

Wednesday, 12 July 2023

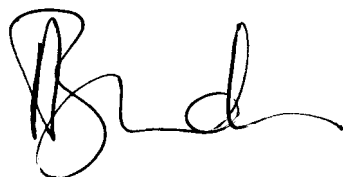
Meeting of the Council

Dear Member

I am pleased to invite you to attend a meeting of Torbay Council which will be held in **The Forum, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 20 July 2023** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,



Anne-Marie Bond
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

Together Torbay will thrive

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June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

Meeting of the Council Agenda

1. **Opening of meeting**

2. **Apologies for absence**

3. **Minutes**

To confirm as a correct record the minutes of the Annual meeting and Adjourned Annual meeting of the Council held on 16 and 25 May 2023.

(Pages 4 - 15)

4. **Declarations of interests**

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

5. **Communications**

To receive any communications or announcements from the:

- Civic Mayor which will include the presentation of the Public Service Recognition Award to former Councillors and the Devon and Somerset Fire and Rescue Service Public Service Award;
- Leader of the Council;
- Overview and Scrutiny Co-ordinator;
- Council's representative on the Heart of the South West Joint Committee;
- Chief Executive which will include the presentation of the Local Government Chronicle Award for Most Improved Council.

- 6. Petitions** (Pages 16 - 17)
To note the following petitions that have been referred direct to the decision maker in accordance with Standing Order A23:
- Petition to save the grass tennis courts at Oldway as an enclosed dog exercise area; and
 - Make Brixham Road Safer at the junction with Roselands Drive.
- 7. Members' questions** (Pages 18 - 22)
To respond to the submitted questions asked under Standing Order A12.
- 8. Budget Monitoring - Outturn 2022/23** (Pages 23 - 40)
To consider the recommendation of the Cabinet in respect of the Budget Monitoring Outturn 2022/23 report.
- 9. Constitution Amendments - Various** (Pages 41 - 97)
To consider a report that sets out sets out a number of operational amendments to the Council's Constitution.

Live Streaming

To encourage more people to engage in our public meetings the Council is trialling live streaming our Council meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

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

16 May 2023

:- Present :-

**The Worshipful The Mayor of Torbay (Councillor Mandy Darling) (In the Chair)
Deputy Civic Mayor of Torbay (Cecilia Brown)**

Councillors Amil, Atiya-Alla, Billings, Brook, Bryant, Bye, Carter, Cowell, Darling, Steve Darling, Douglas-Dunbar, Fellows, Fox, Harvey, Hutchings, Joyce, Law, Barbara Lewis, Chris Lewis, Long, Maddison, Nicolaou, Penny, Spacagna, Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves, Tyerman and Virdee

1 Opening of meeting

The meeting was opened with a prayer.

2 Apologies for absence

Apologies for absence were received from Councillors Johns and Pentney.

3 Election of The Worshipful The Mayor of Torbay

Councillor David Thomas proposed and Councillor Joyce seconded a motion, which was agreed (unanimously) by the Council as follows:

that Councillor Spacagna be elected The Worshipful the Mayor of Torbay for the Municipal Year 2023/20224.

(The Worshipful the Mayor of Torbay, Councillor Spacagna, in the Chair)

The Worshipful the Mayor of Torbay took the Declaration of Acceptance of Office and Oath of Allegiance and thanked the Council for the honour bestowed upon him.

The Worshipful the Mayor of Torbay announced that Mr Christopher Ashfield would be his Consort during his term of office and his charities would be Rowcroft and Torbay Hospital League of Friends. The Worshipful the Mayor of Torbay advised that he had appointed Father Paul Jones of All Saints Church, Babbacombe, Torquay, to be his Chaplain.

4 Retiring Civic Mayor

Councillor Law proposed and Councillor Bye seconded a motion, which was agreed (unanimously) by the Council as set out below:

that the Council express its sincere thanks and appreciation to Councillor Mandy Darling and Miss Lily Beckett for the manner in which they have carried out their duties during their term of office.

5 Election of Deputy Civic Mayor

Councillor Bryant proposed and Councillor Strang seconded a motion, which was agreed (unanimously) by the Council as follows:

that Councillor Stevens be elected The Deputy Civic Mayor for the Municipal Year 2023/2024.

The Deputy Civic Mayor of the Council took the Declaration of Acceptance of Office and thanked the Council for the honour bestowed upon her.

The Deputy Civic Mayor also announced that Mr Ian Stevens would be her Escort during her term of office.

6 Retiring Deputy Civic Mayor

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

that the Council express its sincere thanks and appreciation to Mrs Cecilia Brown and Mr Trevor Brown for the manner in which they have carried out their duties during their term of office as Deputy Civic Mayor and Deputy Civic Mayor's escort.

7 Minutes

The Worshipful the Mayor of Torbay proposed (having viewed the meetings on YouTube) and Councillor Mandy Darling seconded a motion, which was agreed (unanimously) by the Council as set out below:

that the Minutes of the meeting of the Council held on 7 March 2023 and adjourned meeting of the Council held on 29 March 2023 were confirmed as a correct record and signed by the Worshipful the Mayor of Torbay.

8 Election of Leader of the Council

Councillor Chris Lewis proposed and Councillor Tranter seconded a motion, which was agreed by the Council as follows:

that Councillor David Thomas be elected Leader of the Council.

9 Adjournment

At this juncture the meeting was adjourned until 5.30 pm on Thursday 25 May 2023.

The Worshipful The Mayor of Torbay

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

25 May 2023

-: Present :-

**The Worshipful The Mayor of Torbay (Councillor Spacagna) (In the Chair)
Deputy Civic Mayor of Torbay (Councillor Stevens)**

Councillors Amil, Atiya-Alla, Billings, Brook, Bryant, Bye, Carter, Cowell, Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fellows, Fox, Harvey, Hutchings, Johns, Joyce, Law, Barbara Lewis, Chris Lewis, Long, Maddison, Nicolaou, Penny, Pentney, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves, Tyerman and Virdee

10 Declarations of interests

Amanda Barlow declared an officer personal interest in respect of Minute 18.

11 Appointment of Overview and Scrutiny Co-ordinator and Scrutiny Lead Members

The Council was requested to consider the appointment of the Overview and Scrutiny Co-ordinator and the appointment of Scrutiny Lead Members for the 2023/2024 Municipal Year.

Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion which was agreed as set out below:

- 1. that Councillor Billings be appointed as the Overview and Scrutiny Co-ordinator for the 2023/2024 Municipal Year; and**
- 2. that the following Councillors be appointed as the Overview and Scrutiny Leads for the 2023/2024 Municipal Year:**
 - Overview and Scrutiny Lead for Children’s Services - Councillor Law**
 - Overview and Scrutiny Lead for Adults, Community Services, Public Health and Inequalities - Councillor Joyce**
 - Overview and Scrutiny Lead for Economic Growth and Culture - Councillor Maddison**
 - Overview and Scrutiny Lead for Finance, Corporate and Place Based Services - Councillor Twelves**

12 Appointments to Council Committees, Working Parties and Other Bodies and Appointment of Committee Chairmen/women and Vice-Chairmen/women for 2023/2024

The Council considered the submitted report on the appointment of committees, working parties, Chairman/women and Vice-Chairman/women and representatives on other Outside Bodies, in light of the political balance of the Council. A revised officer recommendation had been circulated prior to the meeting.

Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion, as set out below:

1. that the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved;
2. that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved;
3. that, subject to 1. and 2. above, the Terms of Reference and membership for the Council's Committee's, Sub-Committees and working parties be approved as set out in Appendix 3 to the submitted report;
4. that, subject to 3. above being approved, nominations from Group Leaders be received to fill the seats on the committees (as circulated on 25 May 2023);
5. that, subject to 3. above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in Appendix 4 to the submitted report (as circulated on 25 May 2023);
6. that the Licensing Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;
7. that the Head of Governance Support be authorised to empanel Members from the Licensing Committee to serve on the Licensing Sub-Committee as and when required; and
8. that, subject to the inclusion of the Cabinet Member for Culture or their nominee being the Council's representative on Torbay Local Heritage Grant Scheme, the outcome of the review and proposed appointments to the outside bodies and other groups for 2023 to 2027 set out in Appendix 5 to the submitted report be approved.

During the debate Councillor Steve Darling proposed and Councillor Long seconded an amendment to the motion as follows:

1. that the overall political balance of the committees as set out at Appendix 1 be approved;
2. that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 below be approved;

Working Party	Conservative Group	Liberal Democrat Group	Independent Group	Total
Airshow Working Party	3	2	0	5
Community Asset Transfer Panel (including appropriate Cabinet Member)	3	2	0	5
Corporate Parenting Board	3	2	0	5
Harbour Asset Working Party (plus external advisors and membership restricted to Harbour Committee)	3	2	0	5
Harbour Budget Working Party (plus external advisors and membership restricted to Harbour Committee)	3	2	0	5
Oldway Mansion and Grounds Steering Group (Working Party)	3	2	0	5
Transport and Parking Working Party	4	2	1	7
Affordable Housing Delivery Working Party	4	2	1	7
Cost of Living Response Working Party	3	2	0	5
Town Centres and Premier Resort Regeneration Working Party	3	2	0	5

3. that, subject to 1. and 2. above, the Terms of Reference and membership for the Council's Committee's, Sub-Committees and

working parties be approved as set out in Appendix 3 with the additional Working Parties being appointed as follows:

Affordable Housing Delivery Working Party

Terms of Reference:

1. To ensure the Council's response to the Housing Crisis is appropriately aligned to the level of need and the Housing Strategy continues to meet need; with recommendations being made to Council as to appropriate changes to the Strategy as required.
2. To ensure that the maximum amount of affordable housing is achieved through Council funded schemes and other opportunities, with either private sector or registered providers, as they arise.
3. To consider recommending to Council additional budget allocation to ensure delivery of the Housing Strategy.

Cost of Living Response Working Party

Terms of Reference:

1. To ensure that the Council's policy and strategy to support people with the Cost of Living Crisis and current spend is sufficient to meet demand, and make recommendations to Council for additional funding where needed.
2. To keep under review the Council Tax Support Scheme and its impact on the collection fund and make recommendations to Council on any budget or strategy changes required.

Town Centres and Premier Resort Regeneration Working Party

Terms of Reference:

1. To ensure delivery of capital projects which will continue to enhance Town Centres and deliver the Premier Resort objectives and to make recommendations to Council for additional funding to ensure Government's funding allocations are not lost.
2. To identify additional funding and make recommendations to Council to support opportunities for inward investment.
4. That, subject to 3. above being approved, nominations from Group Leaders be received to fill the seats on the committees;

5. That, subject to 3. above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in Appendix 4;
6. That the Licensing Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;
7. That the Head of Governance Support be authorised to empanel Members from the Licensing Committee to serve on the Licensing Sub-Committee as and when required;
8. That, the outcome of the review and proposed appointments to the outside bodies and other groups for 2023 to 2027 set out in Appendix 5 to the submitted report be approved.

The amendment was put to the vote and declared lost.

Councillor David Thomas' and Councillor Chris Lewis' original motion was then considered by the Council which was agreed, as set out below:

1. **that the overall political balance of the committees as set out at Appendix 1 to the submitted report be approved;**
2. **that, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 to the submitted report be approved;**
3. **that, subject to 1. and 2. above, the Terms of Reference and membership for the Council's Committee's, Sub-Committees and working parties be approved as set out in Appendix 3 to the submitted report;**
4. **that, subject to 3. above being approved, nominations from Group Leaders be received to fill the seats on the committees (as circulated on 25 May 2023);**
5. **that, subject to 3. above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in Appendix 4 to the submitted report (as circulated on 25 May 2023);**
6. **that the Licensing Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;**
7. **that the Head of Governance Support be authorised to empanel Members from the Licensing Committee to serve on the Licensing Sub-Committee as and when required; and**

8. **that, subject to the inclusion of the Cabinet Member for Culture or their nominee being the Council's representative on Torbay Local Heritage Grant Scheme, the outcome of the review and proposed appointments to the outside bodies and other groups for 2023 to 2027 set out in Appendix 5 to the submitted report be approved.**

Following the vote, the nominations for members to serve on each committee and other bodies were confirmed by the Leaders of the Conservative, Independent and Liberal Democrat Groups as set out in Appendix 3 to the submitted report.

13 Calendar of Meetings for 2023/2027

The Council considered the submitted report setting out the proposed calendar of meetings for the 2023/2027 term of office. A revised officer recommendation was circulated prior to the meeting.

Councillor David Thomas proposed and Councillor Tyerman seconded a motion as set out below:

1. that the calendar of meetings for 2023 to 2027, as set out in Appendix 1 to the submitted report, be approved, subject to the removal of the Overview and Scrutiny Board on 7 June 2023 and Children and Young People's Overview and Scrutiny Sub-Board on 12 June 2023; and
2. that meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Head of Governance in consultation with the relevant Chairman/woman.

During the debate Councillor Pentney proposed and Councillor Fox seconded an amendment to the motion as follows:

1. that the calendar of meetings for 2023 to 2027, as set out in Appendix 1 to the submitted report, be approved, subject to:
 - a) the removal of the Overview and Scrutiny Board on 7 June 2023 and Children and Young People's Overview and Scrutiny Sub-Board on 12 June 2023; and
 - b) the Planning Committee to start at 5.30 pm; and
2. that meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Head of Governance in consultation with the relevant Chairman/woman.

A recorded vote was taken on the amendment. The voting was taken by roll call as follows: For: Councillors Amil, Atiya-Alla, Carter, Cowell, George Darling, Mandy Darling, Steve Darling, Douglas-Dunbar, Fox, Harvey, Johns, Law, Long, Nicolaou, Penny, Pentney and Virdee (17); Against: Councillors Billings, Brook, Bryant, Bye, Fellows, Hutchings, Joyce, Barbara Lewis, Chris Lewis, Maddison, Spacagna,

Stevens, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Twelves and Tyerman (19). The amendment was declared lost.

Councillor David Thomas' and Councillor Chris Lewis' original motion was then considered by the Council which was agreed, as set out below:

1. **that the calendar of meetings for 2023 to 2027, as set out in Appendix 1 to the submitted report, be approved, subject to the removal of the Overview and Scrutiny Board on 7 June 2023 and Children and Young People's Overview and Scrutiny Sub-Board on 12 June 2023; and**
2. **that meetings of the Employment Committee and Civic Committee be held on an ad-hoc basis, to be determined by the Head of Governance in consultation with the relevant Chairman/woman.**

14 Composition and Constitution of the Cabinet and Record of Delegations of Executive Functions

Members noted the submitted report on the above, which provided details of the portfolios of the Cabinet Members and delegation arrangements of executive functions, as appointed by the Leader of the Council.

15 Scheme of Delegation for Council Functions

Councillor David Thomas proposed and Councillor Tyerman seconded a motion, which was agreed by the Council as set out below:

that the Scheme of Delegation for Council Functions and the Schedule of Responsibility for Local Choice Functions, as set out in Part 3 of the Constitution (web link contained on the agenda), in so far as they relate to Council functions, be approved.

16 Overview and Scrutiny Annual Report 2022/2023

The Council received and noted the Overview and Scrutiny Annual Report for 2022/2023, as presented by the former Overview and Scrutiny Co-ordinator Councillor Douglas-Dunbar.

17 Constitution Amendment Local Protocol - Civic and Ceremonial

This item was deferred.

18 Statutory Officer Appointment

Councillor Tyerman proposed and Councillor David Thomas seconded a motion that was agreed (unanimously) as set out below:

that the Council confirm the Statutory Officer appointment of Amanda Barlow from Interim Monitoring Officer to permanent Monitoring Officer.

The Worshipful The Mayor of Torbay

Petition to save the grass tennis courts at Oldway as an enclosed dog exercise area – Council 20 July 2023

213 Signatures

We the undersigned petition the council to Keep the fences surrounding the old grass tennis courts at Oldway to allow continued use as an enclosed dog exercise area.

Oldway Mansion and the tennis courts have fallen into a state of disrepair, a disgrace as any local would know. One good thing to come from it was the old grass tennis courts forming a natural enclosed dog exercise area, open to all.

It is probably one of the most used spaces in Oldway, perfect for SAFE and comfortable exercise for nervous, anxious, and possibly reactive dogs. It is highly cherished by hundreds of locals and is one of the few fantastic local free facilities for dog owners.

Now, the council in consultation with SwisCo are removing the fences to make it open for 'general access', as it is 'surplus to requirements' according to the council's 'playing pitch strategy'.

A few problems - 1) it IS open for general access as it stands, 2) it has not been a 'playing pitch' ie tennis courts for many years, 3) there has been ZERO public consultation over the use of this space.

There is nothing else like it in Torbay, and it is a disgrace to let the council and SwisCo come to such a conclusion. Please show your objection to their plans by signing this petition and make it heard that we, the local council tax paying residents, demand this space is kept for use as it is, unless some reasonable and justifiable plans for repurposing are presented and subject to public consultation.

The Oldway Gardens Volunteer Group keep the gardens to a level that makes it a pleasure to visit - don't let one of the gems and unique points be taken away.

**Petition to Make Brixham Road Safer at the junction with Roselands Drive
– Council 20 July 2023**

31 Signatures

We the undersigned petition the council to review the road safety and traffic light system at the junction of Brixham Rd, Wilkins Drive and Roselands Drive in order to reduce the number of road accidents. We are asking the Council to review what road safety measures can be implemented to reduce the chance of accidents at this point on Brixham Road, and then to implement these measures, including but not limited to:

- Installing a signal lane at the right turn on the junction, into Roselands Drive
- Installing signage to both sides of the carriageway approaching the junction warning drivers of oncoming traffic and to slow down.
- Installing speed cameras on Brixham Road to encourage drivers to keep to the 40mph speed limit.

There have been multiple accidents at this junction as a result of people turning right off Brixham Road onto Roselands Drive. Currently there is no filter lane or signalling to allow drivers to do this safely, as a result drivers have to drift out into the middle section of the junction and wait for clear traffic before cutting across Brixham Road onto Roselands Drive. Compounding this issue is the speed at which people head up Brixham Road towards this junction from the lights at Sainsbury's.

These crashes are not only dangerous to the drivers concerned, but are also traumatic for the those who witness them, potentially dangerous for those people who might be waiting at the pedestrian crossings or walking along the pavement, as well as causing major disruption to traffic when lanes of Brixham Road are closed as a result. There is also the cost of police and ambulance presence.

Agenda Item 7

Meeting of the Council, Thursday, 20 July 2023

Questions Under Standing Order A12

A member may only submit three questions for consideration at each Council Meeting. Each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn. The time for member's questions will be limited to a total of 30 minutes.

