



SCHEDULE 7
OFFICER SCHEME OF DELEGATION

**Town Hall
Castle Circus
TORQUAY
Devon
TQ1 3DR**

CONTENTS **Page**

General Delegations

General Scheme of Delegation to the Chief Executive and Commissioners .. 3-55

Limitations on delegations to the Chief Executive, Commissioners, and Executive Heads and all other officers 3-59

Specific Delegations

Financial delegations..... 3-65

Delegations to Commissioners and Executive Heads in relation to employee matters 3-67

Delegations to the Chief Executive..... 3-71

Delegations to the Corporate Support Commissioner 3-72

Delegations to the Section 151 Officer 3-73

Delegations to the Chief Executive of the Torbay Development Agency..... 3-74

Delegations to the Executive Head of Governance 3-76

Delegations to the Head of Human Resources..... 3-78

Delegations to the Executive Head of Spatial Planning..... 3-79

Limitations to delegated power delegations to the Executive Head of Spatial Planning..... 3-79

Delegations to the Executive Head of Harbour and Marine Services 3-82

Delegations to the People Commissioner..... 3-85

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” | includes the Mayor, all Committees of the Cabinet and any individual member of the Cabinet to whom the Mayor has delegated decision making power unless the context requires otherwise |
| “Executive function” | means a function that in the responsibility of the Mayor or has been delegated by the Mayor |
| “Cabinet member/s” | includes the Mayor unless the context requires otherwise |

“relevant member”

means the Mayor (in relation to Executive Functions) (or any Cabinet member to whom he 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 also 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 personal prejudicial interest in the matter or is precluded by law from acting the expression “relevant member” shall mean the Deputy Mayor, Deputy Chairman/woman or Deputy Group Leader as applicable

GENERAL DELEGATIONS

GENERAL DELEGATIONS

| Description | Responsibility delegated by |
|---|-----------------------------|
| <p>1. General scheme of delegation to the Chief Executive and Commissioners</p> <p>Delegations to the Chief Executive</p> | |
| 1.1 To advise the Cabinet and Council on policy development, the overall strategic direction and corporate governance of the Council. | Council/Cabinet |
| 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 in accordance with any overall structure approved by Council. | |
| 1.4 To determine the appointment of all officers (excluding the Head of Paid Service and Commissioners). | Council |
| 1.5 To determine the terms and conditions of employment of all officers (excluding the Head of Paid Service and those of any other officers so far as that power has been reserved to and exercised by the Appointments Committee) in consultation with JCC. In the case of Executive Heads' terms and conditions the Head of Paid Service will first consult with the Mayor and group leaders. | Council |
| 1.6 To be responsible for taking disciplinary action (including dismissal) in respect of any officer (except the Head of Paid Service). | |
| 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. | |
| 1.8 The Chief Executive (in consultation with the relevant member) may (by written notice) change the allocation of responsibilities for services and functions between Commissioners' portfolios and Executive Heads . | |
| 1.9 The Chief Executive may exercise any powers delegated to any Commissioner and/or Executive Head. | |
| 1.10 The Chief Executive (in consultation with the relevant | Council/Cabinet |

| Description | Responsibility delegated by |
|---|------------------------------------|
| <p>member) may (by written notice) withdraw any powers delegated to any Commissioner and/or Executive Head.</p> | |
| <p>1.11 In managing the services and functions for which he/she is directly responsible the Chief Executive shall be authorised to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions.</p> | |
| <p>1.12 To retain contract staff or appoint consultants on matters related to the management of the Council.</p> | |
| <p>1.13 So far as is lawful, the Chief Executive may delegate (in writing) to any other employee 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.</p> | |
| <p>1.14 To handle complaints made against the Council (including Ombudsman complaints) and (following consultation with the relevant member) to settle complaints locally.</p> | <p>Council/Cabinet</p> |
| <p>1.15 To represent the interests of the Council to the community, local interest groups and external agencies.</p> | |
| <p>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.</p> | |
| <p>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.</p> | |
| <p>1.18 To approve (in consultation with the relevant member) all civic and ceremonial arrangements including in relation to twinning.</p> | |
| <p>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</p> | <p>Council</p> |

