

Code of Conduct for Members

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Definitions

In this Code –

“interest or interests” have the meanings set out in Part 2 of this Code

“relevant person” means:

- you or
- your spouse or civil partner, or
- a person with whom you are living as husband and wife or as if they were civil partners

“relevant period” means a period of 12 months ending with the date on which you notified the Monitoring Office of an interest

"meeting" means any meeting of –

- the Council;
- the Cabinet;
- any of the Council's or the Cabinet's, Committees, Sub-Committees, Joint Committees, Joint Sub-committees or Area committees;

"Member" includes a co-opted member

"Regulations" means the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464)

"sensitive information" has the meaning given to it in paragraph 7.4

CODE OF CONDUCT

PART 1 GENERAL PROVISIONS

1. Public Duty and Interests: An introduction

- 1.1 This Code applies to you as a Member or a Co-opted Member of the Council of the Borough of Torbay ('the Council'). For the purposes of this code references to 'Member' or 'Member of the Council' include Co-opted members unless otherwise stated. A Co-opted Member means a person who is not a member of the authority but who:
- (a) is a member of any committee or sub-committee of the authority, or
 - (b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee.
- 1.2 When acting in your capacity as a Member of the Council, you should have regard to the Principles of Public Life namely, Selflessness, Honesty/Integrity, Objectivity, Accountability, Openness, Personal judgment, Respect for others, Duty to uphold the law, Stewardship and Leadership. An explanation of what compliance with each of these principles requires is included at Appendix A.

2. Purpose of the Code of Conduct

- 2.1 The purpose of this Code of Conduct is to assist you, as a Member, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow members, officers and the reputation of the Council. It sets out general principles of conduct expected of all Members and your specific obligations in relation to standards of conduct. The fundamental aim of the Code is to create and maintain public confidence in the role of elected Member and local government.
- 2.2 As a Member you must promote and support high standards of conduct when serving in your public post. You should exhibit the principles in your own behaviour, actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.
- 2.3 You are accountable to the public for your decisions and actions, whilst you may be strongly influenced by the views of others, it is your responsibility alone to decide what view to take on any issue which Members have to decide. You must not do anything as a Member which you could not justify to the public.
- 2.4 It is your responsibility to comply with the provisions of this Code.

3. Application of the Code of Conduct

3.1 This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a councillor.

3.2 You must comply with this Code whenever you are acting in your capacity as a Member, when:

(a) you are engaged on the business of the Council; or

(b) you behave so as to give a reasonable person the impression that you are acting as a representative of the Council or in your capacity as a Member.

3.3 The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings;
- at virtual or telephone meetings;
- in written communication;
- in verbal communication;
- in non-verbal communication; and
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Member.

3.4 The Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from the Monitoring Officer on any matters that may relate to the Code of Conduct.

4. Minimum Standards of Member Conduct

4.1 This section sets out your obligations, which are the minimum standards of conduct required of you as a Member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

4.2 General Conduct:

You **must**:

(a) treat others with courtesy and respect.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Member, you can express, challenge, criticise and

disagree with views, ideas, opinions and policies in a robust but civil manner. However, you must not subject individuals, groups of people or organisations (including fellow Members, officers and/or their relatives) to personal remarks, comments or attacks.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Members. Consider your own language and attitudes towards others, and think before making comments. Are you being fair? Are you being respectful? Are you behaving like a good role model? What may be acceptable to you may be offensive to others.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local authority, the relevant social media provider or the police. This also applies to fellow Members, where action could then be taken under this Member Code of Conduct, and local authority employees, where concerns should be raised in line with the Members and Officers Local Protocol.

- (b) be truthful and declare any interests, whether disclosable pecuniary or personal, that relate to your public duties and must take steps to resolve any conflicts arising in a way that protects the public interest, including registering and declaring interests in a manner conforming with the procedures set out at Part 2 of this Code;
- (c) when reaching decisions on any matter, do so on the merits of the circumstances and in the public interest and have reasonable regard to any relevant advice provided to you by an officer of the Council; and
- (d) have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986 or any similar Communications Protocol or Code produced by the Council (as set out at Appendix C).

4.3 As a Member:

You **must not**:

- (a) bully or harass any person

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include

repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

- (b) attempt to use your position as a Member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage;

Your position as a member of the Council provides you with certain opportunities, responsibilities and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

You must not place yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties.