First Round

Question (1) from Councillor Johns to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	As grateful as I am that the public consultation for Oldway Mansion and Gardens got started in June although late, please can you tell us when the public will be able to hear the results of the consultation?
Question (2) from Councillor Barbara Lewis to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	What is the current situation with the viability and deliverable time scales with regards Crossways?
Question (3) from Councillor Billings to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	What is the current situation with the viability and deliverable time scales with regards Pavilion?
Question (4) from Councillor Brook to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	What is the current situation with the viability and deliverable time scales with regards Edginswell?
Question (5) from Councillor Jackie Thomas to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	What is the current situation with the viability and deliverable time scales with regards Oldway?
Question (6) from Councillor Strang to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	Since the election there have been a number of road markings refreshed across the bay, will there be more?
Question (7) from Councillor Joyce to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	Can we have an update of when the new hotel on the Terrace car park will be open?

<p>Question (8) from Councillor Fox to the Leader of the Council (Councillor David Thomas)</p>	<p>Torbay Local Plan</p> <p>Can the Leader of the Council update the Council on the programme for review of the Local Plan, including possible dates for Regulation 19 submission, Examination and Adoption? In this regard I believe that it would be useful for a Situation Update Report be prepared by Officers, addressing the following issues (and any others the Officers deem relevant):</p> <ul style="list-style-type: none"> • Latest updates on housing (and Housing) need. • Other land use needs, e.g. employment and community uses. • Town centres regeneration. • Infrastructure requirements. • Environment and sustainability considerations. • The possible need for additional consultation. • Updated programming to examination and adoption. • Resource considerations. • Viability considerations. <p>Would the Leader of the Council be prepared to request the same from Officers?</p>
<p>Question (9) from Councillor Law to Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)</p>	<p>A representative from SWISCo advised that, on 19th January 2023, a representative of the TDA met with the Principal of Torquay Academy to agree the preliminary layout for a Zebra Crossing on Barton Road and detailed plans were drawn up on 28.03.23. As ward councillors we understood that work could possibly start as early as this Spring. Recently, yet another child has been injured on this road, yet there is still no sign of a safe crossing. Can you please reassure me that this Administration still plans to go ahead with a safe road crossing for Torquay Academy students? If so, when will work start?</p>
<p>Question (10) from Councillor Steve Darling to the Cabinet Member for Finance and Corporate Services (Councillor Tyerman)</p>	<p>According to the Bank of England, bill payers withdrew from bank and savings accounts at a record level in May. £4.6 billion more was paid out than paid into bank and building society accounts, which was the highest level seen since comparable records began 26 years ago. Furthermore, recent media reports show 12.8 million people are struggling to pay off debts. In light of these growing pressures on household budgets in the UK, how is the council planning to enhance its cost of living financial support to our communities in need in Torbay?</p>
<p>Question (11) from Councillor Long to the Leader of the Council (Councillor David Thomas)</p>	<p>At the Cabinet meeting on 21st March 2023, a preferred bidder was appointed for the future development of homes at land located at Preston Down Road, Paignton. How has the Cabinet progressed this project?</p>
<p>Question (12) from Councillor George Darling to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)</p>	<p>Torbay has a £100,000 premier resort fund. Several St Marychurch residents and businesses have raised issues within the ward that could benefit from this funding. Would the administration consider releasing these funds to enable enhancing of the causeway surface running from Oddicombe beach towards Babbacombe, and improve signage between the Babbacombe Downs and St Marychurch Precinct.</p>
<p>Question (13) from Councillor Mandy Darling to the Cabinet</p>	<p>The pedestrian footbridge at the bottom of Belgrave Road is much valued by residents. As part of enhancing our cultural offer in Torbay would the Cabinet consider renaming the bridge as the Christie Bridge</p>

Member for Place Services and Economic Growth (Councillor Chris Lewis)	and print the name of an Agatha Christie book on the frontage of each step to enhance our cultural offer in Torbay?
Question (14) from Councillor Harvey to the Cabinet Member for Adult and Community Services, Public Health and Inequalities (Councillor Tranter)	A recent survey we carried out in St Marychurch has highlighted an increase in ASB and street crime, reported by both traders and residents, who feel that this is a consequence of Operation Loki having a dispersion effect on criminal activity to areas beyond the town centre focus of the initiative. What Op Loki has illustrated is that a regular, visible, police presence on the streets has a clear impact on crime reduction and feelings of public safety which is what the members of our communities want on a consistent basis. Do we know what actions are being taken by D&C police to deliver this?
Question (15) from Councillor Penny to the Cabinet Member for Adult and Community Services, Public Health and Inequalities (Councillor Tranter)	There has been an unprecedented influx of illegal encampments around the Paignton area from Churston, Splashdown, Velopark, Clennon Valley Leisure Centre, Paignton Green North, Whiterock and Churston again. Previously, the Council has spent time, effort and money to prevent encroachments. Some people have reported that damage was done to gain access to Paignton Green recently and disruption caused to those using the green and exchanges between members of the public and the travellers. Visitors will have gained a poor impression of our Bay at these prime locations. What urgent action is being taken to prevent a recurrence of illegal encampments on our prominent places and parks, and what future actions will be taken to increase the protection for these areas?

Second Round

Question (16) from Councillor Johns to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	My residents in Clifton with Maidenway are starting to get a bit concerned about the Torbay Road and Station Square project and the lack of progress since the change of direction in plans. Please can you confirm when the dead line is to use the £13.36 million Future High Streets Funding?
Question (17) from Councillor Law to Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	The road junction of Avenue Road, Falkland Road, Chestnut Avenue, Walnut Road and The Kings Drive does not have a single safe pedestrian crossing. Some people using Torre Valley Car Park to access the Abbey, events on the Meadows and the seafront have reported to me that they feel unsafe to get to Torre Abbey gates. Indeed from my perspective the current wide layout of the junction seems to encourage drivers to take chances they wouldn't normally take at other junctions, making it even more perilous for pedestrians to cross. Nearby residents and people who use this crossing daily (both drivers and pedestrians) have reported to me that they worry that it is only a matter of time before one of the near misses results in a tragedy. The Partnership Administration had committed to look at this crossing as part of its wider highways and road safety campaign. Can this

	Administration give me assurance that they will look at pedestrian road safety at this junction as a matter of priority?
Question (18) from Councillor Steve Darling to the Cabinet Member Children's Services (Councillor Bye)	I understand that a foster carer at a recent fostering forum put forward this question: young people in 6th form whose birthdays fall early in the school year, when they are 18 years old, may have to move into independent living as the carer/s may live in rented accommodation or have large mortgages and the staying put allowance won't cover it. Will the Council consider enhancing the staying put payments in such situations to help reach the financial cap in the interests of stability for our cared-for young people? Can the Cabinet Member please advise how he is progressing this proposal?
Question (19) from Councillor Fox to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	Since before the pandemic the Council have been consulting on the implementation of a 20 mph zone on and around Higher Fore Street, Barton. When is this project set to be implemented?
Question (20) from Councillor George Darling to the Cabinet Member for Finance and Corporate Services (Councillor Tyerman)	Torbay Council are undertaking a 'Have your say' survey with two Roadshow sessions set to be held in Torquay, Paignton and Brixham each and an online survey. Please can you advise what the costs of undertaking this survey and the associated roadshow, including the cost in officer hours of manning the stalls?
Question (21) from Councillor Long to the Cabinet Member for Finance and Corporate Services (Councillor Tyerman)	What is the population of the three main towns in Torbay (Paignton, Brixham and Torquay), how many sessions of the 'Your Say!' Residents Survey took place in each town and where did each session take place?
Question (22) from Councillor Harvey to the Cabinet Member for Adult and Community Services, Public Health and Inequalities (Councillor Tranter)	It was hugely disappointing to find Torbay (in particular Paignton) overlooked in the recent announcement from the Office of the Police and Crime Commissioner of six new police enquiry desks being opened across the Devon & Cornwall force area - these were Ilfracombe, Honiton, Kingsbridge, Okehampton, Devonport & Looe. It therefore concerns me as to whether the current administration are strongly representing the need for investment of Devon & Cornwall police force resources across Torbay. Can the Cabinet Member provide any assurance of how they are raising such issues?

Third Round

Question (23) from Councillor Law to Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)	The Partnership Administration had identified 6 further locations for the creation of 20 mph School Zones and in February this year we were assured that we would get an update on the developed locations and estimated costs of the work.
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	<p>Clearly the summer holidays would have been the ideal time to undertake such work, however as yet none of the necessary public consultations have taken place.</p> <p>Can you please confirm that the 6 identified 20mph School Zones will still go ahead, and if they are to confirm when the public consultations will commence and when the work is programmed to actually take place?</p>
<p>Question (24) from Councillor Steve Darling to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)</p>	<p>A few weeks ago, I exchanged emails with SWISCo about a broken lock on a gate at the Windmill playing fields in Torquay off of Higher Audley Avenue. When I reported this to the out of hours team on 4 June, I was advised that this would be emailed to officers so it would be dealt with on Monday morning even though I was calling the out of hours team as residents were concerned that the lock had been deliberately broken by travellers who intended to gain access to the site over the weekend. Can you please explain why Torbay Council have adopted this approach to what many would see as an urgent issue?</p>
<p>Question (25) from Councillor Fox to the Leader of the Council (Councillor David Thomas)</p>	<p>Torbay's residents continue to suffer from lower levels of bus services since the pandemic, when does the Torbay Bus Forum next meet?</p>
<p>Question (26) from Councillor George Darling to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)</p>	<p>Residents have raised concerns about the poor condition of Haytor Park. Swings are broken, play-surfaces are potholed, and it has become a magnet for antisocial behaviour. The Park falls with the Plainmoor Community Investment Area and is therefore a priority for investment. What action is the council taking to regenerate this space?</p>
<p>Question (27) from Councillor Long to the Cabinet Member for Place Services and Economic Growth (Councillor Chris Lewis)</p>	<p>How regularly are drains/gulleys on Torbay's road network checked by the Council?</p>

Meeting: Council **Date:** 20 July 2023

Wards affected: All Wards

Report Title: Budget Monitoring – Outturn 2022/23

When does the decision need to be implemented? N/A

Cabinet Member Contact Details: Alan Tyerman, Cabinet Member for Finance
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ian.rowswell@torbay.gov.uk,

1. Purpose and Introduction

- 1.1. This report provides a high-level budget summary of the Council's revenue and capital position for the financial year 2022/23 which commenced on 1st April 2022. This report is based on the budget and final outturn position for the year ended 31st March 2023.
- 1.2. The Council has delivered an underspend of £0.4m. It is proposed that this underspend is transferred to an earmarked capital reserve to assist with delivery of the Capital Investment Programme. This is an improved position on the breakeven forecast at Quarter 3 and the £1.7m overspend initially forecast at Quarter 2.
- 1.3. A total of £33m has been spent in this financial year against the revised Capital Plan budget of £44m. This spend is part of an overall 4-year programme totalling £305m, funded from capital receipts, grants and contributions, reserves and revenue budget contributions, and long-term borrowing.

2. Recommendation(s) / Proposed Decision

Recommendations for Overview & Scrutiny Board

- 2.1 That the Overview & Scrutiny Board notes the Council's revenue outturn position and mitigating action identified and make any comments and/or recommendations to the Cabinet.
- 2.2 That the Overview & Scrutiny Board notes the Council's Capital outturn position and make any comments and/or recommendations to the Cabinet.

Recommendation for Cabinet/Council

- 2.3 That Cabinet notes the report.

2.4 That the Cabinet Recommends to Council:

That the Council notes the revenue outturn position and approves:

- A) the transfer of the £0.4m carry forward into earmarked capital reserves.
- B) the addition of the Torre Valley North project to the current Capital Programme.

3. 2022/23 Budget Summary Position

- 3.1 As the Council continues to recover from the financial impact of the pandemic, it has instead had to manage the national “cost of living” issues, arising from inflationary pressures including utility and fuel increases and escalating housing rent costs.
- 3.2 The financial pressures on services and providers are the highest they've been for many years, with CPI inflation at 10.1% in Sept 2022 and an average impact from pay awards of over 6% on 2022/23 pay costs. Whilst the Bank of England forecasts inflation to reduce, these financial pressures will continue and have been reflected within the Council’s Medium Term Resource Plan.
- 3.3 Despite the continued uncertainty faced throughout the year, the approved budget set by the Council for 2022/23 effectively reallocated resources to meet the demands from these additional cost pressures, and through robust challenge and monitoring, Officers have managed to deliver a balanced budget with a small overall underspend.
- 3.4 The table below provides a summary of the Outturn position across Council Services, along with the movement from the figures reported in Quarter 3.

Service	Budget £m	Final Outturn £m	Variance £m	Movement since Q3
Adult Services	45.6	46.4	0.8	0.6
Executive	3.3	3.6	0.3	0
Children’s Services	45.9	47.8	1.9	0.1
Corporate Services	7.2	7.9	0.7	(0.1)
Finance	-8.3	-12.3	(4.0)	(0.3)
Investment Portfolio	-4.6	-4.6	0	0
Place	21.6	22.5	0.9	(0.3)
Public Health	10.1	10.1	0	0
Revenue sub-total	120.8	121.4	0.6	0
Sources of Finance	120.8	121.8	1.0	1.0

Revenue Over/Under spend	0	0.4		
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- 3.5 At this summary level the outturn for the council in 2022/23 was broadly in line with the in-year monitoring, particularly the last forecast made at Quarter 3. Variances across services were fairly small, with increasing pressures on Temporary Accommodation accounting for the movement in Adult Services. The slightly improved position is primarily down to an increase in 'Sources of Funding' and the levels of NNDR income received on cash balances being greater than the levels forecast, due to interest rate increases.
- 3.6 The Council recognises that this has offset several overspends during the year, which are being managed to ensure a balanced budget and outturn position in 2023/24.
- 3.8 The cost of service delivery has continued to increase within Torbay and, like most Councils, significant increases have also been seen in the prices of services from third parties, such as children's and adult placements, transport, housing etc.
- 3.9 The continuous improvement journey within Children's Services remains crucial to the Council's medium term financial stability and will be required to mitigate national issues around increasing demand as well as increasing prices.
- 3.10 Our integrated Adult Social Care arrangements with Health continue to provide fair value for Torbay. However, the contract has increased in price for the 2-year extension and further work is planned to agree a longer-term sustainable partnership.
- 3.11 Funds carried forward from 21/22 and held in specific reserves have been deployed effectively to support the reduction of long-term costs, as well as providing a pathway to deliver on the approved 2023/24 budget and help address the budget gap in the Medium-Term Finance Plan.

4. Collection Fund

- 4.1. The establishment of the Collection Fund reserve formed part of the Budget 2022/23 to meet the future impact of carrying forward the shortfall from 2021/22.
- 4.2 Performance in 2022/23 was in line with forecast collection levels, namely a 1% reduction on pre Covid-19 collection rates. The impact of the rising cost of living, inflation and utility prices forms the majority of the reason for this reduction of collection rates in 2022/23. We will continue to explore opportunities to increase our overall collection rates moving forwards.
- 4.3 Revised NNDR bills incorporating the new 2022/23 reliefs were issued at the start of the year. The Covid-19 Additional Relief Fund also provided rate relief to businesses that had not qualified for the other mandatory rate relief schemes in 2022/23.

5. Wholly Owned Companies

- 5.1. This section contains an overview of the financial position for the Council's wholly owned companies.
- 5.2. SWISCo. continues to experience financial pressure in terms of operational delivery, mainly due to inflation related higher material and fuel costs and a decrease in the value and therefore income of recyclable materials. The pay award of a fixed £1,925 per full time employee has had a disproportionate percentage impact on SWISCo given the higher proportion of staff below average salary rates. As a result, as per the agreement at the beginning of the year, the Council provided an additional £0.565m of funding specifically to meet the shortfall in the pay award. Despite the additional pressures, the generation of external revenue sources and ongoing efficiency improvements produced a final 2022/23 position of £0.022m surplus.
- 5.3. The TDA Group profit and loss reported an unaudited net surplus of £0.485m for 2022/23, which included a reported loss in the subsidiary company, TorVista Homes of (£0.371m).
- 5.4. TorVista Homes has now accumulated a deficit in the TDA group accounts to March 2023 of £0.791m. Based on the forecast trading performance, a request to extend TorVista Homes' working capital loan facility from £1.0m to £1.5m was approved on 13 October 2022 at Full Council. The losses in TorVista Homes are not unexpected until such times as the number of properties it manages increases to the levels within its business plan.
- 5.5. More detailed financial reporting about the Council's wholly owned Companies will form part of the final statement of accounts when presented to Audit Committee.

6. Statement of Accounts – 2020/21 and 2021/22

- 6.1. The Council's Statement of Accounts for 20/21 were only signed off by Grant Thornton in April 2023, despite their findings being presented to Audit Committee in Dec 2021.
- 6.2. The Council's Statement of Accounts for 21/22 remain unaudited by Grant Thornton and not signed off by the Government's Statutory deadline. This is a national audit issue, partly due to lack of capacity in the market.
- 6.3. The protracted statement of accounts process has put significant pressure on the finance team, who continue to work concurrently on multiple financial years.
- 6.4. This has had an impact on preparation of the 2022/23 accounts and a number of Councils, including Torbay, were unable to publish their unaudited accounts for public inspection by 31 May. A notice was published on the Torbay website explaining the delay.