| Description | Responsibility delegated by |
|---|-----------------------------|
| <p>Council or the inhabitants of the Borough and it is not in his/her opinion reasonably practicable to convene a meeting of the Council to consider the matter he/she may take such decisions (in consultation with the relevant member), as he/she considers necessary. The Chief Executive will also submit to a meeting of the Council a written report of any action taken under this paragraph 1.19 (and the reasons for that action and the alternative options he/she considered) as soon as reasonably practicable.</p> | |
| <p>1.20 In the absence of the Chief Executive the powers of the Chief Executive as set out in the preceding paragraphs may be exercised by the Deputy Chief Executive.</p> | Council/Cabinet |
| <p>1.21 The Chief Executive may agree with the relevant member any appropriate clarification of the “Limitations on Delegations” below.</p> | |
| <p>1.22 Such powers as may from time to time be delegated to the Chief Executive expressly subject to consultation with one or more Community Partnerships.</p> | |
| <p>1.23 To amend the Schedule of Harbour Charges from time to time (in consultation with the relevant member of the Council) if he/she considers it to be in the best interest of the Council (any amendments that result in increased charges being payable shall first be subject to consultation with the Harbour Liaison Forums).</p> | Council |
| <p>Delegations to Commissioners and Executive Heads</p> | |
| <p>1.24 In managing the services and functions for which they are responsible Commissioners 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.</p> | Council/Cabinet |
| <p>1.25 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.</p> | |
| <p>1.26 This authorisation shall also include (but not be limited to) the service or receipt of notices, the making of orders, the authorisation of any action or the institution, defence or conduct of proceedings and appeals and the authorisation</p> | |

| Description | Responsibility delegated by |
|--|-----------------------------|
| of named employees to enforce specific powers. | |
| 1.27 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. | |
| 1.28 To retain contract staff or appoint consultants on matters related to their areas of responsibility. | |
| 1.29 So far as is lawful, Commissioners and Executive Heads may delegate (in writing) matters within the services and functions for which they are responsible to employees within their portfolio/business unit or to other Commissioners or Executive Heads. Any such delegations may be revoked, varied or subject to such limitations as the delegating Commissioner or Executive Head considers appropriate. | |
| 1.30 Commissioners and Executive Heads may agree with the relevant Cabinet member any appropriate clarification of the “Limitations on Delegations” below. | |
| 1.31 Such powers as may from time to time be delegated to a Commissioner or Executive Head expressly subject to consultation with one or more Community Partnerships. | |
| 1.32 A Commissioner (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 the exercise of any of the above powers by that Executive Head. However, this paragraph 1.32 shall not apply in relation to the following: | |
| (a) the Council’s Section 151 Officer when acting in that capacity; | |
| (b) the Council’s Monitoring Officer when acting in that capacity; | |
| (c) the Executive Head of Harbour and Marine Services when exercising powers or duties expressly reserved to him/her by law; and | |
| (d) any other officer when exercising powers or duties expressly reserved to him/her by law. | |

| Description | Responsibility delegated by |
|---|--|
| 2. Limitations on delegations to the Chief Executive, Commissioners, 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 Cabinet (whichever shall be able to take the decision in question) or to the Chief Executive. |
| 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 Legal Services Manager reasonably considers it to be contrary to the law. |
| 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 Executive Head of Governance (in consultation with the Monitoring Officer) reasonably considers it to be contrary to the Policy Framework. |
| 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 by any employee if the Section 151 Officer reasonably considers it to be contrary to the Budget or Financial Regulations. |
| 2.5 | All decisions relating to the expenditure of unbudgeted additional grant income in excess of £10,000 shall be the subject of a full written report to the relevant member, setting out details of the financial, legal, property, human resources and other material considerations, together with a proper risk assessment and options appraisal. |
| 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. |
| 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 Legal Services Manager and no such action shall be taken that is contrary to or not in accordance with any instruction from the Legal Services Manager. |

| Description | Responsibility delegated by |
|---|------------------------------------|
| 2.8 Before exercising (or deciding not to exercise) any delegated powers all employees shall undertake appropriate consultation. This consultation shall normally include (but not be limited to) the following: | |
| 2.8.1 Where the proposal may have implications relating to the Council’s Strategic Plan, consultation with all relevant members and the Corporate Support Commissioner; | |
| 2.8.2 Where the proposal may have any policy implications, or any significant service implications, consultation with all relevant members; | |
| 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 and appropriate senior officers; | |
| 2.8.4 Where the proposal has any legal implications, consultation with the relevant member and the Legal Services Manager; | |
| 2.8.5 Where the proposal may have significant implications for any particular Ward, consultation with all the members representing that Ward; | |
| 2.8.6 Where the proposal may have any financial or audit (whether internal or external) implications, or any property implications, consultation with the Section 151 Officer; | |
| 2.8.7 Where the proposal may have any constitutional implications, consultation with the Monitoring Officer; | |
| 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 Section 151 Officer; | |
| 2.8.9 Where the proposal may have any health and safety implications for the public or employees, consultation with the Executive Head of Governance and the Executive Head of Community Safety; | |
| 2.8.10 Where the proposal may have any human resources implications, consultation with the Senior Human Resources Manager; | |
| 2.8.11 Where the proposal may have any equalities implications, consultation with the Executive Head of Business Planning; | |

