appendix 1. The Plan now totals £200.4m over the 4 year period of which £83.4 m relates to 2018/19 and £80.9m relates to 2019/20.
- 7.2 The movements in the estimate of expenditure in 2018/19 on the Capital Plan between the last monitoring report at June 2018 of £85.8m and the current approved budget for 2018/19 of £83.4m are shown below. Please note the format of this table shows schemes ordered by Council's Targeted Actions, as is Appendix 1.

| Scheme                                               | Variation in 2018/19        | Change £m   | Reason                                                                    |
|------------------------------------------------------|-----------------------------|-------------|---------------------------------------------------------------------------|
| <b>Estimate as at Q1 2018/19</b>                     |                             | <b>85.8</b> | Capital Plan Update – 2018/19 Quarter 1 (Report 20th Sept 2018)           |
| <b>Budget changes since last report (Q1 2018/19)</b> |                             |             |                                                                           |
| <b>Protecting Children</b>                           |                             |             |                                                                           |
| Brookfield / Brunel Academy Phase 1                  | Transfer to New Scheme      | (1.0)       | Part budget to Brunel Academy Phase 2 Vocational Classrooms               |
| Brunel Academy Phase 2 Vocational Classrooms         | Transfer budget             | 1.0         | Budget transfer from Brunel Phase 1                                       |
|                                                      | Part budget moved to 19/20  | (0.8)       | Budget moved to 2019/20                                                   |
| Capital repairs & maintenance 16/17 & 17/18          | Reallocation of part budget | (0.1)       | Allocated to support Roselands Bulge Classroom and Ellacombe Early Years  |
| Ellacombe Academy Early Years                        | Increase in budget          | 0.1         | Additional funds from Education Review projects and external contribution |

|                                              |                             |              |                                                                                                   |
|----------------------------------------------|-----------------------------|--------------|---------------------------------------------------------------------------------------------------|
| Education Review Projects                    | Reallocation of part budget | (0.2)        | Allocation to Roselands                                                                           |
| Roselands Primary – additional classrooms    | New project                 | 0.4          | Transfer resources from Education Review (Basic Need allocation)<br>Most of budget moved to 19/20 |
|                                              | Rephase budget              | (0.4)        |                                                                                                   |
|                                              |                             | <b>(1.0)</b> |                                                                                                   |
| <b>More Prosperous Torbay</b>                |                             |              |                                                                                                   |
| Better Bus Area                              | Remaining budget removed    | (0.1)        | Unused budget removed                                                                             |
| Old Toll House                               | Budget reduced              | (0.1)        | Project superseded by Investment Fund development                                                 |
| Transport – Integrated Transport Schemes     | Budget moved to 19/20       | (0.1)        | Expenditure postponed under current moratorium                                                    |
| Transport – Torquay Town Access              | Budget reduction            | (0.1)        | Grant funding reduced                                                                             |
|                                              |                             | <b>(0.4)</b> |                                                                                                   |
| <b>Attractive and Safe place</b>             |                             |              |                                                                                                   |
| Brixham Harbour - Fendering                  | Increase budget             | 0.2          | External Grant funding                                                                            |
| Flood Alleviation - Cockington               | Re phased budget            | (0.1)        | Part of Budget moved to 2019/20                                                                   |
| Flood Alleviation - Monksbridge              | Re phased budget            | (0.1)        | Part of Budget moved to 2019/20                                                                   |
| Libraries Unlimited ICT Upgrade              | New Scheme                  | 0.1          | Project agreed under contract by Council                                                          |
| Paignton Harbour Light redevelopment         | Move budget                 | (0.5)        | Budget transfer to 2019/20                                                                        |
| Princess Pier – Structural repair            | Transfer part of budget     | (0.6)        | Transfer part of budget to 2019/20                                                                |
| Torre Abbey Phase 3                          | Budget removed              | (0.1)        | Scheme removed following failure of bid to HLF                                                    |
|                                              |                             | <b>(1.1)</b> |                                                                                                   |
| <b>Protect and Support Vulnerable Adults</b> |                             |              |                                                                                                   |
|                                              |                             | <b>0</b>     |                                                                                                   |
| <b>Corporate Support</b>                     |                             |              |                                                                                                   |
| Flexible Capital Receipts                    | Increase budget             | 0.1          | Additional use for Transformational schemes                                                       |
|                                              |                             | <b>0.1</b>   |                                                                                                   |
| <b>Estimate – Quarter Two 2018/19</b>        |                             | <b>83.4</b>  |                                                                                                   |

## 8 Updates to Capital Plan:

There are a number of variations to budgets on various schemes as detailed below.

### 8.1 Protecting Children

8.2 Brookfield / Brunel Academy Phase 1 – the plans to develop this site have been split into two elements, one to provide vocational classrooms for Brunel Academy (Phase 2 -

see para 8.3 below) and the other to provide a new entrance and multi-use games area for Brunel Academy (Phase 1).

- 8.3 Brunel Academy Phase 2 Vocational Classrooms - £1m of budget from Brookfield site has been utilised for this project, with most of the budget held in 2019/20.
- 8.4 Capital Repairs and Maintenance 2017/18 – £0.060m of this budget has been transferred to Ellacombe Academy Early Years Nursery to support elements of that project.
- 8.5 Capital Repairs and Maintenance 2018/19 – a programme of works to support maintained schools has been agreed. Some budget (£0.04m) has been transferred to Roselands to support the additional classrooms required and a small part of the budget (£0.02m) has been moved to next year to accommodate works which will be carried out over the summer holidays in 2019.
- 8.6 Ellacombe Academy Early Years – this scheme is now complete and has provided a 48 FTE place nursery facility. The budget has been increased by £0.1m using £0.06m funds from the School condition allocation (Capital Repairs and Maintenance 2017/18) to address condition elements of the project, along with a further £0.055m contribution from the Academy.
- 8.7 Education Review Projects – some of these resources have been allocated to Roselands Primary as agreed by Council in September (see para. 8.13 below).
- 8.8 Basic Need Grant – In the last Capital Plan monitoring report (Q1 2018/19) it was recorded that an allocation of £0.729m for year 2020/21 had been announced in recognition of the need for additional secondary school places. The bulk of this has been earmarked to provide additional Secondary places in Paignton (PCSA) since currently year seven places in Brixham and Paignton are full.
- 8.9 Medical Tuition Service relocation – In April 2018, Council approved a project to relocate the Medical Tuition Service (formerly EOTAS) to Parkfield utilising unallocated resources and up to £0.6m of borrowing. Currently it is anticipated that the scheme will be funded using £0.3m borrowing, £0.1m from 2020/21 Basic Need allocation and £0.2m from savings identified on existing Education schemes.
- 8.10 Roselands Primary extension – Scheme to provide additional accommodation for pupils until the new Paignton Primary School is opened. The estimated cost of this project of £0.6m was reported and approved by Council in October 2018, utilising the Council's 2019/20 Basic Need allocation (£0.560 m) to fund this work along with £0.040k from the Schools Condition (Capital Repairs and Maintenance)18/19 allocation. The bulk of this work will take place in 2019/20.
- 8.11 **More Prosperous Torbay**
- 8.12 Better Bus Area – the small remaining budget from this old scheme has now been removed from the Capital Plan as works have been completed.

- 8.13 Brixham Harbour Fendering – the total cost of this scheme has been increased to £0.3m to reflect the European Maritime and Fisheries Fund (EMFF) grant of £0.225m which has been awarded to help fund the work. There is no change to the Council's contribution to the scheme.
- 8.14 Claylands Redevelopment – Planning application has been submitted and the contract is currently out to tender with a projected start in November 2018 subject to an agreement with the prospective tenant.
- 8.15 Edginswell Business Park – negotiations for the acquisition of the site have resumed which require consequent legal advice.
- 8.16 Land Release Fund – Expenditure on these schemes is being captured in the Council's revenue accounts initially consequently there are few costs currently shown against these capital codes. However preliminary surveys, investigations, negotiations and legal advice are being undertaken, primarily at Victoria Square, Paignton for which some of the first tranche of grant funding has already been received, but also in respect of the Preston Down Road and Collaton St Mary sites.
- 8.17 Old Toll House – Significant plans are now in place to develop this site with a pre-let agreement in place. This project is now under the Investment and Regeneration "banner" and is funded from that budget and consequently the small remaining separate budget of £0.0130m has been removed.
- 8.18 Oxen Cove Shellfish Facility – Following the diversion of anticipated Marine Management Organisation (MMO) funding from this scheme to the Brixham Breakwater structural repairs scheme, the shellfish facility, which was programmed for 2019/20, has been aborted and removed from the Capital Plan as no resources are available to finance the project.
- 8.19 Transport Integrated Transport Schemes – A small transfer of budget (£0.1m) to future years has been made to delay expenditure under the Council's current spending moratorium.
- 8.20 Upton Place, Lymington Road Student Accommodation – This scheme has now been removed from the Capital Plan as any revised scheme would require a new business case and Council resolution.
- 8.21 **Attractive and Safe Place**
- 8.22 Cockington Flood alleviation – detailed design works are under way with start on site expected January 2019 and completion in June 2019. £0.07m budget has been moved to next year to reflect this. The Monksbridge Flood alleviation scheme is at the same stage again expecting to start on site in January 2019 and works expected to be complete by October 2019. Budget of nearly £0.130m has been moved to match these estimated spending patterns.



- 8.23 Flood Defence schemes (with Env Agency) – Projects for Paignton/Preston Flood Defence, Collaton St Mary, Paignton and River Fleet, Torquay are listed with the Environment Agency as potential projects requiring Environment Agency grant in aid in the coming years. Business cases will be submitted later in the year when the Environment Agency will review its capital plans at which point the Council’s contributions, which are expected to be small, should be clearer and at that time a further update will be provided.
- 8.24 Libraries Unlimited ICT Upgrade – new scheme to upgrade ICT equipment within Torbay’s libraries was agreed as part of the contract with Libraries Unlimited and agreed by Council on 7 December 2017 and has now been added to the Capital Plan, funded as approved from the CSR Reserve.
- 8.25 Torbay Leisure Centre – the programmed structural repairs were completed and a small remaining budget has been removed. Additional capital investment is being undertaken at the Leisure Centre by Parkwood with the help of a loan facility from the Council.
- 8.26 Torre Abbey Phase 3 – the Heritage Lottery Fund have announced that the Torre Abbey Phase 3 bid has been unsuccessful in securing grant in their current funding round. Consequently the budget for the Council’s contribution to the project has been removed from the Capital Plan. If it is decided to pursue another bid to a later funding round then the scheme will be reinstated.
- 8.27 Torquay Harbour Beacon Quay Decking – a budget of £0.08m has been diverted from Princess Pier Structural repairs to enable the urgent replacement of decking along Beacon Quay. The costs of this work however have been included in the line for Princess Pier structural works.
- 8.28 Haldon/Princess Piers Structural repair – Most of the works planned for this year have been completed, including works to Beacon Quay decking. Consequently £0.600m of the budget is transferred to next financial year when further works will be undertaken.
- 8.29 **Protect and Support Vulnerable Adults – no updates for this quarter**
- 8.30 **Corporate Support – no updates for this quarter**

## 9 Receipts & Funding

- 9.1 The funding identified for the latest Capital Plan budget is shown in Annex 1. This is based on the latest prediction of capital resources available to fund the budgeted expenditure over the next 4 years. A summary of the funding of the Capital Plan is shown in the Table below:

|                       | 2018/19 | 2019/20 | 2020/21 | 2020/21 | Totals<br>@ Q2<br>18/19 |
|-----------------------|---------|---------|---------|---------|-------------------------|
| Funding               | £m      | £m      | £m      | £m      | £m                      |
| Unsupported Borrowing | 58      | 68      | 33      | 0       | 159                     |
| Grants                | 20      | 10      | 3       | 0       | 33                      |

|                  |           |           |           |          |            |
|------------------|-----------|-----------|-----------|----------|------------|
| Contributions    | 1         | 0         | 0         | 0        | 1          |
| Revenue          | 0         | 1         | 0         | 0        | 1          |
| Reserves         | 1         | 2         | 0         | 0        | 3          |
| Capital Receipts | 3         | 0         | 0         | 0        | 3          |
| <b>Total</b>     | <b>83</b> | <b>81</b> | <b>36</b> | <b>0</b> | <b>200</b> |

## 10. Grants

10.1 The Council has been notified of the following capital grant allocation:

### Marine Management Organisation –

Grant of £0.225 million, from European Maritime and Fisheries Fund, has been awarded to provide 75% funding of Brixham Harbour Fendering work. This grant is scheme specific and has been allocated to the project.

## 11. Capital Receipts

11.1 The removal of a few old budgets from the Capital Plan has slightly amended the overall funding position of the Plan and currently the approved Plan relies upon the generation of a total of £3.5 million capital receipts from asset sales by the end of 2019/20. The Council has received £2.8m at 1 April 2018, but little more by the end of September 2018, although there is a sale agreed “in principal”. Some of the funds held (£0.2m) belongs to a school so is not available to support the Capital Programme, leaving a target of £0.9m still to be achieved.

11.2 Any use of capital receipts to fund revenue transformation costs as allowed by the Government will increase this target. The Council is currently budgeting to use £0.4m for these purposes in 2018/19.

11.3 Council has approved the disposal of a number of sites at nil value for affordable housing including Redwell Lane, Paignton, Totnes Road, Paignton and St Kilda’s in Brixham. Whilst this is a valid decision and helps to meet the Council’s Housing Strategy outcomes, such decisions are against the approved Capital Strategy and makes the achievement of the capital receipts harder to achieve.

## 12. Capital Contributions – S106 & Community Infrastructure Levy

12.1 No significant Section106 capital contributions have so far been received in 2018/19.

12.2 The Council’s Community Infrastructure Levy (CIL) scheme came into effect from 1 June 2017. The main capital project identified for funding from CIL receipts is the South Devon Highway. No CIL funds have yet been received in 2018/19.

## Appendices:

Appendix 1 – Capital Plan expenditure and funding summary – Quarter Two 2018/19

Appendix 2 – Capital Plan Project update – Quarter 2 2018/19

CAPITAL PLAN - QUARTER 2 2018/19 - EXPENDITURE

Appendix 1

|                                                                   |                                                        |                        |                                            |                                     |                               |                        | Revised 4-year Plan Sept 2018 |                       |              |              |              |                       |              |
|-------------------------------------------------------------------|--------------------------------------------------------|------------------------|--------------------------------------------|-------------------------------------|-------------------------------|------------------------|-------------------------------|-----------------------|--------------|--------------|--------------|-----------------------|--------------|
|                                                                   | Cost Centre                                            | Latest Est Scheme Cost | Expend in Prev Years (active schemes only) | Actuals & Commitments 2018/19 Qtr 2 | Previous 2018/19 (@ Q1 18/19) | 2018/19 Q2 Adjustments | New Schemes 2018/19           | Total 2018/19 Revised | 2019/20      | 2020/21      | 2021/22      | Total for Plan Period |              |
|                                                                   |                                                        | £'000                  | £'000                                      | £'000                               | £'000                         | £'000                  | £'000                         | £'000                 | £'000        | £'000        | £'000        | £'000                 |              |
| <b>PB = Approved Prudential Borrowing schemes</b>                 |                                                        |                        |                                            |                                     |                               |                        |                               |                       |              |              |              |                       |              |
| <b>Protecting children and giving them the best start in life</b> |                                                        |                        |                                            |                                     |                               |                        |                               |                       |              |              |              |                       |              |
|                                                                   | Brookfield Site / Brunel Academy Phase 1               | YEC10                  | 1,050                                      | 497                                 | 34                            | 1,553                  | (1,000)                       |                       | 553          |              |              | 553                   |              |
|                                                                   | Brunel Academy Ph 2 Vocation Classrooms                | YEC14                  |                                            |                                     |                               |                        |                               | 250                   | 250          | 750          |              | 1,000                 |              |
|                                                                   | Capital Repairs & Maintenance 2014/15 (incl. Furzeham) | YEE39                  | 752                                        | 743                                 |                               | 9                      |                               |                       | 9            |              |              | 9                     |              |
|                                                                   | Capital Repairs & Maintenance 2016/17 and 2017/18      | YEE41                  | 263                                        |                                     | 99                            | 323                    | (60)                          |                       | 263          |              |              | 263                   |              |
|                                                                   | Capital Repairs & Maintenance 2018/19                  | YEE42                  | 378                                        |                                     | 212                           | 418                    | (60)                          |                       | 358          | 20           |              | 378                   |              |
|                                                                   | Cockington Primary expansion                           | YEA24                  | 3,147                                      | 3,142                               | 2                             | 5                      |                               |                       | 5            |              |              | 5                     |              |
|                                                                   | Devolved Formula Capital                               | YEE10                  |                                            |                                     | 72                            | 156                    |                               |                       | 156          |              |              | 156                   |              |
|                                                                   | Early Years - Ellacombe Academy Nursery                | YEA41                  | 863                                        | 275                                 | 476                           | 473                    | 115                           |                       | 588          |              |              | 588                   |              |
|                                                                   | Early Years - White Rock Primary Nursery               | YEA40                  | 420                                        | 406                                 | 2                             | 14                     |                               |                       | 14           |              |              | 14                    |              |
|                                                                   | Education Review Projects                              | YET01                  |                                            |                                     | 39                            | 230                    | 130                           | (360)                 | 0            | 125          | 729          | 854                   |              |
|                                                                   | Healthy Pupils Capital Fund                            | YEE50                  | 39                                         |                                     |                               | 39                     |                               |                       | 39           |              |              | 39                    |              |
|                                                                   | Medical Tuition Service - relocation                   | YEC13                  | 405                                        |                                     | 2                             | 200                    |                               |                       | 200          | 205          |              | 405                   |              |
|                                                                   | New Paignton Primary school                            | YEA39                  | 609                                        | 7                                   |                               | 602                    |                               |                       | 602          |              |              | 602                   |              |
|                                                                   | Roselands Primary - additional classroom               | YEA42                  | 599                                        |                                     |                               |                        | (360)                         | 400                   | 40           | 559          |              | 599                   |              |
|                                                                   | Secondary School places                                | YEB22                  | 2,357                                      | 937                                 | 1,166                         | 1,420                  |                               |                       | 1,420        |              |              | 1,420                 |              |
|                                                                   | Special Provision Fund (SEND)                          | YEC12                  | 616                                        |                                     | 147                           | 282                    |                               |                       | 282          | 167          | 167          | 616                   |              |
|                                                                   | Torbay School Relocation                               | YEC11                  | 1,200                                      | 182                                 |                               | 18                     |                               |                       | 18           | 500          | 500          | 1,018                 |              |
|                                                                   | Youth Modular Projects                                 | YEF11                  | 409                                        | 372                                 |                               | 37                     |                               |                       | 37           |              |              | 37                    |              |
|                                                                   |                                                        |                        | <b>19,668</b>                              | <b>6,561</b>                        | <b>2,251</b>                  | <b>5,779</b>           | <b>(1,235)</b>                | <b>290</b>            | <b>4,834</b> | <b>2,326</b> | <b>1,396</b> | <b>0</b>              | <b>8,556</b> |
| <b>Working towards a more prosperous Torbay</b>                   |                                                        |                        |                                            |                                     |                               |                        |                               |                       |              |              |              |                       |              |
| <b>PB</b>                                                         | Claylands Redevelopment                                | YNA12                  | 10,400                                     | 185                                 | 603                           | 1,529                  |                               |                       | 1,529        | 7,310        | 1,376        | 10,215                |              |
|                                                                   | DfT Better Bus Areas                                   | YJC02                  | 1,095                                      | 1,095                               |                               | 88                     | (88)                          |                       | 0            |              |              | 0                     |              |
| <b>PB</b>                                                         | Edginswell Business Park                               | YNA14                  | 6,620                                      | 25                                  | 27                            | 95                     |                               |                       | 95           | 6,500        |              | 6,595                 |              |
| <b>PB</b>                                                         | Employment Space, Torbay Business Park                 | YNA13                  | 6,644                                      | 5,011                               | 1,604                         | 1,633                  |                               |                       | 1,633        |              |              | 1,633                 |              |
| <b>PB</b>                                                         | Innovation Centre Ph 3 (EPIC)                          | YNA05                  | 7,749                                      | 777                                 | 5,761                         | 6,295                  |                               |                       | 6,295        | 677          |              | 6,972                 |              |
| <b>PB</b>                                                         | Investment Fund                                        | YAB42/44               | 200,200                                    | 119,744                             | 29,812                        | 45,000                 |                               |                       | 45,000       | 31,573       | 3,883        | 80,456                |              |
|                                                                   | Land Release Fund projects                             | YNA30-32               | 0                                          | 0                                   | 36                            |                        |                               |                       | 0            | 0            |              | 0                     |              |
|                                                                   | Old Toll House, Torquay                                | YCE26                  | 20                                         | 9                                   | 1                             | 141                    | (130)                         |                       | 11           |              |              | 11                    |              |
| <b>PB</b>                                                         | Oxen Cove Landing Jetty                                | YMB05                  | 1,966                                      | 119                                 | 467                           | 1,847                  |                               |                       | 1,847        |              |              | 1,847                 |              |
|                                                                   | Oxen Cove Shellfish processing facility -design work   | YMB06                  | 0                                          | 0                                   | 0                             | 0                      |                               |                       | 0            | 0            |              | 0                     |              |
| <b>PB</b>                                                         | South Devon Highway - Council contribution             | YJC07                  | 20,224                                     | 17,694                              | 90                            | 2,123                  |                               |                       | 2,123        | 407          |              | 2,530                 |              |
| <b>PB</b>                                                         | TEDC Capital Loans/Grant                               | YNA11 / 06             | 2,690                                      | 1,965                               |                               | 725                    |                               |                       | 725          |              |              | 725                   |              |
| <b>PB</b>                                                         | Town Centre Regeneration Programme                     | YNA20-23               | 25,000                                     |                                     |                               | 0                      |                               |                       | 0            | 10,000       | 15,000       | 25,000                |              |
|                                                                   | Transport Highways Structural Maintenance              | YJA01/YJB01            |                                            |                                     | 128                           | 1,555                  |                               |                       | 1,555        | 1,174        | 1,174        | 3,903                 |              |
|                                                                   | Transport Integrated Transport Schemes                 | YJC01/YJD01            |                                            |                                     | 709                           | 900                    | (125)                         |                       | 775          | 750          | 712          | 2,237                 |              |

CAPITAL PLAN - QUARTER 2 2018/19 - EXPENDITURE

Appendix 1

|                                                                               |                                                                  |                        |                                            |                                     |                               |                        | Revised 4-year Plan Sept 2018 |                       |         |         |         |                       |
|-------------------------------------------------------------------------------|------------------------------------------------------------------|------------------------|--------------------------------------------|-------------------------------------|-------------------------------|------------------------|-------------------------------|-----------------------|---------|---------|---------|-----------------------|
|                                                                               | Cost Centre                                                      | Latest Est Scheme Cost | Expend in Prev Years (active schemes only) | Actuals & Commitments 2018/19 Qtr 2 | Previous 2018/19 (@ Q1 18/19) | 2018/19 Q2 Adjustments | New Schemes 2018/19           | Total 2018/19 Revised | 2019/20 | 2020/21 | 2021/22 | Total for Plan Period |
|                                                                               |                                                                  | £'000                  | £'000                                      | £'000                               | £'000                         | £'000                  | £'000                         | £'000                 | £'000   | £'000   | £'000   | £'000                 |
| <b>PB = Approved Prudential Borrowing schemes</b>                             |                                                                  |                        |                                            |                                     |                               |                        |                               |                       |         |         |         |                       |
|                                                                               | Transport - Torquay Gateway Road Improvements                    | YJC18                  | 2,927                                      | 1,050                               | 88                            | 61                     | 2                             | 63                    | 1,764   | 50      |         | 1,877                 |
|                                                                               | Transport - Torquay Town Centre Access                           | YJC17                  | 530                                        | 414                                 | 7                             | 211                    | (95)                          | 116                   |         |         |         | 116                   |
|                                                                               | Transport - Tweenaway Junction                                   | YJC06                  | 4,899                                      | 4,899                               | 9                             |                        |                               | 0                     |         |         |         | 0                     |
|                                                                               | Transport - Western Corridor                                     | YJC14                  | 10,644                                     | 7,324                               | 2,463                         | 2,600                  |                               | 2,600                 | 670     | 50      |         | 3,320                 |
| <b>PB</b>                                                                     | Upton Place, Lymington Road (Student Accom - Town Hall Car Park) | YNA15                  | 0                                          |                                     |                               | 0                      |                               | 0                     | 0       |         |         | 0                     |
|                                                                               |                                                                  |                        | 301,608                                    | 160,311                             | 41,805                        | 64,803                 | (436)                         | 64,367                | 60,825  | 22,245  | 0       | 147,437               |
| <b>Ensuring Torbay remains an attractive and safe place to live and visit</b> |                                                                  |                        |                                            |                                     |                               |                        |                               |                       |         |         |         |                       |
|                                                                               | Babbacombe Beach Road                                            | YJE02                  | 70                                         | 0                                   |                               | 70                     |                               | 70                    |         |         |         | 70                    |
|                                                                               | Brixham Harbour - Breakwater                                     | YMB04                  | 3,853                                      | 0                                   |                               | 3,853                  |                               | 3,853                 |         |         |         | 3,853                 |
|                                                                               | Brixham Harbour - Fendering                                      | YMB07                  | 300                                        | 6                                   | 6                             | 69                     | 225                           | 294                   |         |         |         | 294                   |
| <b>PB</b>                                                                     | CCTV equipment                                                   | YBD02                  | 412                                        | 0                                   | 146                           | 335                    | 27                            | 362                   | 50      |         |         | 412                   |
|                                                                               | Clennon Valley Sport Improvements                                | YCE28                  | 70                                         | 2                                   |                               | 68                     |                               | 68                    |         |         |         | 68                    |
|                                                                               | Flood Alleviation - Cockington                                   | YKA30                  | 328                                        | 6                                   | 30                            | 322                    | (72)                          | 250                   | 72      |         |         | 322                   |
|                                                                               | Flood Alleviation - Monksbridge                                  | YKA31                  | 412                                        | 10                                  | 37                            | 402                    | (127)                         | 275                   | 127     |         |         | 402                   |
|                                                                               | Flood Defence schemes (with Env Agency)                          | YKA17/20/21/           | 631                                        | 630                                 |                               | 1                      |                               | 1                     |         |         |         | 1                     |
| <b>PB</b>                                                                     | Freshwater Cliffs Stabilisation                                  | YKA27                  | 375                                        | 330                                 | 40                            | 45                     |                               | 45                    |         |         |         | 45                    |
|                                                                               | Haldon Pier - Structural repair Phase I&2                        | YMA04                  | 3,064                                      | 3,045                               |                               | 19                     |                               | 19                    |         |         |         | 19                    |
|                                                                               | Hollicombe Cliffs Rock Armour                                    | YKA26                  | 1,543                                      | 1,330                               | 12                            | 213                    |                               | 213                   |         |         |         | 213                   |
|                                                                               | Libraries Unlimited ICT Upgrades                                 | YCA04                  | 107                                        | 0                                   |                               |                        | 107                           | 107                   |         |         |         | 107                   |
| <b>PB</b>                                                                     | Paignton Harbour Light Redevelopment                             | YMC01                  | 600                                        | 0                                   | 64                            | 600                    | (500)                         | 100                   | 500     |         |         | 600                   |
| <b>PB</b>                                                                     | Parkwood Loan re Torbay Leisure Centre                           | YCE29                  | 1,700                                      | 515                                 | 1,185                         | 1,186                  | (1)                           | 1,185                 |         |         |         | 1,185                 |
|                                                                               | Princess Gardens Fountain                                        | YCE30                  | 122                                        | 117                                 | 60                            | 5                      |                               | 5                     |         |         |         | 5                     |
|                                                                               | Princess Pier - Structural repair (with Env Agency)              | YMA04                  | 1,664                                      | 85                                  | 885                           | 1,579                  | (598)                         | 981                   | 598     |         |         | 1,579                 |
| <b>PB</b>                                                                     | Public Toilets Modernisation Programme                           | YKA29                  | 1,170                                      |                                     | 508                           | 770                    |                               | 770                   | 400     |         |         | 1,170                 |
|                                                                               | Torbay Leisure Centre - structural repairs                       | YCE21                  | 541                                        | 541                                 |                               | 3                      | (3)                           | 0                     |         |         |         | 0                     |
|                                                                               | Torre Abbey Renovation - Phase 2                                 | YCB04                  | 5,010                                      | 4,992                               |                               | 18                     |                               | 18                    |         |         |         | 18                    |
|                                                                               | Torre Abbey Renovation - Phase 3 (Torbay Council commitment)     | YCB06                  | 0                                          |                                     |                               | 150                    | (150)                         | 0                     | 0       |         |         | 0                     |
|                                                                               | Torre Valley North Enhancements                                  | YCE25                  | 127                                        | 40                                  |                               | 87                     |                               | 87                    |         |         |         | 87                    |
|                                                                               | Torquay Harbour - Beacon Quay Decking                            | YMA11                  | 80                                         |                                     | 80                            | 80                     |                               | 80                    |         |         |         | 80                    |
|                                                                               | Torquay Harbour - Town Dock pontoons Replacement                 | YMA10                  | 263                                        | 263                                 | 12                            |                        |                               | 0                     |         |         |         | 0                     |
|                                                                               |                                                                  |                        | 22,442                                     | 11,912                              | 3,065                         | 9,875                  | (1,199)                       | 8,783                 | 1,747   | 0       | 0       | 10,530                |
| <b>Protecting and supporting vulnerable adults</b>                            |                                                                  |                        |                                            |                                     |                               |                        |                               |                       |         |         |         |                       |
|                                                                               | Adult Social Care                                                | YQD10                  |                                            |                                     | 42                            | 780                    |                               | 780                   |         |         |         | 780                   |
|                                                                               | Affordable Housing                                               | YTB05                  | 2,883                                      | 1                                   |                               | 1,497                  |                               | 1,497                 | 1,385   |         |         | 2,882                 |
| <b>PB</b>                                                                     | Housing Rental Company - Loan                                    | YTB52                  |                                            |                                     |                               | 0                      |                               | 0                     | 12,500  | 12,500  |         | 25,000                |