7. Service Budgets

Adult Services

Service	Budget £'000	Final Outturn £'000	Variance £'000	Movement since Q3
Adult Social Care	43.4	43.2	0.2	0
Community and Customer Services	2.2	3.2	1.0	0.6
Total	45.6	46.4	0.8	0.6

- 7.1 Overall Adults Services overspent by £0.8m, mainly due to increasing costs in the provision of temporary accommodation to individuals and families.
- 7.2 Within Adult Social Care the majority of spend is against a fixed price financial arrangement (contract) for the delivery of services provided by the Integrated Care Organisation (ICO). Currently due to these financial arrangements with the ICO there is no impact on the Council budget, despite the increasing pressures within the sector. Members should however be aware of the financial position of this key partner, delivering a statutory council service.
- 7.3 The current financial arrangement with the ICO has been “renewed” for two years from April 2023 - at an increased price to better reflect the cost of care and the current levels of demand. Collaborative work is underway between Council & NHS colleagues on the Adult Social Care Improvement Plan (ASCIP) to manage these pressures. however there remains significant pressures within the Adult Social Care system.
- 7.4 Within Community Services there was an overspend of £1m, mainly due to cost pressures within Temporary Housing. There remains considerable demand pressure in the local housing market and lack of affordable accommodation, which continues to increase with the 'cost of living' crisis. The number of people at risk of homelessness continues to rise, currently associated with loss of accommodation in the private rented sector, but a changing picture related to mortgage repossession is likely to emerge. The low availability of temporary options for individuals and family groups in need of temporary accommodation (TA) is currently resulting in cost increases and likely pressures into 2023/24 as the lack of affordable move on accommodation for households is difficult to obtain. At the end of Q4 there were 166 households in TA being accommodated.
- 7.5 Work is underway on directly procuring and leasing property to increase the stability and cost of accommodation options available to the Housing Options team. This stability will allow more work to be done to prevent homelessness and support households to find more permanent housing. Of the 36 homes planned to be purchased, a total of 21 homes have now been acquired, with a further 11 having offers accepted. This will ensure a more traditional 'home' setting for individuals currently in Temporary Accommodation which is predominantly spot purchased B&B type accommodation.
- 7.6 There was also an overspend of £140k on Licencing, due to a combination of income shortfalls and additional agency costs.
- 7.7 Within Customer Services additional staff costs to support administration of several key grant schemes (in addition to the usual support and advice provided by the service) were offset by

additional income from Household Support Fund. Implementation of the Council’s Customer Relationship Management (CRM), system is expected to see more self-service options available for customers, which will help to streamline process in the future.

Children’s Services

Service	Budget £'000	Final Outturn £'000	Variance £'000	Movement since Q3
Safeguarding Services	43.2	44.6	1.4	(0.5)
School Services	2.7	3.2	0.6	0.2
TOTAL	45.9	47.8	2.0	(0.3)

- 7.8 Overall Children’s Services overspent by circa £2m.
- 7.9 Within Children’s Safeguarding there is a net overspend of £1.376m, despite the continued oversight, challenge and support from colleagues within this area. Driving this forecast are high placement costs, that can average £20k – £25k per week. This serves as a reminder of the significance of the need for continued and rigorous whole Council support for this service given the financial impact of these placements.
- 7.10 Across the southwest Councils are seeing increased numbers of Cared for Children, reliance on agency staff and number of children and young people placed out of area. There are significant shortages of suitable placements available, meaning children & young people are unable to step down from residential to family-based settings such as fostering placements. This increased pressure is also driving up overall costs within the market. The legislation on unregulated placements changed in September 2022 and will result in further pressure on this budget into 2023/24.
- 7.11 Agency costs have been a significant financial pressure in recent years, but following successful recruitment and retention within the service, the total agency costs were at £2.3m this year compared with spend in 2021/22 of £4.9m. This demonstrates that Torbay Council has achieved significant improvements to influence spend where it can, including investment in newly qualified social workers. We are now seeing significantly increased salary expectations within the agency market and stiff competition from other Councils that are offering increased hourly rates to stabilise their own workforces.
- 7.12 Within Schools Services, Local Authority funded activities reported an overspend, mainly due to pressures within the provision of Home to School transport, with increasing fuel costs for transport providers as well as children and young people needing more bespoke arrangements to get to and from school.
- 7.13 The Nest nursery has been closed since Aug 22, and there is a potential overspend of £100k within 2023/34.
- 7.14. PFI costs for Homelands Primary & The Spires College continue until 2027/28, with an unfunded pressure each year estimated at £600k. It is intended that this, time limited,

pressure is funded through a comprehensive review of Torbay Council reserves which will be reported back in the next reporting cycle.

- 7.15 Outside of Local Authority funded activities, the schools' higher needs block in the Dedicated Schools Grant (DSG) remains under financial pressure because of the level of referrals from schools for higher needs support for children. The pace of demand over recent years has been outstripping increases in dedicated funding.
- 7.16 For 2022/23 the DSG overspent by £2.732m, increasing the DSG cumulative deficit to £11.731m. Until the end of 2025/26 additional legislation has been passed that, for accounting purposes, reclassifies the deficit on the Council's balance sheet.
- 7.17 The Council is part of the Education and Skills Funding Agency (ESFA) and Department for Education (DfE) Safety Valve programme, which supports councils in achieving future financial sustainability in this area - with a write off by Government of the cumulative DSG deficit. If the council can deliver on its recovery plan and achieve a balanced higher needs budget, all of the historic deficit will be written off, through additional funding by ESFA. Torbay Council has already received £5.160m from the ESFA in response to its recovery plan. It is of importance to the Council's future budget position that the Council delivers its recovery plan.

Corporate Services & Executive

Service	Budget £'000	Final Outturn £'000	Variance £'000	Movement since Q3
Executive Support	3.3	3.6	0.3	0
Corporate Services	7.2	7.9	0.7	(0.1)
Total	10.5	11.5	1.0	(0.1)

- 7.18 The Executive Support unit shows an overspend of £0.3m due to continued income shortfalls in traded services such as Human Resources which also have overspends on staffing costs.
- 7.19 Within Corporate Services there is an overspend of £0.7m. This is caused by significant continuing pressures within Legal Services from both challenges to recruit and retain suitably qualified staff and also reduced fee-earning work. Other pressures include increased IT spend on cyber security and historical pressured of the print service, which has since started a new service delivery model. The Divisional Director for Corporate Services is working closely with the Head of Legal to mitigate the ongoing impact of these pressures in 2023/24.

Finance

Service	Budget £'000	Final Outturn £'000	Outturn Variance £'000	Movement since Q3
Finance	(8.3)	(12.3)	(4.0)	(0.3)

- 7.20 Within Finance (including Central Government Grants), there is an underspend forecast as a result of the following:
- 7.21 Significantly increased interest rates in the second half of the financial year, the Council received additional interest on its cash balances and investments. In addition, given the current levels of spend on Capital projects, there is also a saving on interest payable as the Council has not had to borrow in 2022/23.
- 7.22 There is a £0.4m gainshare declared from the arrangements within the Devon-wide Business Rates Pool.
- 7.23 Improved NNDR income as a result of Business Rate relief & resultant Section 31 Grants enabled the release of £0.6m further NNDR income.

Investment Portfolio

Service	Budget £'000	Final Outturn £'000	Outturn Variance £'000	Movement since Q3
Investment Portfolio	(4.6)	(4.6)	0	0

- 7.24 The Council's Investment Portfolio reported a net revenue contribution, after the use of the investment property reserve to cover lost rent, holding costs of vacant premises and landlord' works.
- 7.25 This means the Council's investment portfolio has contributed £4.6m towards Council activity and has maintained its Investment Fund Reserve which will help offset future pressures as and when they arise.
- 7.26 Any tenants with arrears are actively engaging with colleagues in TDA and repayment plans have been agreed and adhered to throughout the 2022/23 year.

Place

Service	Budget £'000	Final Outturn £'000	Variance £'000	Movement since Q3
Place Operations	13.1	13.9	0.8	0.2
Place Commissioned	3.3	4.3	1.0	(0.2)
Planning & Transport	5.2	4.3	(0.9)	(0.3)
Total	21.6	22.5	0.90	(0.3)

- 7.27 Within the Place directorate there is a £0.90m overspend, due to a combination of factors that include the following:
- 7.28 Place Operations has a net cost pressure of £0.8m.

- a. Within Torre Abbey income, there was a £0.2m shortfall as a result of visitor numbers being lower than anticipated.
- b. Additional support for Torbay Coast and Countryside Trust has been provided totalling £0.3m, to support the Trust with spend pressures.
- c. Net overspend on Highways of £0.25m, due mainly to increased energy costs for Streetlighting and Traffic signals.
- d. Additional financial support was made available to SWISCo of £0.6m. This was a result of services being affected by the financial implication of the 22/23 pay award.
- e. The pressures within Place Operations are partially offset by a £0.5m underspend within Parking Services and £0.1m underspend for Resort Services.

7.29 Place Commissioned services overspent by £1m, mainly due to increased utility and other property related costs totalling £0.6m. Contract fees were £0.2m over budget, partially impacted by rising costs due to increased commissioned work and inflationary uplifts.

7.30 Within Planning and Transport there was a net underspend of £0.9m, due mainly to reduced costs for Concessionary Fares (£1.1m). This is in part contributed to by fewer journeys being taken by concessionary fare passengers after the pandemic. Overspends across Development Control of £0.2m were as a result of falling income, from the current economic climate.

Public Health

Service	Budget £'000	Final Outturn £'000	Outturn Variance £'000	Movement since Q3
Public Health	10.1	10.1	0	0

7.31 Overall Public Health is reporting a balanced position within its ring-fenced grant. There was an underspend of £517k in 2022/23, which will be carried forward to continue to fund Public Health priorities in future years.

7.32 A significant amount of spend relates to the provision of 0-19 services, which is expected to see increased spending pressures in future years, because of inflation and pay awards.

8. One off allocations and ring fenced reserves

8.1 At year end the Chief Finance Officer transferred unspent “one off” budget allocations to reserves to be spent in future years. In addition, funds unspent from other earmarked or ring-fenced funding streams were also carry forward such as funds held for Adult Social Care and Public Health.

- 8.2 The net 2022/23 underspend across the council enables the £0.4m out-turn surplus to be transferred to reserves to support future budget pressures. It is proposed that this is moved into a specific earmarked Capital Reserve which will assist the Council in the re-prioritisation, and ultimate delivery, of the Capital Investment Programme. Revenue costs will be required to continue with design and feasibility work for specific schemes alongside bolstering capacity, and skills, in project delivery.
- 8.3 The Section 151 Officer presented an update report on Reserves to Council, in March 2023, as part of the 2023/24 budget setting papers. These Reserves will be reviewed in more detail over the coming months and be reported back to Committee through budget monitoring ultimately feeding into the budget setting process for 2024/25.

9. Capital Outturn 2022/23

- 9.1. In 2022/23 the Council spent £33m on capital projects, compared with a revised budget of £44m. This spend is part of a wider 4-year capital programme totalling £305m. The Capital Plan is funded from capital receipts, capital grants and contributions, reserves and revenue budget contributions, and long-term borrowing to ensure a balanced budget over the life of the Plan.
- 9.2. The spend for each project compared to the last reported budget is shown in Appendix 1 to this report.
- 9.3. There were over 30 separate projects that incurred spend over £100k This demonstrates the breadth and scale of projects a unitary council like Torbay is involved with, over a wide range of services including highways, schools, housing and regeneration. Nine projects incurred spend greater than £1m, with the largest spend of £4.1m relating to the purchase of housing to relieve the pressures in Temporary Accommodation.
- 9.4. The level of cost inflation on construction contracts is significant - as high as 100% increase in some areas. This pressure combined with a significant increase in the costs of future borrowing will require original business cases for capital projects to be reassessed to ensure financial viability.
- 9.5. These re-assessments, along with supply chain issues have impacted on the “pace” of spend and capital expenditure in the year was less than originally forecast. The balance on unspent capital budgets will be transferred into future years. The additional ongoing revenue costs relating to these projects have also been included within the 2023/24 budget.
- 9.6. In 2022/23 the Council established a capital contingency fund, that was increased to £12m to enable four capital projects to proceed - Harbour View, Edginswell enabling works, Edginswell retail unit and Lyminster Road.
- 9.7. The funding of the capital spend on 2022/23 was in line with forecasts - primarily funded from capital grants (£18m) and from unsupported borrowing (£14m). These were supplemented by capital receipts, external contributions such as s106 payments and the use of reserves.

- 9.8 The Council, due to its cash flow did not borrow any additional funds during the year and remained within both its operational and authorised (borrowing) limits. Further detail will be included within a separate Treasury Management outturn report to Audit Committee.
- 9.9 **The Capital and Growth Board have recently approved the use of Section 106 monies to deliver a new sports pavilion, with changing rooms and a social area at Torre Valley North (TVN - a priority within the Torbay Playing Pitch Strategy. The robust modular unit will encompass the needs of differing sports clubs including athletics, cricket and rugby, as well as being vandal tolerant. Project costs are estimated at £425k, funded primarily from S106 monies, as well as other strands including contributions from Paignton CC and Torbay Athletics Club. It is proposed that this project is added to the current Capital Programme.**

10. Risks & Sensitivity

10.1. There are a number of financial risks facing the Council as shown below:

Risk	Impact	Mitigation
Financial sustainability and write off of the DSG Deficit	High	The Council has a recovery plan approved with the Department for Education's Safety Valve programme.
Adult Social Care funding is not sufficient to meet forecast costs	High	The Director of Adult Social Care is developing a range of intervention activity and savings plans, in collaboration with Health Trust colleagues
High inflation rates have major impact on both revenue and capital costs.	High	The 23/24 budget includes a higher than usual allowance for inflationary pressures, with contingencies also held for revenue and capital.
The "cost of living" economic impact on the Council's residents from higher fuel and utility costs is likely to impact on both demand for council services and may result in reduced income from council tax.	High	The Council will continue to mitigate where possible the impact on council services and support/signpost residents to support. The council will continue to administer payments under both the Household Support Fund and Council tax Rebates.

Collection Fund shortfall	High	Additional resources allocated to support the Revenues & Benefits team and a review of debt recovery will be undertaken.
Unable to recruit staff and need to use agency staff.	High	Work continues to identify solutions to these challenges which seem to be on a national scale. Recruitment & retention of Social Work staff, particularly in safeguarding is still one of the core priorities for the Senior management team within Children's Services.
Delivery of Children's Services cost reduction plan	High	Meetings continue to monitor the current rate of delivery against the identified actions from the Sufficiency Strategy.
Investment Property Income changes	High	The Investment Board will continue to review future leases and manage any potential break clause implications – maintaining appropriate balances within the Investment Reserve
Temporary Accommodation – increasing demand and cost pressures within the local housing market.	High	Work is underway on directly procuring and leasing property to increase the stability of accommodation options available to the Housing Options team

11. Appendices.

11.1. Appendix 1 – Capital Plan Summary – Outturn position for 2022/23

CAPITAL PLAN - OUTTURN 2022/23 - EXPENDITURE

Appendix 1

			Revised 4-year Plan						
	Latest Total Estimated Scheme Cost	Expend in Prev Years (active schemes only)	Total 2022/23 Revised	Outturn 2022/23	Slippage to c/f to 23/24	2023/24	2024/25	2025/26	Total for Plan Period
PB = Approved Prudential Borrowing schemes	£'000	£'000	£'000			£'000	£'000	£'000	£'000
Thriving People and Communities									
Capital Repairs & Maintenance 2020/21 & 2021/22	1,045	446	499	323	176	100			276
Capital Repairs & Maintenance 2022/23	377	0	177	0	177	200			377
Schools capital from revenue			212	212	0				0
Devolved Formula Capital			400	163	237				237
Education Review Projects			700	46	650	1,461			2,111
High Needs Capital Provision	530	27	503	330	173				173
High Needs Capital Provision	2,920	0	270	0	270	2,650			2,920
Mayfield Expansion	1,575	605	970	929	41				41
Medical Tuition Service - relocation	601	569	32	19	13				13
Pgn CS Academy Expansion	1,737	1,735	2	0	2				2
Roselands Primary - additional classroom	600	489	111	64	47				47
Special Provision Fund (SEND)	599	550	49	2	47				47
St Cuthbert Mayne Expansion	5,680	3,148	2,532	1,801	731				731
St Cuthbert Mayne Phase 2	1,000	0	250	34	216	750			966
Torbay School Relocation (Expansion Burton Acad H	1,267	1,262	0	5	0				0
Foster Homes Adaptations	300	5	195	46	149	100			249
Acorn Centre (Youth Investment Fund)	528	0	0	0	0	264	264		528
Adult Social Care			754	0	754	895			1,649
PB Crossways, Paignton - Regen and Extra Care Hsg	25,378	478	2,500	1,786	714	5,000	17,400		23,114
Extra Care Housing (Torre Marine)	4,115	1,415	547	0	547	2,153			2,700
Changing Places Toilets	180	0	0	0	0	180			180
Disabled Facilities Grants			700	849	(149)	1,295			1,146

	Affordable Housing	1,300	243	0	0	529	528		1,057
									0
PB	Tor Vista Homes re Preston Down Road	23,000	0	0	0	0	23,000		23,000
	St Kilda's, Brixham - Affordable Housing	338		0	0	338			338
PB	Temporary Accomodation	10,000	0	5,000	4,121	879	5,000		5,879
		83,070	10,972	16,403	10,730	5,674	20,915	41,192	0
Thriving Economy									
PB	Claylands Redevelopment	11,150	10,697	453	51	402			402
	DfT Better Bus Areas	1,336	1,225	39	111	0			0
PB	Edginswell Business Park Site 3	0	23	0	(23)	0	0		0
PB	Edginswell Business Park Unit 1	6,927	203	1,000	1,997	(997)	5,724		4,727
	Edginswell Station	12,395	33	1,000	580	420	5,000	6,262	100
PB	South Devon Highway - Council contribution	20,882	20,058	824	824	0			0
PB	TEDC Capital Loans/Grant	4,040	3,465	0		0	0	575	575
	Transport Highways Structural Maintenance			1,770	1,663	107	2,038	1,820	3,965
	Transport Integrated Transport Schemes			500	405	23	1,147	1,071	2,241
	Transport - Torquay Gateway Road Improvements	3,485	3,405	60	45	15	20		35
	Transport - Western Corridor	12,292	11,668	119	14	105	250	255	610
									0
	Babbacombe Beach Road	529	439	59	0	59	31		90
	Brixham Harbour - CCTV upgrade	86	79	7		7			7
	Brixham Harbour - Infrastructure Repairs	214	164	50		50			50
	Safer and Stronger Communities (Safer Streets)	354	0	354	354	0			0
	Clennon Valley Sport Improvements	69	32	37	0	37			37

