



Clerk: June Gurry
Telephone: 01803 207013
E-mail address: governance.support@torbay.gov.uk
Date: Tuesday, 10 July 2012

Governance Support
Town Hall
Castle Circus
Torquay
TQ1 3DR

Dear Member

COUNCIL - THURSDAY, 12 JULY 2012

I am now able to enclose, for consideration at the Thursday, 12 July 2012 meeting of the Council, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
16.	Chief Executive - Future Options	(Pages 186 - 202)
17.	New Code of Conduct	(Pages 203 - 227)
18.	Review of Political Balance	(Pages 228 - 231)

Yours sincerely

June Gurry
Clerk

Agenda Item 16



Title: **Interim arrangements for the replacement of the role of Chief Executive**

Public Agenda Item: **Yes**

Wards Affected: **All**

To: **Council** On: **16 July 2012**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **Anthony Butler**

☎ Telephone: **207155 (01803)**

✉ E.mail: **Anthony.butler@torbay.gov.uk**

1. **What we are trying to achieve and the impact on our customers**

1.1 To ensure appropriate officer leadership and governance following the departure of the Chief Executive.

2. **Recommendation(s) for decision**

2.1 **That the Employment Committee be requested to undertake the recruitment of an internal interim Chief Operating Officer to include the role of Head of Paid Service, for a period ending no earlier than 31 March 2013 and on a part time basis (equivalent of 2 days per week spread over a full week). The terms and conditions of employment for the post to be in line with the Joint Negotiating Committee for Chief Executives of Local Authorities with the job description as set out at Appendix 2. (Note: The Employment Committee recommendations will be presented to the September 2012 Council meeting).**

2.2 **That the Executive Head Business Services be instructed to undertake a Hay Evaluation of the agreed Job Description, and in doing so, produce a Hay Know How score which will in turn determine the spot salary for this post in accordance with our Pay and grading scheme.**

2.3. **That the Council notes the Mayor will continue to exercise executive functions in accordance with the Mayoral system of governance and that the Mayor will (in consultation with the Employment Committee and Group Leaders' Task Group) review the existing Officer Scheme of Delegation in relation to the Chief Executive to ensure clarity of roles and responsibilities. The results of this exercise to be reported to members in**

September 2012.

2.4 That the Employment Committee make a recommendation to the Council at a forthcoming meeting on the long term proposals for the replacement of the Chief Executive functions.

3. Key points and reasons for recommendations

3.1 It is intended that the interim position be made from an internal appointment and retaining existing roles working on a 5 day per week basis. There may need to be arrangements for back-filling of certain elements of the successful applicant's present role to ensure capacity.

3.2 A focal point for officer leadership is ensured.

3.3 The interim arrangements allow for flexibility and review.

3.4 The statutory S4, Head of Paid Service role is assured.

3.5 Savings outlined previously are secured.

For more detailed information on this proposal please refer to the supporting information attached.

**Anthony Butler
Monitoring Officer**

Supporting information

A1. Introduction and history

- A1.1 In May 2012 the Council approved a voluntary redundancy from the Chief Executive. The request was made on the basis that the role of the chief executive has changed since 2000 and that these changes are further impacted with an electoral mayoral system which have reduced or shared the responsibilities of the role. In addition, the breadth of responsibility has decreased with the creation of arms-length arrangements for major services areas. Also, the Council needs to continue to review management arrangements to make savings to tackle future financial challenges.
- A1.2 A Council does not have to have a chief executive but must have a Section 4 officer – this is usually known as the Head of Paid Service. In essence, the Head of Paid Service is responsible for management and employment of the Council's staffs.
- A1.2 A Member Employment Committee and Group Leaders' Task Group was set up to look at the options and make proposals to Council. The Task Group met twice. The initial meeting concluded that an interim arrangement should be recommended. The second meeting reviewed the existing role of the Chief Executive and the requirements of Section 4 together with the responses to internal consultation with tiers 1 to 4 staff. The Task Group reviewed a number of options for an interim arrangement (as set out at Appendix 1). Following discussion and analysis of the options, members recommended option 1 and a review of officer delegations as set out in the recommendations above.
- A1.3 The Joint Negotiating Committee (JNC) for Chief Executives of Local Authorities is the national negotiating body for the pay and conditions of service of Chief Executives in England and Wales. As such it is proposed that the Terms and Conditions of employment for the post of Interim Chief Operating Officer fall in line with these terms and conditions. It is also proposed that the Executive Head Business Services undertake a Hay Evaluation of the draft Job Description (as set out at Appendix 2), and in doing so, produce a Hay Know How score which will in turn determine the spot salary for this post in accordance with our Pay and grading scheme.