CAPITAL PLAN - QUARTER 2 2018/19 - EXPENDITURE

Appendix 1

|                                                                |             |                        |                                            |                                     |                               |                        | Revised 4-year Plan Sept 2018 |                       |               |               |          |                       |
|----------------------------------------------------------------|-------------|------------------------|--------------------------------------------|-------------------------------------|-------------------------------|------------------------|-------------------------------|-----------------------|---------------|---------------|----------|-----------------------|
|                                                                | Cost Centre | Latest Est Scheme Cost | Expend in Prev Years (active schemes only) | Actuals & Commitments 2018/19 Qtr 2 | Previous 2018/19 (@ Q1 18/19) | 2018/19 Q2 Adjustments | New Schemes 2018/19           | Total 2018/19 Revised | 2019/20       | 2020/21       | 2021/22  | Total for Plan Period |
|                                                                |             | £'000                  | £'000                                      | £'000                               | £'000                         | £'000                  | £'000                         | £'000                 | £'000         | £'000         | £'000    | £'000                 |
| <b>PB = Approved Prudential Borrowing schemes</b>              |             |                        |                                            |                                     |                               |                        |                               |                       |               |               |          |                       |
| Housing Rental Company - Aff Hsg Developments                  | YTB53       | 100                    |                                            | 11                                  | 100                           |                        |                               | 100                   |               |               |          | 100                   |
| Sanctuary HA - Hayes Road Pgn                                  | YTB31       | 250                    | 250                                        |                                     | 0                             |                        |                               | 0                     |               |               |          | 0                     |
| Disabled Facilities Grants                                     | YQA01       |                        |                                            | 343                                 | 1,338                         |                        |                               | 1,338                 |               |               |          | 1,338                 |
| Empty Homes Scheme                                             | YTB51       | 500                    | 43                                         |                                     | 0                             |                        |                               | 0                     | 457           |               |          | 457                   |
| Private Sector Renewal                                         | YTA01       |                        |                                            |                                     | 0                             |                        |                               | 0                     | 113           |               |          | 113                   |
|                                                                |             | <b>3,733</b>           | <b>294</b>                                 | <b>396</b>                          | <b>3,715</b>                  | <b>0</b>               | <b>0</b>                      | <b>3,715</b>          | <b>14,455</b> | <b>12,500</b> | <b>0</b> | <b>30,670</b>         |
| <b>Corporate Support</b>                                       |             |                        |                                            |                                     |                               |                        |                               |                       |               |               |          |                       |
| Corporate IT Developments                                      | YAA12       | 1,035                  | 417                                        | 135                                 | 618                           |                        |                               | 618                   |               |               |          | 618                   |
| Council Fleet Vehicles                                         | YLA01       | 463                    | 333                                        |                                     | 130                           |                        |                               | 130                   |               |               |          | 130                   |
| Essential Capital repair works                                 | YBB03       | 872                    | 0                                          |                                     | 0                             |                        |                               | 0                     | 872           |               |          | 872                   |
| Enhancement of Development sites                               | YAB32       | 327                    | 125                                        | 70                                  | 202                           |                        |                               | 202                   |               |               |          | 202                   |
| Flexible Use of Capital Receipts (NB. Not Capital expenditure) |             | 657                    | 300                                        |                                     | 300                           | 57                     |                               | 357                   |               |               |          | 357                   |
| Office Rationalisation Project - Electric House refurbishment  | YAB38       | 700                    | 326                                        | 370                                 | 374                           |                        |                               | 374                   |               |               |          | 374                   |
| Payroll Project                                                | YAA11       | 370                    | 358                                        | 10                                  | 12                            | (3)                    |                               | 9                     | 3             |               |          | 12                    |
| General Capital Contingency                                    | YBB01       | 631                    | 0                                          |                                     | 0                             |                        |                               | 0                     | 631           |               |          | 631                   |
|                                                                |             | <b>5,055</b>           | <b>1,859</b>                               | <b>585</b>                          | <b>1,636</b>                  | <b>54</b>              | <b>0</b>                      | <b>1,690</b>          | <b>1,506</b>  | <b>0</b>      | <b>0</b> | <b>3,196</b>          |
| <b>TOTALS</b>                                                  |             |                        | <b>180,937</b>                             | <b>48,102</b>                       | <b>85,808</b>                 | <b>(2,816)</b>         | <b>397</b>                    | <b>83,389</b>         | <b>80,859</b> | <b>36,141</b> | <b>0</b> | <b>200,389</b>        |
| <b>CAPITAL PLAN - QUARTER 2 2018/19 - FUNDING</b>              |             |                        |                                            |                                     |                               |                        |                               |                       |               |               |          |                       |
| Unsupported Borrowing                                          |             |                        |                                            |                                     | 59,292                        | (651)                  |                               | 58,641                | 68,152        | 32,739        |          | 159,532               |
| Grants                                                         |             |                        |                                            |                                     | 21,929                        | (2,297)                | 250                           | 19,882                | 9,618         | 3,336         |          | 32,836                |
| Contributions                                                  |             |                        |                                            |                                     | 694                           | 55                     |                               | 749                   | 460           |               |          | 1,209                 |
| Revenue                                                        |             |                        |                                            |                                     | 0                             | 452                    |                               | 452                   | 657           | 203           |          | 1,312                 |
| Reserves                                                       |             |                        |                                            |                                     | 1,149                         | (6)                    | 107                           | 1,250                 | 1,449         | (137)         |          | 2,562                 |
| Capital Receipts                                               |             |                        |                                            |                                     | 2,744                         | (329)                  |                               | 2,415                 | 523           |               |          | 2,938                 |
| <b>Total</b>                                                   |             |                        |                                            |                                     | <b>85,808</b>                 | <b>(2,776)</b>         | <b>357</b>                    | <b>83,389</b>         | <b>80,859</b> | <b>36,141</b> | <b>0</b> | <b>200,389</b>        |

| Capital Plan Projects                                             |                                                        | Project status report                                                                                                                   |
|-------------------------------------------------------------------|--------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <b>PB</b>                                                         | = <i>Approved Prudential Borrowing schemes</i>         | 18/19 budget so comment required                                                                                                        |
| <b>Protecting children and giving them the best start in life</b> |                                                        |                                                                                                                                         |
|                                                                   | Brookfield /Brunel Academy Phase 1                     | Project on site, on programme and budget - due to complete February 2019.                                                               |
|                                                                   | Brunel Academy Phase 2 Vocational Classrooms           | Project underway; at detailed design stage.                                                                                             |
|                                                                   | Capital Repairs & Maintenance 2014/15 (incl. Furzeham) | 2014/15 R&M Programme complete.                                                                                                         |
|                                                                   | Capital Repairs & Maintenance 2016/17 & 2017/18        | 2016/17 R&M Programme complete 2017/18 R&M Programme ongoing - some slippage through minimising term time disruptions.                  |
|                                                                   | Capital Repairs & Maintenance 2018/19                  | 2018/19 R&M Programme underway; some slippage due to works needing to be carried out over summer hols 2019.                             |
|                                                                   | Cockington Primary expansion                           | Project Complete - latent defect outstanding so small budget remains.                                                                   |
|                                                                   | Devolved Formula Capital                               | Ongoing draw down by schools.                                                                                                           |
|                                                                   | Early Years - Ellacombe Academy Nursery                | Project complete.                                                                                                                       |
|                                                                   | Early Years - White Rock Primary Nursery               | Project Complete - latent defect outstanding so small budget remains.                                                                   |
|                                                                   | Education Review Projects                              | Feasibility work underway to identify schemes for investment; report to Council to follow.                                              |
|                                                                   | Healthy Pupils Capital Fund                            | Evaluation of bids & programme to be agreed. Ongoing process until all funds from DfE drawn down.                                       |
|                                                                   | Medical Tuition Service relocation                     | Project underway; at detailed design stage. Succesful consultation event held, feedback from National Trust now supportive.             |
|                                                                   | New Paignton Primary school                            | ESFA project underway - awaiting invoice for LA contribution for acquisition of site. Project due to complete September 2020.           |
|                                                                   | Roselands Primary Bulge Classroom                      | New scheme agreed at Council Sept 18 to accommodate extra pupils until new Pgn Primary school opens                                     |
|                                                                   | Secondary School places                                | Project complete.                                                                                                                       |
|                                                                   | Special Provision Fund                                 | Evaluation of bids & programme to be agreed by SEND Board. Ongoing process until all funds from DfE drawn down.                         |
|                                                                   | Torbay School Relocation                               | Feasibility study underway to identify options; report to Council to follow.                                                            |
|                                                                   | Youth Modular Projects                                 | Project linked to the relocation of MTS to MyPlace to minimise disruption on site and provide value for money.                          |
| <b>Working towards a more prosperous Torbay</b>                   |                                                        |                                                                                                                                         |
| <b>PB</b>                                                         | Claylands Redevelopment                                | Planning submitted. Tenders due Sep'18. Anticipated start on site Nov'18.                                                               |
|                                                                   | DfT Better Bus Areas                                   | Main project plans complete, remaining unused budget removed                                                                            |
| <b>PB</b>                                                         | Edginswell Business Park                               | Legal advice obtained to derisk transaction. Proposal submitted to Hawkins Trust for relaxation of food restriction. Awaiting response. |
| <b>PB</b>                                                         | Employment Space                                       | Scheme progressing well with tenant due to take occupation in the summer                                                                |
| <b>PB</b>                                                         | Investment Fund                                        | Eight sites acquired with one other at 'exchanged contracts' stage. Others opportunities being considered.                              |
|                                                                   | Land Release Fund projects                             | Schemes at 3 locations to enable land to be released for future housing developments - budget and costs now initially in revenue.       |

| Capital Plan Projects                                                         |                                                                  | Project status report                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-------------------------------------------------------------------------------|------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PB</b>                                                                     | = <i>Approved Prudential Borrowing schemes</i>                   | 18/19 budget so comment required                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>PB</b>                                                                     | NGP - Torbay Innovation Centre Ph 3 (EPIC)                       | Construction works commenced on site 05/03/2018. Ground works have been completed, along with the erection of the steel frame and installation of the floors and roof. The building is due to be weather tight by November 2018. There are currently no major delays or risks to the project. An application for additional ERDF funding has been made and we awaiting the outcome. The final conditions are in the process of being discharged for the Grant Funding Application for the LEP Growth Deal 2 monies. |
|                                                                               | Old Toll House, Torquay                                          | The original scheme has been overtaken by an Investment Fund project which will invest in the redevelopment and a pre-let agreement with a prospective tenant is in place. This budget line has now been removed.                                                                                                                                                                                                                                                                                                   |
| <b>PB</b>                                                                     | Oxen Cove Landing Jetty                                          | Awaiting MMO licence. Expect to commence early Dec and complete by end Mar 2019                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                               | Oxen Cove Shellfish processing facility -design work             | EMFF grant funding bid withdrawn and scheme removed from Capital Plan                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>PB</b>                                                                     | South Devon Highway - Council contribution                       | Managed by DCC residual issues eg. Compensation claims, to be resolved                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| <b>PB</b>                                                                     | TEDC Capital Loans/Grant                                         | Funds available to draw on as required by TEDC to finance capital schemes                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>PB</b>                                                                     | Town Centre Regeneration Programme                               | Spend likely to increase in 2019/20 if regeneration projects such as Victoria Centre proceed as expected                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                                               | Transport Integrated Transport Schemes                           | Reduction to 2018/19 estimated expenditure due to request to delay some schemes under moratorium - these may be progressed later in the implementation plan.                                                                                                                                                                                                                                                                                                                                                        |
|                                                                               | Transport Structural Maintenance                                 | Structural Maintenance programme has commenced and on target                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                                               | Transport - Torquay Gateway Road Improvements                    | Design works continuing on Shiphay Lane-Lowes Bridge widening, scheme to commence in 2019                                                                                                                                                                                                                                                                                                                                                                                                                           |
|                                                                               | Transport - Torquay Town Centre Access                           | Some minor expenditure remaining                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                                               | Transport - Tweenaway Junction                                   | Some compensation claims to be settled                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                                               | Transport - Western Corridor                                     | Currently on target                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>PB</b>                                                                     | Upton Place, Lymington Road (Student Accom - Town Hall Car Park) | Current project proposals abandoned.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Ensuring Torbay remains an attractive and safe place to live and visit</b> |                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                               | Babbacombe Beach Road                                            | Awaiting information on recent slippage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                                               | Brixham Harbour - Breakwater structural repairs                  | Awaiting MMO licence. Expect to commence early Nov and complete by end Mar 2019                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                                               | Brixham Harbour - Fendering                                      | Items ordered; expect to commence early Nov and complete by Xmas                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>PB</b>                                                                     | CCTV equipment                                                   | Project a little behind target due to a number of third party building issues that needed agreements in place or permissions granted. For Torquay these have now been completed, so start date is anticipated to be second week of October for Torquay. Paignton should hopefully follow on behind in December or January 2018/19.                                                                                                                                                                                  |
|                                                                               | Clennon Valley Sport Improvements                                | Order placed for some works                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|                                                                               | Flood Alleviation - Cockington                                   | Detailed design works underway. Further grant in aid funding from EA will be claimed before the end of December 2018. Works should go out to tender in November 2018 with a predicted start on site in January 2019. All works should be completed by end of June 2019.                                                                                                                                                                                                                                             |
|                                                                               | Flood Alleviation - Monksbridge                                  | Detailed design works currently being undertaken. Scheme will be out to tender in late October/early November with the successful contractor likely to start on site in January 2019. All works being completed by end of October 2019.                                                                                                                                                                                                                                                                             |
|                                                                               | Flood Defence schemes (with Env Agency)                          | Used towards Council's contribution towards capital schemes at Cockington and Monksbridge which secured Env Agency grant in aid funding in 2017/18.                                                                                                                                                                                                                                                                                                                                                                 |

| Capital Plan Projects                              |                                                         | Project status report                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|----------------------------------------------------|---------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PB</b>                                          | = <i>Approved Prudential Borrowing schemes</i>          | 18/19 budget so comment required                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>PB</b>                                          | Freshwater Cliffs Stabilisation                         | All works completed but some residual payments still to be made                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                    | Haldon Pier - Structural repair Phase 1&2               | Main works are complete.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                    | Hollicombe Cliffs Rock Armour                           | Outstanding compensatory work requested by Natural England still to be undertaken by TCCT.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>PB</b>                                          | Paignton Harbour Light Redevelopment                    | Proposals for redevelopment are progressing although works are now unlikely to commence until next financial year.                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>PB</b>                                          | Parkwood Loan re Torbay Leisure Centre                  | All loan drawdowns made and works at Centre progressing.                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|                                                    | Princess Gardens Fountain                               | Project completed, over budget but additional funds (Section 106) to be agreed to be transferred into project.                                                                                                                                                                                                                                                                                                                                                                                                              |
|                                                    | Princess Pier - Structural repair (with Env Agency)     | The demolition of the pier widening, the cathodic protection to the seaward piles and the inner harbour piles have been completed. In addition the Beacon Quay decking which has been funded from this code has also been completed. The remaining works which include the application of protective coatings to the steel sub frame above water level is currently 20% complete. All works will be complete by end of March 2019. The proposed works involving underwater concrete repairs has been put back to next year. |
| <b>PB</b>                                          | Public Toilets Modernisation Programme                  | Refurbishment of several toilet blocks has commenced and a clear project plan is in place. We would not anticipate any change in the set budget although we are having some issues with the time taken to obtain planning consent.                                                                                                                                                                                                                                                                                          |
|                                                    | Torbay Leisure Centre - structural repairs              | Scheme complete. Small residual budget removed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                    | Torre Abbey Renovation - Phase 2                        | An outstanding matter is expected to be resolved this year.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|                                                    | Torre Abbey Renovation - Phase 3 (Torbay Contribution)  | HLF application bid unsuccessful so project removed from Capital Plan                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                    | Torre Valley North Enhancements                         | Project to be started winter 2018/19                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|                                                    | Torquay Harbour - Beacon Quay decking                   | Project completed.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Protecting and supporting vulnerable adults</b> |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                    | Adult Social Care                                       | Project(s) still to be identified although proposals are being discussed.                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|                                                    | Affordable Housing                                      | Funds likely to be utilised for affordable housing schemes as identified by Housing Company                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>PB</b>                                          | Housing Rental Company - Loan                           | Finance approved to help establish and resource Housing Company                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                    | Housing Rental Company - Affordable Housing development | Funds to progress existing Council sites for affordable housing                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|                                                    | Sanctuary HA - Hayes Road Pgn                           | Development completed. Unused resources added to Affordable Housing budget                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                                    | Disabled Facilities Grants                              | Statutory provision of financial assistance for adaptations to private residences enabling independence for recipients                                                                                                                                                                                                                                                                                                                                                                                                      |
|                                                    | Empty Homes Scheme                                      | No viable options so scheme cancelled                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|                                                    | Private Sector Renewal                                  | Old residual budget not required so scheme cancelled                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Corporate Support</b>                           |                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>PB</b>                                          | Corporate IT Developments                               | We continue to identify spend on critical ICT infrastructure items which need replacing                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>PB</b>                                          | Council Fleet Vehicles                                  | Balance of funding available for acquisition of Council's fleet vehicles as required                                                                                                                                                                                                                                                                                                                                                                                                                                        |



| Capital Plan Projects |                                                               | Project status report                                                                                       |
|-----------------------|---------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------|
| <b>PB</b>             | = <i>Approved Prudential Borrowing schemes</i>                | 18/19 budget so comment required                                                                            |
| <b>PB</b>             | Essential Capital repair works                                | Budget provided to cover emergency / urgent repairs to Council properties                                   |
|                       | Enhancement of Development sites                              | Budget to enable moderate expenditure to enhance value of potential sites.                                  |
|                       | Flexible Use of Capital Receipts                              | Government has introduced flexibility to allow use on transformative projects which produce ongoing savings |
|                       | Office Rationalisation Project - Electric House refurbishment | Works to update office accommodation are largely complete. Some residual costs to pay.                      |
|                       | Payroll Project                                               | Project largely completed . Some remaining consultancy and implementation costs may run into next year.     |
|                       | General Capital Contingency                                   | Contingency for unforeseen emergencies or funding shortfalls                                                |

**Standing Order D11 (in relation to Overview and Scrutiny) – Call-in and Urgency  
Council Meeting, 5 December 2018**

In accordance with Standing Order D11, the call-in procedure does not apply where the executive decision being taken is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests.

Before deciding whether a decision is urgent the decision making person or body must consult the Overview and Scrutiny Co-ordinator, or in his absence either:

- (a) (if the decision is a Key Decision and Standing Order E14 (General Exception) applies) each member of the Overview and Scrutiny Board shall be consulted; or
- (b) (in all other cases) the Chairman of the Council, or (if there is no Chairman/woman of the Council appointed) the Vice-Chairman/woman of the Council, shall be consulted.

Decisions taken as a matter of urgency shall be reported to the next available meeting of the Council, together with the reasons for urgency and a summary of the consultation undertaken.

The table below sets out this information:

| Matter for decision                             | Decision-taker    | Reasons for urgency                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Consultation                                                              |
|-------------------------------------------------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Local List for Validating Planning Applications | The Elected Mayor | <p>The Elected Mayor on 15 November 2018 approved the revised Local List for Validating Planning Applications, which had been reviewed in light of recent legislative changes.</p> <p>This was due to be approved by the Elected Mayor at the meeting of the Policy Development and Decision Group (Joint Operations Team) on 5 November 2018 but Members wanted to see what changes had been made to The Local List and therefore deferred consideration of the item until 26 November 2018. Since the meeting Senior Planning Officers have advised that this decision needs to be implemented immediately so as not to put the Council at risk of any challenge from planning applicants.</p> <p>Any delay likely to be caused by the call-in process would prejudice the Council's interests.</p> | The Overview and Scrutiny Co-ordinator was consulted on 13 November 2018. |

**Anne-Marie Bond**  
**Monitoring Officer**

## Petition – PATH

Council Meeting – 5 December 2018

**59 qualifying signatures received in accordance with the Council's Petition Scheme**

**Subject of petition:**

Inappropriate placement of charity organisation "PATH", dealing with large numbers of people with mental issues, drug and alcohol addiction, prone to antisocial behaviour within the area of mixed residential and commercial use, jeopardising the safety of peoples' lives, their homes and belongings and negatively affecting local businesses, putting local residents and Torquay visitors under the threat of abuse and other associated behaviour.

**Action required:**

Charity organisation "PATH" should be immediately relocated into appropriate non-residential area.

**Submitted by Mr Richard Ambrose**

# Agenda Item 18

Meeting of the Council, Wednesday, 5 December 2018

Public Question Under Standing Order A24

|                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Question from Jo Corrall to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Elected Mayor Oliver)</b> | <b>Given the commitment to reduce greenhouse gas emissions of both our national government and Torbay Council, and in light of the recent IPCC report outlining the urgent need for action in order to avoid the catastrophic worst effects of climate change, does the council have any compelling reason not to divest its funds from investments in the fossil fuel industry?</b> |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

# Agenda Item 19

Meeting of the Council, Wednesday, 5 December 2018

## Questions Under Standing Order A13

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

|                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>Question (1) by Councillor Darling (M) to the Executive Lead for Planning and Waste (Councillor Mills)</b></p>                                                           | <p><b>The following question and answer was considered at the 20 September 2018 Council Meeting:</b></p> <p><b>“With the development of the Pavilion in limbo, are you confident that MDL Ltd are maintaining the building in accordance with the terms of the lease?</b></p> <p><b>There is a major planning application for comprehensive redevelopment of the Pavilion and adjacent marina car park pending, which is still “live” and waiting for additional information from the developer before it can be considered by the council as Local Planning Authority. If approved and implemented this would see the Pavilion extensively repaired as part of the redevelopment.</b></p> <p><b>In the interim, the Council continues to monitor the condition of the building regularly, and only recently carried out another inspection. I can confirm therefore that MDL are carrying out routine maintenance and we are keeping a close eye on its condition.</b></p> <p><b>If no deliverable redevelopment is approved and implemented then the Council has a number of remedies and actions it can take if necessary in consultation with the tenant to bring the property back up to a standard to the satisfaction of the Council.”</b></p> <p><b>In light of the above response how long will Torbay Council wait for the additional information from the developer before pursuing alternative remedies to get the Pavilion in a fit state?</b></p> |
| <p><b>Question (2) by Councillor Pentney to the Council’s representative on the TOR2 Board (Councillor Bent)</b></p>                                                           | <p><b>In light of the decision by Torbay Council not to acquire Kiers shares in TOR2 at the present time. What additional management capacity do you think is needed to improve the performance of this Joint Venture Company?</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p><b>Question (3) by Councillor Darling (S) to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and</b></p> | <p><b>The following question and reply was received at the last Full Council in 18 October 2018.</b></p> <p><b>“At the Council meeting on 20 September 2018 I asked the following question and received the below reply:</b></p> <p><b>On the 1st of August 2018, due to the severe financial pressure that the Council faces, Torbay Council introduced a moratorium on non-essential spending for all parts of the Local Authority. Since then what meetings have you held with the two MPs who represent Torbay to put pressure on the Government to adequately fund the Council?</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

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| <p><b>Transformation (Elected Mayor Oliver)</b></p>                                                                                                                                                     | <p>I contacted both MPs to request a meeting to discuss Torbay’s finances as a matter of urgency. I met with Sarah Wollaston MP on 30 August 2018, however, Kevin Foster MP has declined to meet with me.</p> <p>So, since the 20 September has Kevin Foster MP made himself available to discuss the financial challenges that Torbay Council faces in light of his Governments cuts?</p> <p><b>Elected Mayor Oliver</b><br/> No. I have written to Kevin Foster MP on a number of occasions and he has declined to meet with me. In one email to me he stated “Both Sarah and I regularly consult with the Leader and Deputy Leader of the Majority Group on the Council, Cllrs Thomas and Tyerman, about the future challenges for the Council and how we can support them in dealing with this. This is with reference to not only next year’s Budget, but also looking ahead to the time when the Council will be run by a Leader with Cabinet Model.”</p> <p>In light of the above is Kevin Foster still refusing to meet with you about the financial challenges of Torbay?</p> |
| <p><b>Question (4) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Mayor Oliver)</b></p> | <p>In the 2018 Budget it was announced that a £675 million Future High Streets Fund will be set up to help local areas to respond to and adapt to changes. It will support local areas to prepare long-term strategies for their high streets and town centres, with a focus on replacing retail with residential development. I understand that further detail in the prospectus is expected later this year with Expressions of Interest in Spring 2019. Mr Mayor are you gearing up for this opportunity with Paignton Town Centre in mind?</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <p><b>Question (5) by Councillor Long to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Mayor Oliver)</b></p>   | <p>What actions are the Council taking to prepare for a No Deal Brexit?</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

**Second Round**

|                                                  |                                                                                                                                         |
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| <p><b>Question (6) by Councillor Darling</b></p> | <p>Why has TOR2 hired in two gritting vehicles for this winter. Could this be a reflection on the poor state of the gritting fleet?</p> |
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| <b>(S) to the Council’s representative on the TOR2 Board (Councillor Bent)</b>                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Question (7) by Councillor Pentney to the Council’s representative on the Police and Crime Panel (Councillor Excell)</b>                                                                      | <b>Torquay has suffered a massive reduction in the numbers of PCSOs who are integral to the delivery of neighbourhood policing reducing the numbers from 25 to 5 in Torquay. Earlier this year the Police and Crime Commissioner and Chief Constable of Devon and Cornwall Constabulary assured the Overview and Scrutiny Board that a review would be undertaken and more PCSOs recruited. When will we see more uniformed officers on the streets of Torquay?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Question (8) by Councillor Darling (M) to the Executive Lead for Community Services (Councillor Excell)</b>                                                                                   | <b>Since the introduction of the Torre traffic reversal, residents of Morgan Avenue have raised concerns about the volume and speed of traffic passing through this road. They were promised that following this reversal the wishes of the Morgan Avenue residents would be considered with a view to making this road safe. Could the member please advise what progress has been made to discourage drivers from using this road as a cut through?</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Question (9) by Councillor Carter to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Mayor Oliver)</b> | <p><b>The attached decision (Appendix 1) was published in February of this year.</b></p> <p><b>Your decision was in response to a motion submitted to Council over nine months ago. Can you please advise what progress has been made on the number of actions identified below:</b></p> <ol style="list-style-type: none"> <li><b>1. Instigating a council-led Plastic Free Torbay Task Force that involves all sections of the local community to be in place by July 2018. This task force will create an action plan that works towards moving away from the unnecessary single use plastics in Torbay and campaign to reduce and discourage single use plastics from retail premises;</b></li> <li><b>2. Start phasing out the use of unnecessary ‘single use plastic’ products such as bottles, cups, cutlery and drinking straws in all Council buildings and at all Council events by July 2020</b></li> <li><b>5. Working with local businesses and the Tourism Sector to participate in this initiative;</b></li> </ol> <p><b>Actions:</b></p> <p><b>Torbay Council is leading the South West Marine Plastics Initiative, in conjunction with Groundwork Trust. The project will be applying for substantial funding from the Big Lottery Fund to cover initiatives in the South Devon area (Plymouth CC, South Hams DC, Torbay Council (waste team, beaches and harbours) Teignbridge DC Exeter CC, Devon CC and East Devon DC), working with various partners including Torbay Cleaner Coasts Initiative, Torbay Coast and Countryside Trust, Beach Care (part funded by Tidy Britain), Fathoms Free, South Devon AONB, The National Trust, MVV and Groundwork South who are all committed to dealing with plastic waste washed up on our beaches and in our seas.,</b></p> |



The project will focus on the collection, recycling and reuse of marine plastics through the collection of plastic waste from beaches and seas during organised community beach cleans/litter picks, alongside the fishing industry being enabled to recycle their unwanted nets, along with any other plastic collected in the course of their work.

The plastic will be collected separately and taken to Exeter CC's Material Reclamation Facility, where it will be sorted into different polymers. This will then be delivered to a company in Germany who will turn the plastic into pellets. The pellets will then be made into kayaks and hopefully surfboards by a company in Somerset.

Kayaks will then be distributed to beach clean groups to enable them to continue to collect waste and plastic from the sea.

Funding will also be requested for the purchase of items to replace single use plastics in all council and partner's buildings.- glasses, cutlery etc.

This project has the potential to be a flagship scheme for the whole of the UK, if the trial is successful.

Torbay Council is also signed up to the Refill Devon scheme, this is a practical tap water campaign that aims to make refilling your water bottle as easy, convenient and cheap as possible by introducing refill points on every street.

Participating cafes, bars, restaurants, banks, galleries, museums and other businesses display a round, blue sticker in their window, inviting thirsty passers-by to come on in and fill up their bottle – for free.

The aim is to reduce the amount of plastic bottles ending up in our oceans, whilst keeping residents and visitors healthy, hydrated and saving money at the same time.

Refill Devon launched last year with the support of Beach Care and City Seas (see <https://www.recycledevon.org/welcome-to-refill-devon> and <http://www.torbay.gov.uk/> for more information).

3. Installing a free drinking water fountain in Paignton Library;

Action:

Whilst waiting for the drinking water fountain to be installed, Paignton Library could offer the Refill Devon scheme.

|                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
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|                                                                                               | <p>4. Increasing the amount of plastic that can be recycled through doorstep recycling and instigating a strategy to reduce the amount of litter on Torbay's streets;</p> <p><b>Actions:</b></p> <p>TOR2 already collect a comprehensive range of plastics at the kerbside including drinks bottles, shampoo, milk and detergent bottles, plastic pots like yoghurt pots, plastic tubs like margarine and ice cream tubs and plastic trays that fruit and meat are sold in.</p> <p>Torbay Council does not take black plastic, film or hard plastic as this cannot easily be recycled and can contaminate plastic loads resulting in rejection of whole loads of otherwise recyclable plastic.</p> <p>The Council will continue to look for new markets that can accept all these more difficult plastics, but with the Chinese market restrictions from January this year plastic recycling is becoming increasingly difficult.</p> <p>6. Sign up to the Herald Express and SAS campaign for Torbay to become a Plastic Free community by 2020.</p> <p><b>Action:</b></p> <p>The Elected Mayor supports working with the Herald Express and SAS on board with our marine plastics initiative.</p> |
| <p>Question (10) by Councillor Long to the Executive Lead for Adults (Councillor Parrott)</p> | <p>For the last three years that figures are available, how many complaints have the Council received regarding Third Party Top Ups in relation to care home placements for adults, and how many of those complaints have been upheld?</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

### Third Round

|                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
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| <p>Question (11) by Councillor Darling (M) to the Elected Mayor and Executive Lead for Assets, Finance, Governance and Corporate Services, Economic Regeneration and Transformation (Mayor Oliver)</p> | <p>In the 2018 Budget it was announced that a £675 million Future High Streets Fund will be set up to help local areas to respond to and adapt to changes. It will support local areas to prepare long-term strategies for their high streets and town centres, with a focus on replacing retail with residential development. I understand that further detail in the prospectus is expected later this year with Expressions of Interest in Spring 2019. Mr Mayor are you gearing up for this opportunity with Torquay Town Centre in mind?</p> |
| <p>Question (12) by Councillor Long to the Executive Lead for Customer</p>                                                                                                                             | <p>I understand that there is a loophole whereby second home owners can potentially avoid paying any council tax on their second homes by making their properties 'available for let' for 140 days per year so</p>                                                                                                                                                                                                                                                                                                                                |

|                                      |                                                                                                                                                                                                                    |
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| <b>Services (Councillor Haddock)</b> | <b>that they qualify as a business. The homes do not actually need to be let – just available for let. What representations have the Council made to Government or other agencies to get this loophole closed?</b> |
|--------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

## Appendix 1

### Record of Decision

#### Notice of Motion - Plastic Free Torbay

##### Decision Taker

Elected Mayor on 22 February 2018

##### Decision

That the motion be supported in principle, however, a number of actions are already being taken by the Council to support a plastic free Torbay as follows:

1. Instigating a council-led Plastic Free Torbay Task Force that involves all sections of the local community to be in place by July 2018. This task force will create an action plan that works towards moving away from the unnecessary single use plastics in Torbay and campaign to reduce and discourage single use plastics from retail premises;
2. Start phasing out the use of unnecessary 'single use plastic' products such as bottles, cups, cutlery and drinking straws in all Council buildings and at all Council events by July 2020
5. Working with local businesses and the Tourism Sector to participate in this initiative;

##### Actions:

Torbay Council is leading the South West Marine Plastics Initiative, in conjunction with Groundwork Trust. The project will be applying for substantial funding from the Big Lottery Fund to cover initiatives in the South Devon area (Plymouth CC, South Hams DC, Torbay Council (waste team, beaches and harbours) Teignbridge DC Exeter CC, Devon CC and East Devon DC), working with various partners including Torbay Cleaner Coasts Initiative, Torbay Coast and Countryside Trust, Beach Care (part funded by Tidy Britain), Fathoms Free, South Devon AONB, The National Trust, MVV and Groundwork South who are all committed to dealing with plastic waste washed up on our beaches and in our seas,.

The project will focus on the collection, recycling and reuse of marine plastics through the collection of plastic waste from beaches and seas during organised community beach cleans/litter picks, alongside the fishing industry being enabled to recycle their unwanted nets, along with any other plastic collected in the course of their work.

The plastic will be collected separately and taken to Exeter CC's Material Reclamation Facility, where it will be sorted into different polymers. This will then be delivered to a company in Germany who will turn the plastic into pellets. The pellets will then be made into kayaks and hopefully surfboards by a company in Somerset.

Kayaks will then be distributed to beach clean groups to enable them to continue to collect waste and plastic from the sea.

Funding will also be requested for the purchase of items to replace single use plastics in all council and partner's buildings.- glasses, cutlery etc.

This project has the potential to be a flagship scheme for the whole of the UK, if the trial is successful.

Torbay Council is also signed up to the Refill Devon scheme, this is a practical tap water campaign that aims to make refilling your water bottle as easy, convenient and cheap as possible by introducing refill points on every street.

Participating cafes, bars, restaurants, banks, galleries, museums and other businesses display a round, blue sticker in their window, inviting thirsty passers-by to come on in and fill up their bottle – for free.

The aim is to reduce the amount of plastic bottles ending up in our oceans, whilst keeping residents and visitors healthy, hydrated and saving money at the same time.

Refill Devon launched last year with the support of Beach Care and City Seas (see <https://www.recycledevon.org/welcome-to-refill-devon> and <http://www.torbay.gov.uk/> for more information).

3. Installing a free drinking water fountain in Paignton Library;

Action:

Whilst waiting for the drinking water fountain to be installed, Paignton Library could offer the Refill Devon scheme.

4. Increasing the amount of plastic that can be recycled through doorstep recycling and instigating a strategy to reduce the amount of litter on Torbay's streets;

Actions:

TOR2 already collect a comprehensive range of plastics at the kerbside including drinks bottles, shampoo, milk and detergent bottles, plastic pots like yoghurt pots, plastic tubs like margarine and ice cream tubs and plastic trays that fruit and meat are sold in.

Torbay Council does not take black plastic, film or hard plastic as this cannot easily be recycled and can contaminate plastic loads resulting in rejection of whole loads of otherwise recyclable plastic.

The Council will continue to look for new markets that can accept all these more difficult plastics, but with the Chinese market restrictions from January this year plastic recycling is becoming increasingly difficult.

6. Sign up to the Herald Express and SAS campaign for Torbay to become a Plastic Free community by 2020.

Action:

The Elected Mayor supports working with the Herald Express and SAS on board with our marine plastics initiative.

### **Reason for the Decision**

To respond to the motion.

### **Implementation**

This decision will come into force and may be implemented on Wednesday, 7 March 2018 unless the call-in procedure is triggered (as set out in Standing Orders in relation to Overview and Scrutiny).

### **Information**

At the Council meeting held on 22 February 2018, the Elected Mayor considered a motion on a plastic free Torbay notice of which was given in accordance with Standing Order A14 by Councillors Long and Carter as set out below:

Torbay is an important UNESCO accredited Global Geopark. The sea has shaped our communities and history and is a vital contributor to our economy and premier tourism offer.

This Council notes that in 2016 the Ellen MacArthur Foundation estimated that by weight, there could be more plastic in our oceans than fish as soon as 2050. Columbia University has estimated that plastic can last for up to 600 years in our environment, often finding its way into marine life thus affecting the food chain, and the water we eventually drink.

Torbay Council also congratulates the Herald Express newspaper and 'Devon Live' for launching a campaign with 'Surfers Against Sewage' (SAS) to encourage 125 communities to become plastic free by 2020.

Following the public outcry on this issue after the BBC 'Blue Planet II' programme, this Council resolves to provide leadership on this issue by:

- 1) Instigating a council-led Plastic Free Torbay Task Force that involves all sections of the local community to be in place by July 2018. This task force will create an action plan that works towards moving away from the unnecessary single use plastics in Torbay and campaign to reduce and discourage single use plastics from retail premises;
- 2) Start phasing out the use of unnecessary 'single use plastic' products such as bottles, cups, cutlery and drinking straws in all Council buildings and at all Council events by July 2020;
- 3) Installing a free drinking water fountain in Paignton Library;

- 4) Increasing the amount of plastic that can be recycled through doorstep recycling and instigating a strategy to reduce the amount of litter on Torbay's streets;
- 5) Working with local businesses and the Tourism Sector to participate in this initiative; and
- 6) Sign up to the Herald Express and SAS campaign for Torbay to become a Plastic Free community by 2020.

In accordance with Standing Order A14.3(a), the motion stood referred to the Elected Mayor.

The Elected Mayor responded to the motion at the meeting and his decision is set out above.

**Alternative Options considered and rejected at the time of the decision**

None

**Is this a Key Decision?**

No – Reference Number: I037242

**Does the call-in procedure apply?**

Yes

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

None

**Published**

27 February 2018

Signed: \_\_\_\_\_  
The Elected Mayor of Torbay

Date: 27 February 2018

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| <b>Executive Notice of Motion</b> |
|-----------------------------------|

**Council Meeting**

**5 December 2018**

**The Mace at Council Meetings – Council Decision**

That this Council needs to make the necessary arrangements to ensure that in future the Mace is always present at all future Council meetings.

It is a long and established tradition and retains the linkage the authority has to the Monarchy which is part of the national structure of government in this country.

Proposer: Elected Mayor Oliver

Secunder: Councillor Mills



## Liberal Democrat Notice of Motion

### Council Meeting

5 December 2018

#### Use of the Mace at Council Meetings – Council Decision

1. This Council notes that we are one of around 20 Councils that face severe financial problems due to cuts by central Government of £76 Million to the budget in recent years.
2. This Council notes that, in the absence of the Mace or civil regalia at council meetings, decisions made are valid and binding.
3. Since the 1st August, 2018, Torbay Council has introduced a ban on non-essential spending. Therefore, the security costs required for these Civic items, should be seen as non-essential spending.