	Flood Alleviation - Cockington	328	198	130	103	27			27	
	Flood Alleviation - Monksbridge	412	61	56	25	31	295		326	
	Paignton Coastal Defence Scheme	3,143	215	100	23	77	150	1,451	1,227	2,905
	Torquay Flood Alleviation	50	0	30	4	26	20			46
	Haldon & Princess Pier	95	0	45	7	38	50			88
	Paignton Flood Alleviation	60	0	20	10	10	40			50
	Brixham Flood Alleviation	45	0	20	10	10	25			35
	Princess Pier - Structural repair	1,665	818	15	0	15	60	540	232	847
PB	Torquay Town Dock - Infrastructure Improvements	1,201	264	726	477	249	211			460
	Harbour Patrol Boat	65	0	65	0	65				65
PB	Car Park Investment	1,000	0	500	54	446	500			946
PB	RICC Improvements - Backlog Repairs	1,250	401	849	534	315	0			315
	Pgn Velopark Cyclocross & Pump Tracks	61	3	58	57	1				1
	Torre Valley Sports Pavilion	57	28	29	3	26				26
	Torre Valley North Sports Facilities	425					425			425
	Park Tennis Renovation	504		0	0	0	504			504
PB	Regeneration Programme-Harbour View Hotel Devel	20,709	7,679	4,430	2,766	1,664	8,600			10,264
PB	Old Toll House (Econ Growth Fund)	1,200	186	10	5	5	0	1,004		1,009
	Torquay Towns Fund - Accelerated Funds	787	767	20	5	15				15
	Torquay Towns Fund (General)	157	87	18	(87)	105	52			157
	Torquay Town Deal - Union Square Ph.1	5,050	0	4,000	3,957	43	1,050			1,093
	Torquay Town Deal - Strand Land Assembly & Demol	231	18	213	143	70				70
	Torquay Town Deal - Harbour Public Realm	2,506	92	600	495	105	1,814			1,919
	Torquay Town Deal - Pavilion	2,000	0	700	57	643	1,300			1,943
	Torquay Town Deal - Union Square Ph.2	5,993	0	0	0	0	5,993			5,993
	Torquay Town Deal - Core Area Public Realm	600	2	0	58	(58)	598			540

Tackling Climate Change										
PB	Solar Farm, Brokenbury (EGF)	1,763	143	0	49	(49)	1,620		1,571	
PB	Solar Farm, Nightingale Park (EGF)	3,048	133	0	252	(252)	2,915		2,663	
PB	Climate Change Initiatives	1,000	0	250	0	250	250	250	1,000	
	Torbay Leisure Centre - Decarbonisation Scheme	1,850	1,774	76	76	0			0	
PB	Green Waste Bins	929	0	310	201	109	619		728	
		8,590	2,050	636	578	58	5,404	250	250	5,962
A Council fit for the future										
PB	Corporate IT Developments	1,967	1,896	71	71	0			0	
PB	Essential Capital repair works	876	201	675	598	77			77	
	Enhancement of Development sites	329	137	67	0	67	65	60	192	
	General Capital Contingency	632	0	0	0	0	632		632	
PB	Capital Contingency	600	0	0	0	0	600	0	600	
		4,404	2,234	813	669	144	1,297	60	0	1,501
Council Borrowing Approvals awaiting proposals										
PB	Torre Abbey Renovation - Phase 3 (TC contrib)	1,208	0	0		0	208	500	500	1,208
PB	Regeneration Programme and Economic Growth Fur	87,146	0	(1)	0	(12)	0	87,157		87,146
PB	Housing Rental Company - Loan	25,000	2,267	1,000	500	500	0	21,733		22,233
		113,354	2,267	1,000	500	489	208	109,390	500	110,587
TOTALS		373,837	81,431	44,459	32,995	11,464	87,974	172,351	2,309	274,098

CAPITAL PLAN - OUTTURN 2022/23 - FUNDING

Unsupported Borrowing	17,228	13,923	3,305	38,346	152,002	750	194,403
Grants	24,158	17,922	6,236	46,053	14,480	1,327	68,096
Contributions	858	219	639	1,062	222		1,923
Revenue	1,074	716	358	1,035			1,393
Reserves	434	46	388	385	34		807
Capital Receipts	707	169	538	1,093	5,613	232	7,476
Total	44,459	32,995	11,464	87,974	172,351	2,309	274,098

Meeting: Council

Date: 20 July 2023

Wards affected: All Wards

Report Title: Constitution Amendments – Various

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

Cabinet Member Contact Details: Councillor Tyerman, Cabinet Member for Finance and Corporate Services, alan.tyerman@torbay.gov.uk

Lead Officer Contact Details: Amanda Barlow, Monitoring Officer, amanda.barlow@torbay.gov.uk

1. Purpose of Report

- 1.1 This report sets out sets out a number of operational amendments to the Council's Constitution which have been requested by the new Administration.

2. Reason for Proposal and its benefits

- 2.1 The proposals in this report ensures that the following sections of the Constitution are up to date and fit for purpose:
- Article 11 – Decision Making
 - Article 13 – Review and Revision of the Constitution
 - Standing Orders in relation to Council Meetings
 - Local Protocol on Leader of the Council and Political Group Relations

3. Recommendation(s) / Proposed Decision

1. That Council approves the following revised Constitution documents, as set out in Appendices 1 to 4 to this report:
- Appendix 1 - Article 11 – Decision Making
 - Appendix 2 - Article 13 – Review and Revision of the Constitution
 - Appendix 3 - Standing Orders in relation to Council Meetings

- Appendix 4 - Local Protocol on Leader of the Council and Political Group Relations

Appendices

Appendix 1 - Article 11 – Decision Making

Appendix 2 - Article 13 – Review and Revision of the Constitution

Appendix 3 - Standing Orders in relation to Council Meetings

Appendix 4 - Local Protocol on Leader of the Council and Political Group Relations

Background Documents

[Future Approach to Constitution Amendments.pdf \(torbay.gov.uk\)](https://www.torbay.gov.uk/Future%20Approach%20to%20Constitution%20Amendments.pdf)

Supporting Information

1. Introduction

- 1.1 At the meeting of Council held on 13 October 2022 (minute 45/10/22 refers), the Council approved amendments to Article 13 of the Constitution, requiring amendments other than those required by law or minor amendments (which are signed off by the Monitoring Officer) to be approved by the Council, following circulation to all Councillors and discussion with Group Leaders. There has been a change in Administration, following the Local Government Elections in May 2023. The new Administration wish to revert back to the previous arrangement which permits under delegated authority, the Monitoring Officer to also make other changes to the Constitution that he/she believes are in the best interests of the Council and/or local people, in consultation with Group Leaders, with an escalation provision to report matters to full Council for a decision. The proposed amendment is set out in Appendix 2.
- 1.2 It is proposed to reduce the key decision threshold in respect of redundancies/changes in terms and conditions for employees from 100 to 25 to give a more realistic threshold, as set out in Appendix 1.
- 1.3 The following amendments are proposed to the Standing Orders in relation to Council Meetings, as set out in Appendix 3:
 - Clarity that the Annual Meeting of the Council will not receive petitions and questions from the public or members.

- Defining the scope of Notice of Motions so that they cover matters which the Council has responsibility or direct ability to influence and/or control.
- Updating the current Petition Scheme to mirror the United Kingdom's Parliament and Government petition rules, as to circumstances when the Council will not accept petitions.

1.4 To reflect current practice, it is proposed that the Local Protocol - Relations between the Leader of the Council and Political Groups be amended to require attendance at the Local Government Association Conference. Namely, the three Councillors appointed by the Council to be on the Local Government Association General Assembly, shall attend Conference (see Appendix 4).

2. Options under consideration

2.1 To leave the current sections of the Constitution in place. However, the revised sections do not reflect the intended operational practice, following the Local Government Elections in May 2023.

3. Financial Opportunities and Implications

3.1 None

4. Legal Implications

4.1 None

5. Engagement and Consultation

5.1 The revised sections of the Constitution have been circulated to all Councillors and discussed with Group Leaders and their suggestions have been incorporated into the final version, in accordance with the current Article 13 of the Constitution.

6. Purchasing or Hiring of Goods and/or Services

6.1 Not applicable

7. Tackling Climate Change

7.1 Not applicable.

8. Associated Risks

8.1 None

9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			There is no differential impact.
People with caring Responsibilities			There is no differential impact.
People with a disability			There is no differential impact.
Women or men			There is no differential impact.
People who are black or from a minority ethnic background (BME) (Please note Gypsies / Roma are within this community)			There is no differential impact.
Religion or belief (including lack of belief)			There is no differential impact.
People who are lesbian, gay or bisexual			There is no differential impact.
People who are transgendered			There is no differential impact.
People who are in a marriage or civil partnership			There is no differential impact.
Women who are pregnant / on maternity leave			There is no differential impact.
Socio-economic impacts (Including impact on child poverty issues and deprivation)			There is no differential impact.
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			There is no differential impact.

10. Cumulative Council Impact

10.1 None

11. Cumulative Community Impacts

11.1 None

11.01 Responsibility for decision-making

The Council will issue and keep up to date a record of which part of the Council or which individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

11.02 Principles of decision-making

All decisions by the Leader of the Council, individual members, officers and of decision-making bodies and recommendations of all Council bodies (including working parties) will be made in accordance with the following principles:

- (i) Decision makers will consider any suggested and reasonable alternatives and, wherever reasonably possible, provide the public the opportunity to make representations.
- (ii) Decision makers must understand the legal requirements regarding the decision-making power and observe them.
- (iii) Decision makers will take into account all relevant matters, both general and particular, and ignore irrelevant matters.
- (iv) Decision makers will act for a proper purpose and for the public good.
- (v) Decision makers will observe the rules relating to local government finance.
- (vi) Decision makers will act with procedural propriety and in accordance with the rules of fairness and natural justice.
- (vii) Decision makers will ensure they are properly authorised to take decisions.
- (viii) Decision makers will act in accordance with the European Convention on Human Rights.
- (ix) Decision makers will be responsible for their decision and be prepared to account for them to councillors and the public.
- (x) Decision makers will have regard to the Code of Conduct and relevant protocols as set out in this Constitution.
- (xi) Decision makers will have regard to officer professional advice.

Subject to 11.08 below, all meetings will be held in accordance with the appropriate Standing Orders as set out in Part 4 of this Constitution.

11.03 Types of decision

(a) Decisions reserved to the Council

Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.

(b) Key decisions and the content of the Forward Plan

(i) The Regulations define a key decision as a decision in relation to an Executive function which is likely to:

- (1) result in incurring expenditure or making of savings which are significant; or
- (2) be significant in terms of its effects in communities living or working in the area.

A proposed decision shall be regarded as a Key Decision by way of “incurring expenditure or making of savings which are significant” if any one or more of the following apply:

- (1) In the opinion of the Section 151 Officer (Chief Finance Officer), there is likely to be a budget variation (other than one within a Business Unit) of more than £250,000;
- (2) In the opinion of the Chief Finance Officer, it is likely to result in capital expenditure above that provided for in the capital programme and it is likely to involve an additional call on the Council’s internal resources of more than £250,000;
- (3) In the opinion of the relevant Director, the decision is likely to have a material effect on Council services, including where:-
 - an existing service will be reduced by more than 10 per cent or will cease all together;
 - a service which is currently provided in house will be outsourced (or vice versa); or
 - a partnership will be entered with a third party which is likely to involve a material element of risk transfer to the Council;
- (4) The proposal involves the acquisition or disposal of land having a value estimated by the Chief Finance Officer to be likely to exceed £250,000;
- (5) The proposal involves the disposal of a capital asset (other than land) having a value estimated by the Chief Finance Officer to be likely to exceed £250,000;
- (6) Where in the opinion of the Head of Human Resources the proposal is likely to result in compulsory redundancies or major changes to the terms and conditions of employment of ~~25400~~ or more employees across the Council’s functions;

(ii) Decisions taken by the Chief Finance Officer under delegated authority in connection with Treasury Management shall not be regarded as key decisions irrespective of the value of the transactions involved.

(iii) A proposed decision shall be regarded as a Key Decision by way of being “significant in terms of its effects in communities living or working in the area” if the relevant Director or Divisional Director, in consultation with the relevant

Cabinet member, considers that it ought to be included in the Forward Plan having regard to all the circumstances including the following principles:

- (1) A decision may affect a great number of people, or a number of wards, but not significantly and these decisions shall **not** normally be regarded as key;
 - (2) A decision that has a significant impact on communities living or working in only one ward will normally be treated as a key decision e.g. a school closure or the introduction or amendment of traffic calming measures;
 - (3) Where a decision is only likely to have a significant impact on a very small number of people in one ward it will **not** normally be key. But the people affected shall be informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision-making process;
 - (4) Consideration shall be given to the level of public interest in the decision. The higher the level of interest the more appropriate it is that the decision shall be considered to be key.
- (iv) The Forward Plan is published monthly and contains brief details of key decisions that are anticipated to be made.
- (v) The Council will also include in the Forward Plan the following:-
- (1) Any decision that forms part of the development of or a change to the Policy Framework;
 - (2) Any decision that is, in the opinion of the Chief Finance Officer, not in accordance with the Council's Budgetary Framework. This shall include any decision which has financial implications not provided for within the revenue budget, capital programme or under the virement rules;
 - (3) A brief description of any relevant risks associated with all proposed decisions.

Article 13 – Review and Revision of The Constitution

(references: Sections 9MF and 9K, Local Government Act 2000)

13.01 Duty to monitor and review the Constitution

The Council has responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

In order to give advice to Council, the Monitoring Officer will also monitor and review the operation of the Constitution.

It is important for the Monitoring Officer to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order to better achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

- (i) observe meetings of different parts of the member and officer structure;
- (ii) undertake an audit trail of a sample of decisions;
- (iii) record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
- (iv) compare practices within Torbay Council with those in comparable authorities or national examples of best practice.

13.02 Changes to the Constitution

(a) Role of Monitoring Officer

The Monitoring Officer will keep the Constitution under review and is authorised to make changes which are required for technical or legal reasons. The Monitoring Officer is also authorised to make other changes to the Constitution that he/she believes are in the best interests of the Council and/or local people provided they are made in consultation with the Leader of the Council and Group Leaders; if any of them object, the Monitoring Officer will report the matter to Council for decision. The Monitoring Officer is authorised to make changes required by law and to make minor amendments to ensure that the Constitution is kept up to date. Details of changes made by the Monitoring Officer will be circulated to all councillors.

~~(b) Council~~

~~Other than changes made by the Monitoring Officer under paragraph (a) above, all changes to the Constitution will be approved by Council. Prior to their consideration by Council, the proposed changes will be circulated to all councillors and will be discussed with the Leader of the Council and Group Leaders.~~

(b) Changes to the Constitution not affecting Executive arrangements

Changes to the Constitution which, in the opinion of the Monitoring Officer, do not in

any way affect the operation of Executive arrangements (including overview and scrutiny) may be approved by the Monitoring Officer and brought into effect immediately (or at such other time as the Monitoring Officer shall determine) subject to (a) above.

(c) Changes to Executive arrangements

- (i) The Council may draw up proposals for the operation of Executive arrangements (“different Executive arrangements”) which differ from the existing Executive arrangements in any respect.
- (ii) Where the proposed “different Executive arrangements” involve a different form of Executive (i.e. leader and cabinet) the Council must take reasonable steps to consult the Borough’s electors and other interested persons in the area and must hold a referendum (the outcome of which supports the proposed change) before implementing the “different Executive arrangements”. A referendum can not usually be held more than once in any 10 year period.

Standing Orders – Council Meetings

Contents

Standing Order

- A1. Annual Meeting of the Council
- A2. Ordinary meetings
- A3. Extraordinary meetings
- A4. Time, place and arrangement of meetings
- A5. Notice of and summons to meetings
- A6. Opening of Meeting
- A7. Urgent items of business
- A8. Chairman/woman of meeting
- A9. Election of Civic Mayor
- A10. Quorum
- A11. Duration of meeting
- A12. Questions by members
- A13. Notices of Motion
- A14. Motions which may be moved without Notice and/or during debate
- A15. Rules of debate
- A16. State of the Borough Debate
- A17. Previous decisions and motions
- A18. Voting
- A19. Minutes
- A20. Record of attendance
- A21. Exclusion of public
- A22. Representations in respect of planning and licensing applications
- A23. Petitions (please see Appendix 3 for petitions scheme)
- A24. Public Question Time
- A25. Members' conduct

- A26. Disturbance by members of the public
- A27. Use of cameras and tape and video recorders
- A28. Prohibition of smoking, alcohol and drugs at Council meetings
- A29. Suspension and amendment of Standing Orders in relation to Council procedure
- A30. Interpretation
- A31. Application of Standing Orders in relation to Access to Information to meetings of the Council

A1. Annual Meeting of the Council**(This Standing Order may not be suspended)**

- A1.1 In a year when there is an all-Council election, the annual meeting will take place between 8 and 21 days after the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April or May. (Schedule 12 of the Local Government Act 1972)
- A1.2 At the Annual Meeting, the Council will:
- (i) elect a person to preside if the Civic Mayor is not present. (Note: Members of the Cabinet are not permitted to be the Civic Mayor or Deputy Civic Mayor.);
 - (ii) receive apologies for absence;
 - (iii) elect the Civic Mayor for the ensuing Municipal Year. The person nominated as Civic Mayor may not vote for him/herself at the Annual Meeting. (Note: Members of the Cabinet are not permitted to be the Civic Mayor.);
 - (iv) elect the Deputy Civic Mayor for the ensuing Municipal Year. (Note: Members of the Cabinet are not permitted to be the Deputy Civic Mayor.);
 - (v) receive any declarations of interest from the members and officers;
 - (vi) approve the minutes of the last meeting;
 - (vii) receive any announcements from the Leader of the Council (excluding the year of a whole Council election), Civic Mayor and/or the Chief Executive;
 - (viii) in the year of a whole Council election, to elect the Leader of the Council for a four year term and until the Annual Council meeting following the next whole Council election;
 - (viii) appoint the Overview and Scrutiny Co-ordinator and (if any) up to four Overview and Scrutiny Lead Members. (Note: Cabinet members shall not be appointed as the Overview and Scrutiny Co-ordinator or scrutiny lead members);
 - (ix) appoint at least one Overview and Scrutiny Committee, a Health and Wellbeing Board, a Standards Committee and such other committees and working parties as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3 of this Constitution). In appointing those committees the Council will:
 - (a) determine which committees to establish for the Municipal Year;
 - (b) determine the size and terms of reference of those committees;
 - (c) determine the allocation of seats in accordance with the political balance rules;

- (d) request nomination of members to serve on each committee and appoint to these committees in accordance with Standing Order A1.4) below; and
 - (e) elect the Chairmen/women and appoint the Vice-Chairmen/women of those bodies (with the exception of Committees and Sub-Committees which meet on ad-hoc basis and require the election of the Chairman/woman and appointment of Vice-Chairman/woman at each meeting or in the case of an in year vacancy, such appointment shall be made at the next available Council meeting);
 - (x) approve a programme of ordinary meetings of the Council for the 4 year term in the year of a whole Council election;
 - (ix) be informed by the Leader of the Council about the composition of the Cabinet and the names of councillors he/she has chosen to be members of the Cabinet;
 - (x) to receive from the Leader of the Council a record of delegation of executive function in accordance with Standing Order C2;
 - (xiii) agree such part of the scheme of delegation as the Constitution determines it is for the Council to agree (as set out in Part 3 of this Constitution); and
 - (xiv) consider any business set out in the notice convening the meeting.
- A1.3 In the year of a whole Council election, to determine appointments to outside organisations.
- A1.4 The members to serve on each committee, sub-committee, working party and any other body (including outside organisations) may be nominated by the Group Leaders by notice in writing to the Head of Governance Support not later than the day before the Annual Meeting (including by e-mail if verified by the Head of Governance Support) otherwise they must be nominated by the Group Leaders at the Annual Meeting. Once appointed, Group Leaders will notify any changes to appointments in writing to the Head of Governance Support. Members not affiliated to any political group may indicate their preference in relation to places on committees, sub-committee, working parties and other bodies in writing not later than the day before the Annual meeting (including by e-mail if verified by the Head of Governance Support).
- A1.5 The Civic Mayor shall not be a member of any committee, sub-committee or working party.
- [A1.6 The Annual Meeting of the Council will not receive petitions and questions from the public or members.](#)
- A2. Ordinary Meetings**
(A2.2 (ii) to (iv) and (xiii) to apply to Committees and Overview and Scrutiny)
(This Standing Order may not be suspended)
- A2.1 Ordinary meetings of the Council and its committees will take place in accordance with the 4 year programme decided at the Council's Annual Meeting following the all Council election. The Chief Executive in consultation with the

Civic Mayor may amend that programme during each year. In relation to committees the relevant Director, Divisional Director or Head of Service in consultation with the Chairman/woman of that committee may amend that committee's programme during each year.