| Description | Responsibility delegated by |
|---|------------------------------------|
| 2.8.12 Where the proposal may have any implications for another Council business unit, consultation with the relevant Commissioner and Executive Head; | |
| 2.8.13 Where any relevant member or Commissioner has expressed opposition to a proposal, consultation with the Chief Executive. Where any Executive Head has expressed opposition to a proposal, consultation with the relevant Commissioner; | |
| 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; | |
| 2.8.15 Where the delegated power is expressly required to be exercised in consultation with one or more Community Partnership, the Community Partnership(s) specified in the decision to delegate; | |
| 2.8.16 Where the proposal may have significant implications for one or more Community Partnerships, consultation with those Community Partnerships affected; and | |
| 2.8.17 In any cases of doubt, consultation with the relevant member. | |

Torbay Development Agency

- 2.9 In the case of the Chief Executive of the Torbay Development Agency (when exercising his/her delegated powers other than in relation to harbours) all references in this Scheme of Delegation to “relevant member” or “all relevant members” shall (unless the context requires otherwise) be construed as meaning “the Board of Directors of Torbay Development Agency Limited” (“the Board”) (or “the Chairman or other member of the Board in accordance with paragraph 2.11 of this Scheme of Delegation”, as appropriate).
- 2.10 No decision shall be taken by the Chief Executive of the Torbay Development Agency under this scheme of Delegation if a simple majority of the Board (including on the casting vote of the person presiding at a meeting of that Board), or the Mayor or any member of the Council sitting on the Board requests in writing (within five working days of the draft minutes of a Board Meeting being circulated electronically to the Board) that the matter shall be referred to the Council or the Cabinet (whichever shall be able to take the decision in question) or to the Chief Executive.
- 2.11 In cases of urgency where it is not reasonably practicable to convene a meeting of the Board the Chief Executive of the Torbay Development Agency may consult with the Chief Executive and with the Chairman of the Board (or in his absence or non availability another member of the Board) rather than with the whole Board, but the matter in question, the decision taken and the reasons for that decision, shall then all be reported to the next meeting of the Board.
- 2.12 In the case of the Chief Executive of the Torbay Development Agency (when exercising his/her functions in relation to harbours) and in the case of the Executive Head of Harbour and Marine Services all references in this Scheme of Delegation to “relevant member” shall (unless the context requires otherwise) be construed as meaning the Chairman/woman of the Harbour Committee.
- 2.13 No decision shall be taken by the Chief Executive of the Torbay Development Agency under this scheme of Delegation (when exercising his/her functions in relation to harbours) and no decision shall be taken by the Head of Harbour and Marine Services if a simple majority of the Harbour Committee (including on the casting vote of the person presiding at a meeting of that Panel), or any two elected members sitting on the Panel, request in writing that the matter shall be referred to the Council or to the Chief Executive.
- 2.14 In cases of urgency where it is not reasonably practicable to convene a meeting of the Harbour Committee the Chief Executive of the Torbay Development Agency or the Executive Head of Harbour and Marine Services may consult with the Chief Executive and with the Chairman/woman of the Harbour Committee (or in his/her absence or non availability another member of the Harbour Committee), but the matter in question, the decision taken and the reasons for that decision, shall then all be reported to the next meeting of the Harbour Committee.

- 2.15 For the avoidance of doubt nothing contained in paragraphs 2.9 to 2.14 above shall require the Executive Head of Harbour and Marine Services to consult with the Harbour Panel (or any individual councillor) in relation to his/her exercise of the delegated powers contained in section 13 (which may only be exercised by the Executive Head of Harbour and Marine Services, his/her Deputy or appointed assistants).