A2. Risk assessment of preferred option

A2.1 Outline of significant key risks

- A2.1.1 There is a risk of over reduction in the strategic capacity of the senior officer team. There is provision for capacity to be increased with the two Directors who currently work four days a week (subject to their agreement). In addition, the senior leadership team has merged to include Directors and Executive Heads which is a more effective working body. Backfilling and additional support will also be provided where needed. In addition, the arrangement will be reviewed and is flexible enough for changes to be made if required.
- A2.1.2 There is a risk of confused governance or governance failure. Roles and responsibilities need to be clear and the delegated powers in the Constitution to be amended where appropriate. The responsibilities of the Section 151 Officer

and the Monitoring Officer remain unchanged. This will be mitigated by the review of roles and responsibilities under the Officer Scheme of Delegation.

A2.2 Remaining risks

A2.2.1 As a small authority, the Council is always vulnerable to the departure of key senior managers but has traditionally managed this well. It will be important to ensure succession planning in all areas

A3. Other Options

A3.1 Please see appendix 1.

A4. Summary of resource implications

A4.1 There will be initial savings from the Chief Executive's salary as previously reported. The job description for interim Chief Operating Officer (set out at Appendix 2) will be subject to HAY evaluation. The interim role will be costed on a pro-rata basis with 2 days per week on the Chief Operating Officer salary and the remainder of the week on successful applicant's existing salary. Under the interim arrangements, acting up allowances will be paid to other officers, where appropriate, for any back-filling required to enable capacity.

A5. What impact will there be on equalities, environmental sustainability and crime and disorder?

A5.1 The process of selection will be undertaken in accordance with best practice.

A6. Consultation and Customer Focus

A6.1 The Council's key partners were offered the opportunity, along with all staffs and trades unions to comment on the role of the Chief Executive in the review last September – there were few responses. The Directors, Executive Heads and management tiers 1-4 have been given the opportunity to comment and their responses were fed back to the Task Group.

A7. Are there any implications for other Business Units?

A7.1 There will be implications for other business units depending upon the outcome of the selection process.

Appendices

Appendix 1 Options appraisal

Appendix 2 Chief Operating Officer Draft Job Description

Background Papers:

The following documents/files were used to compile this report: Chief Executive Voluntary Redundancy Request report to Adjourned Annual Council on 16 May 2012. Council approved the request.

Appendix 1

Options appraisal for Interim arrangements for the replacement of the role of Chief Executive

Options captured from initial Task Group Meeting	
1	Interim internal appointment to Chief Executive for 6-9 months
2	External appointment to a Task & Finish Chief Executive for 6-9 months or longer
3	Mayor to undertake a greater number of Executive functions
4	Seek to temporarily extend the notice of the current Chief Executive

Option 1 - Interim Internal appointment to Chief Executive for 6-9 months

Appointment to be made either to one person 2-3 days per week, or to two people spread evenly

Advantages	Disadvantages
<ul style="list-style-type: none"> Using an internal candidate means that they are already aware of the Council, its processes, members and the individual will be familiar with the role of the Chief Executive (CEX) as currently stands. They will not require a long induction and should be able to make an immediate impact. The post can be filled quickly to ensure that there is no gap between the Chief Executive's departure and the new post holder taking up their duties. The post holder on a secondment can easily return to their previous role at the end of the secondment. 	<ul style="list-style-type: none"> The successful candidate would need to adapt to carry out the role differently. Will an existing Director have the capacity to separate out their roles to give time to both the CEX role and their existing director role. Eg. Director of Adult Social Services (DAS) role is key and something that needs a great deal of focus given to it. The pool of candidates is restricted to those already working in the Council, and therefore may not meet exactly the specific skills for the post. (i.e. if members are looking for fresh eyes, new ideas or a specific style of leadership).