A2.2 Every ordinary meeting of the Council shall commence with the following items. These items must not be displaced elsewhere in the agenda:

- (i) to elect a person to preside if both the Civic Mayor and Deputy Civic Mayor are not present. (Members of the Cabinet are not permitted to be the Civic Mayor or Deputy Civic Mayor.);
- (ii) to deal with any business required by statute to be dealt with before any other business; and
- (iii) to approve as a correct record the minutes of the last meeting of the Council;

The remaining order of business for the meeting shall be determined by the Civic Mayor and he/she will place those items with significant public interest at the beginning of the meeting. The business of ordinary meetings of the Council shall include:

- (iv) to receive any declarations of interest from members and officers;
- (v) to receive any communications or announcements from the Leader of the Council, the Civic Mayor, the Overview and Scrutiny Co-ordinator or Chief Executive;
- (vi) to receive petitions from the public in accordance with Standing Order A23;
- (vii) to receive questions from the public in relation to matters which, in the opinion of the person presiding at the meeting, are relevant to the business of the Council and in accordance with Standing Order A24;
- (viii) to deal with any business from the last meeting of the Council that was on the agenda, but was not dealt with at the last meeting;
- (ix) to answer any question under Standing Order A12;
- (x) to consider motions in accordance with Standing Order A14;
- (xi) to receive reports from the Cabinet, the Council's committees (including Overview and Scrutiny Bodies) and officers including proposals from the Leader of the Council in relation to the Council's budget and policy framework and receive questions and answers on any of those reports;
- (xii) to receive reports on the business of joint arrangements and external organisations; and
- (xiii) to consider any other business specified in the summons to the meeting.

A3. Extraordinary Meetings (To apply to Committees and Overview and Scrutiny)
(This Standing Order may not be suspended)
(Paragraph 3 of Part 1, Schedule 12 of the Local Government Act 1972)

- A3.1 Those listed below may request the Chief Executive to call Council meetings in addition to ordinary meetings:
- (i) the Council by resolution;
 - (ii) the Civic Mayor;
 - (iii) the Monitoring Officer; and
 - (iv) any five Members of the Council if they have signed a requisition presented to the Civic Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
(Members exercising their rights under this paragraph are to give notice in writing (including by e-mail if verified by the Head of Governance Support) to the Head of Governance Support who will then call the meeting in accordance with the Standing Orders in relation to Access to Information.)

A3.2 An extraordinary meeting shall conduct no business other than that for the purpose of which it was called.

A4. Time, Place and Arrangement of Meetings (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)

A4.1 The time and place of meetings will be determined by the Chief Executive, in consultation with the Civic Mayor, and notified in the summons.

A4.2 Seating arrangements at meetings of the Council shall be determined by the Civic Mayor in consultation with the Leader of the Council and Group Leaders.

A5. Notice of and Summons to Meetings (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)

A5.1 The Chief Executive will give notice to the public of the time and place of any meeting in accordance with the Standing Orders in relation to Access to Information.

A5.2 The Chief Executive will send by electronic means, or in paper form where a member has requested, a summons signed by him/her to every member of the Council.

A5.3 The summons will give the date, time and place of the meeting, specify the business to be transacted and will be accompanied by such reports as are available. However, non-receipt of a summons by any member shall not affect the validity of the meeting.

A6. Opening of Meeting

A6.1 The proceedings of every Council meeting may be preceded by such an address as the Civic Mayor may determine.

A7. Urgent Items of Business

(This Standing Order may not be suspended)
(Paragraph 4(5) of Part 1, Schedule 12 of the Local Government Act 1972)

A7.1 Urgent items of business shall not be dealt with at ordinary or extraordinary meetings of the Council unless notice of the item in question has been included in the summons sent to members under Standing Order A5.2.

A8. Chairman/Woman of Meeting
(This Standing Order may not be suspended)

A8.1 At Meetings of the Council, the Civic Mayor, if present, shall preside and, in his/her absence, the Deputy Civic Mayor, shall preside. In the absence of both the Civic Mayor and Deputy Civic Mayor the Council shall elect a Chairman/woman for that meeting or the meeting shall be adjourned.

A8.2 The person presiding at any Council, committee or sub-committee meeting may exercise any power or duty of the Civic Mayor. (To apply to Committees and Overview and Scrutiny)

A9. Election of Civic Mayor and Deputy Civic Mayor
(This Standing Order may not be suspended)

A9.1 The selection of the Civic Mayor Elect and the Deputy Civic Mayor Elect of the Council shall take place at the penultimate ordinary Council meeting of each Municipal Year at the latest, following the rules of debate set out in Standing Order A15. Where a motion for the Civic Mayor Elect is the current Civic Mayor, the Civic Mayor shall leave the meeting whereupon the Deputy Civic Mayor will take the chair and exercise his/her casting vote where an equality of votes occurs on any motion or amendment. The Council may resolve not to select a Civic Mayor Elect and/or Deputy Mayor Elect in the year of the all-Council elections. In the event that the Council fails to pass a motion to select the Civic Mayor Elect and/or Deputy Civic Mayor Elect the matter must be determined at the following Annual Council meeting.

A10. Quorum
(This Standing Order may not be suspended)

A10.1 The quorum at a meeting of the Council shall one quarter of the whole number of members which equates to nine members, including the person presiding at the meeting.
(Paragraph 6 of Part 1, Schedule 12 of the Local Government Act 1972)

A10.2 During any meeting if the Civic Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Civic Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

A11. Duration of Meeting (To apply to Committees, Cabinet and Overview and Scrutiny)

A11.1 Subject to Standing Order A11.2, unless the majority of members present vote for the meeting to continue, any meeting or adjourned meeting that has lasted for four hours will adjourn immediately. Remaining business will be considered at a time and date to be fixed by the Civic Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

A11.2 Prior to the adjournment of any meeting pursuant to Standing Order A11.1, the Civic Mayor shall invite the Chief Executive, Monitoring Officer and Section 151 Officer (Chief Finance Officer) to indicate whether there is any other business that they believe must be transacted at that meeting. If any such officer indicates that there is any other business that must be transacted at the meeting before it is adjourned, such business must be transacted before any adjournment regardless of the outcome of the vote referred to at paragraph A11.1.

A12. Questions by Members

A12.1 Notices of questions at Council

Subject to Standing Order A12.3, a member of the Council may ask:

- (i) the Civic Mayor;
- (ii) the Leader of the Council;
- (iii) a member of the Cabinet;
- (iv) the Chairman/woman of any committee (including the Overview and Scrutiny Board); or
- (v) a Council representative on an outside organisation

a question on any matter in relation to which the Council has powers or duties or which affects the Borough of Torbay and is relevant to the area or areas of responsibility of the person to whom the question has been asked.

A12.2 Notice of questions

A member may only submit three questions for consideration at each Council Meeting and may only do so if either:

- (i) he/she has given notice in writing (including by e-mail if verified by the Head of Governance Support) of the question to the Head of Governance Support by 4.00 p.m. on the tenth clear working day before the next Council meeting and that question has been accepted; or
- (ii) the Civic Mayor permits the question to be put because of exceptional circumstances and the questioner has given a copy of his/her question to the Head of Governance Support by 4.00 p.m. on the working day prior to the meeting or (if later) as soon as reasonably practicable.

A12.3 The Chief Executive, in consultation with the Civic Mayor, may decline to accept any question if it is in his/her opinion:

- (i) factually inaccurate; or
- (ii) it is identical or materially similar to a question which has received a response within the 12 months preceding the Council meeting; or
- (iii) it is illegal, defamatory, scurrilous, irrelevant or otherwise objectionable; or

- (iv) to respond to the question would require a disproportionate amount of officer time (having regard to any possible benefits such work would deliver) and the question is not of such nature that would require a response if made pursuant to the Freedom of Information Act 2000.

Where a member's question is declined by the Chief Executive, the Chief Executive will provide the reason(s) for this and where possible assist the member to amend the declined question so that it is acceptable.

Following approval of the question, the Head of Governance Support will send a copy of the question(s) to the member to whom it has been put and include the question(s) with the Council agenda.

- A12.4 The Chief Executive (in consultation with the Civic Mayor and group leaders) may defer any question from a Member to a subsequent meeting of the Council where in his/her opinion, having regard to the complexity of the questions and amount of officer time reasonably likely to be required to be spent in researching the matter, it is reasonable to do so.

At the Meeting

- A12.5 At the Council meeting each member will present their first question in turn, when all the first questions have been dealt with the second and third questions may be asked in turn.
- A12.6 The time for members' questions will be limited to a total of 30 minutes. If a member has already commenced a response, the member who asked the question shall have the right to ask his/her supplementary question and receive a response.
- A12.7 Any questions not dealt with after 30 minutes will be deemed withdrawn, the member may resubmit the question as one of their three question to the next Council meeting provided the question is submitted in accordance with Standing Orders A12.1, A12.2 and A12.3.
- A12.8 A member submitting a question under this Standing Order shall attend the Council meeting to present their question. In the absence of the questioner, another member may present the question.
- A12.9 Subject to Standing Order A12.11, questions submitted under this Standing Order shall be put and answered without discussion.

A12.10 Responses

An answer to a question will take the form of:

- (i) a written answer and will be published at least one hour prior to the meeting; or
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication.

An answer to a supplementary question will take the form of a:

- (i) a direct oral answer; or
- (ii) where the desired information is in a publication of the Council or other published work, a reference to that publication.

Where the member to whom the question was asked is either absent and no other member is able to respond, the question will be referred to the next meeting where the member is present. If the member asking the questions wishes a response prior to the next meeting, they may request a written answer from the member concerned. If the member asking the question is absent, the member must seek agreement from the Civic Mayor prior to the Council meeting for another member to present the question on their behalf or the question will be withdrawn.

A12.11 **Supplementary Question**

A member asking a question under this Standing Order may ask one brief supplementary question, with the consent of the Civic Mayor or the person presiding (which shall not be reasonably refused), without notice to the member to whom the question was asked. The supplementary question must arise directly out of the original question or the reply and must not be a statement. A member asking a supplementary question shall have a maximum of one minute to put his/her question at the meeting. The member responding to a supplementary question shall have a maximum of three minutes to put his/her answer to the question.

A13. Notices of Motion

A13.1 **Scope** (This Standing Order may not be suspended)

Motions must be about matters for which the Council has a responsibility or [direct ability to influence and/or control](#)~~which affect the Borough of Torbay~~ and must not include declaratory statements relating to matters wholly outside the ambit of the Council.

A13.2 **Notice**

- (a) Except for motions which can be moved without notice under Standing Order A14, written notice of every motion, signed (or sent by e-mail and verified by the Head of Governance Support) by the proposer and seconder, must be delivered to the Head of Governance Support by 4.00 p.m. on the tenth clear working day before the date of the meeting.
- (b) The Chief Executive (in consultation with the Civic Mayor in respect of Council motions or the Leader of the Council in respect of Executive motions) may decline to accept any notice of a motion if it is in his/her opinion:
 - (i) factually inaccurate; or
 - (ii) it is identical or materially similar to a motion which has been presented to a meeting of Council, the Cabinet or a Council committee within the 12 months preceding the meeting; or

- (iii) it is illegal, defamatory, scurrilous, irrelevant or otherwise objectionable.

Where a member's Notice of Motion may be declined by the Chief Executive, the Chief Executive will provide the reason(s) for this and where possible assist the member to amend the declined Motion so that it is acceptable.

- (c) Motions for which notice has been given and require a council decision will be listed on the agenda in the order in which notice was received, unless the proposer and seconder giving notice state, in writing (including by e-mail if verified by the Head of Governance Support), that they propose to move it to a later meeting or withdraw it. The Civic Mayor may alter the order in which Notices of Motion are taken on the agenda if he/she considers this will facilitate the efficient running of the meeting. Motions which subject matter comes within the province of the Cabinet or any Council Committee will be included on the relevant agenda for those decision-making bodies
- (d) Motions which result in financial implications for the Council must include an outline of such implications together with advice from the Council's Finance Officer (including an officer report where required). Where there is insufficient time to enable a robust assessment of the financial implications the Motion will stand deferred to a subsequent meeting.

A13.3 Procedure

- (a) If the subject matter of any motion comes within the province of the Cabinet or any Council committee, it shall stand referred to the Leader of the Council or committee, as appropriate, without inclusion on the Council agenda. Cabinet matters will be considered and determined by the Leader of the Council at a meeting of Cabinet, or he/she may refer the matter to an individual member of the Cabinet or an officer. Matters referred to a Council committee will be placed on the next available agenda and the Committee will determine whether to request officers to prepare a report on the matter for consideration at a future meeting.
- (b) If the subject matter does not fall within the remit of the Cabinet or a Council committee, the Council may deal with the matter immediately via normal rules of debate.

A13.4 Motions affecting the setting of the Budget (This Standing Order may not be suspended)

Written notice of every proposed amendment (or objection in the case of the first meeting of Council at which the Leader of the Council's proposals will be considered) to a recommendation affecting the setting of the Budget, signed (or sent by e-mail and verified by the Head of Governance Support) by the member (or members), must be delivered to the Head of Governance Support by 4.00 p.m. two clear working days before the commencement of the meeting (including any adjourned meetings) at which the setting of the Budget is to be considered. These will be published on the Council's website, after approval by the Chief Executive, and be open to public inspection. The provisions in A13.2 (b) will apply.

A14. Motions which may be moved without Notice and/or during debate (To apply to Committees, Cabinet and Overview and Scrutiny)

A14.1 The following motions may be moved during the meeting:

- (i) to appoint a Chairman/woman for that meeting at which the motion is moved;
- (ii) in relation to the accuracy of the minutes;
- (iii) to change the order of business in the agenda;
- (iv) to refer something to an appropriate body or individual;
- (v) to appoint a committee or member arising from an item on the summons for the meeting;
- (vi) to receive reports or the adoption of recommendations of the Cabinet (or committees or individual members of the Cabinet), committees, sub-committees, working parties or officers and any resolutions following on from them;
- (vii) to withdraw a motion;
- (viii) to amend a motion;
- (ix) to proceed to the next item of business;
- (x) that the motion/amendment be now put to the vote;
- (xi) to adjourn a debate;
- (xii) to adjourn a meeting;
- (xiii) that the meeting continue beyond four hours in duration;
- (xiv) to suspend a particular Council Standing Order (subject to Standing Order A29);
- (xv) to exclude the public and press in accordance with the Standing Orders in relation to Access to Information;
- (xvi) to not hear further a member or to exclude them from the meeting where that member is behaving improperly or offensively or is deliberately obstructing business;
- (xvii) to give the consent of the Council where its consent is required by this Constitution; and
- (xviii) any motion relating to the use of cameras or the audio or visual recording of the proceedings of the meeting.

A15. Rules of Debate . See flowcharts at appendices 1 and 2

These rules do not apply for the consideration of Planning or Licensing applications. Standing Order 22 below sets out the rules of debate for such applications.

A15.1 No speeches until motion moved and seconded

No speeches may be made after the mover has moved a proposal and explained the purpose of it until the motion has been seconded.

A15.2 Right to require motion or amendment in writing

Unless notice of the motion has already been given, the Civic Mayor may require it to be written down and handed to him/her before it is discussed. The Civic Mayor may also require an amendment to be written down and handed to him/her before it is discussed.

A15.3 Secunder's speech

When seconding a motion or amendment, a member may reserve their speech until later in the debate (note: if a member does reserve their speech until later in the debate and that member wishes to speak later in the debate they must raise their hand/indicate such wish to the Civic Mayor).

A15.4 Content of speeches

A member's speech must relate to the business under discussion or to a personal explanation or point of order.

A15.5 Length of speeches

No speech or response may exceed five minutes without the consent of the Civic Mayor except the opening speeches on the revenue budget by the Leader of the Council and the leaders of each political group at the annual budget setting meeting, which shall not exceed fifteen minutes without the consent of the Civic Mayor.

A15.6 When a member may speak again

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

- (i) to speak once on any amendment;
- (ii) to move a further amendment if the motion has been amended since he/she last spoke;
- (iii) if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);
- (iv) in exercise of a right of reply (under Standing Order A15.10);
- (v) on a point of order (under Standing Order A15.12);
- (vi) by way of personal explanation (under Standing Order A15.13).

A15.7 Amendments to motions

- (a) An amendment to a motion must be reasonably relevant (in the opinion of the Chief Executive) to the motion and must seek to:
 - (i) refer the matter to an appropriate body or individual for consideration or reconsideration;
 - (ii) delete words;
 - (iii) delete words and add other words; or
 - (iv) add words,

and an amendment that otherwise complies with this Standing Order shall be valid even if the direct or indirect consequence of the amendment (if carried) would be to negate the motion (except amendments made at Planning Committee).

Assistance with drafting amendments will be provided by the Head of Governance Support where requested and the Head of Governance Support will involve the relevant officers for their professional advice. Where officer advice is sought in advance on amendments, this advice will be provided in confidence and not shared with any other members unless instructed to do so by the member preparing the amendment. The mover of an amendment prepared in advance of the meeting will confirm with the Head of Governance Support when they wish the amendment to be shared.