The Chief Executive, all Commissioners and Executive Heads

- 2.16 The Chief Executive, all Commissioners and Executive Heads shall delegate matters within their areas of responsibility to ensure that matters are dealt with at the appropriate level to maintain a proper balance between efficiency and control. The Chief Executive, all Commissioners and Executive Heads shall maintain a written record of the delegations they have made and any limitations they have imposed upon such delegations.
- 2.17 The Chief Executive, Commissioners and Executive Heads may not authorise land/property acquisitions and freehold disposals where the estimated 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. But this paragraph shall not prevent the Chief Executive, Commissioners and Executive Heads authorising land/property acquisitions and freehold disposals where they are in accordance with the Council's Capital Programme or an express Council decision.
- 2.18 The Chief Executive, Commissioners and Executive Heads may not authorise leases where the term is for more than 21 years, or if the premium exceeds £25,000 or if the rent (including any service charge) exceeds £10,000 per year, or (if a transaction is linked to another transaction) where the aggregate relevant amounts exceeds those limits. But this paragraph shall not prevent the Chief Executive, Commissioners and Executive Heads authorising leasehold disposals where they are in accordance with the Council's Capital Programme or an express Council decision.
- 2.19 The Chief Executive, all Commissioners 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. But this paragraph shall not prevent the Chief Executive, Commissioners and Executive Heads authorising the acceptance of any tenders for goods or services where they are pursuant to the Council's approved Capital Programme. Where the estimated or actual (whichever the higher) total contract value falls between £25,000 and £50,000 Commissioners and Executive Heads may not authorise acceptance of the contract unless they have first consulted with the relevant member and that member has indicated that they do not wish the matter to be referred to the Cabinet (or Council/Committee), as appropriate for determination.

- 2.20 No decisions 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 Cabinet, or an employee of the Council.

SPECIFIC DELEGATIONS

SPECIFIC DELEGATIONS

| Description | Responsibility delegated by |
|--|-----------------------------|
| 3. Financial Delegations | |
| 3.1 Commissioners and Executive Heads may vire resources between their portfolio/business unit budget heads in accordance with the Council's Standing Orders and Financial Regulations. No such virements shall be made without the prior approval of (and subject to any conditions imposed by) the Section 151 Officer. | Council/Cabinet |
| 3.2 Commissioners and Executive Heads may: | |
| (a) incur expenditure within approved revenue budgets and generate income; | Council/Cabinet |
| (b) sell items which the Commissioners/Executive Head is satisfied have become surplus to the Council's requirements in accordance with Standing Orders and Financial Regulations. If the original purchase price or the current value of the item exceeds £5,000 (whichever is the greater) the Commissioner/Executive Head shall first consult with the relevant Cabinet member; | |
| (c) approve contract specifications and tender selection criteria in accordance with the Council's Standing Orders and Financial Regulations. If the likely total value of the Contract exceeds £10,000 the Commissioner/Executive Head shall first consult with the relevant member; | |
| (d) enter into contracts subject to compliance with Financial Regulations and Contract Standing Orders. If the likely total value of the Contract exceeds £10,000 the strategic director/head of business unit shall first consult with the relevant member; | |
| (e) approve variations to capital schemes in accordance with Financial Regulations; | |
| (f) approve variations to other contracts in accordance with Financial Regulations; | |

Description

**Responsibility
delegated by**

(g) accept the most economically advantageous tender in accordance with the Council's Standing Orders and Financial Regulations.

| Description | Responsibility delegated by |
|---|-----------------------------|
| 4. Delegations to Commissioners and Executive Heads in relation to Employee Matters | |
| <p>4.1 To agree to major reorganisations within their portfolio/business unit subject to there being:</p> <p>(a) no overall significantly adverse service implications;</p> <p>(b) no overall expenditure in excess of the total budget managed by the Executive Head;</p> <p>(c) consultation with the relevant Commissioner and Executive Head;</p> <p>(d) consultation with the relevant member, the Chief Executive and the Executive Head of Human Resources; and</p> <p>(e) consultation with the Section 151 Officer if there are any redundancy (or other) payments to employees (or other financial implications) in any financial year.</p> | Council |
| 4.2 To appoint permanent and temporary employees within the total budget managed by the Executive Head as they consider reasonably necessary. | Council |
| 4.3 To agree the application of Job Share Schemes to posts. | Council |
| 4.4 To agree extensions to sick pay, grant special leave and make maternity arrangements. | Council |
| 4.5 To agree re-gradings of posts subject to consultation with the Senior Human Resources Manager | |
| 4.6 To take all action (including disciplining, suspending and dismissing) employees in accordance with the Council's disciplinary procedure and capability procedures. | Council |
| 4.7 To authorise payments to staff temporarily undertaking (or who have undertaken) additional duties, in accordance with approved Council policies. | Council |