Advantages	Disadvantages
<ul style="list-style-type: none"> • A secondment of this sort will provide a valuable experience for the successful candidate and will improve their career opportunities. • The Council will continue to maintain the benefit of any training, development etc given to the successful candidate as they will remain in the Council at the end of the secondment. • Having one appointee would mean that there was a clear reporting line and consistency of approach and decision making (but this may require 5 day working) • Having two appointees would mean that the workload can be spread across one day a week each. Currently there are existing directors working only 4 days a week who may have capacity to increase their working hours to take on this role. • Between both appointees, there will be cover if an urgent decision is required. • With an internal candidate on board, Members are freed up to focus on the longer term options • There may be development opportunities lower down the organisation as director duties are spread to others. 	<ul style="list-style-type: none"> • Having one appointee from existing Directors for 2 days per week or more would require a re-allocation of work or for some remaining duties of the successful candidate. It may be possible to spread these across the remaining Directors, or there may need to be an acting up arrangement further down the organisation. • Having two appointees from existing Directors could result in a lack of clear direction and decision making. This could slow progress or become dysfunctional. • Current Director functions have key priorities, will these slip if the individual is also performing Chief Executive function. • Will the post holder be able in reality to maintain the role at 2-3 days per week, and will Members, Officers and partners recognise this and prioritise workloads accordingly? • No one may apply internally and the Council may be left with no Chief Executive whilst a more lengthy external process is carried out. • Current Directors on 4 days may not wish to increase their hours (but the job application will give the opportunity to make that decision.)

Option 2 – External appointment (not consultancy) to a Task and Finish Chief Executive for 6-9 months or more

Advantages	Disadvantages
<ul style="list-style-type: none"> • An external opportunity will allow Members to recruit to the skills required for a specific Task and Finish project • This can be an external secondment from another authority or partner (thus opening up the opportunity for full time experienced people to apply without losing their substantive post) • This can equally be a fixed term appointment, seeing the individual staying less than 12 months and therefore not building any employment rights • May suit an experienced Chief Executive who is looking to work part time, or could also be a retired Chief Executive or someone wishing to downsize in terms of responsibility. • Subject to a 6 month probationary period • Will allow a fresh pair of eyes, new perspectives and additional skills to be recruited. • Will ensure that the current Directors can continue to fulfil their roles in their entirety. • There is the opportunity for the Council to gain additional skills and focus on the key priorities. • A secondment opportunity with another Local Authority would enable Torbay Council to benefit from that other LA and their successes. 	<ul style="list-style-type: none"> • Recruitment procedures will take in excess of 3 months to conclude, plus any notice period required by the successful candidate. • A fixed term contract is only likely to attract certain candidates, as people are unlikely to give up permanent posts for fixed term ones. • Failure to recruit may cause delays and leave the Council open to the risk of having no Chief Executive (thus we may end up recruiting from within in any case) • A fixed term external employee will only undertake their normal days of work (2 or 3 days) and the rest of the week will see the Council relying on Directors as deputy Chief Executive. • The successful candidate will need to have a full induction to the Council's processes etc and this could take the duration of the contract. • At the point of Council deciding on longer term options, this person would be eligible to apply along with others for whatever permanent position was available. • Likely to cost more on a daily rate • Cost of advertising • Probationary period may not be attractive to some individuals • Accountability gap between the 2-3 days

Option 3 – Mayor to undertake a greater number of Executive Functions

Advantages	Disadvantages
<ul style="list-style-type: none"> • The Mayor currently has the right to undertake these roles without any other agreement. • A senior officer could carry out the remaining functions, or these could be divided up amongst other officers. • A task and finish based post could be created from the remaining functions and be specific and time limited. • No additional appointment may need to be made whilst other options are being considered. • Other roles such as Head of Paid Service, S151 Officer and Monitoring Officer can be increased where necessary to support and remain as independent safeguards. • This option could save money if a Chief Executive were not appointed. • No costs of recruitment • Accountability is made very clear • This would ratify and make accountable much of the current ways of working • There would be continuity for the remaining term of office. 	<ul style="list-style-type: none"> • The capacity of the Mayor – is he able to carry out additional responsibilities given current diary pressures and length of time it can take to set up meetings? • The role that is left may not be attractive to candidates. • Should there be a change of elected Mayor who then wishes to work differently, bringing back a full time Chief Executive would incur additional costs