In light of the above this Council agrees:

- i That the Mace and civic regalia are no longer used at Council meetings to ensure the Council is prioritising best use of its limited resources;
- ii That the Mace is only used at Annual Council meetings and Remembrance Sunday to represent the significance of these events; and
- lii That officers be instructed to amend the constitution to reflect this decision.

Proposer: Councillor Pentney  
Seconder: Councillor Carter

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|-------------------------------------------------|
| <p><b>Liberal Democrat Notice of Motion</b></p> |
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**Council Meeting**

**5 December 2018**

**60 and 65 Bus Services – Mayoral Decision**

This Council notes with grave concern the announcement by the Torbay Community Development Trust concerning the suspension of the 60 and 65 bus services.

Torbay Council recognises the vital service that these bus services provide to frail and elderly residents providing a vital link to the hospital, and also to Torquay Town Centre.

Following the announcement of the suspension, residents have highlighted a number of issues. These include:

- Buses breaking down regularly resulting in an unreliable service which may have put people off using the service resulting in a lack of income;
- Vehicles having to be fixed regularly presumably at some cost;
- The lack of any meetings between the Torbay Community Development Trust and service users, resulting in a lack of communication about the serious financial situation that was developing. This lack of communication has negated any opportunity for users of the service to promote the service or fundraise for it;
- No communication by the Torbay Community Development Trust with Ward Councillors about the financial situation until the suspension announcement denying any opportunity to explore other funding opportunities;
- Limited promotion of the bus services following the launch.

The Council calls on the Elected Mayor to establish an urgent Task and Finish Group to discover what has gone wrong and to explore potential funding solutions to sustain these vital services in the future both short term (so that the services can cover the vital Christmas period) and longer term.

Proposer: Councillor Long  
Secunder: Councillor Darling (S)

## **Notice of Motion – Council 5 December 2018**

### **Regeneration Investment in Torbay – Council Decision**

On 19 October 2017, the Council approved prudential borrowing of up to £25m to create a Town Centre Regeneration Programme Fund that would support delivery of the projects identified in Phase 1 of the Town Centre Regeneration Programme, as set out in the Council's Transformation Strategy for Torbay's Town Centres. The Council subsequently transferred the delivery of town centre regeneration and the £25m Fund to the Investment and Regeneration Committee to determine in accordance with the Transformation Strategy for Torbay's Town Centres and the Investment and Regeneration Fund Strategy (21 June 2018). This decision also removed the requirement to invest any surplus income into town centre regeneration with all surplus income going into the Council's general funding to help fund the Revenue Budget.

A number of the projects within the Transformation Strategy for Torbay's Town Centres were intended to be funded from surplus income generated from other schemes. This does not meet the requirements of the Investment and Regeneration Fund Strategy and therefore the Committee would not be able to invest in such projects.

The Council is moving to a Leader and Cabinet model in May 2019 and therefore it would not be prudent to revise the Transformation Strategy for Torbay's Town Centres at this stage but a decision does need to be made to enable the Council to invest its valuable resources within Torbay.

Therefore this Council resolves that the £25m previously earmarked for Town Centre Regeneration be moved to a general Regeneration Fund, to enable regeneration investment within the whole of Torbay for the benefit of our communities, to be allocated in accordance with the Investment and Regeneration Fund Strategy.

Proposed by Councillor Robson  
Seconded by Councillor Tyerman



**Meeting:** Council

**Date:** 5 December 2018

**Wards Affected:** All Wards in Torbay

**Report Title:** Review of Polling Districts, Polling Places and Polling Stations 2018

**Is the decision a key decision?** No

**When does the decision need to be implemented?** 1 February 2019

**Supporting Officer Contact Details:** Anne-Marie Bond, Director of Corporate Services, 01803 207160; Anne-Marie.bond@torbay.gov.uk

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## 1. Proposal and Introduction

1.1 Following a review by the Local Government Boundary Commission in 2017 of the electoral arrangements for Torbay and the recommendations made by the Commission, the local authority is required to undertake a review of all of its polling districts (the geographical areas created by the sub-division of a ward or Parliamentary constituency), its polling places (the building or area in which polling stations will be selected by the (Acting) Returning Officer) and its polling stations. This report sets out the recommendations of the Constitution Working Party for a revised polling district and polling station scheme.

## 2. Reason for Proposal and associated financial commitments

- 2.1 The Council is required to review Torbay's polling districts, polling places and polling stations following the introduction of new boundaries as a result of the Local Boundary Review undertaken in 2017.
- 2.2 The proposals contained in this report will result in some minor changes to resourcing of polling stations, but these are not significant.

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## 3. Recommendation(s) / Proposed Decision

- 3.1 That the revised polling district and polling station scheme, as set out at Appendix 1 be approved.
- 3.2 That delegation be given to the Returning Officer to make any amendments to the scheme which may be required to facilitate the running of elections.

## **List of Appendices**

- Appendix 1: Proposed revisions to the polling district and polling place scheme.
- Appendices 2 - 17: Ward maps detailing recommending polling district boundaries for Barton with Watcombe, Churston with Galmpton, Clifton with Maidenway, Cockington with Chelston, Collaton St Mary, Ellacombe, Furzeham with Summercombe, Goodrington with Roselands, King's Ash, Preston, Roundham with Hyde, Shiphay, St Marychurch, St Peter's with St Mary's, Tormohun and Wellswood.
- Appendix 18: Proposed roads/properties to be moved from one polling district to another.
- Appendix 19: The Acting Returning Officer's recommendations regarding polling stations.

## **Background Documents**

Electoral Administration Act 2013

<https://www.torbay.gov.uk/council/voting-and-elections/polling-districts-review/>

## Section 1: Background Information

### 1. What is the proposal / issue?

Local Authorities are required by law to divide their area into polling districts, to designate polling places/polling stations for those districts and to keep the polling districts and polling places under review. The last comprehensive review of polling districts and polling stations was carried out in 2014 with interim reviews carried out in 2010 and 2011.

Wherever possible the polling districts have remained true to existing arrangements, thus avoiding too much change for the sake of change. In addition, the majority of the proposed polling stations are the ones currently used as it was felt that the current locations serve their respective polling districts sufficiently. Furthermore, it is not always possible to identify suitable alternatives especially in predominantly residential areas.

The review can only address polling issues within the current ward structure of the Borough. It cannot make changes to the ward (or Borough) boundaries.

Following the Constitution Working Party meeting held on 18 July 2018 a consultation on the Officer proposals was held. Following the consultation, the recommendations were considered and approved by the Working Party at their meeting of the 31 October 2018.

### 2. What is the current situation?

Following a review by the Local Government Boundary Commission of the electoral arrangements for Torbay and the recommendations made by the Commission, the local authority was required to undertake a review of all of its polling districts (the geographical areas created by the sub-division of a ward or Parliamentary constituency), its polling places (the building or area in which polling stations will be selected by the (Acting) Returning Officer) and its polling stations. The changes brought about by the review have affected the boundaries of the existing 15 wards, some considerably, and subsequently the geography of the polling districts within those wards.

The Boundary Commission recommended that:

- Torbay should be represented by 36 councillors, the same number as there are now;
- Torbay should have 16 wards, one more than there are now; and
- The boundaries of all wards should change, none will stay the same.

The recommendations were laid before Parliament in June 2018 and approved.

|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           | <p>The Constitution Working Party met on 2 occasions to review the proposals for the revised polling districts, places and stations. Membership over these meetings of the Working Party (including substitutions) included: Councillors Hill (Chairman), Darling (S), Ellery, Sanders, Thomas (D), Tolchard, Tyerman. The Working Party's recommendations are set out above.</p>                                                                        |
| <b>3.</b> | <p><b>What options have been considered?</b></p> <p>The Working Party discussed a number of options arising from the consultation feedback.</p>                                                                                                                                                                                                                                                                                                          |
| <b>4.</b> | <p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>The changes proposed to the polling districts and polling stations arise from statutory requirements. The proposals assist with the Corporate Plan principle of using resources to best effect.</p>                                                                                                                                        |
| <b>5.</b> | <p><b>How does this proposal contribute towards the Council's responsibilities as corporate parents?</b></p> <p>No direct impact.</p>                                                                                                                                                                                                                                                                                                                    |
| <b>6.</b> | <p><b>How does this proposal tackle deprivation?</b></p> <p>No direct impact.</p>                                                                                                                                                                                                                                                                                                                                                                        |
| <b>7.</b> | <p><b>How does this proposal tackle inequalities?</b></p> <p>The proposals aim to tackle inequalities by ensuring that the polling stations are accessible to all electors in terms of location and physical access.</p>                                                                                                                                                                                                                                 |
| <b>8.</b> | <p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>No direct impact on people with learning disabilities.</p>                                                                                                                                                                                                                                                                                                           |
| <b>9.</b> | <p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>Electors within Torbay.</p> <p>Public consultation ran from 27 July until 7 September 2018 and the following people and organisations were invited to respond to the consultation:</p> <ul style="list-style-type: none"> <li>• The Acting Returning Officer, Torbay Council</li> <li>• The Acting Returning Officer, South Hams District Council</li> </ul> |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <ul style="list-style-type: none"> <li>• All Torbay Councillors and the Mayor of Torbay</li> <li>• Brixham Town Councillors</li> <li>• Kevin Foster MP</li> <li>• Sarah Wollaston MP</li> <li>• Torbay Conservative Association</li> <li>• Torbay Liberal Democrats</li> <li>• Torbay Labour Party</li> <li>• Torbay Green Party</li> <li>• Torbay UKIP</li> <li>• Age UK Torbay</li> <li>• Action on Hearing Loss (former RNID South West)</li> <li>• RNIB South West</li> <li>• Scope</li> <li>• Action for Blind People</li> <li>• South West Multiple Sclerosis Centre</li> <li>• Torbay Disability Information Service</li> <li>• Speaking Out in Torbay (SPOT)</li> <li>• Shopmobility</li> <li>• Torbay electors</li> <li>• Brixham Community Partnership</li> <li>• Chelston, Cockington &amp; Livermead Community Partnership</li> <li>• Churston, Galmpton &amp; Broadsands Community Partnership</li> <li>• Torre &amp; Upton Community Partnership</li> <li>• Wellswood &amp; Torwood Community Partnership</li> </ul> |
| 10. | <p><b>How will you propose to consult?</b></p> <p>Consultation has already taken place on the proposals. The consultation ran from 27 July until 7 September 2018. The documents comprised of the officer proposals and ward maps. These documents were published on the Council's website and circulated to the people and stakeholders listed in section 9.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |



## Section 2: Implications and Impact Assessment

|            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>11.</b> | <b>What are the financial and legal implications?</b><br><br>There will be minimal additional costs to the Council associated with resourcing the new polling stations due to an increase in polling districts from 68 to 70. For national elections these costs will be covered by Central Government. The costs include the need to employ additional staff in those polling stations where there are cross parliamentary boundaries.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>12.</b> | <b>What are the risks?</b><br><br>Local authorities must comply with the following legislative requirements regarding the designation of polling districts and polling places: <ul style="list-style-type: none"><li>• Each parish in England is to be a separate polling district</li><li>• The Council must designate a polling place for each polling district, unless the size or other circumstances of a polling district are such that the situation of the polling stations does not materially affect the convenience of the electors</li><li>• The polling place must be in an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district (for example, if no accessible polling place can be identified in the district)</li></ul><br>Failure to implement the proposals will be a breach of this legislation.<br><br>Some electors will vote at a different polling station to where they are used to. However, all affected electors will be written to following the conclusion of the polling review and messages will be added to poll cards. |
| <b>13.</b> | <b>Public Services Value (Social Value) Act 2012</b><br><br>There is no additional procurement of goods required to be made under these proposals                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>14.</b> | <b>What evidence / data / research have you gathered in relation to this proposal?</b><br><br>Following a review by the Local Government Boundary Commission of the electoral arrangements for Torbay and the recommendations made by the Commission, the local authority was required to undertake a review of all of its polling districts, polling places and polling stations.<br><br>The Constitution Working Party meeting held on 18 July 2018 considered the consultation approach and a consultation on the Officer proposals was then held. The results of the consultation considered by the Working Party at their                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

|            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|            | <p>meeting of the 31 October 2018 and their recommendations are set out above.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <p>15.</p> | <p><b>What are key findings from the consultation you have carried out?</b></p> <p>Responses to the consultation were published on the Council's website at <a href="https://www.torbay.gov.uk/council/voting-and-elections/polling-districts-review/">https://www.torbay.gov.uk/council/voting-and-elections/polling-districts-review/</a></p> <p><a href="https://www.torbay.gov.uk/media/11956/south-hams-aro-report.docx">https://www.torbay.gov.uk/media/11956/south-hams-aro-report.docx</a></p> <ul style="list-style-type: none"> <li>• Torbay Liberal Democrats – requested that Dorchester Grove should be included in the AB polling district of the Barton with Watcombe ward rather than the proposed AE polling district.</li> </ul> <p><b>Response</b> these issues have been addressed in the recommendations.</p> <ul style="list-style-type: none"> <li>• Torbay Liberal Democrats – requested that Salisbury Avenue, Winchester Avenue, Truro Avenue, Gloucester Close, Lichfield Avenue, Horace Road and Lincoln Green also form part of Polling District AB, or alternatively that they form a separate Polling District of their own - possibly then taking advantage of the potential for polling station facilities (including ample parking) at the nearby Barton Baptist Church.</li> </ul> <p><b>Response</b> the combined electorate of Salisbury Avenue, Winchester Avenue, Truro Avenue, Gloucester Close, Lichfield Avenue, Horace Road and Lincoln Green is 821, increasing the electorate for the AB polling district to 2726 which exceeds the Electoral Commission's recommendation of 2500 electors. The consultees suggestion to use Barton Baptist Church would result in the polling station being outside the polling district. The alternative is to combine the existing WC and WD polling districts to form polling district AE. The electorate falls within the Electoral Commission's recommendation. The proposed polling arrangements for AE is to use Acorn Centre as a double polling station as the electors in the WC polling district already vote here. These issues have been addressed in the recommendations.</p> <ul style="list-style-type: none"> <li>• Email from Elizabeth Tucker, on behalf of the Acting Returning Officer for the Totnes Constituency – requested that electors in BCA should go to St Georges Hall rather than the proposed Mobile Station at Davies Avenue.</li> </ul> <p><b>Response</b> these issues have been addressed in the recommendations.</p> <ul style="list-style-type: none"> <li>• Torbay Liberal Democrats – requested that some electors in Colley End Road, Treesdale Close and Swincombe Close should vote at the Old Monastery rather than Paignton College (Waterleat Road campus).</li> </ul> |

**Response** the properties concerned fall under the Totnes Constituency for Parliamentary elections and are therefore unable to vote at a Torbay Constituency polling station (which the Old Monastery is). These issues have been addressed in the recommendations.

- Torbay Liberal Democrats – requested that Mount Pleasant Road be included in the FB polling district rather than the proposed FA polling district.

**Response** these issues have been addressed in the recommendations.

- Torbay Liberal Democrats – requested that Furzeham Park be included in the GE polling district rather than the proposed GF polling district.

**Response** these issues have been addressed in the recommendations.

- Councillor Alan Tyerman – requested that electors in the HV polling district vote at the leisure centre, therefore making the leisure centre a double polling station.

- **Response** the viability of this proposal was looked into, however, the current location of the polling station (a squash court) within the leisure centre would not be able to accommodate a double polling station. The Leisure Centre does not have a suitable additional room available. Feedback was invited from the Presiding Officer usually located at the leisure centre, indicated that the existing location only just copes with the current amount of electors. Therefore the proposal to merge the two current polling districts of IC and ID to make a single polling district is not viable.

Whilst the combined electorate (2433) would be within the Electoral Commission's recommendations, elector turnout for both of the current polling districts are high and we would therefore expect to see large numbers of voters attending a polling station which already struggles with an electorate of 1219. These issues have been addressed in the recommendations.

- Email from Elizabeth Tucker, on behalf of the Acting Returning Officer for the Totnes Constituency requested that electors in IAA vote at the Catholic Church Rooms, Cecil Road.

**Response** these issues have been addressed in the recommendations.

- Torbay Liberal Democrats – requested that voters in Enfield Road should be included in the MF polling district rather than the proposed MD polling district.

**Response** these issues have been addressed in the recommendations.

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <ul style="list-style-type: none"> <li>• Torbay Liberal Democrats – requested that the whole of Douglas Avenue be included in the NB polling district.</li> </ul> <p><b>Response</b> this has been addressed in the recommendations.</p> <ul style="list-style-type: none"> <li>• Torbay Liberal Democrats – requested that the boundary line between PB and PD be redrawn so that a property on Newton Road is included within the correct polling district.</li> </ul> <p><b>Response</b> this has been addressed in the recommendations.</p> <ul style="list-style-type: none"> <li>• Councillor James O’Dwyer – suggested a mobile station at Cary Gardens or at the Terrace Car Park or St John the Apostle Church as a polling station.</li> <li>• Councillor Nick Bye – suggested that Torquay Museum be used a polling station for the electors in PF or alternatively St John the Apostle Church.</li> </ul> <p><b>Response</b> a further review was undertaken following the comments received through the consultation. The Council is trying to avoid the use of additional mobile stations as they are costly and logistically difficult to manage. The use of St Johns Church was also looked into but the venue was deemed to be unsuitable for accessibility. Torquay Museum falls outside of the Tormohun ward. Torquay Harbour Office is recommended as the polling station for PF.</p> <p>This has been addressed in the recommendations.</p> |
| 16. | <p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>Yes. See section 15 for details.</p> <p>For most electors, they will be voting at their usual polling station, with some electors voting at a different polling station to where they are used to. All affected electors will be written to following the conclusion of the polling review and messages will be added to poll cards.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

## Equality Impacts

| 17. | Identify the potential positive and negative impacts on specific groups                                                       |                 |                                                                                                             |                                 |
|-----|-------------------------------------------------------------------------------------------------------------------------------|-----------------|-------------------------------------------------------------------------------------------------------------|---------------------------------|
|     |                                                                                                                               | Positive Impact | Negative Impact & Mitigating Actions                                                                        | Neutral Impact                  |
|     | Older or younger people                                                                                                       |                 |                                                                                                             | There is no differential impact |
|     | People with caring Responsibilities                                                                                           |                 |                                                                                                             | There is no differential impact |
|     | People with a disability                                                                                                      |                 | An accessibility assessment is made on all polling stations and reasonable adjustments made where required. |                                 |
|     | Women or men                                                                                                                  |                 |                                                                                                             | There is no differential impact |
|     | People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> |                 |                                                                                                             | There is no differential impact |
|     | Religion or belief (including lack of belief)                                                                                 |                 |                                                                                                             | 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 |
|    | Socio-economic impacts (Including impact on child poverty issues and deprivation)                                                 |                                 |  | There is no differential impact |
|    | Public Health impacts (How will your proposal impact on the general health of the population of Torbay)                           |                                 |  | There is no differential impact |
| 16 | <b>Cumulative Impacts – Council wide</b><br>(proposed changes elsewhere which might worsen the impacts identified above)          | No applicable for this proposal |  |                                 |
| 17 | <b>Cumulative Impacts – Other public services</b><br>(proposed changes elsewhere which might worsen the impacts identified above) | No applicable for this proposal |  |                                 |

**Appendix 1 – Proposed revisions to the polling district and polling station scheme**

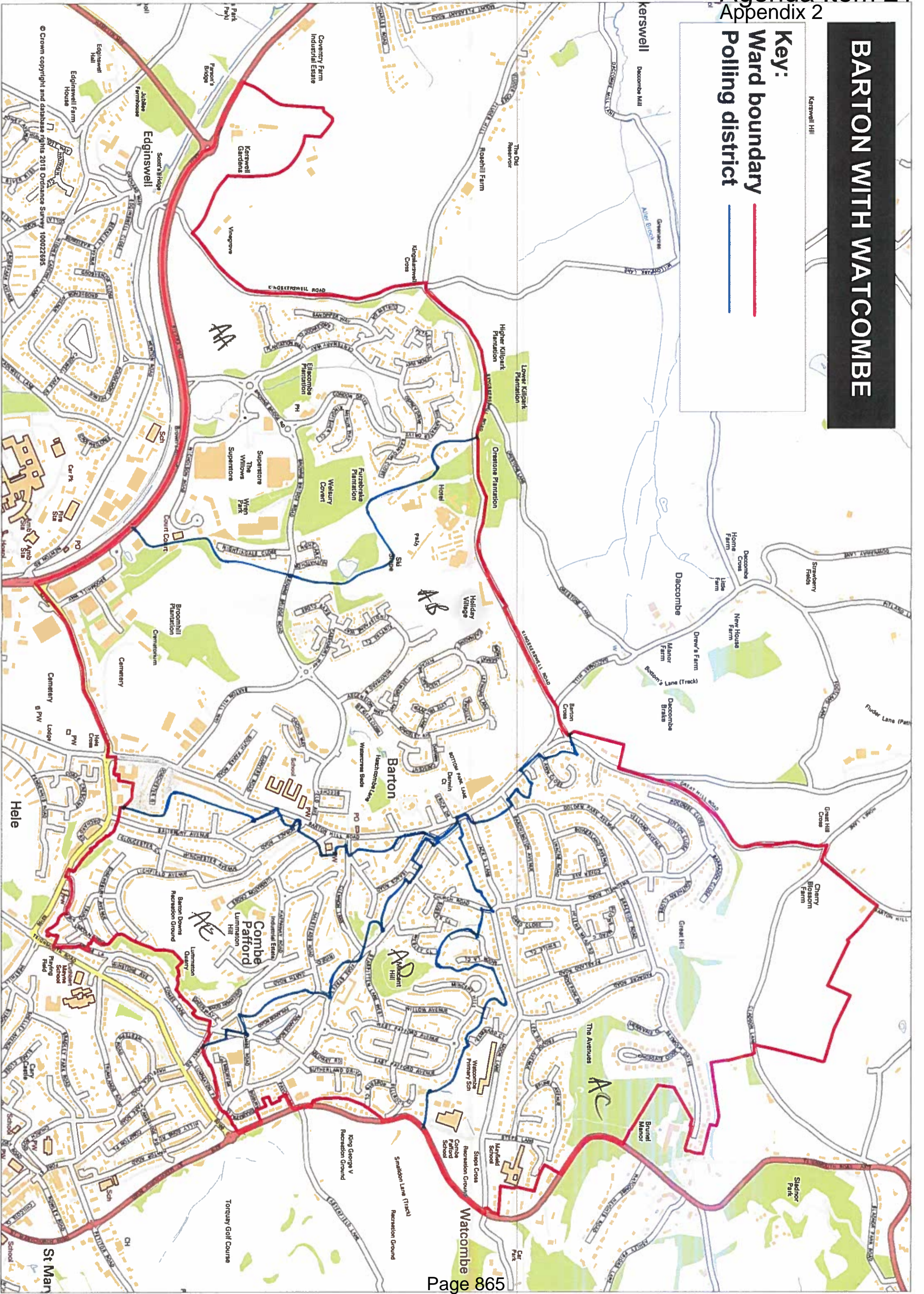
| No. | Ward                       | Polling district | Electorate | Polling station                                              | Parliamentary Constituency |
|-----|----------------------------|------------------|------------|--------------------------------------------------------------|----------------------------|
| 1   | Barton with Watcombe       | AA               | 1346       | Mobile station at DFS car park                               | Torbay                     |
| 2   | Barton with Watcombe       | AB               | 1905       | Rear of St Martins Church, Barton Hill Road                  | Torbay                     |
| 3   | Barton with Watcombe       | AC               | 1949       | Watcombe Childrens Centre, Moor Lane                         | Torbay                     |
| 4   | Barton with Watcombe       | AD               | 1547       | Medway Centre, Medway Road                                   | Torbay                     |
| 5   | Barton with Watcombe       | AE               | 1734       | Acorn Community Centre, Lummaton Cross                       | Torbay                     |
| 6   | Churston with Galmpton     | BA               | 600        | St Georges Church, Barn Road                                 | Totnes                     |
| 7   | Churston with Galmpton     | BB               | 1667       | Hookhills Community Centre, Freshwater Drive                 | Totnes                     |
| 8   | Churston with Galmpton     | BC               | 1091       | Mobile Station at Davies Avenue                              | Totnes                     |
| 9   | Churston with Galmpton     | BD               | 40         | St Georges Hall, Barn Road                                   | Torbay                     |
| 10  | Churston with Galmpton     | BE               | 998        | Galmpton Village Hall, Greenway Road                         | Totnes                     |
| 11  | Churston with Galmpton     | BF               | 1194       | Churston Branch Library, Dartmouth Road                      | Totnes                     |
| 12  | Clifton with Maidenway     | CA               | 1942       | Catholic Church Rooms, Sacred Heart Church, Cecil Road       | Torbay                     |
| 13  | Clifton with Maidenway     | CB               | 935        | The Old Monastery, Berry Drive                               | Torbay                     |
| 14  | Clifton with Maidenway     | CC               | 1375       | Catholic Church Rooms, Sacred Heart Church, Cecil Road       | Torbay                     |
| 15  | Clifton with Maidenway     | CD               | 1023       | Cross Links Hall, Winner Street                              | Torbay                     |
| 16  | Clifton with Maidenway     | CE               | 697        | Paignton Community and Sports Academy, Waterleat Road campus | Totnes                     |
| 17  | Cockington with Chelston   | DA               | 1908       | Mobile station at Preston Primary School, Old Paignton Road  | Torbay                     |
| 18  | Cockington with Chelston   | DB               | 1377       | St Matthews Church, top of Walnut Road                       | Torbay                     |
| 19  | Cockington with Chelston   | DC               | 930        | St Peters Church Hall, Queensway                             | Torbay                     |
| 20  | Cockington with Chelston   | DD               | 1876       | St Peters Church Hall, Queensway                             | Torbay                     |
| 21  | Collaton St Mary           | EA               | 2070       | Paignton Community and Sports Academy, Borough Road campus   | Totnes                     |
| 22  | Ellacombe                  | FA               | 1933       | Salvation Army Hall, Market Street                           | Torbay                     |
| 23  | Ellacombe                  | FB               | 2058       | Salvation Army Hall, Market Street                           | Torbay                     |
| 24  | Ellacombe                  | FC               | 1654       | Ellacombe Academy, Ellacombe Church Road                     | Torbay                     |
| 25  | Furzeham with Summercombe  | GA               | 1264       | Higher Brixham Community Centre                              | Totnes                     |
| 26  | Furzeham with Summercombe  | GB               | 1062       | Central Garage Showroom, Milton Street                       | Totnes                     |
| 27  | Furzeham with Summercombe  | GC               | 2013       | Brixham Hospital, Greenswood Road                            | Totnes                     |
| 28  | Furzeham with Summercombe  | GD               | 1053       | Scala Hall, Market Street                                    | Totnes                     |
| 29  | Furzeham with Summercombe  | GE               | 1830       | Brixham Cricket Club, North Boundary Road                    | Totnes                     |
| 30  | Furzeham with Summercombe  | GF               | 965        | Brixham Bowling Club, Nelson Road                            | Totnes                     |
| 31  | Goodrington with Roselands | HA               | 2263       | Time Out Coffee Shop, Sturcombe Drive                        | Torbay                     |
| 32  | Goodrington with Roselands | HB               | 33         | Paignton Community and Sports Academy, Borough Road campus   | Totnes                     |
| 33  | Goodrington with Roselands | HC               | 1063       | St Georges Hall, Barn Road                                   | Torbay                     |
| 34  | Goodrington with Roselands | HD               | 198        | St Georges Church, Barn Road                                 | Totnes                     |
| 35  | Goodrington with Roselands | HE               | 1214       | Hall at Clennon Rise entrance, Romaleyn Gardens              | Torbay                     |
| 36  | Goodrington with Roselands | HF               | 1219       | Torbay Leisure Centre, Penwill Way                           | Torbay                     |
| 37  | Kings Ash                  | IA               | 1563       | St Boniface Church Hall, Belfield Road                       | Totnes                     |
| 38  | Kings Ash                  | IB               | 89         | Catholic Church Rooms, Sacred Heart Church, Cecil Road       | Torbay                     |
| 39  | Kings Ash                  | IC               | 1470       | St Boniface Church Hall, Belfield Road                       | Totnes                     |
| 40  | Kings Ash                  | ID               | 1392       | Great Parks Community Centre, Queen Elizabeth Drive          | Totnes                     |
| 41  | Kings Ash                  | IE               | 809        | Great Parks Community Centre, Queen Elizabeth Drive          | Totnes                     |
| 42  | Preston                    | JA               | 1930       | Mobile Station at Preston Down Road Shopping Parade          | Torbay                     |
| 43  | Preston                    | JB               | 1826       | St Pauls Church, Torquay Road                                | Torbay                     |
| 44  | Preston                    | JC               | 2182       | Mobile Station at Albany/Lacy Road                           | Torbay                     |
| 45  | Preston                    | JD               | 2259       | Paignton PNU Spiritualist Church, Manor Road                 | Torbay                     |
| 46  | Roundham with Hyde         | KA               | 1334       | Christ Church Hall, Torquay Road                             | Torbay                     |
| 47  | Roundham with Hyde         | KB               | 847        | Paignton Club, Esplanade Road                                | Torbay                     |
| 48  | Roundham with Hyde         | KC               | 1523       | Paignton Club, Esplanade Road                                | Torbay                     |

| No. | Ward                    | Polling district | Electorate | Polling station                                  | Parliamentary Constituency |
|-----|-------------------------|------------------|------------|--------------------------------------------------|----------------------------|
| 49  | Roundham with Hyde      | KD               | 2392       | Cross Link Hall, Winner Street                   | Torbay                     |
| 50  | Shiphay                 | LA               | 1880       | Sherwell Valley Primary School, Hawkins Avenue   | Torbay                     |
| 51  | Shiphay                 | LB               | 2005       | St Andrews Church Hall, Exe Hill                 | Torbay                     |
| 52  | Shiphay                 | LC               | 2251       | St Andrews Church Hall, Exe Hill                 | Torbay                     |
| 53  | St Marychurch           | MA               | 498        | Brunel Manor Christian Centre, Teignmouth Road   | Torbay                     |
| 54  | St Marychurch           | MB               | 1625       | St Marychurch C of E Primary School, Hartop Road | Torbay                     |
| 55  | St Marychurch           | MC               | 2185       | Rear of Dunboyne Court, 170 St Marychurch Road   | Torbay                     |
| 56  | St Marychurch           | MD               | 1748       | Plainmoor Swimming Pool, Plainmoor               | Torbay                     |
| 57  | St Marychurch           | ME               | 1457       | Furrough Cross Church Hall, Babbacombe Road      | Torbay                     |
| 58  | St Marychurch           | MF               | 1537       | St Anne's Hall, Babbacombe Road                  | Torbay                     |
| 59  | St Peters with St Marys | NA               | 2161       | St Marys Park Bowling Club                       | Totnes                     |
| 60  | St Peters with St Marys | NB               | 1535       | Brixham Rugby Club, Rea Barn Road                | Totnes                     |
| 61  | St Peters with St Marys | NC               | 1544       | Brixham Rugby Club, Rea Barn Road                | Totnes                     |
| 62  | Tormohun                | PA               | 2219       | Central Church Hall, Tor Hill Road               | Torbay                     |
| 63  | Tormohun                | PB               | 1886       | Central Church Hall, Tor Hill Road               | Torbay                     |
| 64  | Tormohun                | PC               | 811        | Echo Building, St James Road                     | Torbay                     |
| 65  | Tormohun                | PD               | 2398       | Torre C of E Academy, Barton Road                | Torbay                     |
| 66  | Tormohun                | PE               | 721        | Windmill Community Centre, Pendennis Road        | Torbay                     |
| 67  | Tormohun                | PF               | 745        | Torquay Harbour Office, Parkhill Road            | Torbay                     |
| 68  | Wellswood               | RA               | 1849       | St Matthias Church Hall, Babbacombe Road         | Torbay                     |
| 69  | Wellswood               | RB               | 1516       | St Matthias Church Hall, Babbacombe Road         | Torbay                     |
| 70  | Wellswood               | RC               | 1608       | Riviera Life Church, Babbacombe Road             | Torbay                     |
| 71  | Wellswood               | RD               | 767        | Riviera Life Church, Babbacombe Road             | Torbay                     |