| Description | Responsibility delegated by |
|--|-----------------------------|
| <p>4.8 To refer staff to the Council's occupational health service in appropriate circumstances and to take any consequential action required. The Commissioner/Executive Head shall advise the relevant member of the overall number and general nature of such referrals on a quarterly basis.</p> | Council |
| <p>4.9 Authorise ex-gratia payments to employees who incur (and provide proof of) loss or damage to their property whilst engaged in official duties up to a maximum of £1000 subject to consultation with the Senior Human Resources Manager.</p> | Council |
| <p>4.10 To approve the attendance of employees at conferences and courses of training.</p> | Council |
| <p>4.11 To approve financial assistance for post-entry training. The Commissioner/Executive Head shall consult with the Senior Human Resources Manager beforehand if the proposed financial assistance is likely to exceed £1000 in total (whether incurred across financial years).</p> | Council |
| <p>4.12 To authorise car allowances and to authorise payments in accordance with the conditions of employment and Council policy.</p> | Council |
| <p>4.13 To approve payments of reasonable expenses for newly appointed employees in accordance with the Council's approved scheme on relocation expenses.</p> | Council |
| <p>4.14 To approve payments of reasonable out-of-pocket expenses for newly appointed employees.</p> | Council |
| <p>4.15 To authorise payments to recompense employees who are required to work on public holidays, when time off in lieu is not practicable.</p> | Council |
| <p>4.16 To make decisions in relation to employee pensions in accordance with any Council policies.</p> | Council |
| <p>5. Delegations to the Chief Executive</p> | |

| Description | Responsibility delegated by |
|---|-----------------------------|
| <p>5.1 In consultation with the Mayor and Leaders of all the political groups, to determine all appointments (or decide not to make appointments) to outside organisations at any time after the general review of such appointments in accordance with the Protocol on Relations between the Mayor and Political Groups. Where consensus between the Mayor and the leaders of the all the political groups is not forthcoming, the Chief Executive may refer the matter to the Council for determination</p> | Executive |
| <p>5.2 In consultation with the Overview and Scrutiny Co-ordinator and the Chairman of the Health Scrutiny Board, to determine:</p> <ul style="list-style-type: none"> <li data-bbox="375 764 1105 856">(a) any changes to the working arrangements and terms of reference for the Health Scrutiny Board; and <li data-bbox="375 905 1110 1207">(b) the size of any other Joint Committee that is required to be established pursuant to the Health and Social Care Act 2001 Directions to Local Authorities (Overview and Scrutiny Committees, Health Scrutiny Functions) in consultation with other appropriate authorities which have an interest as a consultee and to agree the share of the Council’s seats on such Committee and the nature of the working arrangements. | Council |

| Description | Responsibility delegated by |
|--|-----------------------------|
| 6. Delegations to the Corporate Support Commissioner | |
| <p>6.1 In consultation with the relevant member and the Section 151 Officer, to determine all applications for grants 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 s/he shall consider appropriate. In exercising this power the Commissioner for Corporate Support shall have regard to all relevant matters including the following:</p> <ul style="list-style-type: none">(a) the extent to which the grant requested would facilitate a contribution towards the Council’s priorities;(b) the extent to which the grant requested would be likely to assist the grantee to obtain additional funding from third parties;(c) whether alternative sources of funding are available to the grantee;(d) value for money;(e) the extent to which the grant is likely to enable the grantee to apply the principle of “invest to save”;(f) the likely medium and long-term implications for the Council’s Revenue Budget; and(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. | Cabinet |

| Description | Responsibility delegated by |
|---|-----------------------------|
| 7. Delegations to the Section 151 Officer | |
| 7.1 In accordance with the Council's Standing Orders and Financial Regulations: | Cabinet |
| <ul style="list-style-type: none"><li data-bbox="375 506 1146 642">(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;<li data-bbox="375 659 1146 827">(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 approved programme and the level of resources estimated to be available;<li data-bbox="375 844 1146 947">(c) To authorise the opening and closing of any such bank accounts as may be considered necessary in the Council's interest;<li data-bbox="375 963 1146 1199">(d) In respect of national non domestic rates, council tax, 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 Cabinet; and<li data-bbox="375 1215 1146 1488">(e) In respect of any sums due to the Council, to approve the writing off of sums that the Commissioner/Executive Head considers to be irrevocable (or uneconomic to recover). If the amount to be written off exceeds £1,000 the Commissioner/Executive Head shall first consult with the relevant Cabinet member with responsibility for finance. | |