Option 4 – seek to extend the notice period of current Chief Executive

Arguments For	Arguments against
<ul style="list-style-type: none"> • The post could remain full time subject to the longer term issues being explored (an extension of notice period) • Equally the Chief Executive could be asked to carry on with reduced hours, but maintain redundancy rights at full time salary. • There would be no loss of skill, understanding and experience • The Chief Executive could delegate some duties to directors, and would be able to support them to carry out successfully. • The Chief Executive could be tasked with a specific final project to fulfil a new structure for the future. • Allows for a greater period of handover to any new structure. 	<ul style="list-style-type: none"> • The current Chief Executive has requested redundancy and may have made plans for alternative work. • The decision has been accepted at Full Council and is public. Therefore an extension of notice may lead to questions and criticism of the Council that it has not managed the process well. • Expecting the Chief Executive to suddenly continue with renewed motivation and expectation when her departure was imminent may be unfair. • The savings may not be realised if the status quo remains.

Job Description

Job Title: Responsible To: (<i>day to day issues</i>) Hay Know How Score Spot Salary	Interim Chief Operating Officer Elected Mayor (to be evaluated)
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- 1. Key Purpose of Job**
- 1.1. To provide a holding position whilst future permanent structures are designed and implemented.
 - 1.2. To manage the overall operational performance through the accountability of the directors, to allocate resources, manage risks, and provide leadership and inspiration.
 - 1.3. To represent the council with customers and service users, the Torbay public and partner organisations so as to raise the reputation of the council and promote the interests of the Bay and its people.

- 2. Anticipated Outcomes of Post**
- 2.1. To support the implementation of a new management structure
 - 2.2. To support the achievement of reductions and changes in service
 - 2.3. To ensure continuity of strategic leadership
 - 2.4. Delegated powers are achieved successfully.

- 3. List Key Duties and accountabilities of the post**
- 3.1. To work closely with SCOPE, other members of the Council's leadership team and the Mayor to make corporate management decisions.
 - 3.2. To advise the Members and council, as part of the management team on the preparation, review and delivery of the council's business and financial plans and to take responsibility for the achievement of specific parts.
 - 3.3. To embed a culture that places customers first, adopts a can-do approach and focuses on communities and working locally.
 - 3.4. To provide advice and recommendations to members on significant policy decisions.
 - 3.5. To promote and exemplify local open and honest decision making, including the council's formal governance structure.
 - 3.6. To work with public and other relevant bodies to support Torbay's communities, through services and activities which address local concerns.
 - 3.7. To contribute to the preparation and share responsibility for the implementation of:
 - – The business plan;
 - – The financial plan and annual budget – especially volatile areas of expenditure;
 - – Corporate efficiency targets and initiatives;

- – Organisational performance and development;
- – Local Area Agreement

- 3.8. To represent the council at regional/national level.
- 3.9. To contribute to the corporate management of the strategic risks facing the council
- 3.10. To act as the principal interface between corporate policies, priorities and projects and their application across all services of the council, including the achievement of the business and financial plans.
- 3.11. To discharge any statutory functions associated with the post of Chief Operating Officer, this includes:
- The statutory role of director for adult services, which will be the responsibility of one corporate director.
 - The statutory role of director for children's services, which will be the responsibility of one corporate director.

These statutory roles are pursuant to the Children Act 2004 (which amended the Local Authority Social Services Act 1970), and define responsibility for local authority social services functions (children and adult services).