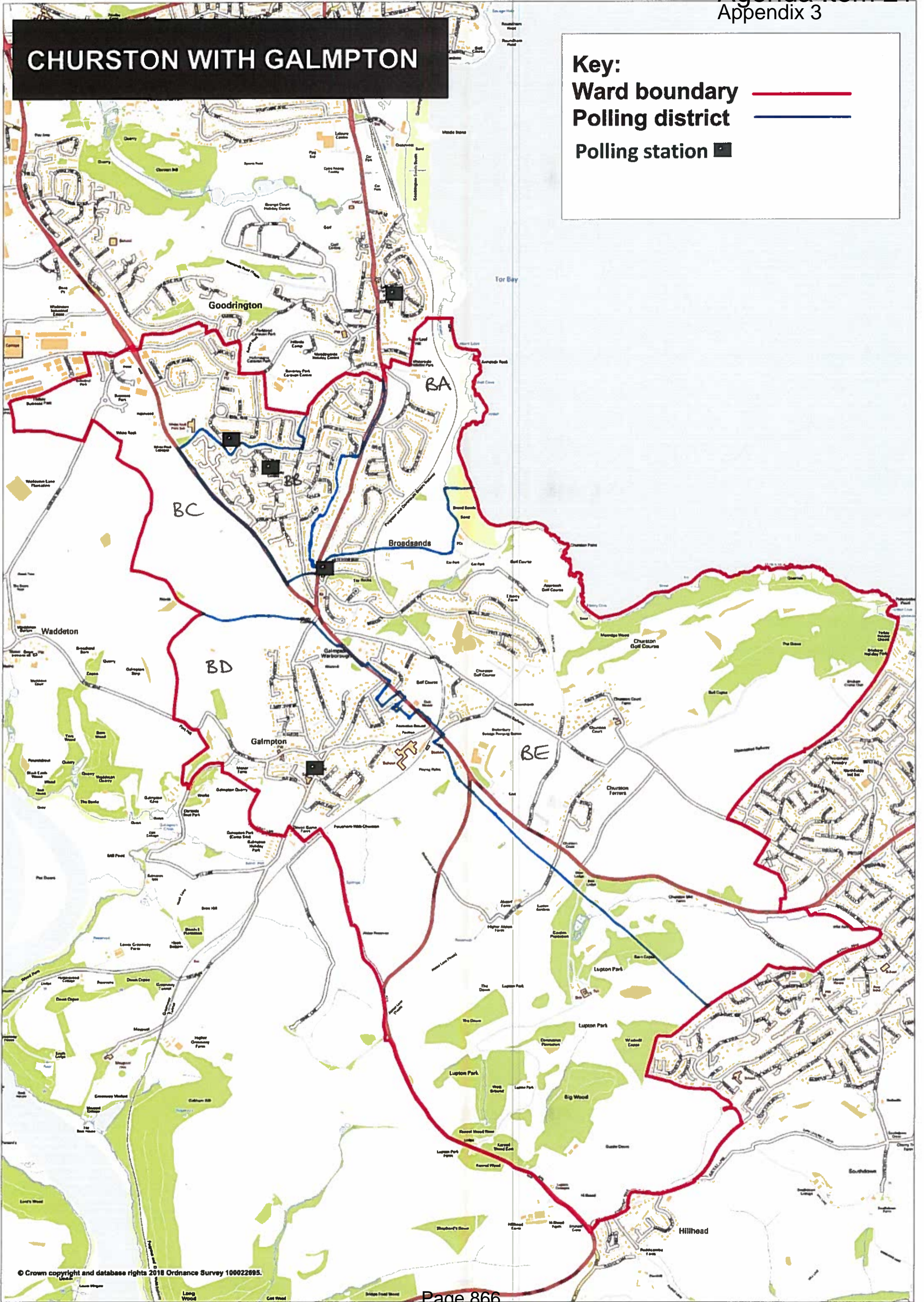
# BARTON WITH WATCOMBE

**Key:**  
Ward boundary ———  
Polling district ———



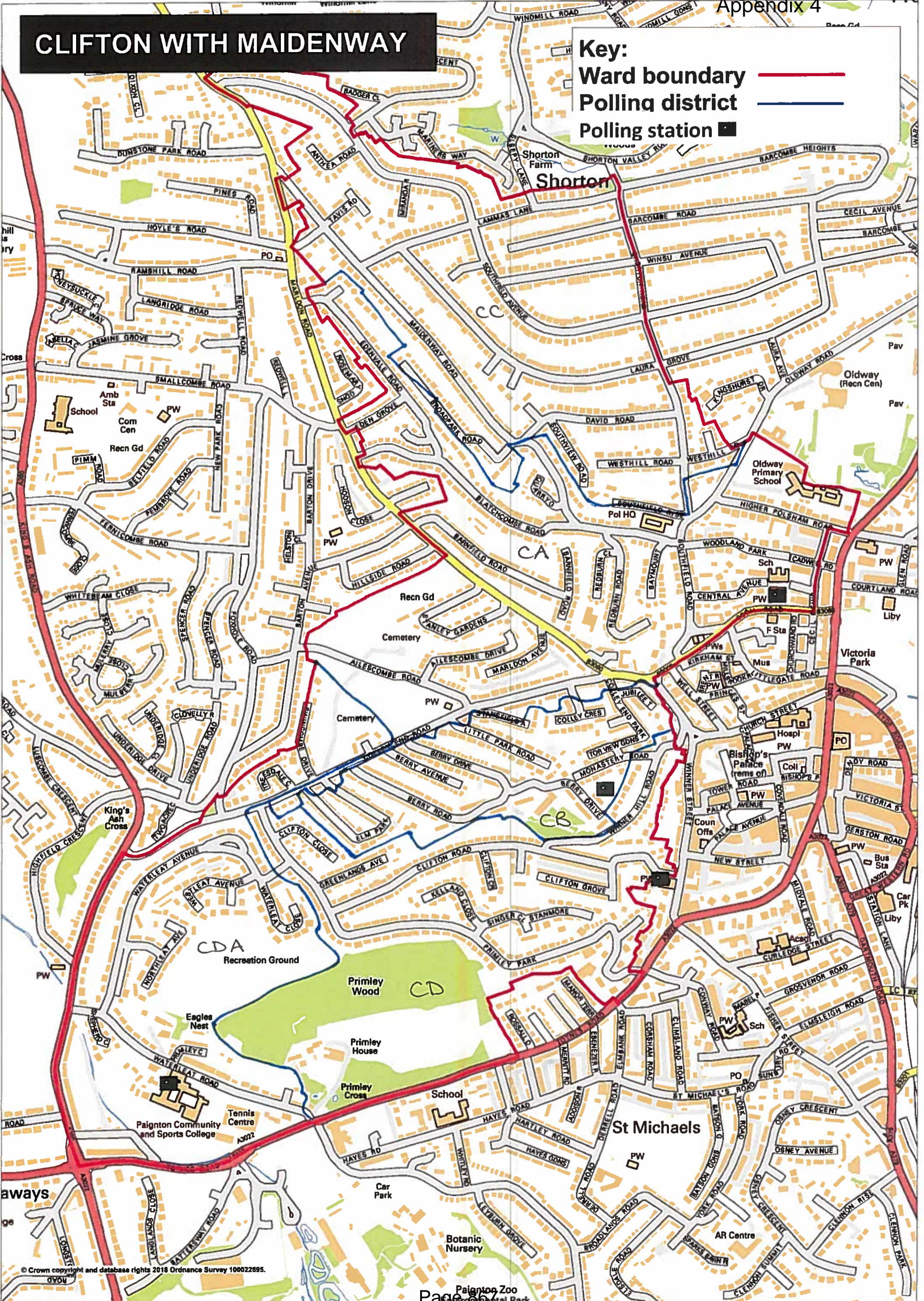
# CHURSTON WITH GALMPTON

**Key:**  
Ward boundary ————  
Polling district ————  
Polling station ■



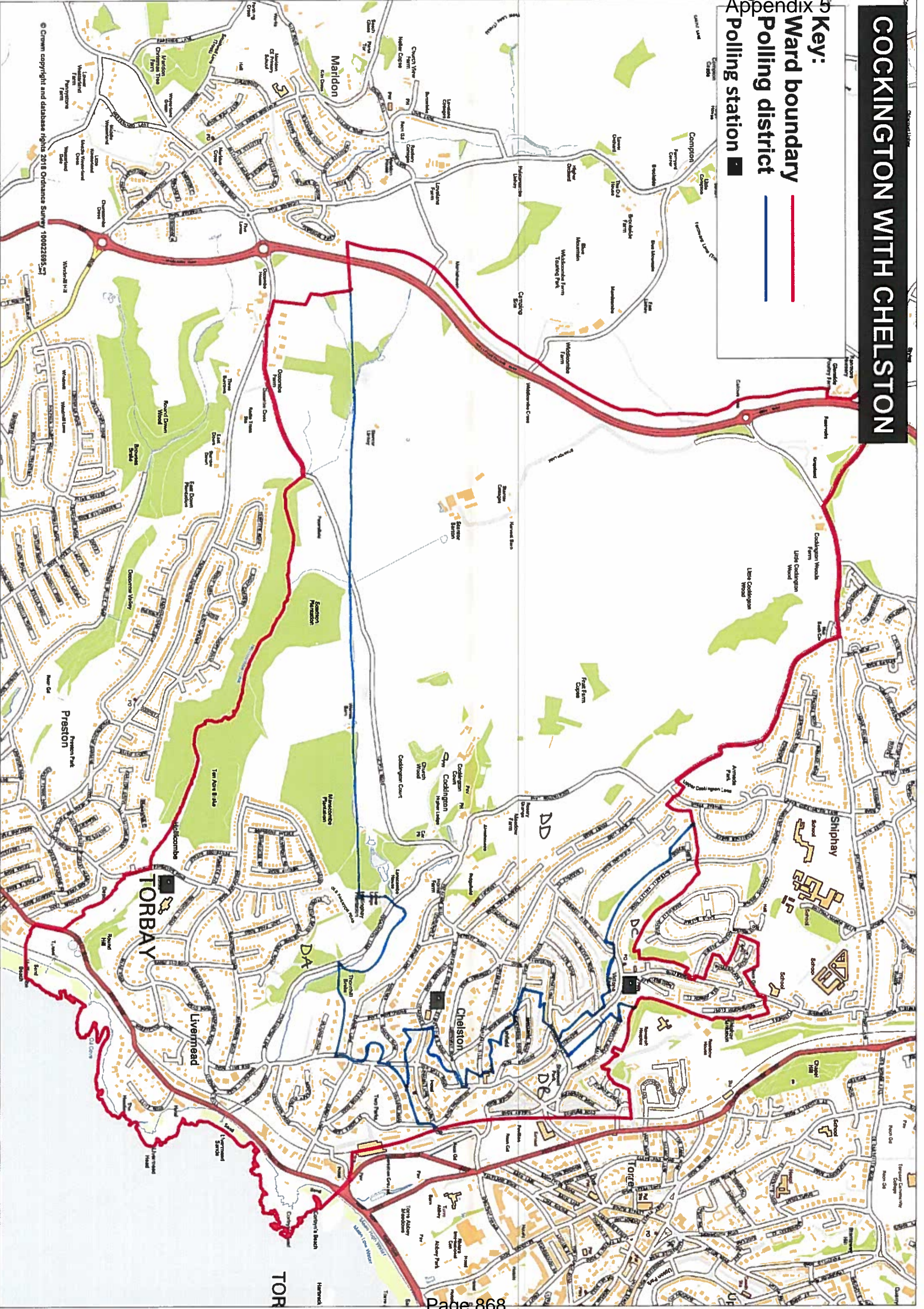
# CLIFTON WITH MAIDENWAY

**Key:**  
Ward boundary ——— (red line)  
Polling district ——— (blue line)  
Polling station ■ (black square)



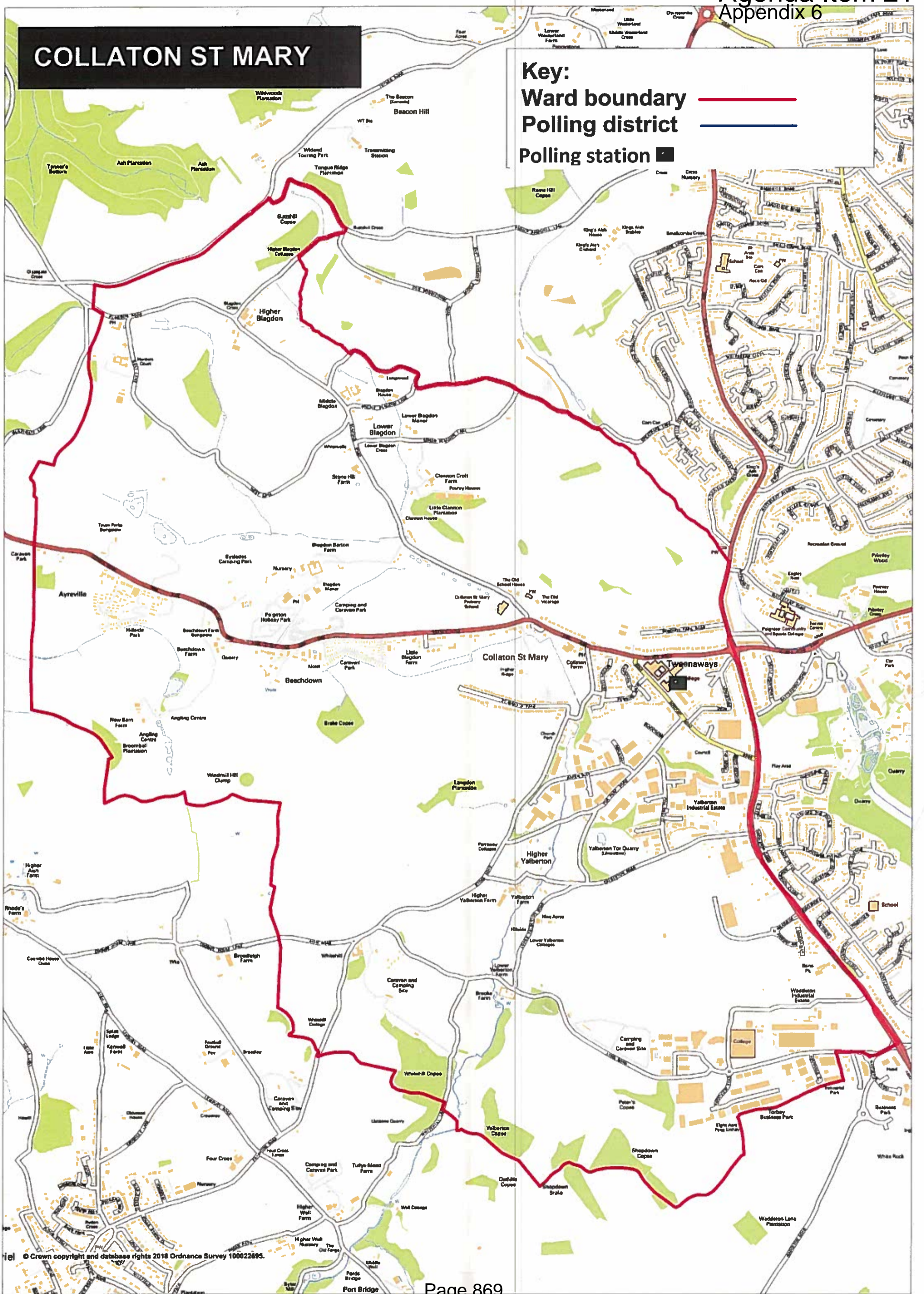
# COCKINGTON WITH CHELSTON

**Key:**  
Ward boundary ———  
Polling district ———  
Polling station ■



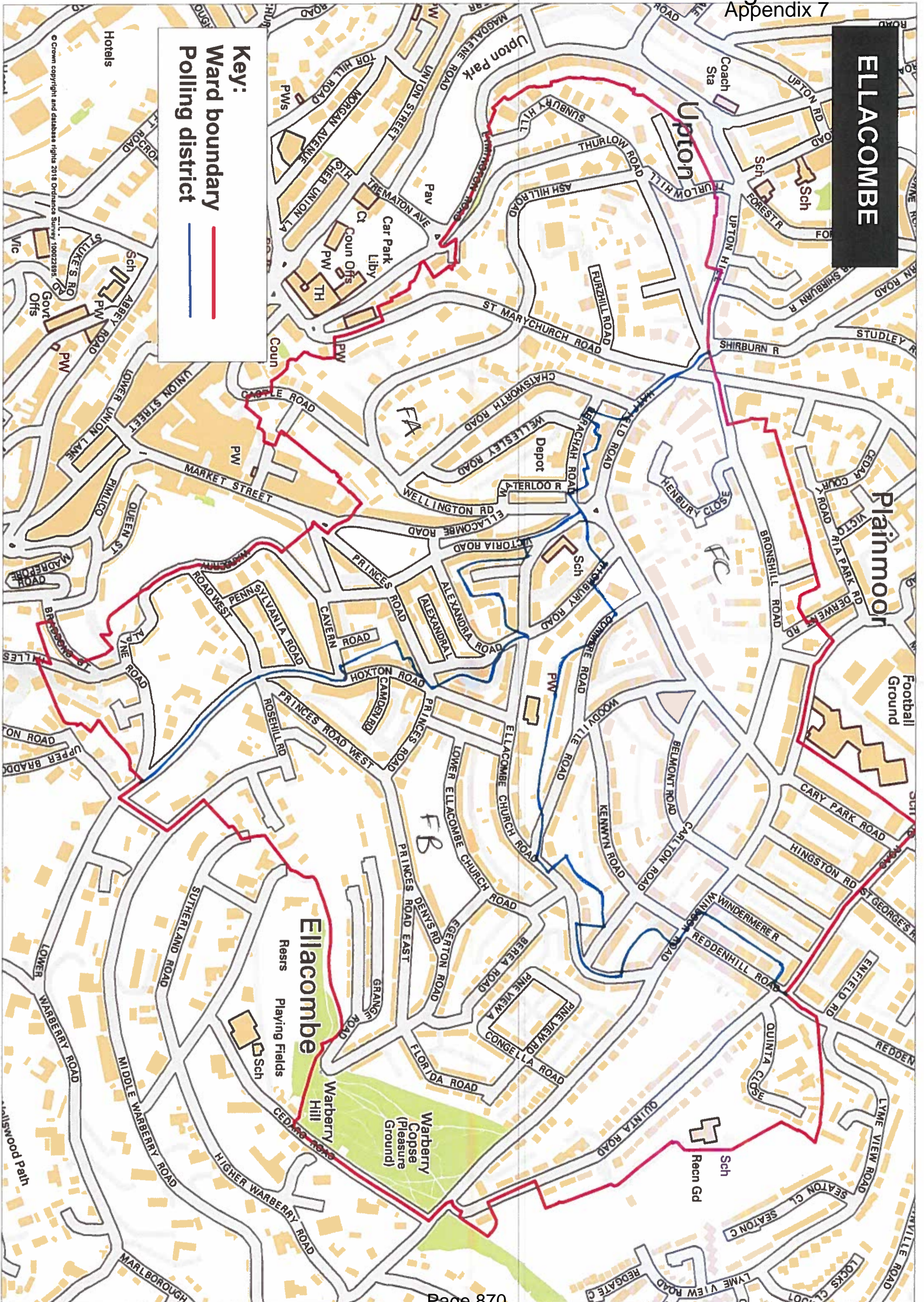
# COLLATON ST MARY

**Key:**  
Ward boundary ————  
Polling district ————  
Polling station ■



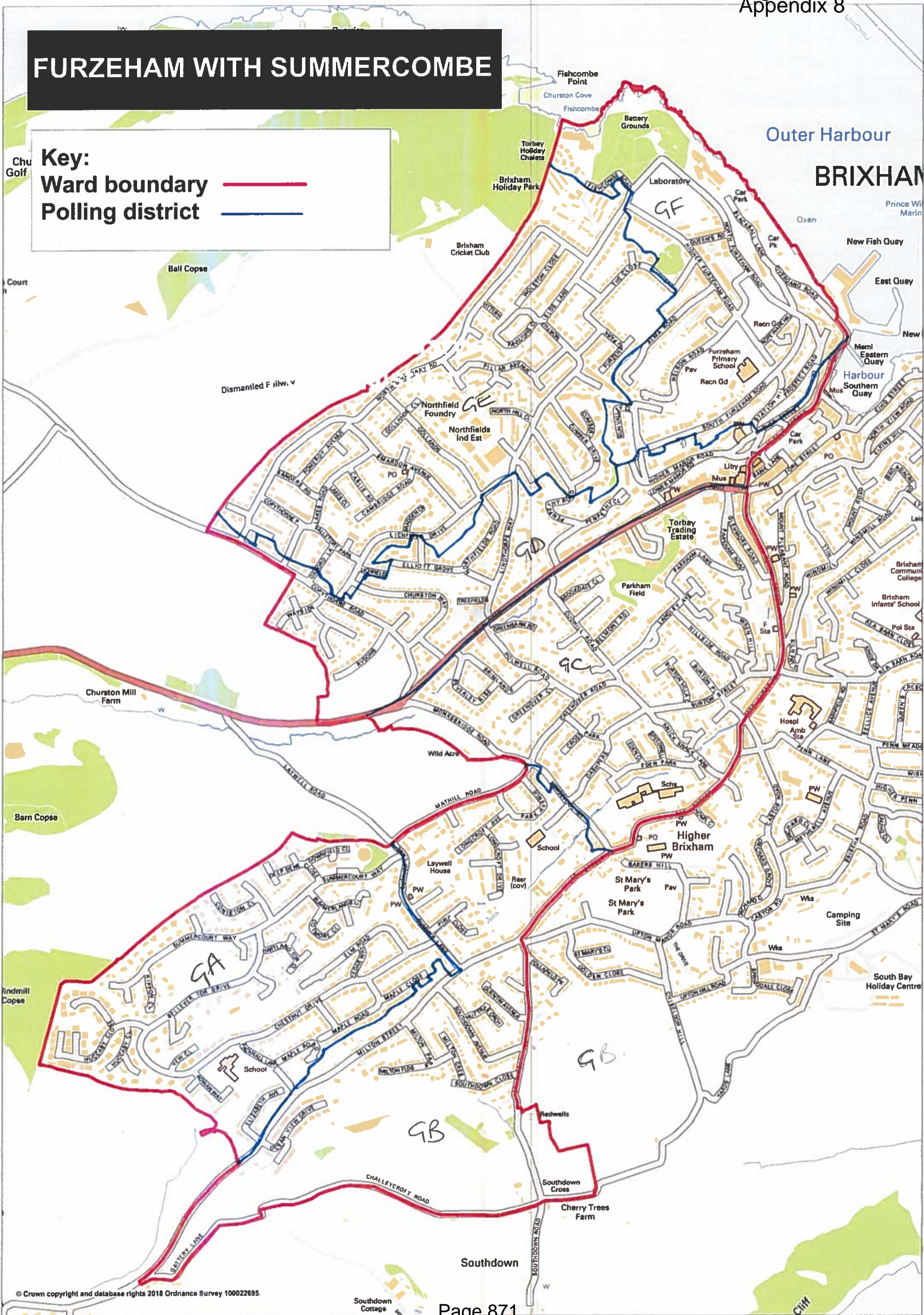
# ELLACOMBE

**Key:**  
Ward boundary ———  
Polling district ———

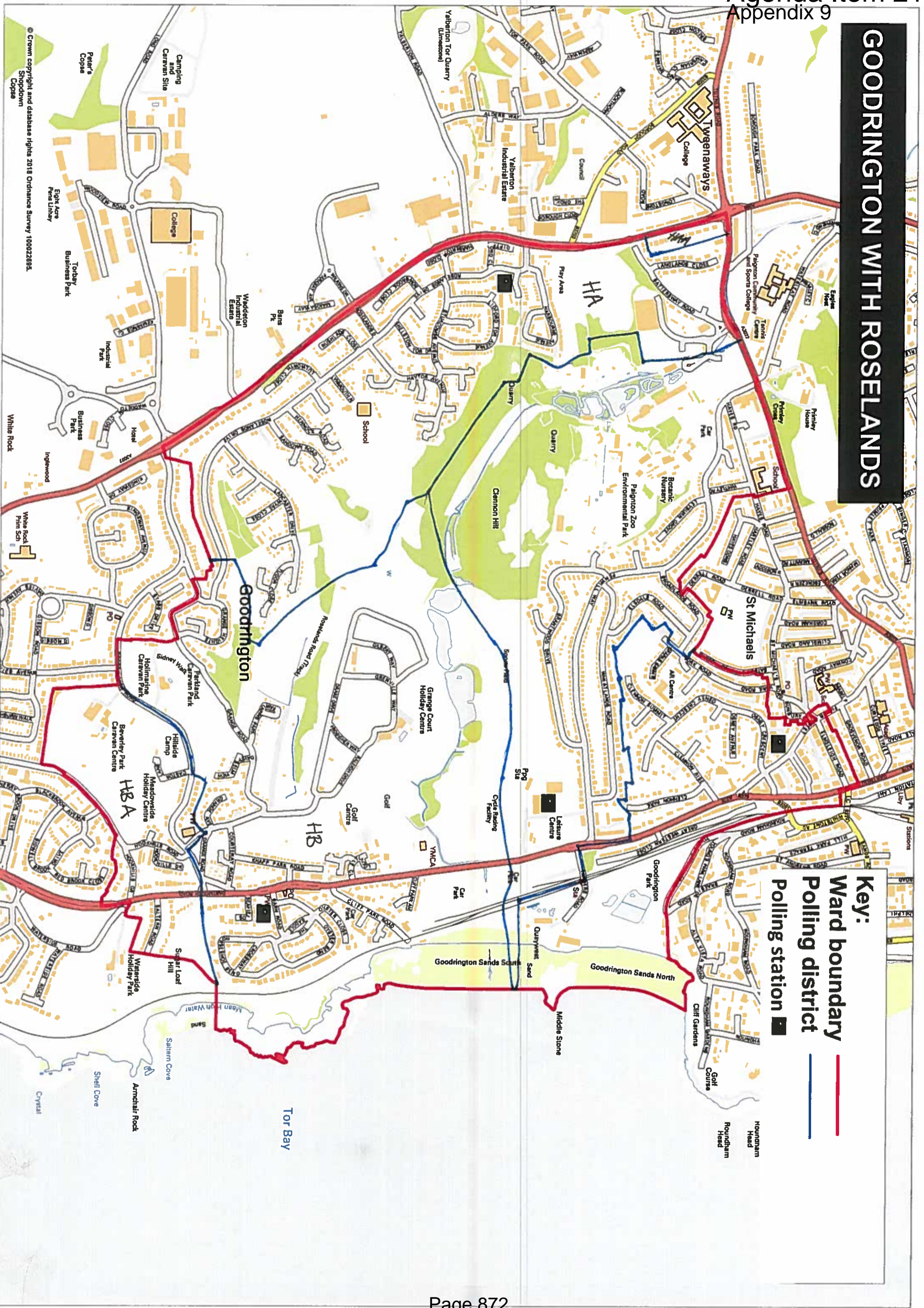


# FURZEHAM WITH SUMMERCOMBE

**Key:**  
Ward boundary ————  
Polling district ————



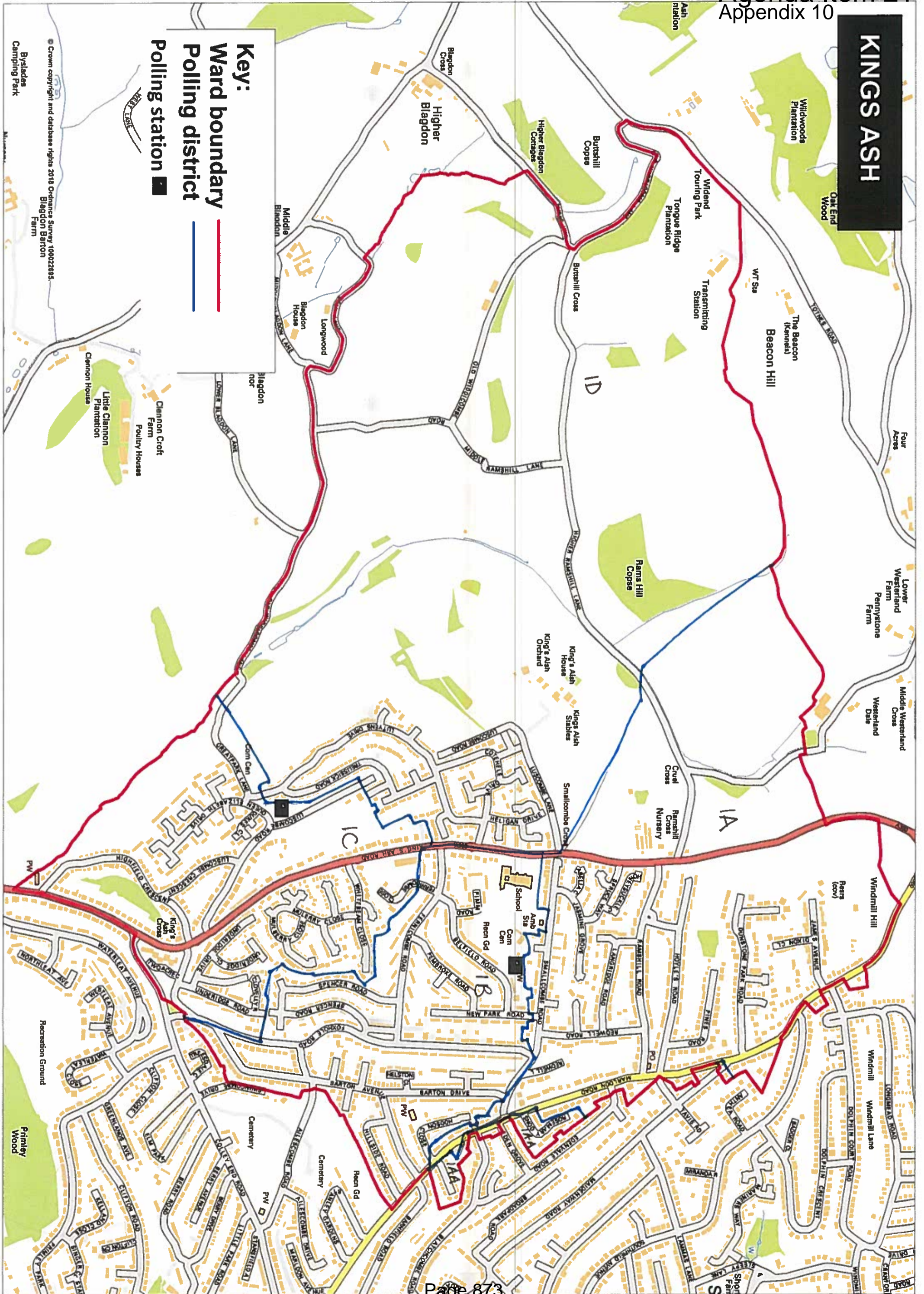
# GOODRINGTON WITH ROSELANDS



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# KINGS ASH



**Key:**

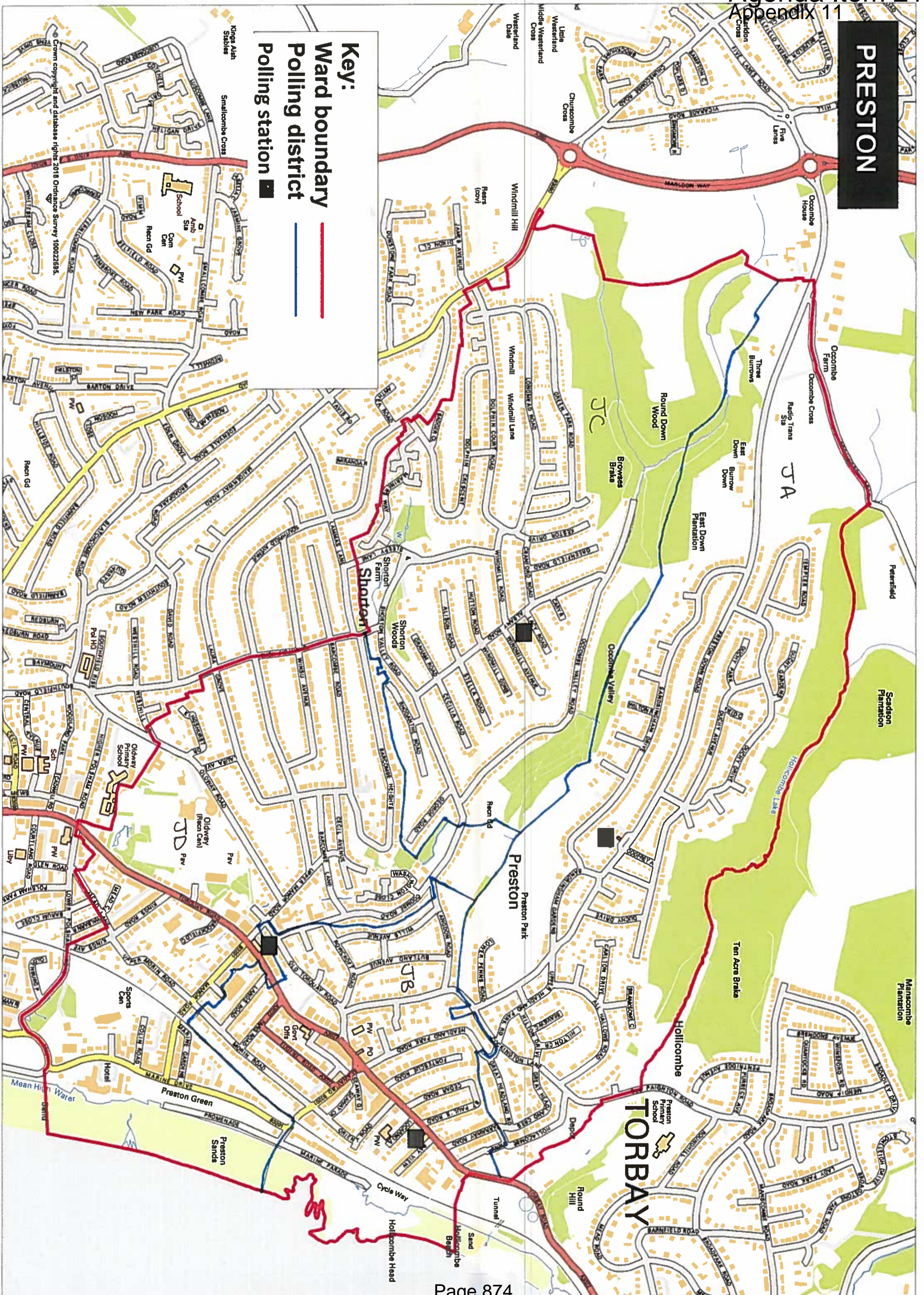
- Ward boundary ——— (Red line)
- Polling district ——— (Blue line)
- Polling station ■ (Black square)

© Crown copyright and database rights 2018 Ordnance Survey 100022885.  
Blagdon Barton Farm  
Byslades Camping Park