| Description | Responsibility delegated by |
|---|---|
| <p>8. Delegations to the Chief Executive of the Torbay Development Agency</p> | |
| <p>8.1 Property Management, Acquisition and Disposal:</p> | |
| <p>(a) To manage the Council’s land and property resources in compliance with current legislation and council policy;</p> | Cabinet |
| <p>(b) 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 Mayor);</p> | Council (so far as part of the Capital Plan) – otherwise Cabinet |
| <p>(c) 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);</p> | Cabinet |
| <p>(d) 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);</p> | Cabinet |
| <p>(e) To negotiate and settle terms for wayleaves and easements in respect of electricity wires and cables, sewers and water pipes, gas, telephone and similar apparatus and the grant of rights of way;</p> | Cabinet |
| <p>(f) To effect minor freehold disposals of land not required for operational purposes up to £10,000 in value to the owners of adjacent or nearby residential property or Statutory Undertakers;</p> | Cabinet |
| <p>(g) To renew leases, licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments;</p> | Cabinet |
| <p>(h) To place advertisements under Section 123 of the Local Government Act 1972 (as amended) and s36 of the Charities Act 1993 in respect of applications received to purchase small areas of land considered to be public open space;</p> | Cabinet |
| <p>(i) To approve variations to existing leases, licences, agreements, easements, wayleaves, conditions</p> | |

| Description | Responsibility delegated by |
|--|-----------------------------|
| and other property related rights and obligations; | Cabinet |
| (j) To approve variations to (including the release of) restrictive and other covenants; | Cabinet |
| (k) To approve (including with conditions) any requests for consent by leaseholders or licensees; | Cabinet |
| (l) To agree attachments to buildings owned by Torbay Council; | Council/Cabinet |
| (m) To approve terms for the appropriation of land previously authorised by the Cabinet or the Council; and | Cabinet |
| (n) To serve such formal Notices as may be necessary from time to time to protect the Council’s position as landlord and/or to re-gain possession of premises where tenants are in breach of covenants. | |
| 8.2 Compensation | |
| To negotiate and agree claims for compensation and disturbance where such claims arise following schemes approved by the Council or the Cabinet (as appropriate). | Council/Cabinet |
| 8.3 Planning Matters | |
| To submit any applications or requests for planning related matters (including Listed Building Consents, Conservation Area Consents and Building Regulations Approval) in connection with Council-owned land (or land which the Council is contemplating acquiring or developing). | Council |
| 8.4 Rating | |
| To negotiate rating assessments for Council owned and occupied properties and to complete appropriate forms when revised assessments are agreed. | Cabinet |
| 8.5 Boat Booking Kiosks and Board Sites | |
| To determine the terms and conditions of the agreements for boat booking kiosks and board sites. | Cabinet |

| Description | Responsibility delegated by |
|---|-----------------------------|
| <p>9. Delegations to the Executive Head of Governance</p> | |
| <p>9.1 (a) To approve the annual members’ development programme following consultation with the Mayor and the Member Development Group; and</p> | |
| <p>Democratic Service Manager</p> | <p>Council/Cabinet</p> |
| <p>(b) to authorise additional training and development that is not included within the Annual Development Programme.</p> | |
| <p>(Note: The Local Protocol on relations between the Mayor and Political Groups states that the members’ training budget will be used primarily to meet the cost of the development programme with the remainder of the funding to be allocated in equal proportions (one third) to fund the following:-</p> | |
| <ul style="list-style-type: none"> (i) Training for Cabinet Members (ii) Training for Scrutiny Members (iii) Training not specifically related to cabinet or scrutiny functions.) | |
| <p>9.2 To authorise attendance at conferences/seminars by members.</p> | |
| <p>(Note: The Local Protocol on relations between the Mayor and Political Groups states that the members’ conferences budget be allocated as follows:</p> | |
| <ul style="list-style-type: none"> (i) attendance at the Local Government Association Annual Conference by the Mayor and the leaders of the two principal groups; | |
| <ul style="list-style-type: none"> (ii) attendance at the Standards Board for England Annual Conference by Chairman/woman and Vice-Chairman/woman of the Standards Committee or such other member as determined by the Chairman/woman; and | |
| <ul style="list-style-type: none"> (iii) the remainder of the budget being allocated to fund attendance at conferences/seminars by political groups/independent members based on political balance. | |

| Description | Responsibility delegated by |
|--|------------------------------------|
| 9.3 The appointment of Political Group Assistants. | |
| 9.4 The taking of disciplinary action (including dismissal) in relation to the Mayor’s Assistant (in consultation with the Mayor) and any Group Assistant (in consultation with the relevant group leader). | |
| 9.5 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. | |
| Legal Services Manager: | Council/Cabinet |
| 9.6 Institute, defend and conduct any legal proceedings and to make any representations affecting the property rights or interests of the Council or which the Council may be entitled to authorise, institute or defend. Proceedings shall only be instituted, defended or conducted following consultation with the relevant Commissioner. | |
| 9.7 In consultation with the relevant Commissioner, to determine liability and authorise payment in respect of claims against the Council. The Legal Services Manager will consult with the relevant member in respect of any settlement in excess of £25,000 (including any payment in respect of costs) and submit an annual Claims Report to the Overview and Scrutiny Board. | |
| 9.8 Retain counsel, independent solicitors or consultants, where appropriate. | |
| 9.9 Give formal notices or formal demands which are deemed requisite to serve in the interests of the Council. | |
| 9.10 To authorise variation in the terms and conditions of contracts subject to the Council’s Financial Regulations and Contract Standing Orders. | |
| 9.11 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. | |