- (b) Only one amendment may be moved and discussed at any one time except that the Civic Mayor may permit more than one amendment to be debated at the same time if he/she considers this would facilitate the efficient running of the business and if a majority of members present do not object. No further amendment may be moved until the amendment under discussion has been disposed of. Amendments to motions will be moved at the earliest possible opportunity during the debate.
- (c) If an amendment is not carried, other amendments to the original motion may be moved.
- (d) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which further amendments may be moved. At the end of the debate, the substantive motion will then be put to the vote.
- (e) For the avoidance of doubt no amendment can be made to the motion to set the Council Tax.

A15.8 Amendment of motions by proposer

- (a) A member may request, with the consent of the seconder, to alter a motion of which he/she has given notice. If there is no objection to the request it shall be amended as proposed. If there is an objection, the request to alter the motion shall be put to the vote without debate.

- (b) A member may alter a motion which he/she has moved without notice with the consent of the seconder.
- (c) Only alterations which could be made as an amendment (in accordance with Standing Order A15.7) may be made.

A15.9 Withdrawal of motions

A member may withdraw a motion which he/she has moved with the consent of the seconder. No member may speak on the motion after the mover has asked permission to withdraw it unless the seconder refuses consent to withdraw the motion.

A15.10 Right of reply

- (a) The mover of a motion has a right to reply at the end of the debate on the motion, immediately before it is put to the vote.
- (b) If an amendment is moved, the mover of the amendment has the right of reply before the mover of the original motion. The mover of the original motion then has the right of reply at the close of the debate on the amendment, but may not otherwise speak on it. This Standing Order also applies if the amendment is carried and further amendments are moved.
- (c) The mover of the amendment has no right of reply to the debate on his/her amendment.

A15.11 Procedural Motions which may be moved during debate

When a motion is under debate, the following procedural motions may be moved:

- (i) to proceed to the next business;

If a motion to proceed to the next business is seconded and the Civic Mayor thinks the item has been sufficiently discussed, he/she will give the mover of the original motion a right of reply and then put the procedural motion to the vote.

- (ii) that the motion/amendment be now put to the vote;

If a motion that the motion/amendment be now put to the vote is seconded and the Civic Mayor thinks the item has been sufficiently discussed, he/she will put the procedural motion to the vote. If it is passed he/she will give the mover of the original motion a right of reply before putting his/her motion to the vote.

- (iii) to adjourn a debate;

If a motion to adjourn the debate is seconded and the Civic Mayor thinks the item has not been sufficiently discussed and cannot reasonably be so discussed on that occasion, he/she will put the procedural motion to the vote without giving the mover of the original motion the right of reply. If the motion is carried and no timeframe is explicit the discussion will be resumed at the

next ordinary meeting of the Council and the member who moved its adjournment shall be entitled to speak first. If the motion to adjourn is lost, a second motion for adjournment may be moved during the same meeting and the Civic Mayor thinks a reasonable amount of time has lapsed since the last motion to adjourn.

- (iv) to adjourn a meeting;

If a motion to adjourn the meeting is seconded and the Civic Mayor shall invite the Chief Executive, Monitoring Officer and Chief Finance Officer to indicate whether there is any other business that they believe should be transacted at that meeting (in accordance with Standing Order A11.2) and it shall be put to the vote without debate and without giving the mover of the original motion the right of reply.

- (vii) that the meeting continue beyond four hours in duration;

If a motion that the meeting continue beyond four hours in duration or a motion to adjourn the meeting is moved, the Civic Mayor shall invite the Chief Executive, Monitoring Officer and Chief Finance Officer to indicate whether there is any other business that they believe should be transacted at that meeting (in accordance with Standing Order A11.2) and if the motion is then seconded it shall be put to the vote without debate.

- (viii) to exclude the public and press in accordance with the Standing Orders in relation to Access to Information; and

If a motion to exclude the press and public in accordance with the Standing Orders in relation to Access to Information is seconded, it shall be put to the vote without debate but the Civic Mayor may invite the Chief Executive and/or the Monitoring Officer to advise on the matter.

- (ix) in accordance with Standing Order A25 (members' conduct), to not hear further a member or to exclude them from the meeting.

A15.12 **Point of order**

A member may raise a point of order, subject to first obtaining the consent of the Civic Mayor. The Civic Mayor will determine when they are heard, either immediately or after the member speaking has finished their speech. A point of order may only relate to an alleged breach of these Council Standing Orders, a significant factual inaccuracy or a breach of the law. The member must indicate the Standing Order, the alleged significant factual inaccuracy or the law (and the way in which he/she considers it has been broken, or is inaccurate) before speaking further. The ruling of the Civic Mayor on the matter will be final.

A15.13 **Personal explanation**

A member may make a personal explanation, subject to first obtaining the consent of the Civic Mayor. The Civic Mayor will determine when they are heard,

either immediately or at an appropriate point during the debate. A personal explanation may only relate to some statement by, or material fact relating to, the member which may appear to have been misunderstood in the present debate. The ruling of the Civic Mayor on the admissibility of a personal explanation will be final.

A15.14 **Briefings by Officers**

In exceptional circumstance and with the consent of the Civic Mayor, the Chief Executive may request officers to provide members with a briefing at the Council meeting on agenda items before they are considered by the Council. The Civic Mayor will allow each member a maximum of two questions to the officer presenting. Questions must only relate to factual elements of the matter under discussion and not draw the officer into the debate of the Council.

A16. State of The Borough Debate

A16.1 **Calling of debate**

The Leader of the Council or Civic Mayor may call a State of the Borough debate annually to be held at the first ordinary meeting of the Council after the Annual Council meeting or on such other occasion to be determined by the Civic Mayor in consultation with the Leader of the Council.

A16.2 **Form of debate**

The Leader of the Council in consultation with the Civic Mayor (or the Civic Mayor if calling the debate) may decide the form of the debate with the aim of enabling the widest possible public involvement and publicity. This may include holding workshops and other events prior to or during the State of the Borough debate.

A16.3 **Chairing of debate**

The debate will be chaired by the Civic Mayor.

A16.4 **Results of debate**

The results of the debate will be:

- (i) disseminated as widely as possible within the community and to agencies and organisations in the area; and
- (ii) considered by the Leader of the Council in proposing the budget and policy framework to the Council for the coming year.

A17. Previous Decisions and Motions (To apply to Committees and Overview and Scrutiny)

A17.1 **Motion to rescind a previous decision**

A motion or amendment to rescind a non-Executive decision made at a meeting of Council within the past six months cannot be moved unless:

- (i) the notice of motion is signed by at least the same number of members as would make the meeting quorate; or

- (ii) an amendment is moved at a meeting, which seeks to rescind a previous decision, which is supported by at least the same number of members as would make the meeting quorate to enable the matter to be debated; or
- (iii) the motion or amendment is substantially in accordance with a recommendation contained in an officer report.

No resolution shall be rescinded if, in the opinion of the Monitoring Officer, it would infringe on any third party's legal rights or be likely to result in a finding of maladministration against the Council.

This Standing Order does not apply to a decision that has previously been rescinded.

A17.2 Motion similar to one previously rejected

A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless:

- (i) the notice of motion or amendment is signed by at least the same number of members as would make the meeting quorate; or
- (ii) an amendment moved at a meeting is supported by at least the same number of members as would make the meeting quorate to enable the matter to be debated; or
- (iii) the motion or amendment is substantially in accordance with a recommendation contained in an officer report.

A18. Voting (To apply to Committees, Cabinet and Overview and Scrutiny except A18.5)**A18.1 Majority**
(This Standing Order may not be suspended)

Prior to voting the Civic Mayor will read out the motion or amendment due to be voted upon if he/she considers the debate has been complex and clarity is needed before taking the vote. Unless this Constitution or the law provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the motion was put.

(Schedule 12 of the Local Government Act 1972)

A18.2 Civic Mayor's casting vote
(This Standing Order may not be suspended)

If there are equal numbers of votes for and against, the Civic Mayor (whether or not he/she has voted) will have a casting vote. There will be no restriction on how the Civic Mayor chooses to exercise a casting vote, save that he/she must use his/her casting vote for the election of the Civic Mayor at the Annual Council meeting in the case of an equality of votes.

(Schedule 12 and Section 4 of the Local Government Act 1972)

A18.3 Method of Voting

Unless a recorded vote is demanded under Standing Order A18.4, the Civic Mayor will take the vote by a show of hands or by an appropriate alternative means determined by the Civic Mayor.

A18.4 Recorded vote

If at least the same number of members as would make the meeting quorate demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes.

A18.5 Recorded vote at budget meetings

(This is a mandatory standing order under The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 and may not be suspended)

Recorded votes will be taken on any decision relating to the budget or Council Tax, including any amendments and substantive motions on agreeing the budget, setting, Council Tax or issuing precepts.

A18.6 Right to require individual vote to be recorded

(This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and may not be suspended.)

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting. The member must ensure the Governance Support Officer present at the meeting is made aware of how they voted for the minutes.

A19. Minutes

(This Standing Order may not be suspended)

A19.1 Signing the minutes (To apply to Committees, Cabinet and Overview and Scrutiny)

The Civic Mayor will sign the minutes of the proceedings at the next suitable meeting (Schedule 12 of the Local Government Act 1972/Local Authorities (Standing Orders) Regulations 1993). The Civic Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

A19.2 No requirement to sign minutes of previous meeting at extraordinary meeting

(This is a mandatory standing order under the Local Authorities (Standing Orders) Regulations 1993 and may not be suspended. The language is constrained by that permitted in the regulations.)

Where in relation to any meeting, the next meeting for the purpose of signing the minutes is a meeting called under paragraph 3 of Schedule 12 to the Local Government Act 1972 (an Extraordinary Meeting), then the next following meeting (being a meeting called otherwise than under that paragraph) will be treated as a suitable meeting for the purposes of paragraph 41(1) and (2) of Schedule 12 relating to signing of minutes.

A19.3 Form of minutes (To apply to Committees, Cabinet and Overview and Scrutiny)

Minutes will include all decisions in the form and order they were taken at the meeting.

**A20. Record of Attendance (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)**

A20.1 The Governance Support Officer will make a record of all members present during the whole or part of a meeting before the conclusion of every meeting to assist with the record of attendance. The official attendance record will be held in the minutes of the meeting.
(Schedule 12 of the Local Government Act 1972)

**A21. Exclusion of Public (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)**

A21.1 Members of the public and press may only be excluded either in accordance with the Standing Orders in relation to Access to Information or Standing Order A26 (Disturbance by Public).

A22. Representations In Respect Of Planning and Licensing Applications (To apply to Committees)

A22.1 Members of the public shall be entitled to speak at meetings of the Council, committees or sub-committees during the consideration of:

- (i) any application for approval or consent required under the Town and Country Planning legislation; and
- (ii) any licensing applications that fall outside the Licensing Act 2003.

in accordance with the following provisions and in accordance with Standing Order A24.4 below.

A22.2 Any member of the public or person who is not a member of the Committee who wishes to speak shall notify the Head of Governance Support or his/her representative by 11.00 am on the day of the meeting he/she wishes to speak at or at lesser notice at the discretion of the Civic Mayor.

A22.3 The following procedure shall apply in respect of each item:

- (i) introduction of item by officer;
- (ii) representations by objector(s);

- (iii) Brixham Town Councillors (including as Brixham Peninsula Neighbourhood Forum) (if it relates to a Brixham application or area covered by the Brixham Peninsula Neighbourhood Plan);
 - (iv) representations by Torquay Neighbourhood Forum (if it relates to an application in the area covered by the Torquay Neighbourhood Plan);
 - (v) representations by Paignton Neighbourhood Forum (if it relates to an application in the area covered by the Paignton Neighbourhood Plan);
 - (vi) representations by applicant, agent or supporters;
 - (vii) in exceptional circumstances, the Civic Mayor may permit Members of the Committee to ask for clarification from the registered speakers outlined in (i) to (vi) above immediately following their presentation.
 - (viii) Once all questions have been asked, a motion will be put forward and seconded to open the application for debate, the options for the motion include:
 - 1. Approval (with or without conditions); or
 - 2. Refusal (with reasons); or
 - 3. Deferment for further information or a site visit; or
 - 4. Delegation for determination by an officer or other Committee of the Council.
 - (ix) Members may speak more than once on a motion;
 - (x) During the debate if any further additions (such as reasons for refusal or additional conditions) are suggested to the motion, the Civic Mayor will seek consent of the proposer and seconder for these to be included in the original motion. If consent is not forthcoming, then a further motion can be moved once the motion on the table has been dealt with;
 - (xi) prior to the vote on the motion, the Civic Mayor will confirm the details of the motion, including asking the Planning Officer to clarify if there are any additional technical conditions required or reasons for refusal; and
 - (xii) a vote will be taken on the motion and the Chairman/woman will announce the result of the vote. If the motion fails the Civic Mayor will invite Members to propose an alternative motion which will be subject to debate prior to the vote and following (viii) to (xi) above.
- A22.4 The total time allowed for speeches in respect of each of the following groups of speakers shall not exceed five minutes or such period as the Civic Mayor may allow:
- (a) objectors;
 - (b) applicant, agent or supporters;
 - (c) Brixham Town councillors;

- (d) Torquay Neighbourhood Forum; and
- (e) Paignton Neighbourhood Forum.

- A22.5 Where more than one objector to or supporter of an application wishes to speak, the Civic Mayor may if he/she considers it convenient and conducive to the despatch of business of the meeting require that a spokesperson be appointed to represent the views of the objectors or supporters as the case may be.
- A22.6 The Civic Mayor shall ensure, as far as is practicable, that both objectors and supporters are given the opportunity to speak but an application will not normally be deferred merely because one side is unable or does not wish to be present.
- A22.7 Brixham Town Council (including when acting as Brixham Peninsula Neighbourhood Forum), Torquay Neighbourhood Forum and Paignton Neighbourhood Forum may nominate a representative to speak on a planning application in relation to their respective areas.
- A22.8 The Civic Mayor may:
- (i) suspend the operation of this Standing Order during the consideration of any application or for the remainder of the meeting if he/she considers it necessary so to do for the purpose of maintaining order at the meeting; or
 - (ii) vary the order of representations if he/she considers that it is convenient and conducive to the despatch of business and will not cause any prejudice to the parties concerned.
- A22.9 Guidance on representations in respect of licensing (2003 Act) applications is available in the Local Code of Good Practice for Members and Employees Involved in the Licensing Process.
- A22.10 Guidance on representations from Brixham Town Council, Torquay Neighbourhood Forum and Paignton Neighbourhood Forum is available in the Local Protocol – Consultation Arrangements with Town/Parish Councils and Neighbourhood Forums for Planning Applications.

(Note: This Standing Order A22 shall also apply to a member with an interest that means they should not be present when the matter is under consideration but who wishes to make a representation in respect of a planning or licensing application, but having made his/her representations he/she must withdraw from the meeting room and cannot vote on the matter.)

A23. Petitions

- A23.1 The Council will consider petitions received in accordance with its Petition Scheme (as set out in Appendix 3 to these Standing Orders).

A24. Public Question Time

- A24.1 Members of the public shall be entitled to ask questions/make statements during the Question Time sessions held at the meetings of Council provided that the questions/statements:

- (a) relate to the Council and/or the services it provides (or are provided on its behalf) to local people or to a matter that affects local people more than the general public nationally and is relevant to the area or areas of responsibility of the person to whom the question or statement is directed;
- (b) do not relate to planning or licensing applications to be considered by the Authority;
- (c) do not relate to any matter where public consultation is being undertaken in the next six months by the Council; and
- (c) are provided to the Head of Governance Support in writing (including by e-mail if verified by the Head of Governance Support) by no later than 4.00 p.m. on the tenth clear working day before the date of the meeting in order that a suitable response may be prepared. The Civic Mayor may permit a question/statement after this deadline in exceptional circumstances and the questioner has given a copy of his/her question to the Head of Governance Support by 4.00 p.m. two clear working days prior to the meeting.

However, the Chief Executive, in consultation with the Civic Mayor may decline to accept any question or statement if it is in his/her opinion:

- (i) factually inaccurate; or
- (ii) it is identical or materially similar to a question which has been presented to a meeting of Council or a Council committee within the 12 months preceding the Council meeting; or
- (iii) it is illegal, defamatory, scurrilous, irrelevant or otherwise objectionable; or
- (iv) to respond to the question or statement would require a disproportionate amount of officer time (having regard to any possible benefits such work would deliver) and the question or statement is not of such nature that would require a response if made pursuant to the Freedom of Information Act 2000.

And the reasons for rejection will be provided.

- A24.2 The Head of Governance Support will immediately send a copy of the question/statement to the member to whom it has been put and publish the questions/statements.
- A24.3 The total time allowed for questions or statements shall not exceed 30 minutes except with the consent of the Civic Mayor of the body concerned. No person may submit more than 2 questions at any one meeting and no more than 2 such questions may be asked on behalf of one organisation.
- A24.4 Each person addressing the meeting shall be restricted to five minutes of speech or such period as the Civic Mayor may allow. Any persons addressing the Council under this Standing Order may only refer to matters relevant to the question or statement and shall:
 - (a) not use discriminatory or offensive language;

- (b) not make any party political statements;
- (c) not use personal abuse; and
- (d) treat others with courtesy and with respect.

If the Civic Mayor considers that any of these requirements have been breached he/she may take such action as he/she considers appropriate (including prohibiting the person addressing the Council from speaking further).

A24.5 Questions shall be directed to the Civic Mayor, who may request:

- (i) the Leader of the Council;
- (ii) a member of the Executive;
- (iii) the Chairman/ woman of any committee (including the Overview and Scrutiny Board or sub-committee);
- (iv) a Council representative on an outside organisation

to reply. The Civic Mayor, Leader of the Council or other Councillor may, in turn, request an appropriate officer or his/her representative to reply.

If a questioner who has submitted a written question is unable to be present, they may ask the Civic Mayor to put the question on their behalf or the Civic Mayor can decide to put the question. The Civic Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

A24.6 Every question shall be put and answered without discussion although the questioner may be permitted by the Civic Mayor to ask one supplementary question provided that it is relevant to the original question (or the response thereto) and his/her allocation of five minutes is not exceeded (subject to Standing Order A24.4).

A24.7 Statements will not be responded to. A response to a question shall take the form of:

- (i) a direct oral answer; or
- (ii) where the reply to the question cannot conveniently be given orally, an undertaking that a written reply will be provided.

A24.8 Unless the Civic Mayor decides otherwise, no discussion will take place on any question or statement, but any member may move that a matter raised by a question or statement be referred to the Executive or appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion.