# PRESTON

**Key:**

- Ward boundary ———
- Polling district ———
- Polling station ■



# ROUNDHAM WITH HYDE

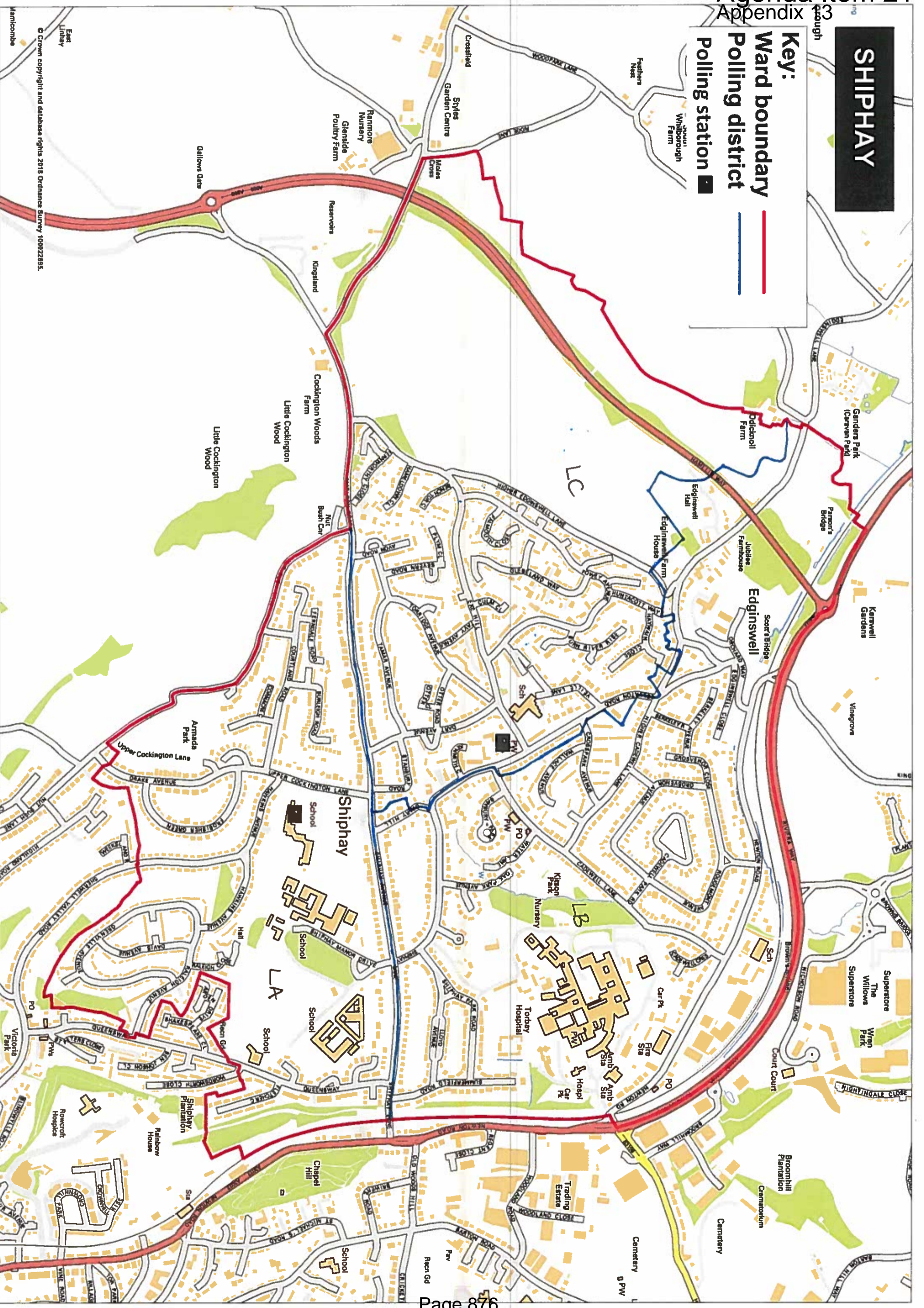
**Key:**  
 Ward boundary ———  
 Polling district ———  
 Polling station ■



# SHIPHAY

**Key:**

- Ward boundary (Red line)
- Polling district (Blue line)
- Polling station (Black square)



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# ST MARYCHURCH

**Key:**  
Ward boundary ————  
Polling district ————



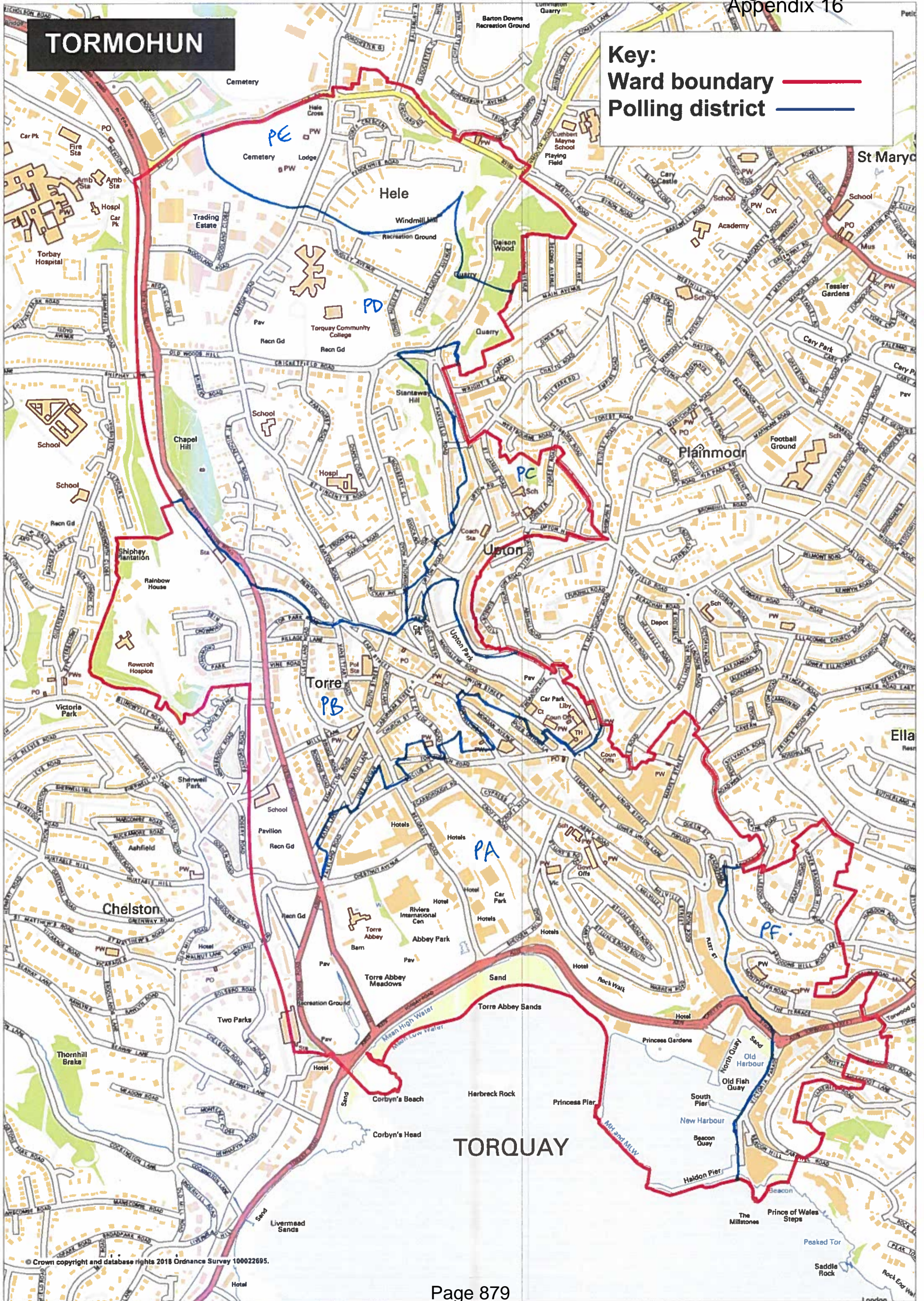
# ST PETER'S WITH ST MARY'S

**Key:**  
Ward boundary —  
Polling district —

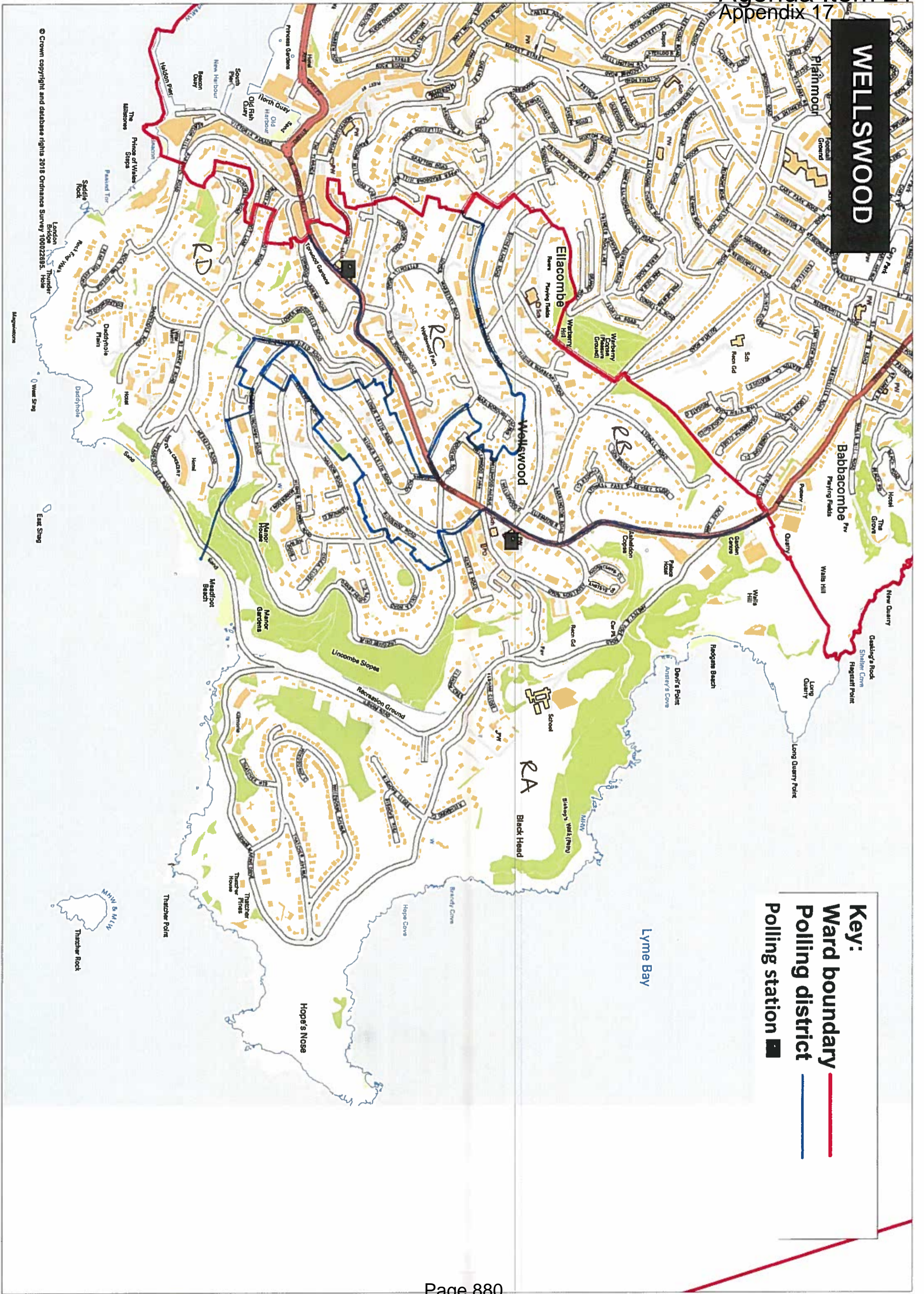


# TORMOHUN

**Key:**  
Ward boundary ————  
Polling district ————



# WELLSWOOD



**Key:**  
Ward boundary ———  
Polling district ———  
Polling station ■

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| No. | Ward                   | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Current polling district | Current polling station                                                                                          | New polling district | New polling station                                                                                              | Number of electors affected |
|-----|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------------------------------------------|-----------------------------|
|     |                        | The following streets will move from the existing Blatchcombe (AE) polling district to be included in the new BC polling district:<br>White Rock Road (from AE) <b>37</b><br>White Rock Close (from AE) <b>10</b><br>White Rock Court (from AE) <b>3</b><br>White Rock Way (from AE) <b>23</b><br>Waddeton Drive (from AE) <b>16</b><br>Waddeton Road (from AE) <b>2</b><br>Great Tree View (from AE) <b>40</b><br>Great Tree Court (from AE) <b>8</b><br>Great Tree Place (from AE) <b>4</b><br>Great Tree Close (from AE) <b>9</b><br>Quarry Wood Court (from AE) <b>5</b><br>Quarry Wood Close <b>2</b> | AE                       | Paignton Community and Sports Academy, Borough Road campus                                                       | BC                   | Mobile station at Davies Avenue                                                                                  | 159                         |
| 9   | Churston with Galmpton | The following properties have moved from the Goodrington with Roselands (IB) polling district and will move to the new BD polling district.<br>Stabb Close (from IB) <b>12</b><br>Stabb Drive (from IB) <b>28</b>                                                                                                                                                                                                                                                                                                                                                                                          | IB                       | St Georges Hall, Barn Road                                                                                       | BD                   | St Georges Hall, Barn Road                                                                                       | 40                          |
| 10  | Churston with Galmpton | The whole of the existing GD polling district will form the new BE polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | GD                       | Galmpton Village Hall, Greenway Road                                                                             | BE                   | Galmpton Village Hall, Greenway Road                                                                             | 998                         |
| 11  | Churston with Galmpton | The whole of the existing GE polling district will form the new BF polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | GE                       | Churston Branch Library, Dartmouth Road                                                                          | BF                   | Churston Branch Library                                                                                          | 1194                        |
| 12  | Clifton with Maidenway | The whole of the existing CA polling district will form the new CA polling district apart from the following roads which will fall under the Kings Ash (IB) ward<br>Rosemary Gardens – all properties <b>51</b><br>Titchfield Gardens – all properties <b>34</b>                                                                                                                                                                                                                                                                                                                                           | CA<br>CA                 | Catholic Church Rooms, Sacred Heart Church, Cecil Road<br>Catholic Church Rooms, Sacred Heart Church, Cecil Road | CA<br>IB             | Catholic Church Rooms, Sacred Heart Church, Cecil Road<br>Catholic Church Rooms, Sacred Heart Church, Cecil Road | 2012<br>89                  |
| 13  | Clifton with Maidenway | The whole of the existing CB polling district will form the new CB polling district.<br><br>The following properties will no longer fall under the Roundham with Hyde (RD) polling district as they will move to the Clifton with Maidenway (CB) polling district:<br>3, 4 and 5 Torbay View, Colley End Park <b>5</b>                                                                                                                                                                                                                                                                                     | CB<br>RD                 | The Old Monastery, Berry Drive<br>Cross Link Hall, Winner Street                                                 | CB<br>CB             | The Old Monastery, Berry Drive<br>The Old Monastery, Berry Drive                                                 | 930<br>5                    |
| 14  | Clifton with Maidenway | The whole of the existing CC polling district will form the new CC polling district apart from the following properties which will fall under the Preston (JC) ward:<br>Dolphin Crescent: even nos 90 to 94 <b>8</b><br>odd nos 93 and 95 <b>2</b>                                                                                                                                                                                                                                                                                                                                                         | CC<br>CC                 | Catholic Church Rooms, Sacred Heart Church, Cecil Road<br>Catholic Church Rooms, Sacred Heart Church, Cecil Road | CC<br>JC             | Catholic Church Rooms, Sacred Heart Church, Cecil Road<br>Mobile station at Albany/Lacy Road                     | 1375<br>21                  |

| No. | Ward                     | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Current polling district | Current polling station                                                              | New polling district | New polling station                                                              | Number of electors affected |
|-----|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------------------------------------------|----------------------|----------------------------------------------------------------------------------|-----------------------------|
|     |                          | Shorton Road: 28, 30, 32 and 36 <b>9</b><br>Mariners Way 4 <b>2</b><br><br>The following properties will no longer fall under the Clifton with Maidenway (CC) ward but will fall under the Kings Ash (IB) polling district:<br>Marldon Road: 154 and 156 <b>4</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | CC                       | Catholic Church Rooms, Sacred Heart Church, Cecil Road                               | IA                   | Catholic Church Rooms, Sacred Heart Church, Cecil Road                           | 4                           |
| 15  | Clifton with Maidenway   | The whole of the existing CD polling district will form the new CD polling district apart from the following properties as they will move to the Roundham with Hyde (KD) ward:<br>Higher Manor Terrace: nos 1 to 7 <b>10</b><br>Manor Terrace: nos 1 to 24 <b>44</b><br>Nursery Close: nos 1 to 8 <b>15</b><br>Rossall Drive: all properties <b>36</b><br>The Gurneys: nos 1 to 30 <b>52</b>                                                                                                                                                                                                                                                                                                                                                                                                         | CD<br><br>CD             | Cross Links Hall, Winner Street<br><br>Cross Links Hall, Winner Street               | CD<br><br>KD         | Cross Links Hall, Winner Street<br><br>Cross Links Hall, Winner Street           | 1023<br><br>157             |
| 16  | Clifton with Maidenway   | The following roads will no longer fall under the Blatchcombe (AD) ward but will fall under the Clifton with Maidenway (CDA) ward:<br>Waterleat Avenue (from AD) – all properties <b>243</b><br>Waterleat Close (from AD) – all properties <b>56</b><br>Northleat Avenue (from AD) – all properties <b>83</b><br>Waterleat Road (from AD) – all properties <b>105</b><br>Shepherd Close (from AD) – all properties <b>50</b><br>Totnes Road (from AD) – even nos 238 to 282 <b>42</b><br>Kings Ash Road (from AD) – odd nos 9 to <b>137</b><br>Swincombe Drive – all properties <b>27</b><br>Teesdale Close – all properties <b>45</b><br>Colley End Road – nos: 116 – 126 <b>10</b><br>Copley Close – all properties (except for Ashbridge as this will fall under the new Kings Ash ward) <b>9</b> | AD                       | Paignton Community and Sports Academy, Waterleat Road                                | CE                   | Paignton Community and Sports Academy, Waterleat Road                            | 697                         |
| 17  | Cockington with Chelston | The whole of the existing BA polling district will form the new DA polling district                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | BA                       | Mobile Station at Preston Primary School, Old Paignton Road                          | DA                   | Mobile Station at Preston Primary School, Old Paignton Road                      | 1908                        |
| 18  | Cockington with Chelston | The whole of the existing BB polling district will form the new DB polling district apart from the following properties which will fall under Tormohun (PB) ward:<br>Rathmore Road – all properties <b>61</b><br>Walnut Road - The Squirrels, Trevelan, 1 Ocean Drive <b>0</b><br>Old Mill Road – Millbridge House, Park Vista, Laburnum Lodge <b>11</b><br>Avenue Road – even nos 64 to 166 <b>119</b><br>Millbrook Park Road – all properties <b>14</b><br>Crownhill Park – all properties <b>118</b>                                                                                                                                                                                                                                                                                              | BB<br><br>BB             | St Matthews Church, top of Walnut Road<br><br>St Matthews Church, top of Walnut Road | DB                   | St Matthews Church, top of Walnut Road<br><br>Central Church Hall, Tor Hill Road | 1377<br><br>408             |

| No. | Ward                     | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Current polling district | Current polling station                                    | New polling district | New polling station                                        | Number of electors affected |
|-----|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------|----------------------|------------------------------------------------------------|-----------------------------|
|     |                          | Crownhill Rise – all properties <b>85</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                          |                                                            |                      |                                                            |                             |
| 19  | Cockington with Chelston | The existing BC polling district will form the new DC polling district apart from the following properties which will fall under the new Shiphay (LA) ward:<br><br>Fletcher Close – all properties <b>61</b><br>Queensway – odd nos 155 to 205 <b>77</b><br>Heywood Close – all properties <b>22</b><br>Queensway Crescent – all properties <b>18</b><br>Marlowe Close – all properties <b>24</b><br>Queensway Close – all properties <b>9</b><br>Shiphay Lane – even nos 18 to 42 <b>22</b><br>Shiphay Avenue – even nos 2 to 38 <b>41</b><br>Shiphay Manor Drive – all properties <b>4</b><br>Grenville Avenue – all properties <b>237</b><br>Howard Close – all properties <b>31</b><br>Davis Avenue – all properties <b>74</b><br>Oxenham Green – all properties <b>43</b><br>Raleigh Avenue – all properties <b>112</b><br>Raleigh Close – all properties <b>51</b> | BC                       | St Peters Church Hall, Queensway                           | DC                   | St Peters Church Hall, Queensway                           | 1756                        |
|     |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | BC                       | St Peters Church Hall, Queensway                           | LA                   | Sherwell Valley Primary School, Hawkins Avenue             | 826                         |
| 20  | Cockington with Chelston | The whole of the existing BE polling district will form the new DD polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | BE                       | St Peters Church Hall, Queensway                           | DD                   | St Peters Church Hall, Queensway                           | 1876                        |
| 21  | Collaton St Mary         | The existing AE polling district will form the new EA polling district apart from the following properties which be included in the Churston with Galmpton (BC) ward:<br>White Rock Road (from AE) <b>37</b><br>White Rock Close (from AE) <b>10</b><br>White Rock Court (from AE) <b>3</b><br>White Rock Way (from AE) <b>23</b><br>Waddeton Drive (from AE) <b>16</b><br>Waddeton Road (from AE) <b>2</b><br>Great Tree View (from AE) <b>40</b><br>Great Tree Court (from AE) <b>8</b><br>Great Tree Place (from AE) <b>4</b><br>Great Tree Close (from AE) <b>9</b><br>Quarry Wood Court (from AE) <b>5</b><br>Quarry Wood Close <b>2</b><br><br>The following properties will not be included in the new Collaton St Mary (AE) ward as they will be in the Goodrington with Roselands (HB) ward:<br>Brixham Road – evens 8 to 48 <b>33</b>                          | AE                       | Paignton Community and Sports Academy, Borough Road Centre | EA                   | Paignton Community and Sports Academy, Borough Road Centre | 2070                        |
|     |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | AE                       | Paignton Community and Sports Academy, Borough Road Centre | BC                   | Mobile station at Davies Avenue                            | 159                         |
|     |                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | AE                       | Paignton Community and Sports Academy, Borough Road Centre | HB                   | Paignton Community and Sports Academy, Borough Road campus | 33                          |

| No. | Ward      | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Current polling district                | Current polling station                                                                                                                                                                 | New polling district                    | New polling station                                                                                                                                                                                   | Number of electors affected      |
|-----|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|
| 22  | Ellacombe | <p>The whole of the existing DA polling district will form the new FA polling district apart from the following streets/properties/electors will fall under the Tormohun (PA) polling district:</p> <p>Castle Road – 1, 3 and 5 <b>2</b><br/> Market Street – odd nos 3 to 65 <b>50</b><br/> Stratheden Court <b>63</b><br/> Even nos 4 to 28 (5) (including Albert Court) <b>18</b><br/> Hilldrop Terrace – all properties <b>20</b><br/> Castle Lane – all properties <b>10</b><br/> Pimlico – all properties <b>29</b><br/> Queen Street – all properties <b>66</b><br/> Madrepore Road – all properties <b>31</b><br/> Clifton Terrace, Madrepore Road – all properties <b>14</b><br/> Stentiford Hill Road – all properties <b>16</b><br/> Higher Queens Terrace – all properties <b>7</b><br/> Myrtle Row – all properties <b>15</b><br/> 1 – 9 Braddons Street <b>10</b><br/> 1 to 3 Braddons Hill Road East <b>3</b></p> <p>The following streets/properties/electors will move from the Tormohun ward into the new Ellacombe FA polling district:</p> <p>Sunbury Hill – all properties <b>43</b><br/> Thurlow Road – all properties <b>229</b><br/> Ash Hill Road – all properties <b>54</b><br/> Furzehill Road – all properties <b>64</b><br/> Lower Thurlow Road – all properties <b>49</b><br/> Thurlow Hill – all properties <b>15</b><br/> Thurlow Park – all properties <b>27</b><br/> St Marychurch Road – even nos 2 to 56a and odds 15 to 47 <b>76</b><br/> Hatfield House, Hatfield Road <b>0</b></p> <p>The following streets/properties will move from the existing Wellswood (MC) polling district into the FA polling district:</p> <p>Alpine Road – all properties in MC <b>14</b><br/> Palatine Close – all properties <b>29</b><br/> Lower Warberry Road – Lightcliffe, Rosehill, Greycliffe, Orchard Cottage, Burcot, Newark Lodge, The Loft, Newark House, Charisma, Overstrand, Luneville, Sunnyside, Kingsleigh Manor, Rosario, Lindley <b>73</b></p> | <p>DA</p> <p>DA</p> <p>LC</p> <p>MC</p> | <p>Hall at Salvation Army, Castle Lane Entrance</p> <p>Hall at Salvation Army, Castle Lane Entrance</p> <p>Echo Building, St James Road</p> <p>Riviera Life Church, Babbacombe Road</p> | <p>FA</p> <p>PA</p> <p>FA</p> <p>FA</p> | <p>Hall at Salvation Army, Castle Lane Entrance</p> <p>Central Church Hall, Tor Hill Road</p> <p>Hall at Salvation Army, Castle Lane Entrance</p> <p>Hall at Salvation Army, Castle Lane Entrance</p> | <p>354</p> <p>557</p> <p>174</p> |

| No. | Ward                      | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | Current polling district | Current polling station                                                               | New polling district | New polling station                                                                | Number of electors affected |
|-----|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|---------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------------|-----------------------------|
|     |                           | Warberry Road West – 46 to 70, 21, 43 to 57 <b>58</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                          |                                                                                       |                      |                                                                                    |                             |
| 23  | Ellacombe                 | The whole of the existing DB polling district will form the new FB polling district.<br><br>The following properties will move from the existing Wellswood (MB) ward and fall under the new FB polling district:<br>Ben Venue Close – all properties <b>20</b><br>Rosehill Road – all properties <b>15</b><br>Middle Warberry Road - Lightcliffe Cottage, Coverdale, Westholme Cottage, Westholme, Ben Venue, Lemon Tree Cottage, Sunhaven <b>34</b><br>Higher Warberry Road – Le Convido <b>4</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | DB<br><br>MB             | Hall at Salvation Army, Market Street<br><br>St Matthias Church Hall, Babbacombe Road | FB<br><br>FB         | Hall at Salvation Army, Market Street<br><br>Hall at Salvation Army, Market Street | 1995<br><br>73              |
| 24  | Ellacombe                 | The whole of the existing DC polling district will form the new FC polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | DC                       | Ellacombe Academy, Ellacombe Church Road                                              | FC                   | Ellacombe Academy, Ellacombe Church Road                                           | 1654                        |
| 24  | Furzeham with Summercombe | The whole of the existing SA polling district will form the new GA polling district                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | SA                       | Higher Brixham Community Centre                                                       | GA                   | Higher Brixham Community Centre                                                    | 1264                        |
| 25  | Furzeham with Summercombe | The following road/properties will move from SB into the new GB ward:<br><br>Milton Street, even nos from 40 to 96 and ThistleDown and Burr ridge <b>45</b><br>Milton Street, odd nos 1 to Milton House <b>163</b><br>Summer Lane – 48, 50, Capel, Flats 1 to 3 Laywell House, Laywell Bungalow, Laywell House, 1 and 2 Wisteria Cottage <b>30</b><br>Laywell Close – all properties <b>21</b><br>Pine Close – all properties <b>57</b><br>Ocean View Drive – all properties <b>96</b><br>Ocean View Crescent – all properties <b>26</b><br>Milton Fields – all properties <b>21</b><br>Milton Park – all properties <b>42</b><br>Milton Crescent – all properties <b>44</b><br>Southdown Close – all properties <b>34</b><br>Southdown Hill – Redwells, Rosecroft, Meadowside, The Limit, Greenacres, Fair Skies, Thatchers Mount, Afton House, Triscombe, Iryanga, Southseas, Greengates, Sefton Dingle <b>29</b><br>Southdown Avenue – all properties <b>100</b><br>Nut Tree Orchard – all properties <b>34</b><br>Quentin Avenue – all properties <b>32</b><br>Gramercy Fields – all properties <b>15</b><br>Longcroft Drive – all properties <b>38</b><br>Westfield Close – all properties <b>31</b> | SB                       | Central Garage Showroom, Milton Street                                                | GB                   | Central Garage Showroom, Milton Street                                             | 1062                        |

| No. | Ward                      | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Current polling district         | Current polling station                                                                                                                                                                          | New polling district             | New polling station                                                                                                                                                                  | Number of electors affected           |
|-----|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------|
|     |                           | Longcroft Avenue – all properties <b>71</b><br>Mathill Close – all properties <b>10</b><br>Park Avenue – all properties <b>51</b><br>Mathill Road – all properties <b>33</b><br>Polhearn Way – all properties <b>16</b><br>Polhearn Lane – all properties <b>23</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                  |                                                                                                                                                                                                  |                                  |                                                                                                                                                                                      |                                       |
| 26  | Furzeham with Summercombe | Whole of existing SD polling district will form part of the new GC polling district apart from the following roads/properties which will fall under the St Peters with St Marys (NA) ward:<br><br>Bakers Hill – all properties <b>21</b><br>Drew Street – even nos 2 to 112 (all even nos) <b>86</b><br>Weston Close – all properties <b>14</b><br>Home Close – all properties <b>22</b><br><br>The whole of existing JC polling district will form part of the new GC polling district apart from the following roads/properties which will fall under the St Peters with St Marys (NB) ward:<br><br>Bolton Street – all even nos. <b>52</b><br>Temperance Place – all properties <b>20</b><br>St Peters Hill – all properties <b>28</b><br>Mount Pleasant Road – all properties <b>150</b><br>Jacolind Walk – all properties <b>8</b><br>Windmill Hill – all properties <b>98</b><br>Cavern Road – all properties <b>15</b><br>Victoria Terrace, Cavern Road – all properties <b>10</b><br>Somerset Court, Mount Pleasant Road - <b>9</b><br>Broadacre Drive – <b>30</b><br>Elkins Hill – <b>10</b><br>St Peters Terrace, Elkins Hill - <b>8</b><br>Kiln Path – <b>9</b><br>Mariners Court - <b>7</b> | SD<br><br>SD<br><br>JC<br><br>JC | St Marys Park Bowling Club, St Marys Park, Upton Manor Road<br><br>St Marys Park Bowling Club, St Marys Park, Upton Manor Road<br><br>Scala Hall, Market Street<br><br>Scala Hall, Market Street | GC<br><br>NA<br><br>GC<br><br>NB | Brixham Hospital, Greenwood Road<br><br>St Marys Park Bowling Club, St Marys Park, Upton Manor Road<br><br>Brixham Hospital, Greenwood Road<br><br>Brixham Rugby Club, Rea Barn Road | 1331<br><br>143<br><br>682<br><br>454 |
| 27  | Furzeham with Summercombe | The whole of the existing JD polling district will form the new GD polling district apart from the following roads/properties which will fall under the St Peters with St Marys (NB) ward:<br><br>Bank Lane – all properties <b>5</b><br>Beach Approach – all properties <b>6</b><br>Berry Head Road – all <b>182</b><br>Brewery Lane – all properties <b>4</b><br>Fore Street – all properties <b>53</b><br>King Street – all properties <b>44</b><br>Moorings Reach – all properties <b>36</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | JD<br><br>JD                     | Scala Hall, Market Street<br><br>Scala Hall, Market Street                                                                                                                                       | GD<br><br>NB                     | Scala Hall, Market Street, Brixham<br><br>Brixham Rugby Club, Rea Barn Road                                                                                                          | 1081<br><br>388                       |

| No. | Ward                       | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Current polling district | Current polling station                             | New polling district | New polling station                                 | Number of electors affected |
|-----|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-----------------------------------------------------|----------------------|-----------------------------------------------------|-----------------------------|
|     |                            | New Quay Lane – all properties <b>3</b><br>North View Road – all properties <b>38</b><br>Pump Street – all properties <b>5</b><br>The Strand – all properties <b>12</b>                                                                                                                                                                                                                                                                                                                                                                                     |                          |                                                     |                      |                                                     |                             |
| 28  | Furzeham with Summercombe  | The whole of the existing JF polling district will form the new GE polling district                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | JF                       | Brixham Cricket Club, North Boundary Road           | GE                   | Brixham Cricket Club, North Boundary Road           | 1830                        |
| 29  | Furzeham with Summercombe  | The whole of the existing JE polling district will form the new GF polling district                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | JE                       | Brixham Bowling Club Pavilion, Nelson Road          | GF                   | Brixham Bowling Club Pavilion, Nelson Road          | 965                         |
| 30  | Goodrington with Roselands | The whole of the existing IA polling district will form the new HA polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | IA                       | Time Out Coffee Shop, Sturcombe Avenue              | HA                   | Time Out Coffee Shop, 6 Sturcombe Avenue            | 2263                        |
| 31  | Goodrington with Roselands | The following properties will move from the Blatchcombe ward (AE) into HB:<br>Brixham Road – evens 8 to 48                                                                                                                                                                                                                                                                                                                                                                                                                                                  | AE                       | Paignton Community and Sports College, Borough Road | HB                   | Paignton Community and Sports College, Borough Road | 33                          |
| 32  | Goodrington with Roselands | The whole of the existing IB polling district will form the new HC polling district apart from the following streets which will move to the Churston with Galmpton (BD) ward:<br>Stabb Close<br>Stabb Drive                                                                                                                                                                                                                                                                                                                                                 | IB                       | St Georges Hall, Barn Road                          | HC                   | St Georges Hall, Barn Road                          | 1063                        |
|     |                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IB                       | St Georges Hall, Barn Road                          | BD                   |                                                     | 40                          |
| 33  | Goodrington with Roselands | The following streets will move from the Churston with Galmpton ward and into the new HD polling district of Goodrington with Roselands:<br>Hookhills Road – Monterey, nos 1 to 20 <b>26</b><br>Dartmouth Road – evens 154 to 174 <b>27</b><br>odds 141 to 149 <b>9</b><br>Hookhills Grove – all properties <b>19</b><br>Elba Close – all properties <b>15</b><br>Hookhills Drive – all properties <b>19</b><br>Saltern Road – all properties <b>48</b><br>Goodrington Road evens 12 to 28, odds 1 to 21 <b>35</b><br>Castor Lane – all properties <b>2</b> | GA                       | St Georges Church, Barn Road                        | HD                   | St Georges Church, Barn Road                        | 198                         |
| 34  | Goodrington with Roselands | The existing IC polling district will form the new HE polling district apart from the following properties as they will move to the Roundham with Hyde (KD) ward:<br>Batson Gardens – nos: 33, 34, 35, 36 and Top Flat and Bottom Flat, The Store <b>7</b>                                                                                                                                                                                                                                                                                                  | IC                       | Hall at Clennon Rise entrance, Romaleyn Gardens     | HE                   | Hall at Clennon Rise entrance, Romaleyn Gardens     | 1214                        |
|     |                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | IC                       | Hall at Clennon Rise entrance, Romaleyn Gardens     | KD                   | Cross Links Hall, Winner Street                     | 7                           |
| 35  | Goodrington with Roselands | The whole of the existing ID polling district will form the new HF polling district                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | ID                       | Torbay Leisure Centre, Penwill Way                  | HF                   | Torbay Leisure Centre, Penwill Way                  | 1219                        |
| 36  | Kings Ash                  | The whole of the existing AA polling district will form the new IA polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | AA                       | St Boniface Church Hall, Belfield Road              | IA                   | St Boniface Church Hall, Belfield Road              | 1563                        |