- (c) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, the Council;

Officers work for the Council as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

- (d) misuse Council resources or when using the resources of the Council ensure that such resources are not used improperly for political purposes (including party political purposes), business or personal gain and that any use is in accordance with the Council's reasonable requirements and in accordance with its Policies.

As a Member you may be provided with resources and facilities by the Council to assist you in carrying out your duties as a member.

Examples may include:

- office support;
- equipment such as phones, and IT equipment;
- transport; and
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a member more effectively.

- (e) do anything which may cause the Council to breach a statutory duty or any of the equality enactments (as defined in section 149 of the Equality Act 2010 the requirements of which are included at Appendix B);

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the local authority's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

- (f) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where –
 - (i) you have the consent of a person authorised to give it;
 - (ii) you are required by law to do so;
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is –
 - (A) in the public interest; and
 - (B) made in good faith; and
 - (C) in compliance with the reasonable requirements of the Council;
- (g) prevent another person from gaining access to information to which that person is entitled by law.

The Council must operate in an open and transparent manner, and the Council's proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Council must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

- (h) conduct yourself in a manner or behave in such a way so as to give a reasonable person the impression that you have brought your office or the Council into disrepute.

As a Member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other members and/or the Council and may lower the public's confidence in you or the Council's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Council into disrepute.

You are able to hold the Council and members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Council whilst continuing to adhere to other aspects of this Code of Conduct.

5. Complying with the Code of Conduct

5.1 As a Member of Torbay Council:

- You will undertake Code of Conduct training as required by Torbay Council.
- You will co-operate with any Code of Conduct investigation and/or determination.
- You will not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.
- You are required to respond to any sanction imposed on you following a finding that you have breached the Code of Conduct.

5.2 It is extremely important that as a Member of Torbay Council you demonstrate high standards. A Member's actions are open to scrutiny, it is therefore important that you do not undermine public trust in the Council or its governance processes. If you do not understand or are concerned about the Council's processes in handling a complaint you should raise the issue with the Monitoring Officer.

PART 2 INTERESTS

6. Registration of Interests

6.1 You must, within 28 days of—

- (a) this Code being adopted by, or applied to, the Council; or
- (b) your taking office as a Member or Co-opted Member of the Council,

whichever is the later, and annually thereafter, provide written notification to the Council's Monitoring Officer of:

- (i) any disclosable pecuniary interest as defined by Regulations made by the Secretary of State, where the pecuniary interest is yours, your spouse's or civil partner's, or is the pecuniary interest of somebody with whom you are living with as a husband or wife; and
- (ii) any other personal interest as may be defined by the Council from time to time;

which will be recorded in the Council's Register of Members' Interests and made available for public inspection including on the Council's website at: <http://www.torbay.gov.uk/DemocraticServices/mgMemberIndex.aspx?bcr=1>

- 6.2 Within 28 days of becoming aware of any new interest or change to any interest already registered, you must register details of that new interest or change by providing written notification to the Council's Monitoring Officer.
- 6.3 Whether or not an interest within paragraphs 7.1 and 7.2 below has been entered onto the Council's register, you must disclose any interest to a meeting at which you are present in any matter being considered, in accordance with paragraph 8 below, unless that matter is 'sensitive information'.
- 6.4 Following any disclosure of an interest not on the Council's register or the subject of pending notification, you must notify the Monitoring Officer of the interest within 28 days beginning with the date of disclosure.
- 6.5 In relation to disclosable pecuniary interests, in this Part of the Code the expressions in the left hand column below have the meanings attributed to them in the right hand column:

"body in which the relevant person has a beneficial interest"	means a firm in which the relevant person is a partner or a body corporate of which the relevant person is a director or in the securities of which the relevant person has a beneficial interest
"director"	includes a member of the committee of management of an industrial and provident society
"land"	excludes an easement, servitude, interest or right in or over land which does not carry with it a right for the relevant person (alone or jointly with another) to occupy the land or to receive income
"relevant authority"	means the authority of which you are a member
"relevant person"	means you, your spouse or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living with as if you are civil partners
"securities"	means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society

7. The interests you must register are:

- 7.1 those disclosable pecuniary interests defined by The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 (SI 2012/1464) as set out below, namely:

