

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.~~