

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

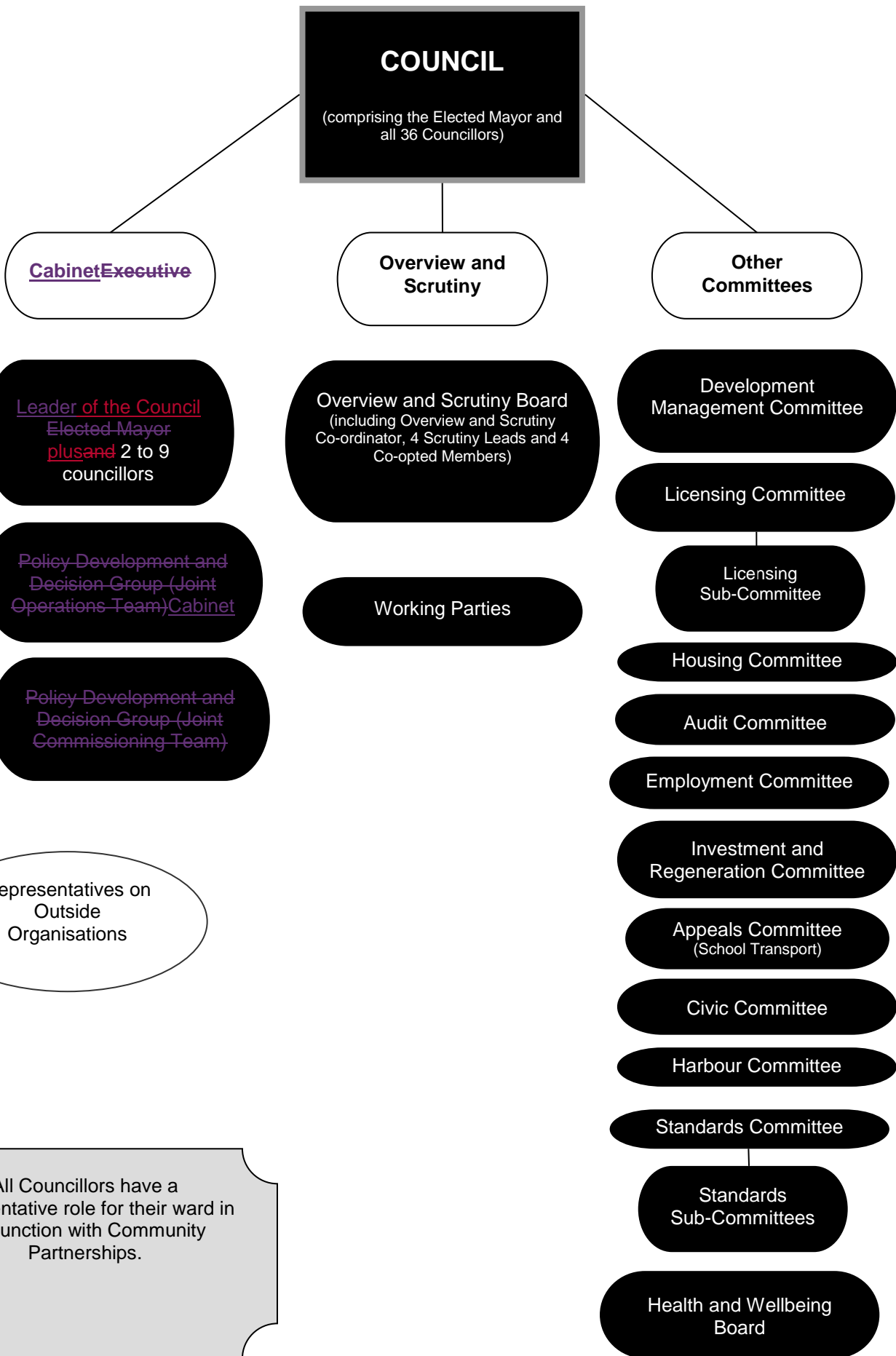
framework set by Full Council. These are ~~sometimes~~ referred to as “Executive Functions”. When major decisions are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. The ~~Mayor~~Leader of the Council usually takes most of his/her decisions at meetings 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



All Councillors have a representative role for their ward in conjunction with Community Partnerships.