| No. | Ward               | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Current polling district         | Current polling station                                                                                                                                              | New polling district             | New polling station                                                                                                                                 | Number of electors affected   |
|-----|--------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------|
|     |                    | Logan Road: evens 2 to 12 <b>13</b><br>Odds 1 to 9 <b>10</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                  |                                                                                                                                                                      |                                  |                                                                                                                                                     |                               |
| 45  | Roundham with Hyde | The whole of the existing RA polling district will form the new KA polling district.<br><br>The following properties will now fall under the Roundham with Hyde (RA) ward as they will move from Preston:<br>Wilbarn Road: evens 2 to 16 <b>16</b><br>Odds 1 to 13 <b>13</b><br>Logan Road: evens 2 to 12 <b>13</b><br>Odds 1 to 9 <b>10</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | RA<br><br>FD                     | Christ Church Hall, Torquay Road<br><br>Paignton SNU Spiritualist Church Hall, Manor Road                                                                            | KA                               | Christ Church Hall, Torquay Road<br><br>Christ Church Hall, Torquay Road                                                                            | 1334<br><br>52                |
| 46  | Roundham with Hyde | The whole of the existing RB polling district will form the new KB polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | RB                               | Paignton Club, Esplanade Road                                                                                                                                        | KB                               | Paignton Club, Esplanade Road                                                                                                                       | 847                           |
| 47  | Roundham with Hyde | The whole of existing RC polling district will form the new KC polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | RC                               | Paignton Club, Esplanade Road                                                                                                                                        | KC                               | Paignton Club, Esplanade Road                                                                                                                       | 1523                          |
| 48  | Roundham with Hyde | The whole of the existing RD polling district will form the new KD polling district.<br><br>The following properties will no longer fall under the Goodrington with Roselands (IC) ward as they will move to the Roundham with Hyde (RD) ward:<br>Batson Gardens – nos: 33, 34, 35, 36 and Top Flat and Bottom Flat, The Store <b>7</b><br><br>The following properties will no longer fall under the Clifton with Maidenway (CD) ward as they will move to the Roundham with Hyde (KD) ward:<br>Higher Manor Terrace: nos 1 to 7 <b>10</b><br>Manor Terrace: nos 1 to 24 <b>44</b><br>Nursery Close: nos 1 to 8 <b>15</b><br>Rossall Drive: all properties <b>36</b><br>The Gurneys: nos 1 to 30 <b>52</b><br><br>The following properties will no longer fall under the Roundham with Hyde (RD) ward as they will move to the Clifton with Maidenway ward:<br>3, 4 and 5 Torbay View, Colley End Park <b>5</b> | RD<br><br>IC<br><br>CD<br><br>RD | Cross Links Hall, Winner Street<br><br>Hall at Clennon Rise entrance, Romaleyn Gardens<br><br>Cross Links Hall, Winner Street<br><br>Cross Links Hall, Winner Street | KD<br><br>KD<br><br>KD<br><br>CD | Cross Links Hall, Winner Street<br><br>Cross Links Hall, Winner Street<br><br>Cross Links Hall, Winner Street<br><br>The Old Monastery, Berry Drive | <br><br>7<br><br>157<br><br>5 |
| 49  | Shiphay            | The following properties will no longer fall under the Cockington with Chelston (BC) ward and will fall under the new Shiphay (LA) ward:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | BC                               | St Peters Church Hall, Queensway                                                                                                                                     | LA                               | Sherwell Valley Primary School, Hawkins Avenue                                                                                                      | 826                           |

| No. | Ward    | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Current polling district | Current polling station                        | New polling district | New polling station                            | Number of electors affected |
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|     |         | <p>Fletcher Close – all properties <b>61</b><br/> Queensway – odd nos 155 to 205 <b>77</b><br/> Heywood Close – all properties <b>22</b><br/> Queensway Crescent – all properties <b>18</b><br/> Marlowe Close – all properties <b>24</b><br/> Queensway Close – all properties <b>9</b><br/> Shiphay Lane – even nos 18 to 42 <b>22</b><br/> Shiphay Avenue – even nos 2 to 38 <b>41</b><br/> Shiphay Manor Drive – all properties <b>4</b><br/> Grenville Avenue – all properties <b>237</b><br/> Howard Close – all properties <b>31</b><br/> Davis Avenue – all properties <b>74</b><br/> Oxenham Green – all properties <b>43</b><br/> Raleigh Avenue – all properties <b>112</b><br/> Raleigh Close – all properties <b>51</b></p> <p>The following properties will no longer fall under the Cockington with Chelston (BD) ward and will fall under the new Shiphay (LA) ward:</p> <p>Marldon Road even nos 24 to 98 <b>91</b><br/> Nut Bush Lane – Bussells, Hazeldene, Wellfield House, Oakridge, Nogales, Beulah, Togs Lodge, Coberville, Ambergate, Bryony, Glenmoor, Caracot, The Leas, Lowenva, Bellwood, Nutshell, Glen Rosa, Westvale, Mimosa, Aldersyde, Uplands, Windcroft, Maycliffe, Geomar, Newlands, Annexe Newlands, Etobicoke, Pen-y-Parc, Cder Idris, Blue Horizon, Ty Cneuen <b>65</b><br/> Drake Avenue – all properties <b>100</b><br/> Frobisher Green – all properties <b>165</b><br/> Armada Crescent – all properties <b>20</b><br/> Cornacre Road – all properties <b>19</b><br/> Cornacre Close – all properties <b>14</b><br/> Courtland Road – all properties <b>158</b><br/> Ferndale Road – all properties <b>56</b><br/> Burleigh Road – all properties <b>104</b><br/> Upper Cockington Lane – all properties <b>42</b><br/> Hawkins Avenue – all properties <b>118</b><br/> Sherwell Valley Road – even nos 136 to 194<br/> Odd nos 195 to 241 <b>102</b></p> | BD                       | Sherwell Valley Primary School, Hawkins Avenue | LA                   | Sherwell Valley Primary School, Hawkins Avenue | 1054                        |
| 50  |         | The whole of the existing TC polling district will form the new LB polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | TC                       | St Andrews Church Hall, Exe Hill               | LB                   | St Andrews Church Hall, Exe Hill               | 2005                        |
| 51  | Shiphay | The whole of the existing TD polling district will form the new LC polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | TD                       | St Andrews Church Hall, Exe Hill               | LC                   | St Andrews Church Hall, Exe Hill               | 2251                        |

| No. | Ward                    | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Current polling district | Current polling station                          | New polling district | New polling station                              | Number of electors affected |
|-----|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|--------------------------------------------------|----------------------|--------------------------------------------------|-----------------------------|
| 52  | St Marychurch           | The whole of the existing HA polling district will form the new MA polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | HA                       | Brunel Manor Christian Centre, Teignmouth Road   | MA                   | Brunel Manor Christian Centre, Teignmouth Road   | 498                         |
| 53  | St Marychurch           | The existing HB polling district will form the new MB polling district apart from the following streets will be moved from HB to the Barton with Watcombe (AD) ward:<br>Pavor Road – Strathmore, Pippins, Polhawn to be moved to Barton with Watcombe ward <b>8</b><br>Bigbury Way – nos 1 to 11 to be moved to Barton with Watcombe ward <b>14</b><br>Grasmere Close – all properties <b>43</b>                                                                                                                                                                                                                                                                 | HB                       | St Marychurch C of E Primary School, Hartop Road | MB                   | St Marychurch C of E Primary School, Hartop Road | 1625                        |
|     |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | HB                       | St Marychurch C of E Primary School, Hartop Road | AD                   | Medway Centre, Medway Road                       | 65                          |
| 54  | St Marychurch           | The whole of the existing HC ward will form the new MC polling district.<br><br>The following streets will move from the existing Tormohun (LC) polling district and will be included in the new MC polling district:<br>Chatto Road (from LC) – all properties <b>106</b><br>Dower Road (from LC) – all properties <b>106</b><br>Forest Road (from LC) – nos 78 and 80 <b>0</b><br>Haslam Road (from LC) – all properties <b>80</b><br>Jonida Close (from LC) – all properties <b>18</b><br>Westbourne Road (from LC) – all properties <b>107</b><br>Wrights Lane (from LC) – all properties <b>25</b>                                                          | HC                       | Rear of Dunboyne Court, 170 St Marychurch Road   | MC                   | Rear of Dunboyne Court, 170 St Marychurch Road   | 1743                        |
|     |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | LC                       | Echo Building, St James Road                     | MC                   | Rear of Dunboyne Court, 170 St Marychurch Road   | 442                         |
| 55  | St Marychurch           | The whole of the existing HD polling district will form the new MD polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | HD                       | Plainmoor Swimming Pool, Plainmoor               | MD                   | Plainmoor Swimming Pool, Plainmoor               | 1748                        |
| 56  | St Marychurch           | The whole of the existing HE polling district will form the new ME polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | HE                       | Furrough Cross Church Hall, Babbacombe Road      | ME                   | Furrough Cross Church Hall, Babbacombe Road      | 1457                        |
| 57  | St Marychurch           | The whole of the existing HF polling district will form the new MF polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | HF                       | St Annes Hall, Babbacombe Road                   | MF                   | St Annes Hall, Babbacombe Road                   | 1537                        |
| 58  | St Peters with St Marys | The following roads/properties will move from the existing St Marys with Summercombe (SB) ward into the new St Peters with St Marys (NA) polling district:<br>Chiseldon Lane – all properties <b>2</b><br>Follafeld Park – all properties <b>39</b><br>Golden Close – all properties <b>69</b><br>Milton Close – all properties <b>9</b><br>Milton Street – even nos 6 to 36, Avery House, Norton House, Priory House, Alandale, Glentop, Bel-Ombre, Upalong <b>46</b><br>Southdown Hill – Cranford, Gramercy, Lakemba, Chiseldon Farm (all properties), Hawkswood <b>19</b><br>St Marys Close – all properties <b>16</b><br>The Drive – all properties <b>9</b> | SB                       | St Marys Park Bowling Club, Upton Manor Road     | NA                   | St Marys Park Bowling Club, Upton Manor Road     | 359                         |

| No. | Ward                    | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Current polling district | Current polling station                      | New polling district | New polling station                          | Number of electors affected |
|-----|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------------|----------------------|----------------------------------------------|-----------------------------|
|     |                         | <p>Upton Hill Road – all properties <b>33</b><br/> Upton Manor Court, St Marys Road – all properties <b>9</b><br/> Upton Manor Park – all properties <b>33</b><br/> Upton Manor Road – all properties <b>75</b></p> <p>The whole of the existing SC polling district will fall into the new St Peters with St Marys (NA) polling district:</p> <p>The following roads/properties will move from the existing St Marys with Summercombe (SD) ward into the new St Peters with St Marys (NA) polling district:</p> <p>Bakers Hill – all properties <b>21</b><br/> Drew Street – even nos 2 to 112 (all even nos) <b>86</b><br/> Weston Close – all properties <b>14</b><br/> Home Close – all properties <b>22</b></p>                                                                                                                                 | SC                       | Brixham Hospital, Greenswood Road            | NA                   | St Marys Park Bowling Club, Upton Manor Road | 1659                        |
|     |                         | <p>Bakers Hill – all properties <b>21</b><br/> Drew Street – even nos 2 to 112 (all even nos) <b>86</b><br/> Weston Close – all properties <b>14</b><br/> Home Close – all properties <b>22</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | SD                       | St Marys Park Bowling Club, Upton Manor Road | NA                   | St Marys Park Bowling Club, Upton Manor Road | 143                         |
| 59  | St Peters with St Marys | <p>The whole of the existing JB polling district will form the new NB polling district</p> <p>The following roads/properties will move from the JC ward and fall under the St Peters with St Marys (NB) ward:</p> <p>Bolton Street – all even nos. <b>52</b><br/> Temperance Place – all properties <b>20</b><br/> St Peters Hill – all properties <b>28</b><br/> Mount Pleasant Road – all properties <b>150</b><br/> Jacolind Walk – all properties <b>8</b><br/> Windmill Hill – all properties <b>98</b><br/> Cavern Road – all properties <b>15</b><br/> Victoria Terrace, Cavern Road – all properties <b>10</b><br/> Somerset Court, Mount Pleasant Road - <b>9</b><br/> Broadacre Drive – <b>30</b><br/> Elkins Hill – <b>10</b><br/> St Peters Terrace, Elkins Hill - <b>8</b><br/> Kiln Path – <b>9</b><br/> Mariners Court - <b>7</b></p> | JB                       | Brixham Rugby Club, Rea Barn Road            | NB                   | Brixham Rugby Club, Rea Barn Road            | 1081                        |
|     |                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | JC                       | Scala Hall, Market Street                    | NB                   | Brixham Rugby Club, Rea Barn Road            | 454                         |
| 60  | St Peters with St Marys | The whole of the existing JA polling district will form the new St Peters with St Marys (NC) ward                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | JA                       | Brixham Rugby Club, Rea Barn Road            | NC                   | Brixham Rugby Club, Rea Barn Road            | 1156                        |

| No. | Ward     | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Current polling district | Current polling station                                                      | New polling district | New polling station                                                          | Number of electors affected |
|-----|----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------|-----------------------------|
|     |          | The following roads/properties will move from the JD polling district and fall under the St Peters with St Marys (NC) ward:<br><br>Bank Lane – all properties <b>5</b><br>Beach Approach – all properties <b>6</b><br>Berry Head Road – all <b>182</b><br>Brewery Lane – all properties <b>4</b><br>Fore Street – all properties <b>53</b><br>King Street – all properties <b>44</b><br>Moorings Reach – all properties <b>36</b><br>New Quay Lane – all properties <b>3</b><br>North View Road – all properties <b>38</b><br>Pump Street – all properties <b>5</b><br>The Strand – all properties <b>12</b><br>Pilgrim Close – all properties                                                                                                                                                                                    | JD                       | Scala Hall, Market Street                                                    | NC                   | Brixham Rugby Club, Rea Barn Road                                            | 416                         |
| 61  | Tormohun | The whole of the existing LA polling district will form the new PA polling district.<br><br>The following properties will move from the Ellacombe (DA) ward into the new PA polling district:<br><br>Castle Road – 1, 3 and 5 <b>2</b><br>Market Street – odd nos 3 to 65 <b>50</b><br>Stratheden Court <b>63</b><br>even nos 4 to 28 (5) (including Albert Court) <b>18</b><br>Hilldrop Terrace – all properties <b>20</b><br>Castle Lane – all properties <b>10</b><br>Pimlico – all properties <b>29</b><br>Queen Street – all properties <b>66</b><br>Madrepore Road – all properties <b>31</b><br>Clifton Terrace, Madrepore Road – all properties <b>14</b><br>Stentiford Hill Road – all properties <b>16</b><br>Higher Queens Terrace – all properties <b>7</b><br>Myrtle Row, Braddons Street – all properties <b>15</b> | LA<br><br>DA             | Central Church Hall, Tor Hill Road<br><br>Salvation Army Hall, Market Street | PA<br><br>PA         | Central Church Hall, Tor Hill Road<br><br>Central Church Hall, Tor Hill Road | 1878<br><br>341             |
| 62  | Tormohun | The whole of the existing LB polling district will form the new PB polling district apart from the following properties/electors as these will move into the Ellacombe ward<br><br>St Marychurch Road – even nos 6 to 26 and odds 15 and 17 <b>24</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | LB<br><br>LB             | Central Church Hall, Tor Hill Road<br><br>Central Church Hall, Tor Hill Road | PB                   | Central Church Hall, Tor Hill Road                                           | 1427                        |

| No. | Ward     | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Current polling district | Current polling station                | New polling district | New polling station                | Number of electors affected |
|-----|----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|----------------------------------------|----------------------|------------------------------------|-----------------------------|
|     |          | <p>The following properties will move from the existing Cockington with Chelston (BB) ward into the new PB polling district:</p> <p>Avenue Road – even nos 112 to 166 <b>51</b><br/> Crownhill Park – all properties <b>118</b><br/> Crownhill Rise – all properties <b>85</b><br/> Rathmore Road – all properties <b>61</b><br/> Walnut Road - The Squirrells, Trevelan, 1 Ocean Drive <b>0</b><br/> Old Mill Road – Millbridge House, Park Vista, Laburnum Lodge <b>11</b><br/> Avenue Road – even nos 64 to 166 <b>119</b><br/> Millbrook Park Road – all properties <b>14</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | BB                       | St Matthews Church, top of Walnut Road | LB                   | Central Church Hall, Tor Hill Road | 459                         |
| 63  | Tormohun | <p>The whole of the existing LC polling district will form the new PC polling district apart from the following properties/electors as these will move to the Ellacombe ward:</p> <p>Sunbury Hill – all properties <b>43</b><br/> Thurlow Road – all properties <b>229</b><br/> Ash Hill Road – all properties <b>54</b><br/> Furzehill Road – all properties <b>64</b><br/> Lower Thurlow Road – all properties <b>49</b><br/> Thurlow Hill – all properties <b>15</b><br/> Thurlow Park – all properties <b>27</b><br/> St Marychurch Road – even nos 30 to 56a <b>52</b><br/> odds 21 to 47 <b>24</b></p> <p>The following properties will move from LC into the St Marychurch (MC) polling district:</p> <p>Westbourne Road – all properties <b>107</b><br/> Jonida Close – all properties <b>18</b><br/> Wrights Lane – all properties <b>23</b><br/> Chatto Road – evens 2 to 58<br/> odds 1 to 51 <b>106</b><br/> Dower Road – all properties <b>106</b><br/> Haslam Road – all properties <b>81</b><br/> Lymington Road, Daison Cottages – all properties <b>33</b><br/> Lymington Road – nos 229 and 231 <b>4</b></p> | LC                       | Echo Building, St James Road           | PC                   | Echo Building, St James Road       | 811                         |
|     |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | LC                       | Echo Building, St James Road           |                      |                                    | 557                         |
|     |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | LC                       | Echo Building, St James Road           |                      |                                    | 478                         |
| 64  | Tormohun | The whole of the existing LD ward will form the new PD district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               | LD                       | Torre C of E Academy, Barton Road      | PD                   | Torre C of E Academy, Barton Road  | 2398                        |

| No. | Ward     | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Current polling district | Current polling station                   | New polling district | New polling station                       | Number of electors affected |
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| 65  | Tormohun | The whole of the existing LE will form the new PE polling district.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | LE                       | Windmill Community Centre, Pendennis Road | PE                   | Windmill Community Centre, Pendennis Road | 721                         |
| 66  | Tormohun | <p>The following properties/electors will move from the Wellswood (MD) and Wellswood ward and will form the new Tormohun (PF) polling district:</p> <p>Parkhill Road – 1 to 15 Park Hall, 1 to 25 Edenhurst Court, 1 to 10 The Riviera, 1 to 5 Corbyn Sands, odd numbers 1 to 45, even numbers 2 to 28 <b>121</b></p> <p>Vane Hill Road – Sea Whispers <b>1</b></p> <p>Park Lane Steps – all properties <b>2</b></p> <p>Park Lane – all properties <b>13</b></p> <p>Torwood Street – even nos 4 to 66, odds 1 to 43 <b>52</b></p> <p>Meadfoot Lane – odd nos 3 to 37, evens 4 to 12 <b>25</b></p> <p>Trinity Mews – all properties <b>10</b></p> <p>Trinity Hill – all properties <b>21</b></p> <p>Meadfoot Road – 2, 5 to 7 <b>1</b></p> <p>Torwood Gardens Road – 1 to 18 Apsley House, Old Customs House <b>15</b></p> <p>The Terrace – all even nos <b>16</b></p> <p>Montpellier Road – all properties <b>40</b></p> <p>Braddons Hill Road East – odds 1 to 53, even nos 12 to 40 <b>102</b></p> <p>Braddons Cliffe – all properties <b>16</b></p> <p>Hillesdon Road – all properties listed within the MC ward (not the DA ward) <b>38</b></p> <p>Grafton Road – all properties <b>101</b></p> <p>Upper Braddons Hill Road – all properties <b>55</b></p> <p>Lower Warberry Road – 1 to 11 Bramhope and Bramhope House and Tecton <b>11</b></p> <p>Woodside Drive – all properties <b>22</b></p> <p>The following properties/electors will move from the existing Tormohun (LA) polling district into the new PF polling district:</p> <p>Victoria Parade – all properties <b>35</b></p> <p>The Strand – all properties <b>9</b></p> <p>Cary Parade – all properties <b>0</b></p> <p>Beacon Hill <b>0</b></p> <p>Beacon Terrace – all properties <b>30</b></p> <p>Vaughan Parade – all properties <b>0</b></p> <p>The Terrace (all properties currently in LA) <b>9</b></p> | MD                       | Riviera Life Church Hall, Babbacombe Road | PF                   | Torquay Harbour Office, Park Hill Road    | 662                         |
|     |          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | LA                       | Central Church Hall, Tor Hill Road        | PF                   | Torquay Harbour Office, Park Hill Road    | 83                          |



| No. | Ward      | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Current polling district | Current polling station                                                                  | New polling district | New polling station                                                                | Number of electors affected |
|-----|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|------------------------------------------------------------------------------------------|----------------------|------------------------------------------------------------------------------------|-----------------------------|
| 67  | Wellswood | The whole of the existing MA polling district will form the new RA polling district                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | MA                       | St Matthias Church Hall, Babbacombe Road                                                 | RA                   | St Matthias Church Hall, Babbacombe Road                                           | 1849                        |
| 68  | Wellswood | The whole of the existing MB polling district will form the new RB polling district apart from the following properties/streets/electors which fall under the Ellacombe ward:<br><br>Ben Venue Close – all properties <b>20</b><br>Rosehill Road – all properties <b>15</b><br>Middle Warberry Road - Lightcliffe Cottage, Coverdale, Westholme Cottage, Westholme, Ben Venue, Lemon Tree Cottage, Sunhaven <b>34</b><br>Higher Warberry Road – Le Convido <b>4</b>                                                                                                                                                                                                                                                                                                                          | MB<br><br>MB             | St Matthias Church Hall, Babbacombe Road<br><br>St Matthias Church Hall, Babbacombe Road | RB                   | St Matthias Church Hall, Babbacombe Road<br><br>Salvation Army Hall, Market Street | 1579                        |
| 69  | Wellswood | The whole of the existing MC polling district will form the new RC polling district apart from the following properties which will fall under the Ellacombe (FB) ward:<br><br>Alpine Road <b>14</b><br>Palatine Close – all properties <b>29</b><br>Lower Warberry Road – Lightcliffe, Rosehill, Greycliffe, Orchard Cottage, Burcot, Newark Lodge, The Loft, Newark House, Charisma, Overstrand, Luneville, Sunnyside, Kingsleigh Manor, Rosario, Lindley <b>73</b><br>Warberry Road West – 46 to 70, 21, 43 to 57 <b>58</b>                                                                                                                                                                                                                                                                | MC<br><br>MC             | Riviera Life Church, Babbacombe Road<br><br>Riviera Life Church, Babbacombe Road         | RC<br><br>FB         | Riviera Life Church, Babbacombe Road<br><br>Salvation Army Hall, Market Street     |                             |
| 70  | Wellswood | The existing MD polling district will form the new RD polling district apart from the following properties/electors which will move from the Wellswood (MD) and Wellswood ward and will fall under the Tormohun (PF) polling district:<br><br>Parkhill Road – 1 to 15 Park Hall, 1 to 25 Edenhurst Court, 1 to 10 The Riviera, 1 to 5 Corbyn Sands, odd numbers 1 to 45, even numbers 2 to 28 <b>121</b><br>Vane Hill Road – Sea Whispers <b>1</b><br>Park Lane Steps – all properties <b>2</b><br>Park Lane – all properties <b>13</b><br>Torwood Street – even nos 4 to 66, odds 1 to 43 <b>52</b><br>Meadfoot Lane – odd nos 3 to 37, evens 4 to 12 <b>25</b><br>Trinity Mews – all properties <b>10</b><br>Trinity Hill – all properties <b>21</b><br>Meadfoot Road – 2, 5 to 7 <b>1</b> | MD<br><br>MD             | Riviera Life Church, Babbacombe Road<br><br>Riviera Life Church, Babbacombe Road         | RD<br><br>PF         | Riviera Life Church, Babbacombe Road<br><br>Torquay Harbour Office, Park Hill Road | 767<br><br>662              |

| No. | Ward | Area/roads to be moved from one polling district to another                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Current polling district | Current polling station | New polling district | New polling station | Number of electors affected |
|-----|------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------|----------------------|---------------------|-----------------------------|
|     |      | <p>Torwood Gardens Road – 1 to 18 Apsley House, Old Customs House <b>15</b></p> <p>The Terrace – all even nos <b>16</b></p> <p>Montpellier Road – all properties <b>40</b></p> <p>Braddons Hill Road East – odds 1 to 53, even nos 12 to 40 <b>102</b></p> <p>Braddons Cliffe – all properties <b>16</b></p> <p>Hillesdon Road – all properties listed within the MC ward (not the DA ward) <b>38</b></p> <p>Grafton Road – all properties <b>101</b></p> <p>Upper Braddons Hill Road – all properties <b>55</b></p> <p>Lower Warberry Road – 1 to 11 Bramhope and Bramhope House and Tecton <b>11</b></p> <p>Woodside Drive – all properties <b>22</b></p> |                          |                         |                      |                     |                             |

Note: numbers in ***bold italics*** indicate current (as at 1 May 2018) electorate in the street

## Review of Polling Districts and Polling Places 2018

### Report of the Acting Returning Officer for Torbay concerning existing polling arrangements in the Torbay Constituency

\*= double polling station

| Polling District | Polling Place            | Station                                                                                      | Comments                                                                                                                | Proposals                                                                                                                             |
|------------------|--------------------------|----------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| BA               | Cockington with Chelston | Mobile station at Preston Primary School, Old Paignton Road, Torquay, TQ2 6UY                | Satisfactory                                                                                                            | None                                                                                                                                  |
| BB               | Cockington with Chelston | St Matthews Church, top of Walnut Road                                                       | Satisfactory                                                                                                            | None                                                                                                                                  |
| BC               | Cockington with Chelston | St Peters Church Hall, Queensway, Torquay, TQ2 6BP*                                          | Satisfactory                                                                                                            | None                                                                                                                                  |
| BD               | Cockington with Chelston | Sherwell Valley Primary School, Hawkins Avenue, Torquay, TQ2 6ES                             | Satisfactory                                                                                                            | None                                                                                                                                  |
| BE               | Cockington with Chelston | St Peters Church Hall, Queensway, Torquay, TQ2 6BP*                                          | Satisfactory                                                                                                            | None                                                                                                                                  |
| CA               | Clifton with Maidenway   | Catholic Church Rooms Sacred Heart Church, Cecil Road, Paignton, TQ3 2SH*                    | Satisfactory                                                                                                            | None                                                                                                                                  |
| CB               | Clifton with Maidenway   | The Old Monastery, Berry Drive                                                               | Satisfactory                                                                                                            | None                                                                                                                                  |
| CC               | Clifton with Maidenway   | Catholic Church Rooms Sacred Heart Church, Cecil Road, Paignton, TQ3 2SH*                    | Satisfactory                                                                                                            | None                                                                                                                                  |
| CD               | Clifton with Maidenway   | Cross Link Hall, Winner Street, Paignton, TQ3 3LN*                                           | Slight raised door frame, alternative disabled access not obvious.                                                      | Hazard tape for trip hazards. Additional signage for disabled entrance.                                                               |
| DA               | Ellacombe                | Hall at Salvation Army, Castle Lane Entrance, Torquay, TQ1 3AF                               | Satisfactory                                                                                                            | None                                                                                                                                  |
| DB               | Ellacombe                | Hall at Salvation Army, Castle Lane Entrance, Torquay, TQ1 3AF                               | Satisfactory                                                                                                            | None                                                                                                                                  |
| DC               | Ellacombe                | Ellacombe Academy (prev. Ellacombe Primary School), Ellacombe Church Road, Torquay, TQ1 1TG* | Raised threshold. Some confusion finding entrance to station. No disabled entrance. No alternative station in the area. | Hazard tape for raised threshold. Ramp to be fitted. Poll cards to specify more clearly where the entrance is to the polling station. |
| FA               | Preston                  | Mobile Station, Preston Down Road, Shopping Parade, Paignton, TQ3 1DS                        | Satisfactory                                                                                                            | None                                                                                                                                  |
| FB               | Preston                  | St Pauls Church - Francis Norrish Room, Torquay Road, Paignton, TQ3 2DH                      | Satisfactory                                                                                                            | None                                                                                                                                  |

| Polling District | Polling Place              | Station                                                                                   | Comments      | Proposals |
|------------------|----------------------------|-------------------------------------------------------------------------------------------|---------------|-----------|
| FC               | Preston                    | Mobile Station, Albany Road/Lacy Road, Paignton, TQ3 1BU                                  | Satisfactory  | None      |
| FD               | Preston                    | Paignton SNU Spiritualist Church Hall, Manor Corner, Torquay Road, Paignton, TQ3 1JB      | Satisfactory. | None.     |
| HA               | St Marychurch              | Brunel Manor Christian Centre, Teignmouth Road                                            | Satisfactory. | None      |
| HB               | St Marychurch              | St Marychurch C of E Primary Nursery School, Hartop Road, Torquay, TQ1 4QH                | Satisfactory  | None      |
| HC               | St Marychurch              | Rear of Dunboyne Court, 170 St Marychurch Road, Torquay, TQ1 3AB                          | Satisfactory  | None      |
| HD               | St Marychurch              | Plainmoor Swimming Pool, Plainmoor, Torquay, TQ1 3QP                                      | Satisfactory  | None      |
| HE               | St Marychurch              | Furrough Cross Church Hall, Babbacombe Road, Torquay, TQ1 3SE                             | Satisfactory  | None      |
| HF               | St Marychurch              | St Annes Hall, Babbacombe Road, Torquay, TQ1 3UH                                          | Satisfactory  | None      |
| GA               | Goodrington with Roselands | Time Out Coffee Shop, 6 Sturcombe Avenue, Paignton, TQ4 7EB                               | Satisfactory  | None      |
| GB               | Goodrington with Roselands | St Georges Hall, Barn Road, Paignton, TQ4 6NG*                                            | Satisfactory  | None      |
| IC               | Goodrington with Roselands | Hall at Entrance Clennon Rise, Romaleyn Gardens, Entrance Clennon Rise, Paignton, TQ4 5HN | Satisfactory  | None      |
| ID               | Goodrington with Roselands | Torbay Leisure Centre, Penwill Way, Paignton, TQ4 5JR                                     | Satisfactory  | None      |
| LA               | Tormohun                   | Central Church Hall, Central Church, Tor Hill Road, Torquay, TQ2 5RS*                     | Satisfactory  | None      |
| LB               | Tormohun                   | Central Church Hall, Central Church, Tor Hill Road, Torquay, TQ2 5RS*                     | Satisfactory  | None      |
| LC               | Tormohun                   | Echo Building, Echo Childrens Centre, St James Road, Torquay, TQ1 4AZ                     | Satisfactory  | None      |
| LD               | Tormohun                   | Torre Primary School, Barton Road, Torquay, TQ1 4DN                                       | Satisfactory  | None      |
| LE               | Tormohun                   | Windmill Community Centre, Pendennis Road, Torquay, TQ2 7QR                               | Satisfactory  | None      |
| MA               | Wellswood                  | St Matthias Church Hall, Babbacombe Road, Torquay, TQ1 1HW*                               | Satisfactory  | None      |

| Polling District | Polling Place            | Station                                                                          | Comments      | Proposals                                                                                                    |
|------------------|--------------------------|----------------------------------------------------------------------------------|---------------|--------------------------------------------------------------------------------------------------------------|
| MB               | Wellswood                | St Matthias Church Hall, Babbacombe Road, Torquay, TQ1 1HW*                      | Satisfactory  | None                                                                                                         |
| MC               | Wellswood                | Riviera Life Church, 527 Babbacombe Road, Torquay, TQ1 1HG*                      | Satisfactory  | None                                                                                                         |
| MD               | Wellswood                | Riviera Life Church, 527 Babbacombe Road, Torquay, TQ1 1HG*                      | Satisfactory  | None                                                                                                         |
| RA               | Roundham with Hyde       | Christ Church Hall, Torquay Road, Paignton, TQ3 2DH                              | Satisfactory  | None                                                                                                         |
| RB               | Roundham with Hyde       | Paignton Club, The Garden Room, Esplanade Road, Paignton, TQ4 6ED*               | Satisfactory  | None                                                                                                         |
| RC               | Roundham with Hyde       | Paignton Club, The Garden Room, Esplanade Road, Paignton, TQ4 6ED*               | Satisfactory  | None                                                                                                         |
| RD               | Roundham with Hyde       | Cross Link Hall (formerly Baptist Youth Hall), Winner Street, Paignton, TQ3 3LN* | Satisfactory  | None                                                                                                         |
| TA               | Shiphay with the Willows | Rear of St Martins Church, Barton Hill Road, Torquay, TQ2 8JA                    | Satisfactory  | None.                                                                                                        |
| TB               | Shiphay with the Willows | Mobile Station at DFS Car Park, Willows Retail                                   | Satisfactory. | None.                                                                                                        |
| TC               | Shiphay with the Willows | St Andrews Church Hall, Exe Hill, Torquay, TQ2 7NF*                              | Satisfactory  | None                                                                                                         |
| TD               | Shiphay with the Willows | St Andrews Church Hall, Exe Hill, Torquay, TQ2 7NF*                              | Satisfactory  | None                                                                                                         |
| WA               | Watcombe                 | Watcombe Children's Centre, Moor Lane, Torquay, TQ2 8NU                          | Satisfactory  | None                                                                                                         |
| WB               | Watcombe                 | Watcombe Community Centre, Medway Road, Barton, Torquay, TQ2 8SA                 | Satisfactory  | None                                                                                                         |
| WC               | Watcombe                 | Acorn Community Centre, Lummaton Cross, Torquay, TQ2 8ET                         | Satisfactory  | This will now be a double polling station under the new polling places, districts and station scheme.        |
| WD               | Watcombe                 | Hele Road Baptist Church, Hele Road, Torquay, TQ2 7PP                            | Satisfactory  | This will no longer be used as a polling station under the new polling places, districts and station scheme. |

Caroline Taylor, Acting Returning Officer



**Meeting: Council**

**Date: 5 December 2018**

**Wards Affected: Tormohun**

**Report Title: Torquay Gateway Highways Improvement – Shiphay Lane Junction to Lowes Bridge Junction– Acquisition of Land – Compulsory Purchase Order**

**Is the decision a key decision? Yes**

**When does the decision need to be implemented? January 2019**

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

**Supporting Officer Contact Details:** Ian Jones, Highways and Transport Service Manager, 01803 207835, [ian.jones@torbay.gov.uk](mailto:ian.jones@torbay.gov.uk)

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## **1. Proposal and Introduction**

1.1 To achieve a way forward to ensure that the major highway improvement schemes known as the Torquay Gateway Improvements are delivered by seeking Members' approval to make a Compulsory Purchase Order for the land required for the section of the scheme between Shiphay Lane and Lowes Bridge junction, to enable it to be acquired if agreement cannot be reached by negotiation with the Network Rail land owner.