A24.9 Copies of all questions will be circulated to all members and will be made available to the public attending the meeting.

(Note: This Standing Order A24 shall also apply to a member with an interest that means they should not be present when the matter is under consideration

but who wishes to make a representation, but having made his/her representations he/she must withdraw from the meeting room and cannot vote on the matter.)

A25. Members' Conduct (To apply to Committees, Cabinet and Overview and Scrutiny)

A25.1 Members addressing the meeting

When a member addresses a meeting of the Council they must make themselves clearly identifiable and address the meeting through the Civic Mayor. If more than one member seeks to address the meeting, the Civic Mayor will rule on the order on which they may address the meeting. Other members must behave in an appropriate manner whilst a member is addressing the meeting and not interrupt unless they wish to move a motion under Standing Order A15.11 or to make a point of order or a point of personal explanation. When making a point of order or point of personal explanation, once requested the member making the request must sit down and not speak again until invited to do so by the Civic Mayor.

A25.2 Civic Mayor calling the meeting to order

When the Civic Mayor calls to order, whether by standing or banging his/her gavel or by some appropriate means during a debate, any member addressing the meeting at the time must stop and sit down. The meeting must be silent.

A25.3 Member not to be heard further

If a member behaves improperly or offensively or deliberately obstructs business, the Civic Mayor or the Council by resolution may determine that the member in question be not heard further in respect of the item under discussion.

A25.4 Member to leave the meeting

If the member continues to behave improperly after a motion under A25.3 is carried, the Civic Mayor may either determine that (a) the member in question leaves the meeting in respect of the item under discussion or for the remainder of the meeting, as appropriate, or (b) that the meeting is adjourned for a specified period.A25.5

A25.5 General disturbance

If there is a general disturbance making orderly business impossible, the Civic Mayor may adjourn the meeting for as long as he/she thinks necessary.

A25.6 Addressing other members

At meetings of the Council, its committees and sub-committees, members shall address each other as "councillor" followed by the member's surname. At meetings of the Council, the Civic Mayor shall be addressed as the Worshipful the Mayor of Torbay or such other title as he/she may reasonably choose, but at meetings other than Council the Civic Mayor shall be referred to as "councillor" followed by his/her surname.

A25.7 Members Leaving During the Meeting

Where a Member leaves the meeting room temporarily during the meeting for whatever reason, they shall acknowledge the Civic Mayor by nodding their head (or by another appropriate means) and leave the chamber. Where a Member leaves the meeting room permanently before the end of the meeting (or its formal adjournment) they shall give their apologies to the Civic Mayor (either immediately prior to their departure or earlier during the meeting or immediately prior to its commencement) and their departure shall be recorded in the minutes.

A26. Disturbance by Members of the Public (To apply to Committees, Cabinet and Overview and Scrutiny)

A26.1 Removal of member of the public

If a member of the public interrupts proceedings or behaves improperly or offensively, the Civic Mayor will warn the person concerned. If they continue to interrupt or behave improperly or offensively, the Civic Mayor may order their immediate removal from the meeting and the premises. If the Civic Mayor considers behaviour to be grossly improper or offensive he/she may order the immediate removal of the person from the meeting and the premises without warning. The person concerned shall not be permitted re-entry to the premises for the duration of the meeting.

A26.2 Clearance of part of meeting room

If there is a general disturbance in any part of the meeting room open to the public, the Civic Mayor may call for that part to be cleared.

A27. Use of Cameras and Tape and Video Recorders (To apply to Committees, Cabinet and Overview and Scrutiny)

A27.1 Any persons present at the meeting may, unless prohibited or restricted by a resolution, take photographs, make audio or visual recordings and make live stream recordings on social media of the proceedings of meetings of the Council, its committees and sub-committees. However, no flash photography or other artificial light source shall be used without the prior approval (which may be withdrawn or conditional) of the person presiding at the meeting concerned.

A27.2 The Head of Governance Support may make arrangements for the electronic recording (including filming) of those parts of the meetings of Council, Planning Committee and Standards Hearings Sub-Committee at which the press and public are entitled to be present.

**A28. Prohibition of Smoking, Alcohol and Drugs at Council Meetings (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)**

A28.1 No member or officer or member of the public shall smoke (this includes any electronic smoking devices), consume (or, in the opinion of the Civic Mayor be incapacitated by) alcohol and/or illegal drugs at any council meeting.

**A29. Suspension and Amendment of Standing Orders In Relation To Council Procedure (To apply to Committees, Cabinet and Overview and Scrutiny)
(This Standing Order may not be suspended)**

A29.1 Suspension

All of these Standing Orders in relation to Council except Standing Orders A1, A2, A3, A4, A5, A7, A8, A9, A10, A13.1, A13.4, A18.1, A18.2, A18.5, A18.6, A19, A20, A21, A28 and A29 may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

A29.2 Any motion to suspend any Standing Order (or part of any Standing Order) shall indicate the Standing Order (or part thereof) to be suspended.

A29.3 **Amendment**

Any motion to add to, vary or revoke these Standing Orders in relation to Council and Meetings will, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council (unless the Monitoring Officer agrees otherwise).

A29.4 **Conflict between Standing Orders and the law**

If any Standing Order does not comply with any relevant legal requirement (whether arising from statute, subordinate legislation, EU directives or case law), that Standing Order shall be deemed to be amended so far as shall be necessary to comply with the legal requirement in question

A30. Interpretation
(To apply to Committees, Cabinet and Overview and Scrutiny)

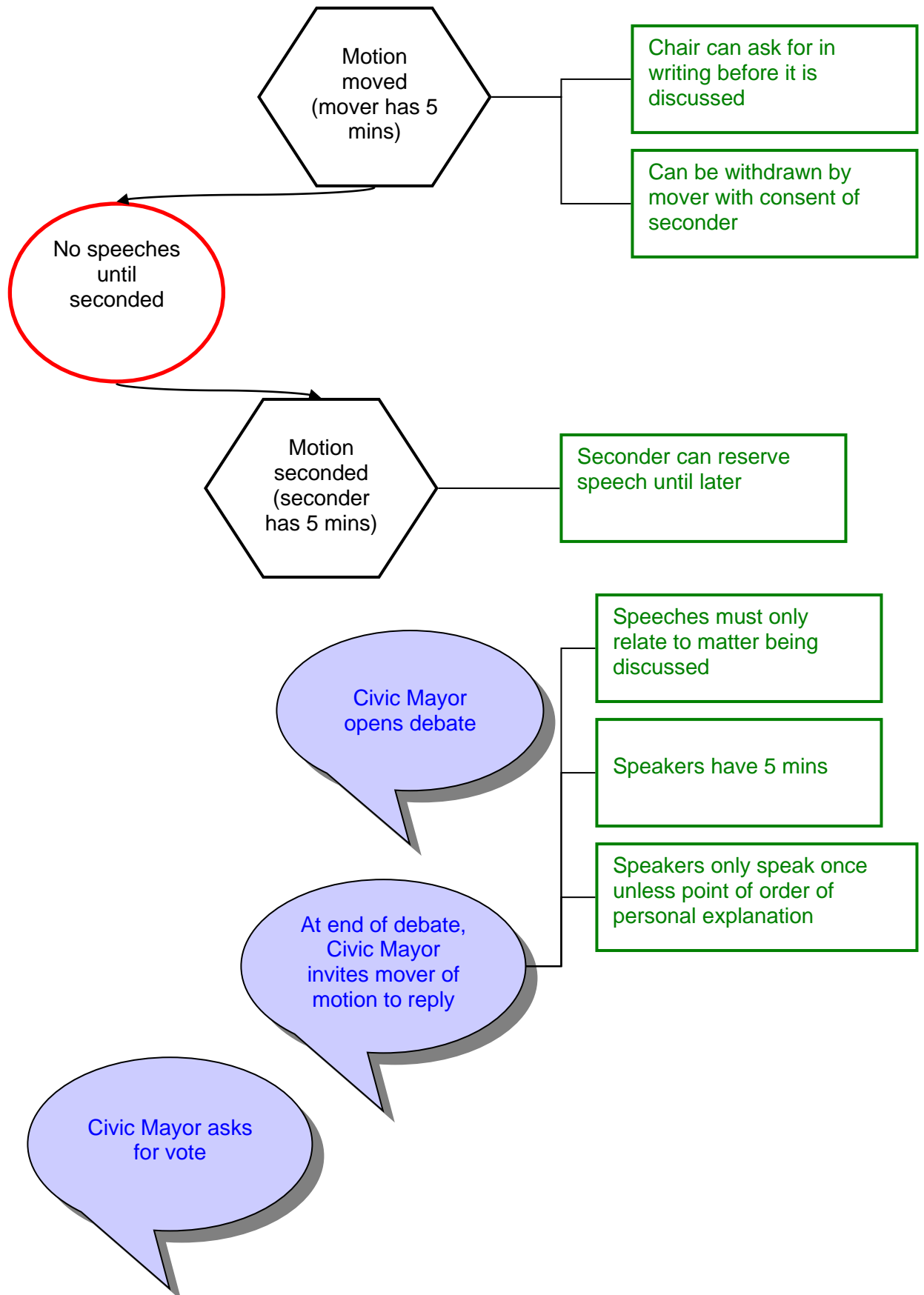
A30.1 Any references to writing or speaking in these Standing Orders shall be deemed to include any other means of communication that are reasonably appropriate having regard to any person's disabilities or special needs.

A30.2 The Civic Mayor's ruling on the interpretation of these Standing Orders and on the conduct of the proceedings shall be final.

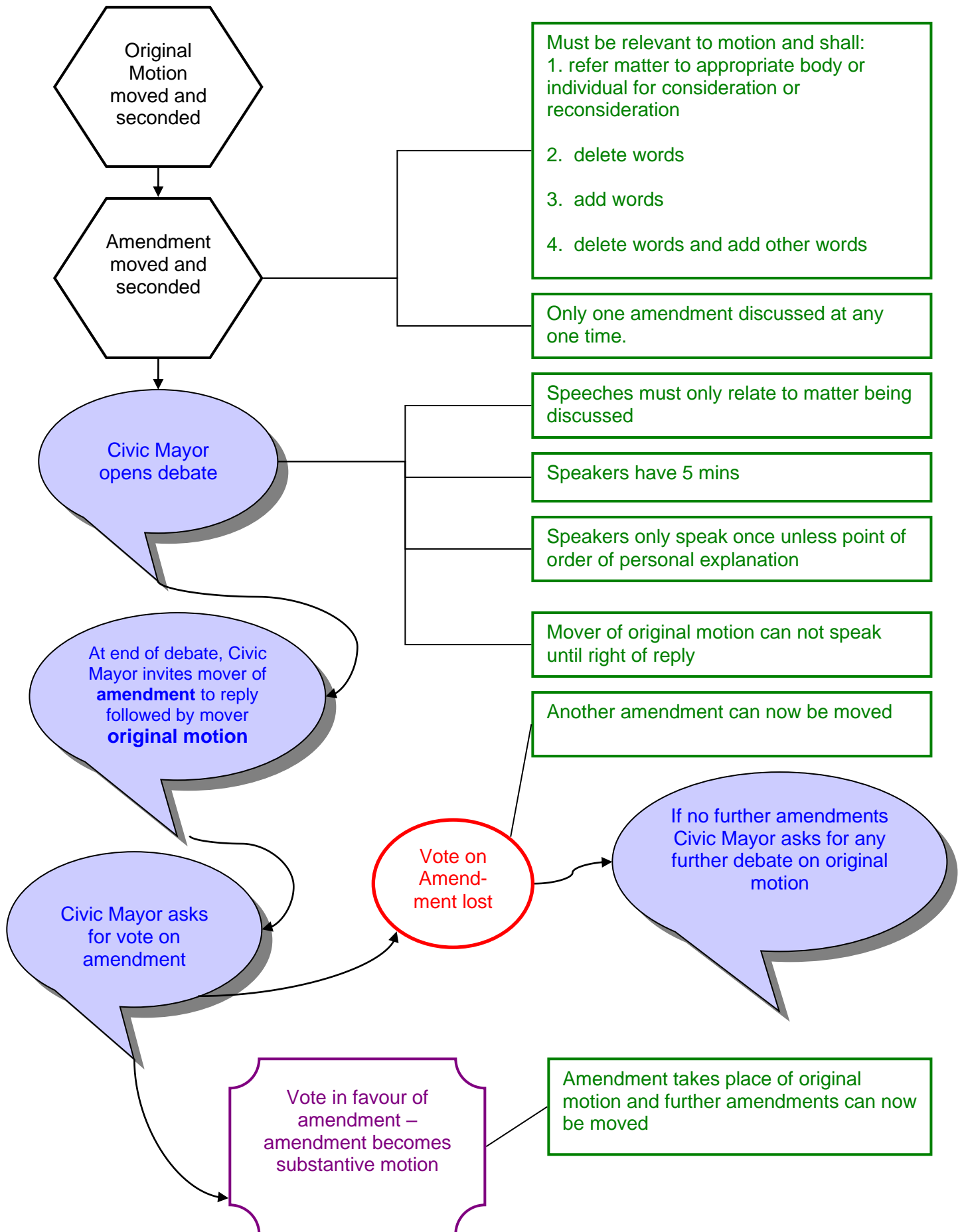
A31. Application of Standing Orders in Relation to Access to Information to Meetings of The Council

A31.1 The following Standing Orders in relation to Access to Information will apply to meetings of the Council: E1 to E11, E19 and E20.

Appendix 1 Standing Order A16 Rules of Debate – Motions without Amendment



Appendix 2 Standing Order A16 Rules of Debate – Amendments to Motions



Appendix 3 - Petition Scheme

Contents

1. Introduction
2. What are the guidelines for submitting a petition?
3. Are there any issues which the Council will not consider in a petition?
4. How can I submit a petition?
5. Petition Deadlines
6. How will the Council respond to my petition?
7. Feedback – will the petitioners be told of the outcome?
8. What can I do if I feel my petition has not been dealt with properly?
9. Other ways to make your views known
10. Data Protection
11. Special requirements
12. Sample Petition Form

1. Introduction

A petition is a request for Torbay Council to consider an issue or concern or to take a particular course of action. Petitions set out a particular view point and can be a useful tool to demonstrate that a view is shared by others. The Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns.

This document sets out the guidelines for submitting a petition and what you can expect from the petitions process.

To meet the requirements of the scheme, the petition must be about:

- **an issue which relates to the Council and/or services it provides to local people;**
- **an improvement in the economic, social or environmental well-being of Torbay to which any of the Council’s partner authorities could contribute’; or**
- **to issues which relate to services provided by partner authorities, including matters which are sub-regional and cross-authority;**

Petitions can be submitted in paper format or can be scanned and sent electronically. There is also a [*Torbay Council e-petitions*](#) facility available (this is a method of starting a petition and gathering signatures online which allows petitions and supporting information to be made available to a much wider audience). We are also happy to accept e-petitions generated from third party facilities, but only if they meet the submissions criteria set out in this scheme – including, for example, by providing sufficient information to enable the Council to verify signatures in support of the petition.

2. What are the guidelines for submitting a petition?

Petitions submitted to the Council **must** include (*see Appendix 1 for a sample paper petition template*):

- **A clear and concise statement covering the subject of the petition.** It should state what action the petitioners wish the Council to take.
- **The subject matter of the petition on each page.** People need to know what they are signing and therefore the petition should clearly state this on each page.
- **The petition organiser’s contact details.** Including a phone number and address, – this will be the person who we will contact to explain how we will respond to the petition.
- **At least 25 valid signatures.** Anyone who lives, works or studies in the Torbay area, including under 18’s, can sign or organise a petition. In order for a signature to be valid it must be accompanied by the name and

address (which must include the name or number, street and town) of each person supporting the petition. The address provided should be that place of work or study if they do not live in the bay. To ensure the Council understands the local level of support for a petition, it reserves the right to seek to verify each signature submitted as part of a petition. This may be particularly significant when establishing whether a petition has obtained the required number of signatures to trigger a specific process (see section 6 below Full Council Debate).

In the case of e-petitions, (including those submitted from other online petition facilities) the Council requires a name, valid email address (one email address per person), address (including the name or number, street and town) for each person supporting the petition; failure to provide this information may lead to a signature not being counted.

The Council may also ask for additional information it may require to confirm that the petition complies with the requirements of this scheme.

The Council's Monitoring Officer may decline to accept any petition where in his/her opinion the petition does not include any of the above.

3. Are there any issues which the Council will not consider in a petition?

3.1 There are certain circumstances when petitions will not be accepted by the Council's Monitoring Officer, [this mirrors the UK Parliament and Government petition rules and](#) includes [sing](#) if a petition:

- [calls for the same action as a petition that's already open](#)
- [does not ask for a clear action from the Council](#)
- relates to an issue which is clearly outside the control or reasonable influence of the Council (e.g. petitions on national issues)
- [is defamatory or libellous, or contains false or unproven statements](#)
- [refers to a case where there are active legal proceedings](#)
- [contains material that may be protected by an injunction or court order](#)
- [contains material that could be confidential or commercially sensitive](#)
- [could cause personal distress or loss. This includes petitions that could intrude into someone's personal grief or shock without their consent.](#)
- [accuses an identifiable person or organisation of wrongdoing, such as committing a crime](#)
- [names individual officers, unless they are Divisional Directors or above](#)
- [names family members of councillors or officers](#)
- [asks for someone to be given a job, or to lose their job. This includes petitions calling for someone to resign and petitions asking for a vote of no confidence in an individual councillor or officer or the Cabinet as a whole](#)
- [contains party political material](#)
- [is nonsense or a joke](#)
- [is an advert, spam, or promotes a specific product or service](#)

- is a Freedom of Information request
- contains swearing or other offensive language
- is offensive or extreme in its views. That includes petitions that attack, criticise or negatively focus on an individual or a group of people because of characteristics such as their age, disability, ethnic origin, gender identity, medical condition, nationality, race, religion, sex, or sexual orientation
- ~~is abusive, vexatious, libellous or otherwise inappropriate~~
- ~~relates to an identifiable person~~
- ~~refers to a matter which is already the subject of legal proceedings~~
- is a duplicate or substantially similar to a petition received in the last 12 months, unless there has been a material change in circumstances

Petitions made under other enactments, such as petitions under the Local Government Act 2000 asking for referendum on whether the area should have an elected mayor, will be dealt with according to the procedures set out in those enactments. If such a petition fails to meet the requirements of the enactment in question, for example a petition under the 2000 Act does not achieve the requisite number of signatures, it will then be dealt with through this Petitions Scheme in exactly the same manner as any other petition.