- 3.12. To ensure that best practice is implemented and innovation encouraged in all arrears of the Council's activities.
- 3.13. To ensure effective consultation and communication with the public on the relevant aspects of Council services.
- 3.14. To develop links with key bodies and institutions to support the delivery of the Council's plans.
- 3.15. To ensure the development and implementation of appropriate policies, procedures and strategies to support the change/improvement agenda.
- 3.16. To ensure that Torbay Council is nationally recognised for innovative and outstanding work in the Local Government.
- 3.17. To ensure that a 'cross cutting' approach to service delivery is operational within the Council.
- 3.18. To ensure that the Council has a strong role in community leadership.
- 3.19. To ensure that the Council is customer focused and adheres to its values and standards.
- 3.20. To develop effective and pro-active relationships with other public sector organisations in the area including other local authorities.
- 3.21. To act as the accountable officer for all the Council's activities to the elected members.
- 3.22. To ensure that the Council's processes of scrutiny work effectively.
- 3.23. To support the democratic processes of the Council.
- 3.24. To undertake all civic and ceremonial duties commensurate with the status of the Chief Operating Officer.

4. Accountability - Budget

4.1. Influence over the Council's full budget of circa £124m

5. Other Duties

5.1 To undertake additional duties as required, commensurate with the level of the job.

Other Information

- a) All staff must commit to Equal Opportunities and Anti-Discriminatory Practice.
- b) The Council operates a Smoke-Free Policy and the post-holder is prohibited from smoking in any of the Council's buildings (including Council owned and Council leased buildings, but excluding designated areas in residential schemes), enclosed spaces within the curtilage of buildings, and Council vehicles. The Council does not permit smoking breaks within work time, however, in services where the flexi-scheme is in operation, employees may take reasonable break times outside of core hours, in accordance with flexi-time arrangements. Employees should follow the flexi-scheme procedure for agreeing time away from their duties in the normal manner with their immediate colleagues and line manager, with break start and finish times being recorded, as with any other break-time arrangement.
- c) The post-holder is expected to familiarise themselves with and adhere to all relevant Council Policies and Procedures.
- d) The post-holder must comply with the Council's Health and Safety requirements as outlined in the H&S policy appropriate to the role.
- e) This post is based at Town Hall but the post holder may be required to move their base to any other location within the Council at a future date.
- f) The post is a politically restricted post as laid down by the Local Government and Housing Act 1989.

Note for Candidate

All Candidates

The supporting statement on your application form will be used to assess ability to meet the essential requirements of the role, so you should explain how you meet each of the numbered essential requirements within your supporting statement.

In a competitive situation, the desirable criteria may be taken into consideration, so you are encouraged to show how you also meet each of the desirable criteria.

Candidates who consider that they have a disability

Reasonable adjustments will be made to the job, job requirements or recruitment process for candidates with a disability.

If you consider yourself to have a disability you should indicate this on your application form, providing any information you would like us to take into account with regard to your disability in order to offer a fair selection interview.

Where ever possible and reasonable we will make adjustments and offer alternatives to help you through the application and selection process.

If you have indicated that you have a disability on your application form you will be guaranteed an interview if you clearly demonstrate in your supporting evidence how you broadly meet the essential requirements of the role.

Job Title:	Interim Chief Operating Officer
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Essential Skills and Effectiveness:	Desirable Skills and Effectiveness:
<ol style="list-style-type: none"> 1. Ability to build consensus, persuade, negotiate and influence without direct line management or control of resources. 2. To innovate, design and implement. 3. Excellent communication and presentation skills. 4. Ability to use effectively a number of different leadership styles 5. Ability to handle conflict and manage sensitive issues to achieve positive outcomes. 6. Ability to create an environment of trust, fairness and openness. 7. Ability to develop purposeful partnerships and relationships with key stakeholders. 8. Significant involvement in preparing, managing and controlling substantial budgets. 9. Excellent interpersonal skills 10. Ability to contribute to wider Council working and development 11. Ability to encourage innovation and new approaches whilst managing risk 	

<p>12. Ability to identify the key matters that will affect the Council and Torbay in the future and develop strategies to meet them</p> <p>13. Ability to demonstrate political sensitivity and awareness</p> <p>14. Commitment to and understanding of the democratic and political processes of local government.</p>	
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Essential Knowledge:	Desirable_Knowledge:
<p>1. A thorough understanding of the issues and priorities of Local Government.</p> <p>2. Commitment to continued personal and professional development.</p> <p>3. Relevant legislation</p> <p>4. Trends in local government service delivery</p>	<p>1. In depth understanding of local government, particularly around the organisation of the public sector.</p>

Essential Experience/Achievements:	Desirable Experience/Achievements:
<p>1. In depth experience at a senior management level of successfully managing a range of functions and services.</p>	