## **2. Reason for Proposal and associated financial commitments**

2.1 £2.49m funding has been agreed in principle from the Department for Transport (Dft) through the Local Transport Board (LTB) for a series of highway and cycle improvements to the Torquay Gateway area. The improvements, which form part of the current Local Transport Plan and Local Plan, have been undertaken commencing April 2015 and the funding has been granted on the basis that the Torbay Council is in a position to complete the entire scheme within the LTB's time period, which has an absolute completion date of March 2021, however the construction works will need to be complete by March 2020.

2.2 For the majority of the proposed improvements there was no requirement for the acquisition of any private land and the individual schemes do not require planning consent. However, one section of this improvement, to widen the A3022 between Shiphay Lane junction and Lowes Bridge junction will require the acquisition of

some land within the ownership of Network Rail.

- 2.3 The section of highway improvement in question will provide additional capacity to this strategic route by adding an additional northbound traffic lane and improved traffic flow through the signalised junctions.
  - 2.4 Land will need to be acquired for the purpose of implementing the highway improvement. The acquisition of such land will be progressed by negotiation between the Council and Network Rail where possible, however, if such negotiation does not result in successful acquisition of land then the Council will need to acquire the land by Compulsory Purchase Order.
  - 2.5 The delivery of the highway improvements is subject to the acquisition of areas of Network Rail land as detailed in Appendix 1. Failure to acquire these areas of land would result in the Scheme not being delivered in its entirety.
  - 2.6 The approval of the recommendations in this report is sought from the Council to seek to ensure delivery of the scheme within the required timescale.
  - 2.7 The proposals contained in this report will commit the Council financially in respect of as yet undetermined land compensation costs along with associated land agency and legal costs: Costs are to be funded from the anticipated capital allocation for the scheme.
- 

### **3. Recommendation(s) / Proposed Decision**

- 3.1 That negotiations with Network Rail, as landowner, for acquisition of the land required for the Torquay Gateway Highways Improvement – Shiphay Lane Junction to Lowes Bridge Junction Scheme be continued to completion and to acquisition by agreement when possible.
- 3.2 That authority be delegated to the Director of Corporate Services to make a Compulsory Purchase Order for the land required for the Torquay Gateway Improvement Scheme affecting land adjacent to the A3022 Newton Road in accordance with the following:-

That Torbay Council makes a Compulsory Purchase Order under sections 239, 240, 249, 250 and 260 of the Highways Act 1980 for the acquisition of all interests in the land (except those already owned by the Council) and new rights within areas shown (shaded pink for areas of land in respect of which all interests are to be acquired and shaded blue for the areas over which new rights are to be acquired) on plan number (insert new) attached as Appendix 1 to the submitted report for the purpose of highway improvement.



- 3.3 Subject to approval of 3.2 above, that the Director of Corporate Services be authorised to:-
- a) Take all necessary steps to secure the making, confirmation and implementation of the Compulsory Purchase Order including the publication and service of all notices and the presentation of the Council's case at any Public Inquiry;
  - b) To acquire interests in land and new rights within the Compulsory Purchase Order either by agreement or compulsorily; and
  - c) Approve agreements with the land owner setting out terms for the withdrawal of objections to the Order, including where appropriate seeking exclusion of land or new rights from the Order.
- 3.4 That detailed design and preparation of proposals continue for the highway improvement scheme in order that a scheme can be implemented following acquisition of all required sections of land.

## **Appendices**

**Appendix 1:** – Proposed Compulsory Purchase Order Plan

**Appendix 2:** – Further Supporting Information

## **Background Documents**

Torbay Local Transport Plan 2011-2026

<http://www.torbay.gov.uk/index/yourservices/transportandstreets/transportpolicy/transportplan.htm>

Application to Local Transport Board for the Torquay Gateway Highway Improvements.

<https://www.torbay.gov.uk/council/policies/transport/local-transport-board/torquay-gateway/>

## Section 1: Background Information

|    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. | <p><b>What is the proposal / issue?</b></p> <p>To achieve a way forward to ensure that the major highway improvement schemes known as the Torquay Gateway Improvements are delivered by seeking Members' approval to make a Compulsory Purchase Order for the land required for the section of the scheme between Shiphay Lane and Lowes Bridge junction, to enable it to be acquired if agreement cannot be reached by negotiation with the Network Rail land owner.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 2. | <p><b>What is the current situation?</b></p> <p>£2.49m funding has been agreed in principle from the Department for Transport (Dft) through the Local Transport Board (LTB) for a series of highway and cycle improvements to the Torquay Gateway area. The improvements, which form part of the current Local Transport Plan and Local Plan, have been undertaken commencing April 2015 and the funding has been granted on the basis that the Torbay Council is in a position to complete the entire scheme within the LTB's time period, which has an absolute completion date of March 2021, however the construction works will need to be complete by March 2020.</p> <p>For the majority of the proposed improvements there was no requirement for the acquisition of any private land and the individual schemes do not require planning consent. However, one section of this improvement, to widen the A3022 between Shiphay Lane junction and Lowes Bridge junction will require the acquisition of some land within the ownership of Network Rail.</p> |
| 3. | <p><b>What options have been considered?</b></p> <p>The following options have been considered:</p> <ol style="list-style-type: none"><li>1. That the proposed decision to acquire land for the Torquay Gateway Highway Improvement as detailed in Section 3 of the report be progressed.</li><li>2. That the proposed decision is not progressed. Not progressing the decision could mean that, where agreement over land acquisition cannot be completed, the scheme does not get delivered and the funding is invested elsewhere in the LEP area.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 4.  | <p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>The proposal supports the delivery of the Corporate Plan by meeting the specific Targeted Actions of ‘working towards a more prosperous Torbay’ and ‘Ensuring Torbay remains an attractive and safe place to live and visit’ by improving this section of vital transport infrastructure.</p>                                                                                                                                         |
| 5.  | <p><b>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</b></p> <p>The proposal has do direct contribution towards the Council’s responsibilities in this respect however the scheme is unlikely to be detrimental to the safety of children and young people.</p>                                                                                                                                                                                                                                     |
| 6.  | <p><b>How does this proposal tackle deprivation?</b></p> <p>The improvement to this section of vital transport infrastructure will support future growth in the Torbay Area.</p>                                                                                                                                                                                                                                                                                                                                                                    |
| 7.  | <p><b>How does this proposal tackle inequalities?</b></p> <p>The proposal will reduce congestion on this section of infrastructure providing improvements to air quality and public transport links. Controlled pedestrian crossing facilities will form part of the scheme.</p>                                                                                                                                                                                                                                                                    |
| 8.  | <p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>There is no direct affect in respect of this proposal however the proposal is unlikely to be detrimental.</p>                                                                                                                                                                                                                                                                                                                                                   |
| 9.  | <p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>As with any highway improvement, the benefits will apply to all users of the highway. The implementation of the ‘Torquay Gateway’ highway improvements forms part of the current Local Transport Plan and Local Plan, approved as policy by Council.</p> <p>Both the Local Transport Plan and Local Plan were prepared in consultation with all major stakeholders.</p> <p>The Local Transport Plan was prepared jointly with Devon County Council.</p> |
| 10. | <p><b>How will you propose to consult?</b></p> <p>No further formal consultation is proposed in respect of this scheme.</p>                                                                                                                                                                                                                                                                                                                                                                                                                         |

## Section 2: Implications and Impact Assessment

### 11. What are the financial and legal implications?

The Council as the highway authority has powers under the Highways Act 1980 to acquire compulsorily or by agreement, land required for the improvement of a highway and to acquire compulsorily rights over land for highway purposes.

A CPO may be made by the Council, but must be confirmed by the Secretary of State if there are objections. If objections are made to the Order and not withdrawn, the Secretary of State is likely to hold a public inquiry before determining whether or not to confirm the Order, in full or in part. That could incur the Council in presently unquantifiable costs. These might be significant, but may be considered small compared with the overall cost of the scheme.

If the Council acquires land under compulsory purchase powers, statutory provisions as to compensation will apply. The Council will be required to pay market value, payment for any injurious affection and in certain circumstances additional costs such as Home Loss payments and disturbance.

### 12. What are the risks?

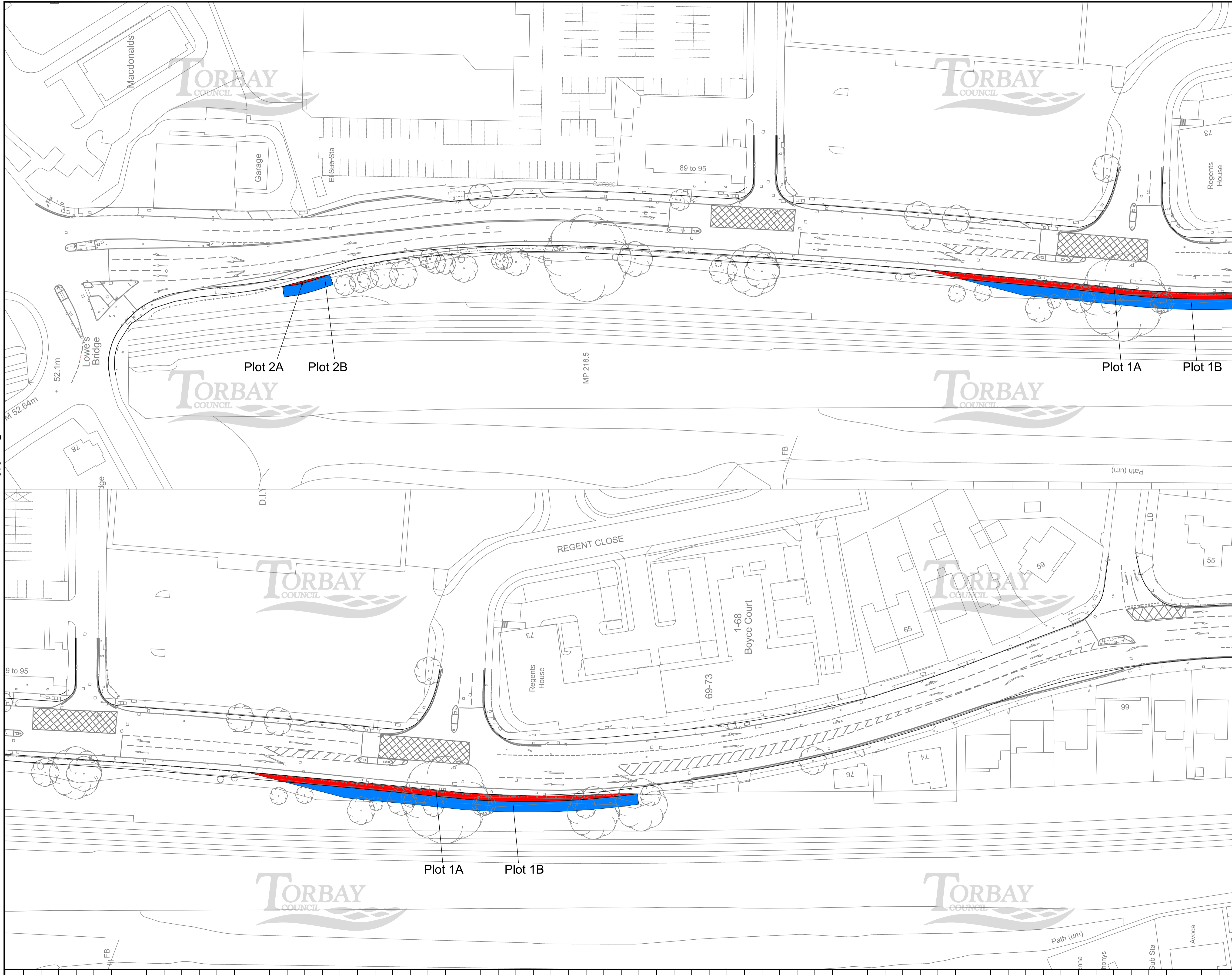
1. There is a significant risk that negotiations to acquire land for this scheme could fail and a Compulsory Purchase Order would be the only option for progressing the scheme. If the decision to make a Compulsory Purchase Order is delayed until that time then the Council may not be able to deliver the Scheme within the required timescale. This would have serious implications on the implementation of the Torquay Gateway Improvement in its entirety.
2. If objections are made to the Compulsory Purchase Order, and not withdrawn, the Secretary of State is likely to hold a public inquiry. This may delay the delivery of the scheme.
3. If land is not acquired for this Scheme then the existing highway would have insufficient width to deliver a scheme which would meet the requirements for the DfT funding.

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>13.</b></p> | <p><b>Public Services Value (Social Value) Act 2012</b></p> <p>The Torbay Development Agency will provide support to Torbay Council for the negotiation and valuation for the land to be acquired in liaison with the authority's legal officers.</p> <p>The management and delivery of the scheme will be carried out by officers from the Council's Highways and Transport Team and Future Planning Team.</p> <p>The detailed design and supervision of the scheme will be carried out by the Torbay Development Agency's Engineering Services Team.</p> <p>Accommodation works to properties where land has been acquired will be carried out under the contract for the main highway widening works, which will be procured as a formal contract in accordance with Financial Regulations.</p> |
| <p><b>14.</b></p> | <p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>A full Business Case was submitted to the HotSW LEP in respect of the economic benefits of delivering the Torquay Gateway Scheme.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>15.</b></p> | <p><b>What are key findings from the consultation you have carried out?</b></p> <p>There are no specific consultation findings to report as part of this proposal.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| <p><b>16.</b></p> | <p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>No amendments have been made to the scheme, however every effort has been made to minimise the amount of land required to deliver the scheme.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |

## Equality Impacts

| 17. | Identify the potential positive and negative impacts on specific groups                                                       |                 |                                      |                        |
|-----|-------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------------------------|------------------------|
|     |                                                                                                                               | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact         |
|     | Older or younger people                                                                                                       |                 |                                      | No differential impact |
|     | People with caring Responsibilities                                                                                           |                 |                                      | No differential impact |
|     | People with a disability                                                                                                      |                 |                                      | No differential impact |
|     | Women or men                                                                                                                  |                 |                                      | No differential impact |
|     | People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> |                 |                                      | No differential impact |
|     | Religion or belief (including lack of belief)                                                                                 |                 |                                      | No differential impact |
|     | People who are lesbian, gay or bisexual                                                                                       |                 |                                      | No differential impact |
|     | People who are transgendered                                                                                                  |                 |                                      | No differential impact |
|     | People who are in a marriage or civil partnership                                                                             |                 |                                      | No differential impact |
|     | Women who are pregnant / on maternity leave                                                                                   |                 |                                      | No differential impact |

|           |                                                                                                                                   |                                                                                                                                                                               |                                                            |
|-----------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------|
|           |                                                                                                                                   |                                                                                                                                                                               |                                                            |
|           | Socio-economic impacts<br>(Including impact on child poverty issues and deprivation)                                              | Improvements to major infrastructure will have positive impacts on future growth in the area.                                                                                 | None                                                       |
|           | Public Health impacts (How will your proposal impact on the general health of the population of Torbay)                           | The proposal will assist in reducing traffic congestion and the use of public transport.                                                                                      | Reduced congestion may encourage an increase in car usage. |
| <b>16</b> | <b>Cumulative Impacts – Council wide</b><br>(proposed changes elsewhere which might worsen the impacts identified above)          | No cumulative impacts identified                                                                                                                                              |                                                            |
| <b>17</b> | <b>Cumulative Impacts – Other public services</b><br>(proposed changes elsewhere which might worsen the impacts identified above) | The proposed scheme is within direct access routes for Torbay Hospital, the Ambulance Service and Fire Service and therefore is likely to provide benefits to these services. |                                                            |



| REVISIONS |      |    |         |         |
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| NOTES |         |
|-------|---------|
| no.   | details |
|       |         |

- KEY**
- Land to be acquired
  - Land required for construction working space or accommodation works.
- Total area to be purchased (in red) = 169.34m<sup>2</sup>.  
 Total area of easement (in blue) = 319.90m<sup>2</sup>.

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| checked | RDS | date     | 18/10/18   |

TORBAY DEVELOPMENT AGENCY  
 TOR HILL HOUSE TORQUAY, TQ2 5W  
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SCHEME TITLE

**GATEWAY SCHEME**  
**LOWES BRIDGE TO SHIPWAY LANE WIDENING SCHEME**

DRAWING TITLE

**Compulsory Purchase Order**  
**Land Plan**

|                |              |      |   |
|----------------|--------------|------|---|
| drawing number | 8/6/11/3_303 | rev. | - |
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### Appendix 2

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#### Further Supporting Information

The proposed improvements known as the 'Torquay Gateway' includes a series of road, junction and cycle improvements in the areas of Torquay which have been identified for improvements to access into the town from the northern boundary to the Shiphay junction and also at Gallows Gate.

Funding of £2.49m was agreed in principle by the LTB on behalf of the Heart of the South West Local Enterprise Partnership Growth Deal secured from Central Government (DfT).

The Torquay Gateway Improvements comprises of 4 separate schemes:-

1. Shiphay Lane Cycle Path
2. Gallows Gate widening
3. Scotts Bridge Junction Improvements
4. Shiphay lane to Lowes Bridge widening.

Schemes 1, 2 and 3 have now been fully implemented and the relevant funding has been claimed. Scheme 4, as detailed in this report, has yet to be commenced due to a longer than anticipated negotiation process with Network Rail to acquire the land for Highway widening.

Torbay Council's Spatial Planning Department has confirmed that Planning consent is not required, as the proposed highways widening scheme would qualify as a permitted development under Part 13 – Development by Local Highways Authorities, Class A of the General Permitted Development Order.

The section of scheme in question is currently planned to be commenced in the Autumn 2019, however in order to ensure that the acquisition of land does not present a risk to the successful completion of the scheme authority will need to be granted to officers to progress a CPO at this stage due to the likely timescales that may be involved with the CPO process.

Torbay Council have progressed the detailed design of the highway widening scheme and this has confirmed that there is insufficient land within either Torbay Council ownership or within existing public highway to accommodate the required scheme.

Torbay Council is currently entering into negotiations with Network Rail where land acquisition is required with a view to securing the purchase of land required for highway widening.

If negotiations with Network Rail are not successful in acquiring the required land or are significantly delayed, then the only remaining option is compulsory purchase. Due to the lengthy process involved in making a Compulsory Purchase Order it is necessary to instigate procedures at this stage as failure to acquire land within a reasonable timescale would result in failure to deliver to scheme in its entirety.

The Council as the highway authority has powers under the Highways Act 1980 to acquire compulsorily or by agreement, land required for the improvement of a highway and to acquire compulsorily rights over land for highway purposes.

The proposal raises implications under the Human Rights Act 1998, the First Protocol Article 1 and (where the properties to be included in the proposed Order are residential dwellings) Article 8 of the Convention.

The First Protocol, Article 1 protects a person's peaceful enjoyment of his possessions (including property). The Article states that no one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. However, the provisions do not impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest. The making of a Compulsory Purchase Order (CPO) will interfere with the peaceful enjoyment of property of the present owner if confirmed by the Secretary of State, however, such interference is permitted by law, under the Highways Act 1980 and the Acquisition of Land Act 1981 (which sets out the procedure for making and confirming a CPO). It is considered that the making of the proposed CPO, for the reasons set out in the report, will not be a violation of those rights as the Acquiring Authority is content that the steps taken are in the public interest and that the interference with the peaceful enjoyment of property is proportionate having regard to the legitimate aims pursued by the Council in making the proposed CPO and that the owner directly affected by the CPO will be entitled to compensation as provided by law, such compensation to be settled in the absence of agreement by the Upper Tribunal of the Lands Tribunal.

The Acquiring Authority has also given regard to Article 8 of the First Protocol which states that everyone has the right to respect for his private and family life, his home and his correspondence. The Acquiring Authority is authorised to acquire land compulsorily in the circumstances set out in article

8(2) of the First Protocol. This property is not a residential dwelling or used for operation purposes as part of Network Rail operations. The Acquiring Authority considers that the many benefits that the redevelopment of the CPO land will bring to the area provide a compelling case in the public interest for the use of compulsory purchase powers and outweigh the impact on existing owners and occupiers. In these circumstances, the compulsory acquisition of the CPO land will not conflict with Article 8 of the First Protocol.

A CPO may be made by the Council, but must be confirmed by the Secretary of State if there are objections. If objections are made to the Order and not withdrawn, the Secretary of State is likely to hold a public inquiry before determining whether or not to confirm the Order, in full or in part. That could incur the Council in presently unquantifiable costs. These might be significant, but may be considered small compared with the overall cost of the scheme.

If the Council acquires land under compulsory purchase powers, statutory provisions as to compensation will apply. The Council will be required to pay market value, payment for any injurious affection and in certain circumstances additional costs such as Home Loss payments and disturbance.

A resolution of the Council to make a CPO may enable qualifying persons to serve a blight notice on the Council requiring it to acquire blighted land.

In some cases where the Council proposes to acquire part only of a property, it may be required to purchase the whole of the property interest unless it can show that part can be taken without material detriment to the whole or without significantly affecting the remaining property's amenity, value, or convenience, however this is unlikely to apply in this instance, as this is not land used for residential or operation purposes. In the case of a dispute the issue will be determined by reference to the Lands Tribunal.



**Meeting:** Council

**Date:** 5 December 2018

**Wards Affected:** All

**Report Title:** Torbay Council's Housing Rental Company

**Is the decision a key decision?** No

**When does the decision need to be implemented?**

**Executive Lead Contact Details:** Cllr Cindy Stocks, Executive Lead for Housing

**Supporting Officer Contact Details:** Kevin Mowat – Assistant Director of Business Services, 01803 208433 kevin.mowat@torbay.gov.uk

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## 1. Proposal and Introduction

- 1.1 Following from Housing Committee on 19 November, Council is being asked to support the recommendation of that Committee to merge the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant affordable housing schemes to be delivered at pace.
- 1.2 The Council has looked to set up their own housing company to bring forward affordable housing and have registered three subsidiary companies: a holding company, 'Dev Co' and a 'Rent Co'. The Housing Company, supported by the TDA, commissioned financial modelling of an ambitious programme of development across Council-owned sites that are identified for housing in the Local Plan. The State Aid regulations and Best Value requirements, as well as the existing policy framework for the Housing Company, restricted the extent to which the Housing Company could cross subsidise affordable housing development from market-orientated development resulting in difficulties in making the development programme sufficiently viable. In particular it was found that the Company would not be able to meet its own operating costs/overheads. This financial modelling assumed that the Housing Company would benefit from both Council affordable housing capital grant and Homes England grant. Subsequently the Housing Company has modelled a much restricted development programme consisting of three Council owned sites that have already been approved by Council for disposal for affordable housing development. TDA are currently commissioned to take forward these sites through feasibility, design and planning stages on behalf of the Council. This work is ongoing (please see update report later on the agenda).

- 1.3 Following a report to Council in September 2018 and further discussions with Council officers, the TDA have proposed to their Board that they could pursue the Council's Housing Company objectives to carry out direct affordable housing development. Significantly, the use of the TDA in this respect would reduce the operating costs/overheads of the Housing Company given their existing structure. The TDA Board have approved an "in principle" operating framework to undertake this activity and the broad principles of how this could work are set out in Appendix 1. Further consideration will need to be given to the relationship between the TDA and the Council on affordable housing delivery and to finalise any commissioning arrangements.
- 1.4 To ensure any proposals to deliver affordable housing are viable, grant funding will be required from Homes England. Initial conversations with Homes England and the TDA have been positive and they have confirmed that they have significant monies to invest in Torbay. However, in order to bid for grant the Council and/or the TDA need to achieve Investment Partner (IP) status. The organisation who will own and manage the homes as affordable housing must also become a Registered Provider (RP). Further detail is required from the TDA as to how it will ensure that it meets the necessary governance arrangements and can demonstrate that it will meet the regulatory standards as set out by the Regulator of Social Housing (RSH), however, this should be achievable.
- 1.5 Given its existing functions and staffing the TDA may be well placed to deliver both the development work and to manage and maintain the homes in the long term. This activity will involve the following departments at the TDA:
- Affordable housing team
  - Development Surveyors
  - Estate management
  - Project Management
  - Flood and Highway engineers
  - Property services
  - Marketing
  - Facilities management
  - Repairs Helpdesk
  - Cleaning company
  - Town centre regeneration
  - Finance
- 1.6 Further work will be required to ensure that the TDA Board and the Council are content with the organisational and management arrangements that will be required of the TDA for registration as an RP. In particular it will need to establish whether the TDA will require an additional organisational entity to own/manage the affordable housing that is separate from TDA's commercial/profit making activities.

- 1.7 The Council has undertaken significant modelling in respect of options for housing delivery, including associated financial and legal advice. This modelling will be able to be utilised in whatever form the company takes.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 On the 20 September 2018 the Council agreed that the Housing Committee be asked to consider the benefits and/or disadvantages of merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant schemes to be delivered at pace, and report back to Council with an appropriate recommendation. The Council wishes to expedite a programme of affordable housing development on Council-owned sites and retain the ownership and management of those sites in the long term. The potential advantages of TDA taking forward this role, as opposed to the existing Housing Company, are that it has existing governance arrangements and existing staffing, expertise and office accommodation available to it. This will reduce the initial burden of the operating costs that have made the Council's Housing Company business plan unviable and may make the process of registering as an IP and RP more straightforward. A report was presented to Housing Committee on the 19 November 2018.
- 2.2 It is proposed that the TDA may be the most appropriate subsidiary company to take forward the affordable housing development function. The detailed requirements of how to achieve this will need to be explored further and will ultimately be the subject of a formal commissioning agreement and a "reserve matter" decision for the Council. The relationship between this delivery role and the current enabling role of the TDA will also need to be further explored and arrangements proposed to ensure that there is no conflict of interest in this respect.
- 2.3 The financial and other commitments related to these proposals are set out broadly in Appendix 1 (Draft Housing Delivery Operating Framework between Torbay Council and TDA) but this will need to be detailed in a final commissioning agreement between the Council and the TDA linked to the delivery and management of a finite number of affordable housing.

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## **3. Recommendation(s) / Proposed Decision**

- 3.1 That Council approves the recommendations from Housing Committee:
- 3.2 That in principle there appear to be clear benefits in merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant affordable housing schemes to be delivered at pace.
- 3.3 That the principle of merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA be approved, subject to further due diligence and a detailed commissioning agreement.

- 3.1 That the Assistant Director of Business Services be authorised to undertake further due diligence and, if appropriate, finalise a detailed commissioning agreement with the TDA for the delivery of affordable housing schemes, in consultation with the Executive Lead for Housing, the Chairman of the Housing Committee and the Section 151 Officer.

## **Appendices**

Appendix 1 - Draft Housing Delivery Operating Framework between Torbay Council and TDA

Appendix 2 - St Kilda's site plan

Appendix 3 - Totnes Road proposed scheme

## **Background Documents**

Council Report – 'Delivery and implementation of the Housing Strategy' - 20 September 2018

Housing Committee Report – 'Torbay Council's Housing Rental Company' - 19 November 2018

## Section 1: Background Information

**1. What is the proposal / issue?**

The Housing Committee was asked to consider the benefits and/or disadvantages of merging the Housing Rental Company (RentCo) into the TDA, or a subsidiary of the TDA to enable relevant affordable housing schemes to be delivered at pace. Housing Committee has now received a report with a recommendation for Council.

**2. What is the current situation?**

It has been suggested that recently Housing Associations in Torbay have been less active and have only been engaged in acquiring affordable homes from privately driven developments by way of S106 agreements. This has resulted in a reduction of new supply of affordable housing over a number of years across all sizes and tenures in all three towns.

The Council has looked to set up their own housing company to bring forward affordable housing and have registered three subsidiary companies: a holding company, 'Dev Co' and a 'Rent Co'. The Housing Company commissioned financial modelling of an ambitious programme of development across Council-owned sites that are identified for housing in the Local Plan. The State Aid regulations and Best Value requirements, as well as the existing policy framework for the Housing Company, restricted the extent to which the Housing Company could cross subsidise affordable housing development from market-orientated development resulting in difficulties in making the development programme sufficiently viable.

Following the original investigations and financial modelling, the Council are considering whether TDA would be better placed than the Housing Company to pursue the Council's objectives to carry out direct affordable housing development. In order for the Housing Company to obtain the levels of affordable housing grant that are required to make the development programme viable it would need to become an Investment Partner (IP) to bid for funds from Homes England. To own and manage the affordable units going forward the Housing Company would also need to become a Registered Provider (RP) of Affordable Housing with the Regulator of Social Housing (RSH). This would require improvements to the governance framework for the Housing Company, as it stands, and recruitment of additional Board members. Given that the Housing Company does not have access to the additional resources that would be required to make this happen, an alternative approach would be to deliver the affordable housing through the TDA and for the TDA to applying for Registered Partner (RP) and Investment Partner (IP) status. A further alternative would be for Torbay Council to be the lead IP with TDA as a subsidiary partner and the owning organisation (RP). This would still require TDA to meet the requirements for



becoming an IP and RP but would allow greater engagement of the Council with the development programme and grant bids – it may also make the process of verification to become an IP simpler.

Following a report to Council in September 2018 and further discussions with Council officers, the TDA have proposed to their Board that they could pursue the Council's Housing Company objectives to carry out direct affordable housing development. The TDA Board have approved an in principle operating framework to undertake this activity and the broad draft principles of how this could work are set out in Appendix 1. Further consideration will need to be given to the existing relationship between the TDA and the Council on affordable housing delivery and to finalise any commissioning arrangements.

Currently the TDA carries out the Council's strategic housing enabling function and negotiates affordable housing requirements through the planning system. Arguably there could be a conflict of interest for TDA to be both the preferred development partner and chief recipient of S106 deals whilst also undertaking the enabling role. An area for negotiation and clarity would be whether the housing enabling role should be carried out by the Council directly, with a specialist housing enabling role within the Planning Policy or Strategic Housing teams.

To ensure any proposals to deliver affordable housing are viable, grant funding will be required from Homes England. Initial conversations with Homes England and TDA have been positive and they have confirmed that they have significant monies to invest in Torbay. However in order to bid for grant the Council and/or TDA need to achieve Investment Partner (IP) status. The organisation who will own and manage the homes as affordable housing must also be come as Registered Provider (RP). Further detail is required from the TDA as to how it will ensure that it meets the necessary governance arrangements and can demonstrate that it will meet the regulatory standards as set out by the RSH. In this respect the governance arrangements should reflect the National Housing Federation's (NHF) Code of Governance 2015. This will require ensuring that the TDA governance arrangements meet the NHF nine principles for good governance as follows:

- **Ethics** –the organisation operates according to high ethical standards, explicit values and appropriate codes of conduct.
- **Accountability** – there is proper accountability to the organisation's stakeholders, in this instance the Council, local communities and the TDA's residents.
- **Clarity** – there is clarity of roles and responsibilities between the TDA's Board members, paid staff and shareholder (the Council).
- **Control** – there are effective systems for delegation, audit, risk management and control. The board receives adequate and timely reports and advice to inform its decisions. The board has an

|           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-----------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|           | <p>effective relationship with internal auditors, external auditors and regulators.</p> <ul style="list-style-type: none"> <li>• <b>Structures</b> – there are effective staffing and Board structures to support the board’s work.</li> <li>• <b>Openness</b> – there is a spirit of openness and full disclosure of governance matters and other information, especially between board and shareholder (Council).</li> <li>• <b>Diversity and inclusion</b> – there is fairness, equality of opportunity and recognition of diversity in all aspects of the governance.</li> <li>• <b>Customer First</b> – business decisions and strategy focus on the needs of current and potential service users and customers.</li> </ul>                                               |
| <p>3.</p> | <p><b>What options have been considered?</b></p> <p><u>Do Nothing</u><br/>The Council has agreed that we need to do more to stimulate the delivery of affordable housing to meet the objectives and outcomes identified within the Housing Strategy.</p> <p><u>Continue with the Council’s existing Housing Company approach</u><br/>The Council’s Housing Company business plan unviable for the reasons set out in this report.</p>                                                                                                                                                                                                                                                                                                                                          |
| <p>4.</p> | <p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> <li>• Use reducing resources to best effect</li> <li>• Reduce demand through prevention and innovation</li> <li>• Integrated and joined up approach</li> </ul> <p>Targeted actions:</p> <ul style="list-style-type: none"> <li>• Protecting all children and giving them the best start in life</li> <li>• Working towards a more prosperous Torbay</li> <li>• Promoting healthy lifestyles across Torbay</li> <li>• Ensuring Torbay remains an attractive and safe place to live and visit</li> <li>• Protecting and supporting vulnerable adults</li> </ul> |
| <p>5.</p> | <p><b>How does this proposal contribute towards the Council’s responsibilities as corporate parents?</b></p> <p>When considering all matters in relation to affordable housing the Council will take into account how this can assist looked after children to help give them the best start in life.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

|                   |                                                                                                                                                                                                                                                                                                                  |
|-------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>6.</b></p>  | <p><b>How does this proposal tackle deprivation?</b></p> <p>Delivery of more affordable housing will have a positive impact on deprivation.</p>                                                                                                                                                                  |
| <p><b>7.</b></p>  | <p><b>How does this proposal tackle inequalities?</b></p> <p>Delivery of more affordable housing will have a positive impact on reducing inequalities.</p>                                                                                                                                                       |
| <p><b>8.</b></p>  | <p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>When considering all matters in relation to affordable housing the Council will take into account how this can assist people with learning disabilities.</p>                                                                 |
| <p><b>9.</b></p>  | <p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>The development of a finalised commissioning agreement will require further consultation with the TDA, the Executive Lead for Housing, the Chairman of the Housing Committee and the deputy Section 151 Officer.</p> |
| <p><b>10.</b></p> | <p><b>How will you propose to consult?</b></p> <p>Formal consultation will take place via the Council's website and through meetings and circulation of papers.</p>                                                                                                                                              |

## Section 2: Implications and Impact Assessment

11.

### What are the financial and legal implications?

The Council's Housing Rental Company Policy Framework approved July 2017 requires the delivery of affordable housing at "cost neutral" position to the Council.

There is a draft operating framework (Appendix1) between the Council and TDA which will be the basis for the future operating and funding arrangements.

The framework will require the support of the Council affordable housing budget (on a grant per unit basis) and access to prudential borrowing which is ultimately a Council decision that has been delegated this to the Housing Committee.

Approvals for any schemes to be funded from prudential borrowing and the affordable housing capital grant will be subject to individual business cases being presented by the TDA to Council.

Whilst all of the development activity, the management and maintenance regime will be fully funded over the life of the buildings through the rental stream there will be set up costs incurred to establish an effective housing function which are not currently funded. This will focus primarily around the RP and IP applications and all the necessary policies and procedures that will need to be produced and be in place before Homes England will approve any application. In addition there will be some external advice on the tax and accounting treatments and the optimum structure for TDA to operate within. TDA have given a commitment to fund these costs at no additional cost to Torbay Council.