Description

**Responsibility
delegated by**

| Description | Responsibility delegated by |
|--|-----------------------------|
| 10. Delegations to the Executive Head of Human Resources | |
| 10.1 To authorise payments and take other decisions in relation to the Council's Pension Scheme in accordance with the Council's Policies. | Council |
| 10.2 To negotiate and reach agreement on behalf of the Council on policies and procedures concerning employees. | Council |
| 10.3 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. | Cabinet |
| 10.4 So far as they have not been determined by Council or committee, to determine the terms and conditions of the Head of Paid Service (having first consulted with the Mayor and the Leaders of all political groups). | Council |

| Description | Responsibility delegated by |
|---|--|
| <p>11. Delegations to the Executive Head of Spatial Planning</p> | |
| <p>11.1 To consider and (if appropriate) determine (unless such determination is reserved by law or the Council’s Constitution to Council or its Development Control Committee) all applications and all other matters (including issuing Notices, making Orders and requesting the Legal Services Manager to issue civil or criminal proceedings) relating to:</p> | |
| | <p>Town and Country Planning; Conservation Areas; Listed Buildings; Scheduled Ancient Monuments; The display of advertisements; Tree Preservation Orders; Complaints about high hedges; and Public Rights of Way.</p> |
| <p>11.2 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 12 below, or where an appropriate Section 106 Agreement has been executed and there has been no other material change in circumstances.</p> | |
| <p>12. Limitations to Delegated Powers Delegations to the Executive Head of Spatial Planning</p> | |
| <p>12.1 At all times to have regard to the Torbay Local Plan 1995-2011 (Revised Deposit Version 2000) or, once adopted by Council, the final version of that Plan (“the Torbay Local Plan”).</p> | |
| <p>12.2 The Executive Head of Spatial Planning shall not determine any application (or other matter) in a manner that would (in his/her opinion or the opinion of the Environment Commissioner not be in accordance with the Torbay Local Plan and any such application (or other matter) shall be referred to the Development Control Committee (or, if he/she considers it appropriate, Council).</p> | |

| Description | Responsibility delegated by |
|---|-----------------------------|
| <p>12.3 The Executive Head of Spatial Planning may not determine and must refer to the Development Control Committee (or, if he/she considers it appropriate, Council) any application (or other matter) that:</p> <ul style="list-style-type: none"> (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; <p>(Currently Major Development is defined as follows. In the case of dwellings: where 10 or more dwellings are to be constructed or (where the number of dwellings to be constructed is not specified) a site area of 0.5 hectares or more. In the case of other uses: where the floorspace to be built is 1000 square metres or more, or where the site area is 1 hectare or more. (In cases of change of use, “built” or “constructed” is interpreted as obtained by change of use).</p> <ul style="list-style-type: none"> (b) Relates to Minerals; (c) Relates to the handling, transfer or disposal of Waste or Hazardous Waste; (d) Relates to land owned, controlled or occupied by the Council; (e) The Chief Executive, or any Commissioner or Executive Head has requested be referred to the Development Control 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 Control 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. | |
| <p>12.4 The Executive Head of Spatial Planning shall refer to the Mayor 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</p> | Cabinet |

Description

**Responsibility
delegated by**

Directions and making compulsory purchase orders).

| Description | Responsibility delegated by |
|--|-----------------------------|
| 13. Delegations to the Executive Head of Harbour and Marine Services | |
| 13.1 To take any decisions (including any Key Decisions) and to exercise all legal powers relevant to the Harbour and Marine services and Harbour Master functions (including determining the terms and conditions of use of the harbour and its facilities). | Cabinet |
| 13.2 This authorisation shall include (but not be limited to) any decisions in relation to the budget for and resources (including employees) allocated to the Harbour and Marine services functions. | |
| 13.3 This authorisation shall also include (but not be limited to) the service or receipt of notices, the making of orders, the authorisation of any action or the institution, defence or conduct of proceedings and appeals and the authorisation of named employees to enforce specific powers. | |
| 13.4 To retain contract staff or appoint consultants on matters related to their areas of responsibility. | |
| 13.5 So far as is lawful, the Executive Head of Harbour and Marine Services may delegate (in writing) matters within the services and functions for which he/she is responsible to employees within the Harbour and Marine services or to any director. Any such delegations may be revoked, varied or subject to such limitations as the Executive Head of Harbour and Marine Services considers appropriate. | |
| 13.6 The Executive Head of Harbour and Marine Services may agree with the relevant member their own criteria for triggering consultation in relation to the Executive Head of Harbour and Marine Services exercise of his/her delegated powers. These criteria will seek to strike an appropriate balance between the relevant member's "need to know" and the avoidance of an excessive volume of detailed information being passed to the relevant member. These criteria may be more or less onerous than outlined in the "Limitations on Delegations" set out in Part 2 of this Scheme of Delegation and may be varied or revoked. | |
| 13.7 The Executive Head of Harbour and Marine Services may designate and issue authorisations in writing to officers of the Council to act under those powers delegated to them | |