<ol style="list-style-type: none"> 2. Successful programme/project delivery 3. Operating successfully in a senior management level in a dynamic and complex environment. 4. Experience of developing cross-sector partnerships working both as a contributor and in a leadership role. 5. Experience of working in a large and diverse workforce, managing complex budgets and other resources 6. Experience of operating successfully at senior management level at a large multi-disciplinary organisation 7. Understanding of a demonstrable commitment to partnership working and the democratic process 8. Experience of high level strategic planning and the delivery of high quality services to meet local needs 9. Experience of managing significant organisational change and improvement programmes 10. Working with partners organisations such as health, police etc 	
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Essential Qualifications/Professional Memberships:	Desirable Qualifications/Professional Memberships:
11. A relevant qualification to degree level (or equivalent)	1. Professional Management qualification.

Essential – Other requirements of the job role

- Ability to travel efficiently around the Bay/South West and wider area in order to carry out duties
- Ability to participate in the Council's performance management process
- Ability to accommodate on-call working
- Ability to accommodate occasional home-working



Title: **New Code of Conduct for Members**

Public Agenda Item: **Yes**

To: **Council**

Date: **12 July 2012**

Wards Affected: **All**

Key Decision: **No**

Change to Budget: **No**

Change to Policy Framework: **No**

Contact Officer: **Anthony Butler**

☎ Telephone: **01803 207155**

✉ E-mail: **anthony.butler@torbay.gov.uk**

1. What are we trying to achieve?

- 1.1 The Localism Act 2011 abolishes the Standards Board regime and replaces it with a requirement that authorities promote and maintain high standards of conduct by members. Part of this requirement is that the Council has a code of conduct dealing with what is expected of members and co-opted members of the authority when they are acting in that capacity and that such code of conduct makes appropriate provision of the registration by members of pecuniary and other interests of members. This report recommends the adoption of such a code of conduct, a draft of which is at Appendix A.

2. Recommendation(s) for decision

- 2.1 **That the Code of Conduct at Appendix A be adopted by the Council.**
- 2.2 **That the existing Standards Committee be disbanded and a new Standards Committee be established to comprise of seven members (the political composition of the Committee to be determined in line with the overall review of the political balance of the Council – see separate agenda item) with terms of reference as set out at Appendix B. Group Leaders to notify the Governance Support Manager of their nominations for membership as soon as possible.**
- 2.3 **That the Monitoring Officer, in consultation with the new Standards Committee develop a protocol as to how complaints will be dealt with under the new code of conduct and be requested to make the necessary amendments to the Council's Constitution.**
- 2.4 **That the existing independent members of the original Standards Committee be asked to continue to act as Independent Persons under the new arrangements until the recruitment of new Independent Persons has been completed.**

2.5 That the Monitoring Officer in consultation with the Group Leaders be requested to carry out a review of the new code of conduct and protocol (to be adopted pursuant to paragraph 2.3) after 6 months and if necessary provide a further report to Council should it be considered substantial amendment is required.

3. Reasons for recommendation(s)

- 3.1 The Localism Act 2011 ('the Act') provided for the abolition the Standards Board regime, which consists of the Standards Board for England, existing standards committees of local authorities, the jurisdiction of the First Tier Tribunal in relation to local government standards in England and a codes of conduct for councillors. The abolition of the Standards Board for England took place on 1 April 2012 and the revocation of the codes of conduct took place on 1 July 2012. None of the functions of the Standards Board for England have been preserved.
- 3.2 The Act requires that a local authority must adopt a code of conduct that is consistent with the following principles: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership. The Act also requires that the adopted code includes such provision as the authority considers appropriate in respect of the registration in its register, and disclosure, of pecuniary interests, and interests other than pecuniary interests by members.
- 3.3 As well as the adoption of a code of conduct the Council is required to have in place arrangements for the investigation of allegations and arrangements for how decisions will be made following those investigations. Part of these arrangements must include provision for the appointment of one or more independent persons whose views are to be sought, and taken into account, before a decision is made on an allegation that has been investigated. It had been hoped that the Secretary of State would provide for a transitional period whilst the old code and its associated protocol continued to apply, however this is not the case and this is the reason why a new protocol has not been prepared in time for this meeting.
- 3.4 The terms of reference of the new Standards Committee will be as set out in Appendix B.
- 3.5 The Draft Code at Appendix A is based upon a code of conduct drafted by Devon County Council. The majority of council's within Devon have chosen to adopt codes based on this model in order to ensure consistency across the Council. Torbay Council may find that parts or all of the Code of Conduct once adopted are not appropriate which is the reason for the recommendation at 2.5 that the conduct and protocol be reviewed 6 months for their adoption.