12.

### What are the risks?

#### Development risk

Any decisions to proceed with any development will be supported by fully costed and detailed business plans showing both the initial development costs but then also the lifecycle costs of any scheme and how both will be repaid. It is envisaged that any developments will be let on a design and build fixed price contract to minimise any exposure or cost overrun. Whilst this does not remove all risks it should help limit any potential exposure. To mitigate this further the TDA will create a Project Board for each scheme to monitor activity and performance against programme and budget. In addition to this they will create a separate TDA Sub-Committee to monitor and deal with the performance of the overall programme.

#### Demand/market conditions

Once the homes are built it is imperative that they are occupied in-line with the assumptions set out in the business plan. Any reduction in the occupation

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <p>will have a negative impact on the scheme performance. There are currently over 1,000 households on the Torbay Council waiting list with 100% of nominations going to Torbay Council. Also, currently Torbay has no 'hard to let' stock within the affordable sector, such is the demand. What this means is that for every vacancy there are multiple households wanting the accommodation and in some cases between 15 and 20 households per property.</p> <p><u>Not acquiring RP and IP status</u><br/> This is a significant risk and any decision to proceed would be subject to the TDA obtaining this status. The grant payments are essential to make development viable and without this funding, the delivery will not be possible. The Government has just released further funding for affordable housing and Homes England have been supportive to the TDA's proposals which mitigates the concerns in this area. It is envisaged that this application process will take approximately 4 months and therefore until this is finalised it will delay any development activity. Consequently a rapid Council decision is required to avoid any further delay on the two sites at Totnes Road and St Kilda's.</p> |
| 13. | <p><b>Public Services Value (Social Value) Act 2012</b></p> <p>Not applicable.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 14. | <p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>This proposal has been discussed with the relevant officers within the Council, the Directors and Board of the TDA, as well as the Directors of the Council's Housing Company.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 15. | <p><b>What are key findings from the consultation you have carried out?</b></p> <p>Consultation has been undertaken internally between Council officers and the Directors of the TDA. A report was presented to Housing Committee in November 2018.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| 16. | <p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>No additional; amendments or mitigating actions were forthcoming after the internal consultation. Amendments and mitigating actions could be proposed following consultation with the Housing Committee and/or at the full Council meeting.</p> <p>Further discussions with the TDA may result in amendments to the broad principles of an operating framework in agreement with the Council.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

## Equality Impacts

| 17. | Identify the potential positive and negative impacts on specific groups                                                       |                 |                                      |                                 |
|-----|-------------------------------------------------------------------------------------------------------------------------------|-----------------|--------------------------------------|---------------------------------|
|     |                                                                                                                               | Positive Impact | Negative Impact & Mitigating Actions | Neutral Impact                  |
|     | Older or younger people                                                                                                       |                 |                                      | There is no differential impact |
|     | People with caring Responsibilities                                                                                           |                 |                                      | There is no differential impact |
|     | People with a disability                                                                                                      |                 |                                      | There is no differential impact |
|     | Women or men                                                                                                                  |                 |                                      | There is no differential impact |
|     | People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i> |                 |                                      | There is no differential impact |
|     | Religion or belief (including lack of belief)                                                                                 |                 |                                      | 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 |

|    |                                                                                                                                   |                |                                 |
|----|-----------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------|
|    |                                                                                                                                   |                |                                 |
|    | Socio-economic impacts<br>(Including impact on child poverty issues and deprivation)                                              |                | There is no differential impact |
|    | Public Health impacts (How will your proposal impact on the general health of the population of Torbay)                           |                | There is no differential impact |
| 16 | <b>Cumulative Impacts – Council wide</b><br>(proposed changes elsewhere which might worsen the impacts identified above)          | Not applicable |                                 |
| 17 | <b>Cumulative Impacts – Other public services</b><br>(proposed changes elsewhere which might worsen the impacts identified above) | Not applicable |                                 |

### **Draft Housing Delivery Operating Framework between Torbay Council and TDA**

#### TDA offer to Torbay Council

- Torbay Council to receive 100% of nomination rights on all properties delivered by TDA on schemes containing grant or land provided by Torbay Council.
- Early and focused delivery with dedicated resource.
- TDA to carry out all development and ongoing risks associated with the delivery and management of the homes.
- TDA will report to Torbay Council's Housing Committee quarterly on performance and provide regular briefings to the Executive Lead for housing.
- Mechanism to provide grant clawback if the homes are ever disposed of.
- Close liaison with Torbay Council to ensure new homes are contributing towards the Housing Strategy objectives.
- TDA will acquire Registered Provider (RP) and Investment Partner (IP) status to increase the level of grant coming in to Torbay and reduce the reliance on Torbay Council funding.
- Stimulate the market and increase the supply of affordable housing over and above recent historic levels.
- Target brownfield and stalled sites in and around the town centres including mixed use opportunities to support regeneration objectives.
- Any surplus generated from any development or groups of development will be ring fenced to support the delivery of additional affordable housing or regeneration projects, subject to the need of the Council's corporate priorities.
- Programme of development to be supported by TDA back office including governance, finance and professional services.
- Torbay Council/TDA to agree a maximum Torbay Council grant rate per home ensuring value for money.
- TDA will ensure that we are on site at Totnes Road before May 2019.
- TDA will use best endeavours to be on site at St Kilda's before May 2019.



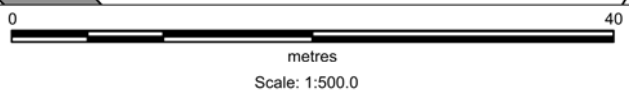
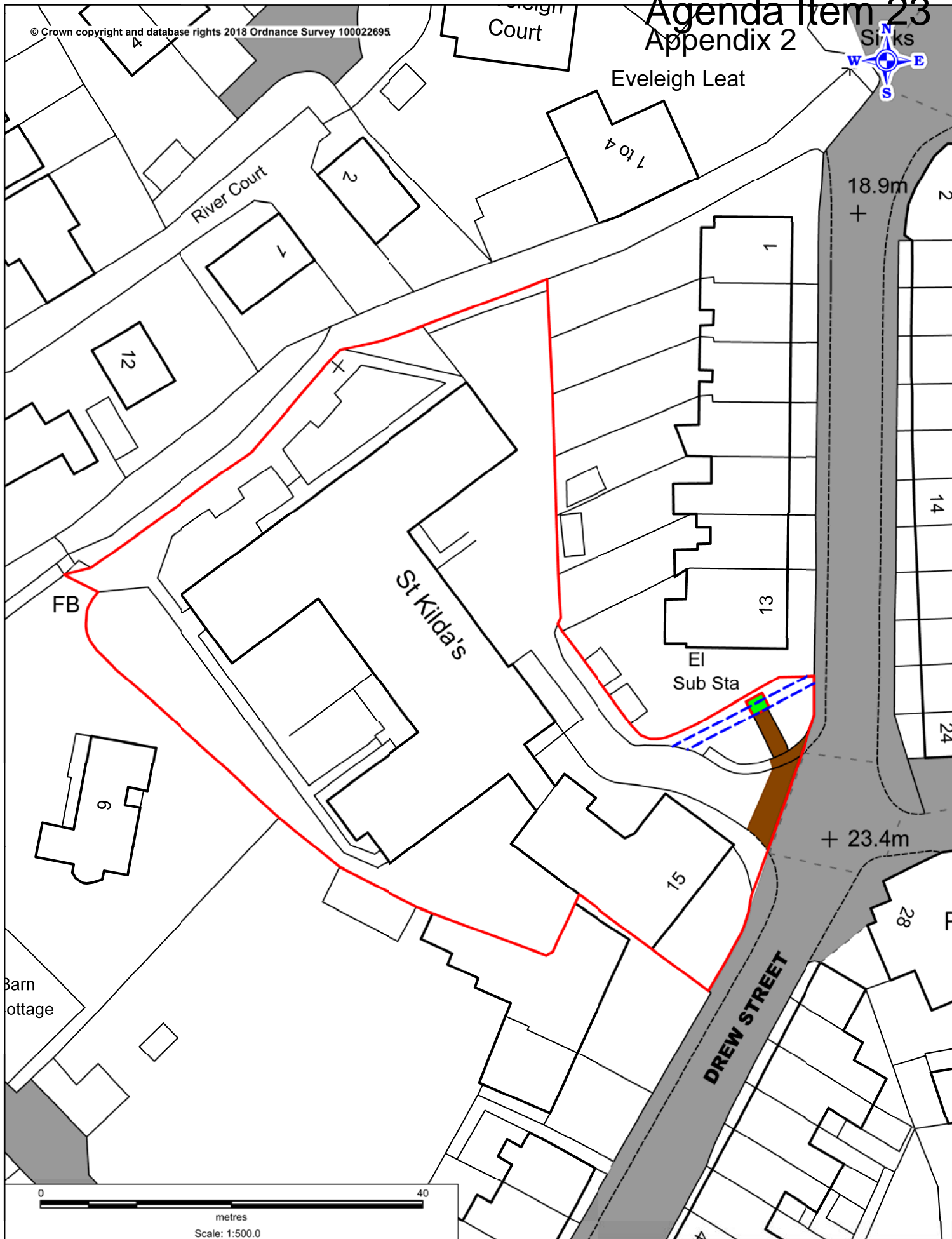
# Appendix 1

## **Draft Housing Delivery Operating Framework between Torbay Council and TDA**

### TDA ask of Torbay Council

- Torbay Council accept and support the notion of delivering additional affordable housing development over and above the two sites already approved (Totnes Road & St Kilda's) to provide the necessary critical mass required.
- Detailed business case on each site to be prepared once there has been liaison on the principle of the site and preferred accommodation mix/tenure from Torbay Council.
- Detailed business cases to be initially approved in line with TDA Governance arrangements prior to approval by Council (or delegated Committee and/or officers).
- Transfer of sites at Totnes Road and St Kilda's at nil cost in return for nomination rights to 100% of the properties.
- Transfer of other Council sites, subject to a separate Council decision and approved business plan, to allow the TDA to achieve a critical mass of affordable housing stock.
- Council affordable housing budget to be used, as appropriate, with appropriate Torbay Council conditions on spend along with a maximum grant level per property subject to an approved business case and to include site feasibility.
- Provide up to £25m loan facility at an agreed percentage rate above PWLB rate at the time of drawdown, subject to individual scheme based business plans and accommodation mix/tenures being approved by both the Council and the TDA Board.
- TDA to own the homes once built.

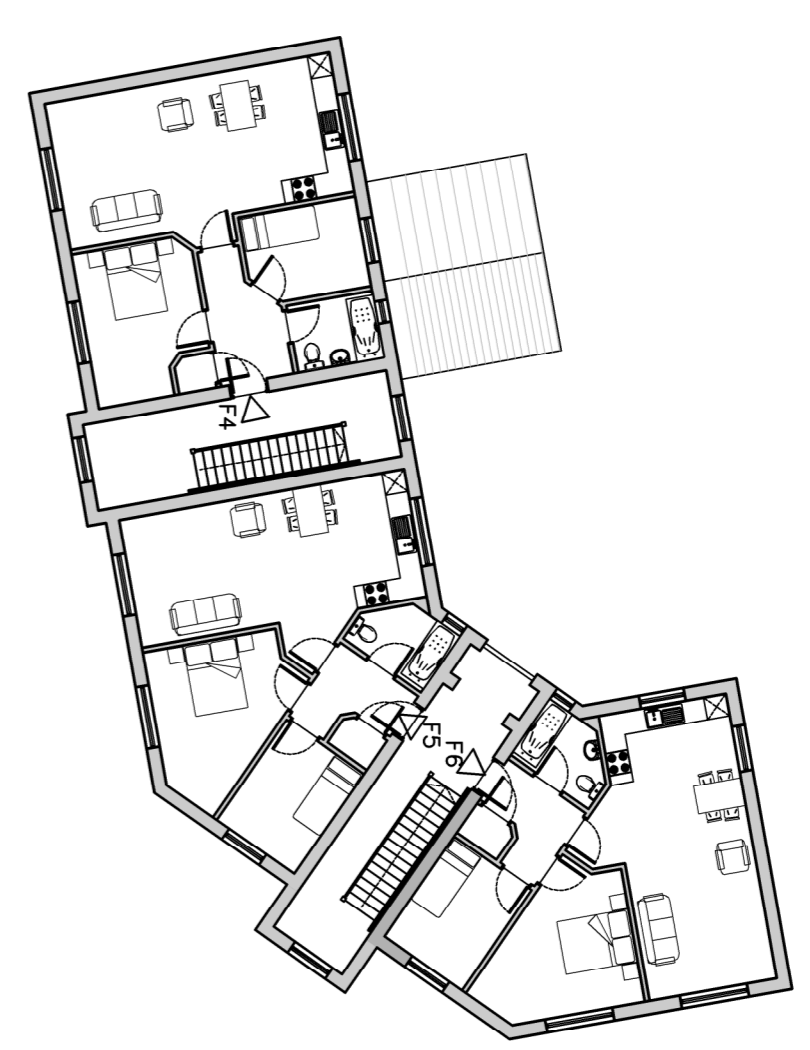
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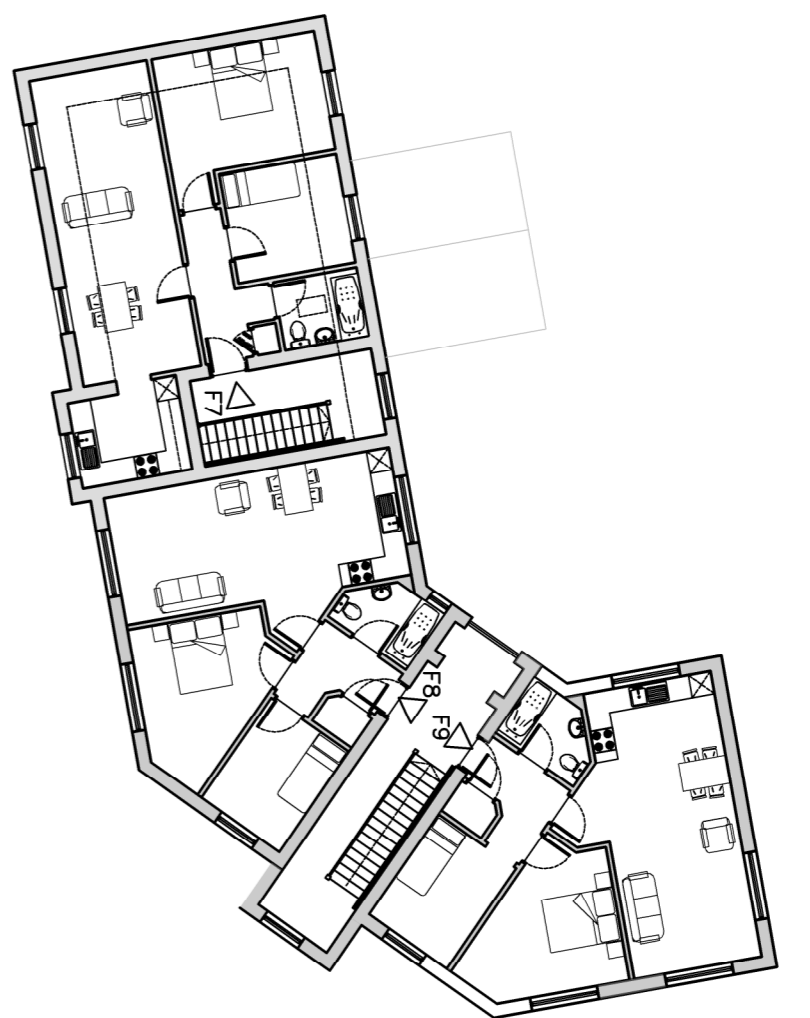
EM Plan No: EM2640  
Date: 16th May 2018  
Title: St Kilda's, Drew Street, Brixham.

Asset No: B3011  
LR Title No: DN511100  
Scale: 1:500  
Area: 2,765.62m<sup>2</sup>

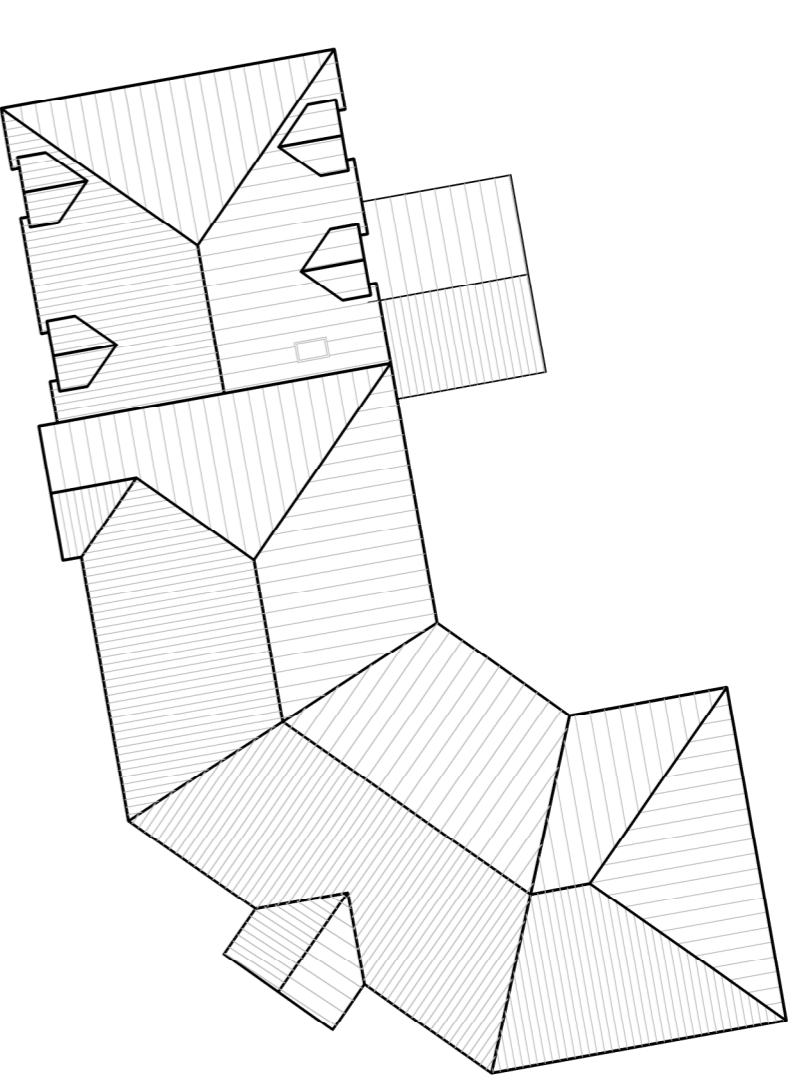




2 First floor plan  
Scale: 1:200



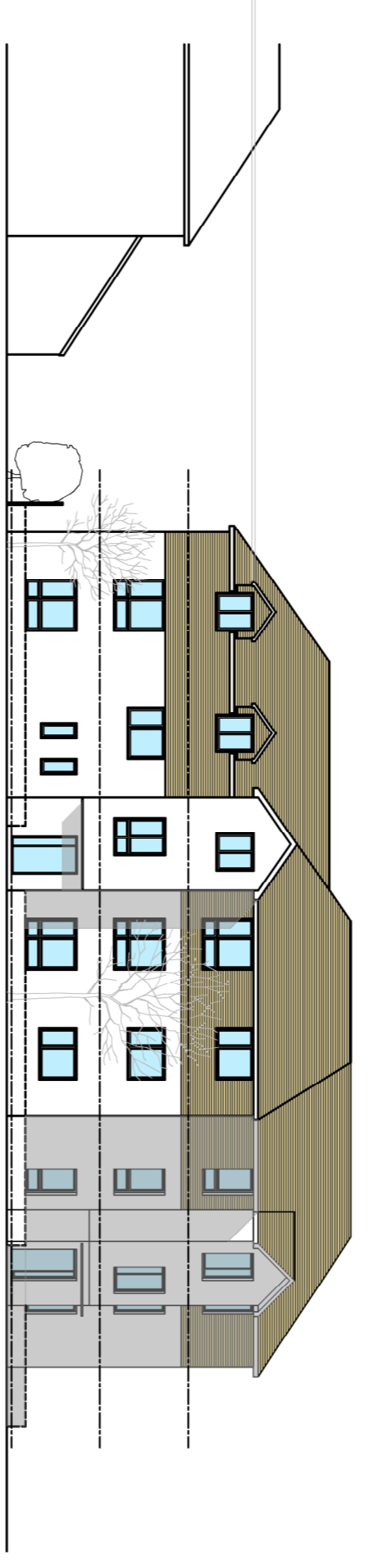
3 Second floor plan  
Scale: 1:200



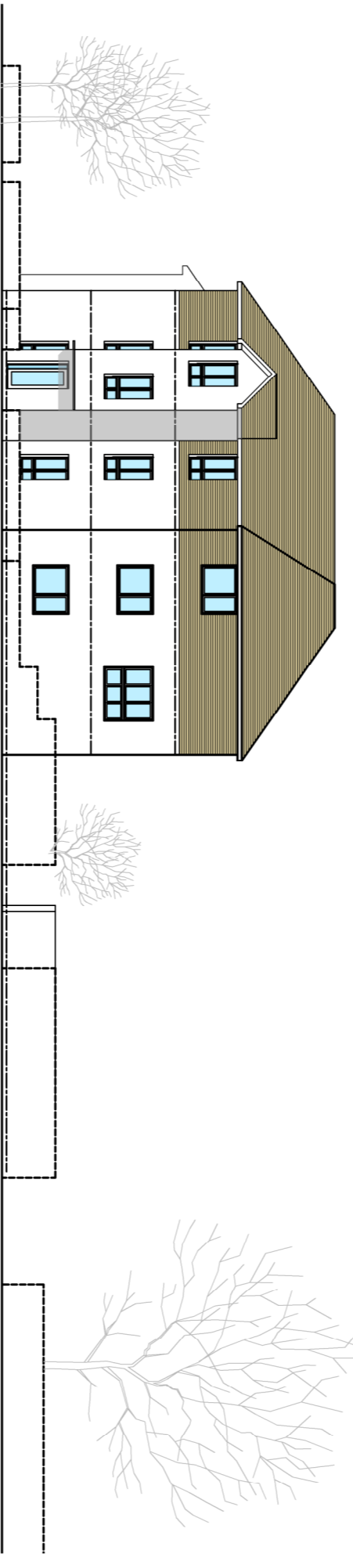
4 Roof plan  
Scale: 1:200



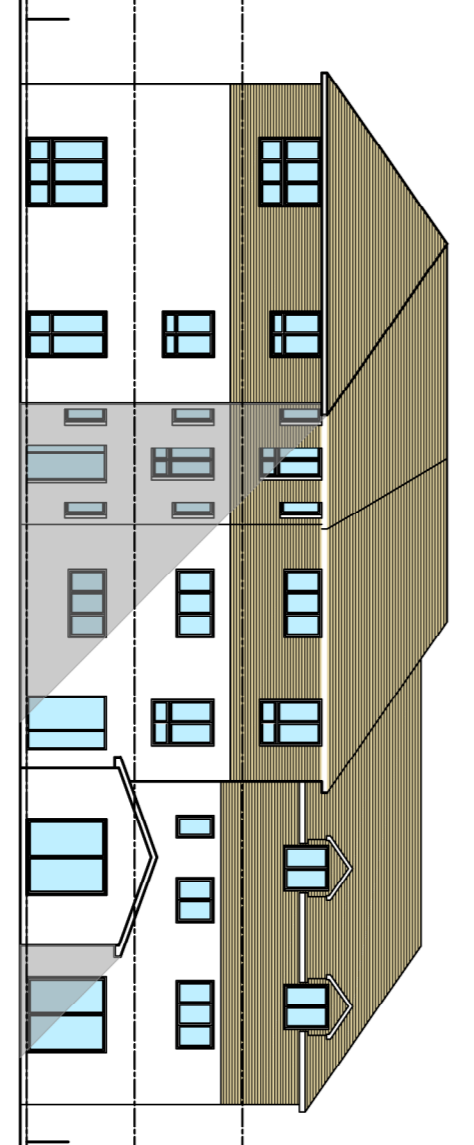
1 Site - Ground floor plan  
Scale: 1:200



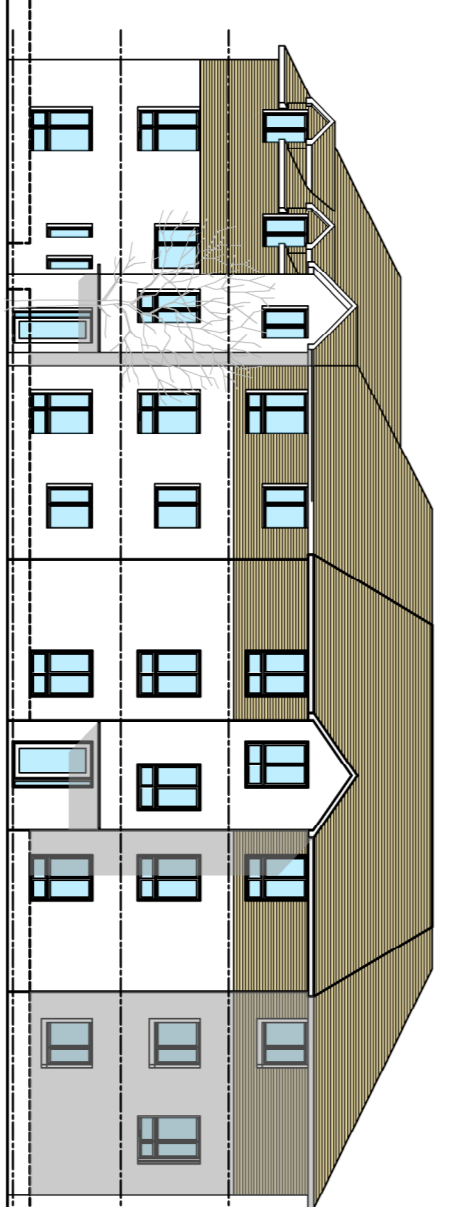
5 South elevation  
Scale: 1:200



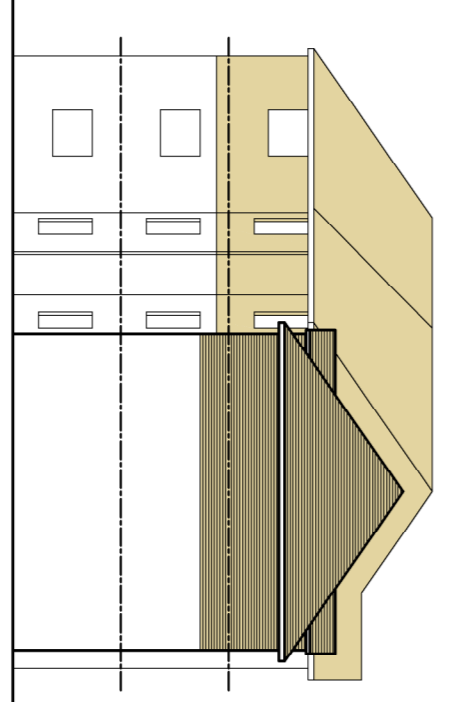
6 East elevation  
Scale: 1:200



7 North elevation  
Scale: 1:200



8 South East elevation  
Scale: 1:200

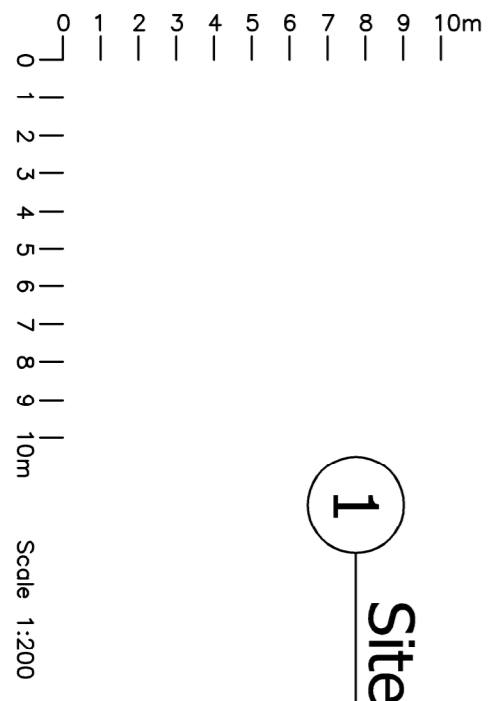


9 West elevation  
Scale: 1:200

Repositioned wall for road widening.  
Site Boundary shown in red.  
Torbay Council land for future road  
Junction Improvements.

**ACCOMMODATION**

- 1 No 1bed Accessible unit @ 78.5m<sup>2</sup>
- 1 No 2 bed 3 person flats @ 62.5m<sup>2</sup>
- 1 No 2 bed 3 person flats @ 70.0m<sup>2</sup>
- 6 No 2 bed 3 person flats @ 61.5m<sup>2</sup>
- 13 No parking spaces



|                                                                                                                                                                                                                                             |                                          |                           |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|---------------------------|
| <p><b>HFA</b> CHARTERRED ARCHITECTS<br/>HIGHWAY FIELD ASSOCIATES<br/>Bramblehatch Court, Castle Street, Exeter, Devon, EX4 3PL.<br/>Tel: 01392 498800 Fax: 01392 498630<br/>Email: arch@highwayfield.co.uk Web Site: highwayfield.co.uk</p> | Date: 06/08/18<br>No: M14<br>Rev:        | Client:<br>Torbay Council |
|                                                                                                                                                                                                                                             | Site:<br>286-288 Tornos Road<br>Paignton | Scale:<br>200 @ A1        |
| Project:<br>Proposed development                                                                                                                                                                                                            | Date:<br>Aug 2018                        | Checked:<br>AF            |
| Drawing:<br>11 Flats                                                                                                                                                                                                                        | Dwg No:<br>1421-102                      | Rev:<br>M14               |



**Meeting:** Council

**Date:** 5 December 2018

**Report Title:** Update Affordable Housing Schemes - Redwell Lane, Totnes Road and St Kilda's

**Executive Lead Contact Details:** Cllr Cindy Stocks, Executive Lead for Housing

**Supporting Officer Contact Details:** Liam Montgomery, Director of Asset Management, Investment and Housing Tel: 208720

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## 1. Purpose of the report

- 1.1 Following the Council decision and then subsequent presentation of the proposed programme to Council in July this report looks to give you an update on three housing sites.

## 2. Totnes Road

- 2.1 Following the previous update where we highlighted all the surveys and investigations that had taken place the proposal has been submitted for detailed planning approval.
- 2.3 We currently don't have a specific determination date from planning but expect this to be within the next 8 weeks.
- 2.4 Work is now progressing on producing the detailed specification which will support the tender documents. Once these are complete the contractor procurement can commence using these documents. This will give detailed certainty on the build costs so that they can be built into the Business Plan for approval.
- 2.5 The outstanding work stream that will delay any start on site is not having Registered Provider and Investment Partner status with Home England. As previously mentioned the scheme requires grant from Homes England to be viable but a funding application cannot be made until this has been achieved. We have previously been informed that this typically takes four months.
- 2.6 Work on preparing the land transfer and grant and nomination agreement are on hold until a decision is made on the Council's preferred partner.

## Development Programme – Totnes Road

| Task / deliverable                                                | Instruction / start Date | Completion date | Action complete |
|-------------------------------------------------------------------|--------------------------|-----------------|-----------------|
| <b>Detailed planning application</b>                              |                          |                 |                 |
| Producing planning drawings                                       | Jul-18                   | Aug-18          | Complete        |
| Topographical survey                                              | Jul-18                   | Aug-18          | Complete        |
| Ecology Survey                                                    | Jul-18                   | Aug-18          | Complete        |
| Tree survey and root mitigation measures                          | Jul-18                   | Aug-18          | Complete        |
| Drainage and percolation testing                                  | Jul-18                   | Sep-18          | Complete        |
| Demolition survey and quote                                       | Aug-18                   | Sep-18          | Complete        |
| <b>Financial appraisal</b>                                        |                          |                 |                 |
| Prepare cost plan                                                 | Oct-18                   | Nov-18          | ongoing         |
| Prepare business case                                             | Sep-18                   | Oct-18          | ongoing         |
| Approval of detailed business case                                | Oct-18                   | Nov             | ongoing         |
| <b>Obtaining Registered partner and investment partner status</b> |                          |                 |                 |
| Council make decision on preferred housing partner                | July-18                  | Unknown         |                 |
| <b>Planning Permission</b>                                        |                          |                 |                 |
| Submit planning application                                       | Oct-18                   | Oct-18          | Complete        |
| Validate planning application                                     | Oct-18                   | Oct-18          | Complete        |
| Planning application decision                                     | Dec-19                   | Feb-19          | Ongoing         |
| <b>Land transfer</b>                                              |                          |                 |                 |
| Prepare grant and Noms agreement                                  | Nov-18                   | Dec-18          | Ongoing         |
| Undertake legal land transfer                                     | Dec-18                   | Dec-18          | Ongoing         |
| <b>Contractor Procurement</b>                                     |                          |                 |                 |
| Agree detailed specification of tender docs                       | Oct-18                   | Oct -18         |                 |
| Prepare tender documents                                          | Nov-18                   | Nov-18          |                 |
| Undertake procurement                                             | Nov-18                   | Jan-19          |                 |
| Contractor Selection                                              | Jan-19                   | Jan-19          |                 |
| <b>Construction phase</b>                                         |                          |                 |                 |
| Mobilisation                                                      | Jan-19                   | Feb-19          |                 |
| Construction start on site                                        | Feb-19                   | Feb-20          |                 |

### 3. Redwell Lane

- 3.1 This land has been identified in the neighbourhood plan as green space and as such work has stopped on this site.

### 4. St Kildas

- 4.1 Work on the design phase is ongoing and progressing well with a formal pre app about to commence.
- 4.4 The topographical survey is complete and because the drainage records for the old building are non existent and therefore a specific survey has been commissioned to find out whether any lateral drains crossed the site from neighbouring properties. This work is complete and show no lateral drains which is positive and supports the redevelopment proposals.
- 4.5 The target is still to submit a planning application (subject to the pre app timeline given by planning) by the end of December with a target determination date of March.

- 4.6 The outstanding work stream that will delay any start on site is not having Registered Provider and Investment Partner status with Home England. As previously mentioned the scheme requires grant from Homes England to be viable but a funding application cannot be made until this has been achieved. We have previously been informed that this typically takes four months.