| Description | Responsibility delegated by |
|---|-----------------------------|
| <p>by all or some of the following legislation and any statutory amendment or replacement thereof having regard to the qualifications and experience of the officer:</p> <p>Docks Regulations 1988 Pilotage Act 1987 Dangerous Substances in Harbour Areas Regulations 1987 Aviation and Maritime Security Act 1990 Harbours, Docks and Piers Clauses Act 1847 Harbours Act 1964 (inserted by the Transport and Works Act 1992) Conservation (Natural Habitats &c.) Regulations 1994 Merchant Shipping Act 1995 (as amended) Dangerous Vessels Act 1985 Merchant Shipping (Oil Pollution Preparedness, Response and Co-operation Convention) Regulations 1998 Merchant Shipping (Port State Control) Regulations 1995 Local Government Act 1972 Tor Bay Harbour Act 1970 Tor Bay Harbour (Torquay Marina &c.) Act 1983 Tor Bay Harbour (Oxen Cove and Coastal Footpath, Brixham) Act 1988</p> | |
| <p>13.8 The following powers in this paragraph 13.8 are statutory powers which cannot be exercised by any officer other than the Executive Head of Harbour and Marine Services, 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.</p> | <p>Statutory delegation</p> |
| <p>13.8.1 To give general directions to regulate the movement and berthing of ships and the safety of navigation.</p> | |
| <p>13.8.2 To give directions prohibiting the entry into, or requiring the removal from, the Harbour of any dangerous vessels.</p> | |
| <p>13.8.3 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>13.8.4 To detain a vessel, if the Executive Head of Harbour and Marine Services has reason to believe that it has committed an offence by discharging oil, or a mixture</p> | |

| Description | Responsibility delegated by |
|--|---------------------------------|
| containing oil, into the waters of the Harbour. | |
| 13.8.5 To regulate the time and manner of a ship’s entry into, departure from and movement within the Harbour waters and related purposes. | |
| 13.9 To vary (by addition or waiver (in full or as to part)) the approved Schedule of Harbour Charges in such manner as the Executive Head of Harbour and Marine Services shall consider reasonable; including for example (without restricting the generality of this power) where: | Council (as part of the budget) |
| (i) the Executive Head of Harbour and Marine Services considers the variation to be in the best interest of the Harbour Authority and/or local people; | |
| (ii) the Executive Head of Harbour and Marine Services considers the variation would fairly reflect actual or part-year usage; | |
| (iii) the Executive Head of Harbour and Marine Services considers that it would be appropriate where a vessel owner/operator has made use of a facility as a result of what the Executive Head of Harbour and Marine Services considers to be extreme or unusual weather conditions, an accident at sea, or other emergency; and | |
| (iv) the Executive Head of Harbour and Marine Services considers 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 Executive Head of Harbour and Marine Services shall maintain a proper written record of all variations approved under this paragraph 13.9 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. | |

| Description | Responsibility delegated by |
|-------------|-----------------------------|
|-------------|-----------------------------|

| Description | Responsibility delegated by |
|---|-----------------------------|
| 15. Delegations to the People Commissioner | |
| 15.1 In consultation with the Cabinet Member for Children’s Services and the Chair of the Multi-Agency Panel/Independent Sector Placements Panel, approve all care package arrangements for children. | Executive |
| 15.2 Submit a quarterly budget report to the Cabinet in respect of care packages for children. | |
| 15.3 Advise the Mayor and Deputy Mayor as soon as possible of any new care package arrangements for children likely to incur costs in excess of £200,000 per contract per annum. | |
| 15.4 If the approval of a care package is likely to cause an overspend within the Children’s Services Budget, to notify the Mayor, Deputy Mayor and Section 151 Officer immediately. | |