3. Other options considered

- 3.1 None.

4. Combined Impact Assessment (CIA)

I confirm that I have not completed a Combined Impact Assessment because it is not required.

For more detailed information on this proposal please refer to the supporting information attached.

**Anthony Butler
Monitoring Officer**

Appendices

Appendix 1 Draft Code of Conduct

Appendix 2 Draft Terms of Reference for New Standards Committee

APPENDIX A

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 make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;

(d) you are accountable for your decisions to the public and you must cooperate fully with whatever scrutiny is appropriate to your office;

(e) you must be as open as possible about your decisions and actions and the decisions and actions of the Council and should be prepared to give reasons for those 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 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, in particular as characterised by the above requirements, by leadership and example.

- 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 do 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;
- any of the Council's or the Executive'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.

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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: [insert hyperlink here](#)

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

**MEMBERS' CODE OF CONDUCT
GENERAL NOTICE OF REGISTERABLE INTERESTS**

2012/13

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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.

**1. Employment, Office, Trade, Profession or Vocation**

**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.**

|                                                             |  |
|-------------------------------------------------------------|--|
| Description of employment, job, vocation, trade or business |  |
| 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

## 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 allotments 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.

|                                                                                                                                                                                                                                                                                                                                                                                                                           |  |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| <p>Any Body or Organisation to which you have been appointed or nominated by the Council as its representative</p>                                                                                                                                                                                                                                                                                                        |  |
| <p>Any body which exercises functions of a public nature directed to charitable purposes</p> <p><i>(e.g., an Industrial and Provident Society or Charitable Body)</i></p>                                                                                                                                                                                                                                                 |  |
| <p>Any Body whose principle purpose is to influence public opinion or policy <u>or</u> which, in your view, might create a conflict of interest in carrying out their duties as a Councillor.</p> <p><i>(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or 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 .....

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## **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.

## **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



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.

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**APPENDIX B – Terms of Reference for Standards Committee**

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| <p><b>Standards Committee:</b></p> <p><b>Terms of Reference:</b></p> <ol style="list-style-type: none"> <li>1. To promote and maintain high standards of conduct by the Mayor, councillors, co-opted members and church and parent governor representatives.</li> <li>2. To assist the Mayor, councillors, co-opted members and church and parent governor representatives to observe the Members' Code of Conduct.</li> <li>3. To advise the Council on the adoption or revision of the Members' Code of Conduct.</li> <li>4. To monitor the operation of the Members' Code of Conduct.</li> <li>5. To advise, train or arrange to train the Mayor, councillors, co-opted members and church and parent governor representatives on matters relating to the Members' Code of Conduct.</li> <li>6. To assist the Monitoring Officer in carrying out his responsibilities pursuant to the Code of Conduct and its protocols.</li> <li>7. To review the Council's local protocols.</li> <li>9. To review the Constitution in relation to ethics and probity issues.</li> <li>10. To advise others on probity and ethics.</li> <li>12. To share experience with other standards committees.</li> </ol> <p>The Council may arrange for the Standards Committee to exercise such other functions as the Council considers appropriate.</p> | <p>7 members of Torbay Council (4 Conservative and 2 Liberal Democrat and 1 independent),.</p> |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|

# Agenda Item 18



Title: **Review of Political Balance**

Public Agenda Item: **Yes**

Wards Affected: **All wards in Torbay**

To: **Council** On: **12 July 2012**

Key Decision: **No**

Change to Budget: **No** Change to Policy Framework: **No**

Contact Officer: **June Gurry**

☎ Telephone: **01803 207012**

✉ E.mail: [June.gurry@torbay.gov.uk](mailto:June.gurry@torbay.gov.uk)