3.2 This Petitions Scheme does not apply to certain matters, where there are already existing processes for communities to have their say. The following matters are therefore excluded from the scope of this Petitions Scheme:

- Any matter relating to a planning decision,
- Any matter relating to a licensing decision,
- Any matter relating to a subject where consultation by the Council is currently being undertaken or is due to be undertaken in the next six months, (e.g. Formal Budget/Savings Proposals consultation).
- Any matter where there is already an existing right of appeal such as council tax banding and non-domestic rates.

We will advise the petition organiser what will happen to petitions under this category.

3.3 In the period immediately before an election or referendum we may need to deal with your petition differently. If this is the case we will explain the reasons and discuss the revised timescale which will apply.

4. How can I submit a petition?

Paper petitions may be submitted to the Council in person/by post to:

Governance Support
Torbay Council
Town Hall
Castle Circus
Torquay

TQ1 3DR

Alternatively, you can give your petition to your local councillor who will deliver it on your behalf.

Petitions can be emailed to:

Governance.support@torbay.gov.uk

For emailed petitions each sheet of signatures should be scanned in full as an exact replica of the original copy.

E-petitions may be submitted through the Council's *e-petitions facility* or via an independent online e-petition system and not via the Council's facility, however, in this case the Petition Organiser must ensure that the petition meets the submissions criteria set out in this scheme – including, for example, a valid email address (one email address per person), full name, address and postcode for each person supporting the petition to enable the Council to verify signatures on the petition.

The Council will also allow a combined paper and e-petition providing there are no duplicate signatories and the date of receipt is when the final submission is made.

Please note that we keep all original copies of petitions for our records for six years.

Upon submission of your petition, you need to advise the Governance Support Team whether you wish for your petition to be presented to a meeting of the full Council or referred directly to the decision maker for consideration. Please refer to section 6 below for further details.

5. Petition Deadlines

If you would like your petition to be presented at a Council meeting, (see details in section 6 below), it must be received by the Governance Support Team by 4.00 p.m. 10 clear working days before the meeting. The deadlines/dates of meetings can be found at (www.torbay.gov.uk).

Once approved and activated, a standard e-petition will remain open for 60 days. However this can be amended, following discussion with the petition organiser, to fit with timescales for specific meeting deadlines.

6. How will the Council respond to my petition?

All petitions received by the Governance Support Team will be acknowledged within 10 working days of receipt. The acknowledgement will be sent to the petition organiser and will explain what we plan to do with the petition and when you can expect to hear from us again. Your petition details will be provided to

the Leader of the Council, the Civic Mayor, the Group Leaders and the Chief Executive. Details of any petitions that have not been accepted for the reasons cited in 3.1 will also be provided to those listed above for information purposes.

If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed.

If the petition needs more investigation, we will tell you the steps we plan to take.

If the petition applies to a planning or licensing application, relates to a subject where consultation by the Council is currently being undertaken or is due to be undertaken in the next six months (e.g. Formal Budget/Savings Proposals consultation), or is a statutory petition on a matter where there is already an existing right of appeal (such as Council tax banding and non-domestic rates) other procedures apply. In our acknowledgment to you, we will explain these procedures and how you can express your views. Where a petition is passed to another department it may then become subject to any conditions relating to representations for such matters i.e. a petition in respect of a planning representation may be published in full which includes names and address of those who have signed the petition.

Petitions containing less than 25 signatures will not be presented to a Council meeting, but treated as general correspondence and forwarded directly to the relevant service department for response.

‘Ordinary’ petitions

For petitions containing at least 25 valid signatures you can present your petition to a meeting of the Council (which all Councillors can attend). Alternatively, you (as the petition organiser) and up to two other people who have signed the petition, can choose to meet directly with the relevant decision-maker to present your petition.

Once an ‘ordinary’ petition is received the Governance Support Team will write to you to inform you which body/decision-maker will respond to your petition and confirm which of the above options you would like to proceed with.

Presentation to Council

If you wish for the petition to be presented to a meeting of the Council you can speak in support of the petition at the meeting for up to five minutes. Confirmation of speaking in support of a petition must be received from the petition organiser by 4.00 p.m. the day before the Council meeting by registering with the Governance Support Team (by telephone on 01803 207087 or by e-mailing governance.support@torbay.gov.uk).

Please note the petition will not be debated by the Councillors at the Council meeting, it will be referred straight to the relevant decision maker following the presentation of your petition at the meeting.

Also, if the subject of the petition is due to be considered by the decision-maker before the next meeting of the Council it will be referred to the decision-maker

direct and you will not, therefore, have the opportunity to present the petition at a Council meeting.

Meeting with decision-maker

If you wish for the petition to be submitted directly to the decision-maker you will be informed of who will be contacting you to make the necessary arrangements for meeting with the decision maker. This meeting will normally be arranged within 28 days from notifying the Governance Support Team of your decision to proceed with this option.

The decision-maker may respond to the issues raised in your petition in one or more of the following ways:

- Taking the action requested in the petition;
- Holding an inquiry into the matter;
- Undertake research into the matter;
- Hold a public meeting; and/or
- Undertake consultation.

Full Council Debates

If a petition contains more than 1000 valid signatures it will be debated by all Councillors at a meeting of the Council unless the matter is resolved before the meeting to the Petition Organiser's satisfaction.

You will receive notification from the Governance Support team with details of the Council meeting to which your petition will be submitted. The Council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. You will be given five minutes to present the petition at the meeting and the petition will then be discussed by the councillors.

The Council will decide how to respond to the petition at this meeting, it may decide to:

- take the action the petition requests;
- not to take the action requested for reasons put forward in the debate;
- make recommendations to the Leader of the Council if the issue is one for him/her to make the decision; or
- commission further investigation into the matter, for example by a relevant committee.

The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

7. Feedback – will the petitioners be told of the outcome?

Yes, the Petition Organiser will receive written confirmation setting out the Council's final response to the petition. This will normally outline the steps taken

by the Council to consider the issue, including the involvement (where applicable) of the elected Councillors.

We will also publish details of petitions received and the final response/outcome of the petition on the Council's website.

8. What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser can complain through the Council's complaints procedure. The Governance Support Team can provide you with details of how to complain or you can find details on the Council's website (www.torbay.gov.uk).

9. Other ways to make your views known

Torbay Council values petitions and this document sets out clear commitment about how we will respond to the petitions we receive.

Petitions are not, however, the only - or necessarily the easiest or quickest - way to resolve an issue or to make your views known.

You can also:

- Contact the relevant Council service directly.
- Contact your local Councillor or Community Partnership if you have a concern which relates to your local area or neighbourhood.

If you wish to make a complaint about a Council service, then you should instead use the Council's Complaints Process.

There are a number of other ways you can have your say and get involved in local decisions. To find out more go to our website:

<http://www.torbay.gov.uk/index/yourcouncil/councillorsdecisions/haveyoursay.htm>

10. Data Protection

If you are organising a petition you will need to consider whether you will become a data controller under Data Protection Law for the personal data you will process as part of the petition. Further information can be found on the ICO's [website](#).

One of the key requirements of data protection law is that individuals should be informed as to how their personal data will be used. Therefore, you will need to advise those signing your petition, that their personal data may be made available for anyone to inspect, to confirm the validity of the petition.

Petitions received under this scheme will not be published in full and when they are presented to Council or to the decision maker, details are provided about the petition organiser and the number of people who have signed the petition. A full original copy of the petition is retained by the Governance Support Team.

Once we receive your petition, Torbay Council becomes the data controller for the petition and will process it in accordance with this scheme. Our lawful basis under Data Protection Law for processing this personal data, is that is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Council, in accordance with our duties to support and promote democratic engagement under the Local Government Act.

Should an individual wish for their name to be removed from a petition, they can make an information rights request via our [website](#).

11. Special requirements

If you need any special help with accessing any Council buildings or if you have any special requirements please advise the Governance Support Team (using the contact details provided below) before the meeting.

To ask for a copy of this guide in another format or language, or for more information on petitions or Council meetings, please contact:

Governance Support on (01803) 207087

Email: governance.support@torbay.gov.uk

Subject of petition:	
Action required:	
Organiser/Main Contact for Petition	
Name:	Telephone number:
e-mail address:	
Address (including name or number, street, town):	

Using the guidance set out in this scheme please select the relevant petition type for your petition from the options below. If applicable, please also tick the box confirming whether you would like to present your petition by speaking at a Full Council meeting:

Ordinary (contains 25 signatures or more)

please indicate where you wish to submit your petition:

Full Council Meeting

or

Direct to Decision Maker

If you have chosen to submit your petition straight to a Full Council Meeting would you like to speak at the meeting? *please tick box below*

Yes

Name of speaker:

No

Petitions for Council debate (contains 1000 signatures or more)

please indicate if you would like to speak at the Council meeting

Yes

Name of speaker:

No

Local Protocol – Relations between the Leader of the Council and Political Groups

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1. Introduction
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1. Introduction

- 1.1 Torbay Council will best serve the interests of local people if there are clear arrangements between the Leader of the Council and other councillors and between the political groups represented on the Council for the management of political business. The interests of local people will also be best served if the working relationship between the Leader of the Council and other councillors and between members of different political groups is characterised by mutual respect, informality and trust, whilst recognising the need for healthy and constructive political debate within the democratic process.
- 1.2 This Protocol is intended to facilitate such a working relationship and to help members to perform effectively. This Protocol gives guidance on members' roles, and on what to do on the occasions when things go wrong.
- 1.3 This Protocol must be read in the context of the Council's Constitution, the Members' Code of Conduct and the Local Protocol on Member and Officer Relations.

2. Interpretation

- 2.1 In this Protocol:

“Council function” means a function that is not the responsibility of the Cabinet;

“Executive function” means a function that is the responsibility of the Cabinet;

“the Cabinet” includes any person or body exercising executive functions including the Leader of the Council;

"Member" includes the Leader of the Council, all elected members of the Council and all non-elected members of any committee (including the Standards Committee and the Overview and Scrutiny Board) (or any Sub-Committee) irrespective of whether or not they have any voting rights;

“Officer” includes all members of staff directly employed by Torbay Council, agency workers or persons seconded to the Council, the Council's arms length companies and all contractors and employees of contractors delivering services on behalf of the Council;

“Senior officer” means the Chief Executive, Directors, Divisional Directors and Heads of Service; and

"Statutory Officers" means the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer.

3. Guiding Principles

- 3.1 In their dealings with one another members will:
 - (a) Serve only the public interest;
 - (b) Behave properly and not place themselves in situations where their honesty and integrity may be questioned;

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- (c) Make decisions on merit;
- (d) Be open about (and be prepared to give reasons for) their actions;
- (e) Promote equality by not discriminating unlawfully against any person;
- (f) Treat each other with dignity and respect, accepting that everyone is acting in good faith, and show courtesy in all meetings and contacts, both formal and informal;
- (g) Uphold the law;
- (h) Seek to ensure that the Council uses its resources prudently;
- (i) Promote and support all these general principles by example, and act in a way that secures or preserves public confidence in local government; and
- (j) Respect the impartiality and integrity of officers.

3.2 In their dealings with one another members will also uphold the Members' Code of Conduct. The following provisions of the Code are particularly relevant to relations between members:

Paragraph 4(a) of the Code -

“you must treat others with respect”

Paragraph 5(h) of the Code -

“you must not conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.”

3.3 The Leader of the Council and the Group Leaders will use their best endeavours to communicate with each other so as to ensure that Council business is conducted effectively and in the best interest of the whole Council and local people.

4. The Roles of Members and Officers and Member and Officer Relations

4.1 The roles of members and officers and relations between members and officers are governed by the Local Protocol on Member and Officer Relations.

5. Political Differences and Personal Criticism

5.1 This Protocol is not intended to restrict or discourage legitimate political debate. However, it is also in the interests of local people that there is a working relationship between the Leader of the Council and other councillors and between political groups. That working relationship will be assisted if it is supported by a clear set of guidelines and it is these that this Protocol is intended to provide. The relationship between the Leader of the Council and other councillors and between the political groups will also be supported if all members adhere to high standards of courtesy and mutual respect in their dealings with one another.

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5.2 As with their relations with officers, in their dealings with fellow members, it is important that robust debate of the issues at stake does not deteriorate into personal criticism of another person who holds a different point of view. Courtesy and civility must be maintained at all times.

5.3 Fellow members must not be subject to name-calling, personal criticism or abuse. A fellow member's integrity must not be questioned unless there is clear documentary evidence to substantiate any allegation made. This principle must be adhered to in meetings of the Council, the Cabinet, and any committee meeting, or any other meeting at which members of the public or third parties are present. This principle must also be observed in all dealings with the press and other media.

6. Extension of Principle of Cross-Party Representation

6.1 By law all political groups are entitled to a proportionate number of seats on Council Committees and Sub-Committees (but not on the Cabinet and working parties). In order to facilitate good inter-party relations, Torbay Council has extended the principle of cross-party representation to Working Parties.

6.2 Each political group will be entitled to nominate a proportionate number of representatives to every working party established by the Council or a Council committee and the second largest political group will also normally be invited to nominate two representatives to Working Parties where a strict application of proportionality would only indicate a single representative.

6.3 Each political group will be entitled to nominate members to a proportionate number of seats on outside organisations. However, where the outside organisation requests a specific role (e.g. a relevant Cabinet Member) the Council should accede to the request other than in exceptional circumstances. Appointments to outside organisations are made every four years following a local government election and will not normally be reviewed after a change of political balance during the four year period. The Chief Executive has delegated authority to determine any new appointments within the four year period.

6.4 The Cabinet will be responsible for appointing any member champions, unless such an appointment is a Council function or is reserved by law to the Council. The role of member champions is to promote their specified theme to other members, Council officers and the Council's partners to ensure a co-ordinated approach. A protocol on the role of member champions is included in the Constitution.

6.5 Where the budget is allocated, Group Assistant posts will be offered to all qualifying political groups on the basis of a full-time (37 hours per week) post and not on the basis of reduced hours proportionate to the size of the group.

6.6 Provision of training and development for members will be provided to all members, irrespective of the political group to which they belong. A members' development programme will be prepared each year, in consultation with a working group comprising a representative from each political group, for authorisation by the Chief Executive. The members' training budget will be used primarily to meet the cost of the development programme with the remainder of the funding to be allocated in equal proportions (one third) to fund the following:-

(a) Training for Cabinet Members

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- (b) Training for Scrutiny Members
- (c) Training not specifically related to Cabinet or scrutiny functions.

Additional training and development that is not included within the Members' Development Programme shall only be authorised by the Head of Governance.

Attendance by members at conferences/seminars shall be authorised by the Director, Divisional Director or Head of Service who holds the relevant budget that will cover the costs for the member attending the conference/seminar.

The three councillors appointed by the Council to be on the Local Government Association General Assembly~~Leader of the Council and the leaders of the two largest political groups~~, or their representatives, will be invited to attend the Local Government Association Annual Conference;

Following attendance at a conference, members will provide feedback to all members of the Council.

- 6.7 Section 6 of this Protocol may be reviewed in the event that there is a change in the political control of the Council.

7. Meetings Between The Leader of the Council and Group Leaders and Between Group Leaders

- 7.1 In order to promote cross-party working, address issues of common concern and to agree appropriate actions, the Chief Executive will from time to time arrange meetings of the Leader of the Council, Deputy Leader, Group Leaders, Deputy Leaders and the Overview and Scrutiny Co-ordinator. discuss issues including:-

- (a) Council meeting business and strategic issues;
- (b) Member capacity and performance;
- (b) constitutional issues;
- (c) scrutiny programme; and
- (d) priorities.

8. Relations with Members of Other Local Authorities and Members of Parliament

- 8.1 Members of all political groups will observe the spirit of this Protocol in their dealings with members of other local authorities and Members of Parliament.
- 8.2 The Leader of the Council and members of all political groups will seek to work constructively with members of other local authorities, including as members on Joint Committees, irrespective of their potentially different political allegiances in order to promote the best interests of the Council and local people.
- 8.3 The Leader of the Council and members of all political groups will seek to work constructively with Members of Parliament, especially Members of Parliament representing parts of the Borough, irrespective of their potentially different political allegiances in order to promote the best interests of the Council and local people.

9. When Things Go Wrong

- 9.1 From time to time the relationship between members may break down or become strained. Whilst it will always be preferable to resolve matters informally, through conciliation, if necessary by the Leader of the Council and Group Leaders, this is not always possible. Where this is the case, and a member considers that another member has acted in breach of this Protocol, the following procedure will be followed.
- 9.2 If attempts at resolving matters informally have not been successful, where a member considers that another member has acted in breach of this Protocol, the following procedure will be followed:
- (a) The member must make a written complaint to the other member and copy that complaint to the Leader of the Council (if appropriate) and the relevant Group Leader(s). This must specify all incidents that the complainant intends to raise and set out the alleged breach of this Protocol.
 - (b) The member who has been complained about shall (within 10 working days) respond in writing to the complainant and copy that response to the Leader of the Council (if appropriate) and the relevant Group Leader(s).
 - (c) The Leader of the Council (if appropriate) and relevant Group Leader(s) shall (within 10 working days (or as soon thereafter as is reasonably practicable)) meet to discuss the complaint. If they both/all consider that the complaint is unreasonable, frivolous or vexatious, that shall be the end of the matter. If they both/all consider that the complaint is of a purely technical or minor nature they may invite the member who has been complained against to make a written apology, in a form (and within a timescale) agreed between the Leader of the Council (if appropriate) and the Group Leader(s). Once that apology has been made that shall be the end of the matter unless the member subsequently acts in a manner at variance with that apology.
 - (d) If the Leader of the Council (if appropriate) or any of the relevant Group Leaders considers the complaint is of a more serious nature than mentioned in the previous paragraph (or if the member complained against fails to give the requisite apology) the complaint shall be referred to the Council's Monitoring Officer.
 - (e) Both the complainant and the member complained about shall be advised in writing by the Leader of the Council (if appropriate) and the relevant Group Leader(s) of their decision.
 - (f) A complainant may at any time withdraw a complaint by notice in writing to the other member and copy that notice to the Leader of the Council (if appropriate) and the relevant Group Leader(s).
- 9.3 Exceptions may be made to the procedures outlined in paragraphs 9.2 above if to do otherwise would conflict with the Council's policy on "Whistleblowing" or potentially prejudice a criminal or other investigation (whether in progress or reasonably contemplated in the future) or the complaint relates to a breach of the Code of Conduct for Members where it shall be lodged as a formal complaint and the Local

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Protocol for the Assessment and Determination of Allegations of Breaches of the Members' Code of Conduct shall be followed.