## 1. **What we are trying to achieve and the impact on our customers**

1.1 To ensure that the places on the Committees are allocated in accordance with the relevant statutory requirements.

## 2. **Recommendation(s) for decision**

2.1 **That the Council the overall political balance of the committees as set out at paragraph A1.3 be approved.**

## 3. **Key points and reasons for recommendations**

3.1 Following notification from Councillor James (dated 26 June 2012) that he now wishes to be a member of the Non-coalition Group this has resulted in changes to the political make-up of the Council. There are now 21 Members of the Conservative Group (including the Elected Mayor), 10 Members of the Liberal Democrat Group and 5 Members of the Non-Coalition Group and 1 Labour Member. The political balance is now:

|                        |          |         |
|------------------------|----------|---------|
| Conservative Group     | 21 seats | = 56.8% |
| Liberal Democrat Group | 10 seats | = 27%   |
| Non-Coalition Group    | 5 seats  | = 13.5% |
| Labour                 | 1 seat   | = 2.7%  |

3.2 The change in the political make-up of the Council has resulted in two seats on Committees being transferred from the Conservative Group to the Non-Coalition Group. Proportional distribution of seats on Committees is set out at paragraph A1.3.

**For more detailed information on this proposal please refer to the supporting information attached.**

**Elizabeth Raikes, Chief Executive**

## Supporting information

### A1. Introduction and history

- A1.1 The Local Government and Housing Act 1989 requires the Council to allocate seats on committees to political groups in accordance with the size of each group as a whole, unless alternative arrangements are notified to all Members and agreed without any councillor 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 paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the 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) to (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.
- A1.2 The proposed newly appointed Standards Committee (see separate agenda item for further details) is now included as part of the requirements of political balance.
- A1.3 The Council is required to determine the number of seats on each committee and the allocation of those seats to the political groups and the independent members. Applying the principles of the Local Government and Housing Act 1989 and the supporting Regulations, the following option for distribution would be proportional (the co-opted members are not included in the calculation for proportionality purposes):

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## Political Balance of Committees

| Committee                        | Conservative Group | Liberal Democrat Group | Non-Coalition Group | Labour Member | Total |
|----------------------------------|--------------------|------------------------|---------------------|---------------|-------|
| Overview and Scrutiny Board      | 5                  | 3                      | 1                   |               | 9     |
| Audit Committee                  | 4                  | 2                      |                     |               | 6     |
| Development Management Committee | 5<br>(-1)          | 2                      | 2<br>(+1)           |               | 9     |
| Licensing Committee              | 8                  | 4                      | 2                   | 1             | 15    |
| Harbour Committee                | 5<br>(-1)          | 2                      | 2<br>(+1)           |               | 9     |
| Employment Committee             | 3                  | 1                      |                     | 1             | 5     |
| Appeals Committee                | 4                  | 2                      | 1                   |               | 7     |
| Civic Committee                  | 4                  | 2                      | 1                   |               | 7     |
| Standards Committee              | 4                  | 2                      | 1                   |               | 7     |
|                                  | 42                 | 20                     | 10                  | 2             | 74    |

A1.4 Members are asked to note that any decision to waive the requirements of political balance will require a resolution of the Council with no Member voting against.

### **A2. Risk assessment of preferred option**

#### **A2.1 Outline of significant key risks**

A2.1.1 There is a statutory requirement to undertake a review of political balance following a change in the political composition of the Council. This review has been completed. Therefore there are no risks unless Members fail to determine the matter.

#### **A2.2 Remaining risks**

A2.2.1 None

### **A3. Other Options**

A3.1 The allocation of seats on committees must be proportional to the political composition of the Council unless the Council resolves otherwise with no Member voting against.

### **A4. Summary of resource implications**

A4.1 There are no resource implications.

**A5. What impact will there be on equalities, environmental sustainability and crime and disorder?**

A5.1 None

**A6. Consultation and Customer Focus**

A6.1 The Group Leaders have been consulted on the proposals.

**A7. Are there any implications for other Business Units?**

A7.1 No

**Appendices**

None

**Documents available in members' rooms**

None

**Background Papers:**

The following documents/files were used to compile this report:

None