- (a) any employment, office, trade, profession or vocation carried on for profit or gain by you or a relevant person;
 - (b) any payment or provision of any other financial benefit (other than from the Council) made or provided within the relevant period in respect of any expenses incurred in carrying out your duties as a Member, or towards your expenses, including any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992;
 - (c) any contract which is made between you or, so far as you are aware, a relevant person (as defined at Para 2 above) (in which the relevant person has a beneficial interest) and the Council:
 - (1) under which goods or services are to be provided or works are to be executed; and
 - (2) which has not been fully discharged
 - (d) any beneficial interest in land held by you, or so far as you are aware, a relevant person which is within the administrative area of the Council;
 - (e) any licence (alone or jointly with others) to occupy land in the administrative area of the Council for a month or longer
 - (f) any tenancy where (to your knowledge):
 - (1) the landlord is the Council; and
 - (2) the tenant is a body in which you or, so far as you are aware, a relevant person has a beneficial interest.
 - (g) any beneficial interest that you or, so far as you are aware, a relevant person has in securities of a body where:
 - (1) that body (to your knowledge) has a place of business or land in the administrative area of the Council and
 - (2) either:
 - (A) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or
 - (B) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.
- 7.2 In addition to the disclosable pecuniary interests prescribed by the Regulations this Code also requires that you **must** register the following interests:
- (a) your membership of any body:
 - (1) to which you have been appointed by the Council
 - (2) which exercises functions of a public nature directed to charitable purposes; or

- (3) whose principal purposes include influence of public opinion or policy
- (b) your membership of any political party or trade union.

- 7.3 In addition to those interests listed at 7.1 and 7.2 above which you are required to registered, you **may** wish also to declare membership of any body which, in your view, might create a conflict of interest in carrying out your duties as a Member, such as membership of the Freemasons or any similar body.
- 7.4 Where the Council's Monitoring Officer agrees that any information relating to your interests is "*sensitive information*" namely information whose availability for inspection by the public is likely to create a serious risk that any person may be subjected to violence or intimidation, you need not include that information when registering that interest, or, as the case may be, any change to that interest.
- 7.5 You must, within 28 days of becoming aware of any change of circumstances which means that information excluded is no longer sensitive information, notify the Council's Monitoring Officer asking that the information be included in the Council's Register of Members' Interests.

8. Declaration of Interests

- 8.1 Unless a dispensation has been granted, you may not participate in any discussion of, vote on, or discharge any function which relates to or is likely to affect any matter in which you have a disclosable pecuniary interest as defined by Regulations referred to at Para 6(b)(i) .
- 8.2 Where you have any interest in business of the Council and you attend a meeting at which that business is to be considered, you must:
- (a) disclose to that meeting the existence and nature of that interest but where your interest is sensitive you are not required to disclose the nature of the interest but merely the fact that you have an interest in the matter concerned;
 - (b) disclose any interest, no later than the commencement of the consideration of the business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
 - (c) where you have a disclosable pecuniary interest, withdraw from the room or chamber where a meeting considering the business is being held at the commencement of the consideration of that business in which you have that interest, or (if later) the time at which the interest becomes apparent to you;
 - (d) not seek to influence improperly any decision about that business;

unless you have obtained a dispensation from the Council's Monitoring Officer.

- 8.3 Members should note that the following is a criminal offence:

- (a) failing to notify the authority's Monitoring Officer of any disclosable pecuniary interests which the person has at the time when the notification is

given, before the end of 28 days beginning with the day on which the person becomes a member or co-opted member of the authority,

(b) failing to disclose a disclosable pecuniary interest to a meeting which has not been previously notified to the monitoring officer and if that interest is not the subject of a pending notification, failing to notify the authority's Monitoring Officer of the interest before the end of 28 days beginning with the date of the disclosure

(c) participating, or participating further, in any discussion of a matter in which a member has a disclosable pecuniary interest

(d) participating in any vote, or further vote, taken on the matter at the meeting in which a member has a disclosable pecuniary interest

- 8.4 You are also required to consider, before taking any decision, whether there is potential for legal challenge on the basis of you having any apparent bias, pre-determination or pre-disposition associated with the decision. The Local Code of Good Practice – Members and Council Officers Involved in the Planning Process provides further guidance on bias, pre-determination and pre-disposition.

MEMBERS' CODE OF CONDUCT
GENERAL NOTICE OF REGISTERABLE INTERESTS

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I,

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being a Member/Co-opted Member of the Council of the Borough of Torbay,

give notice below of those interests which I am required to declare under The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and Torbay Council's Code of Conduct:

I understand that in so doing I must declare any interest of my spouse or civil partner or of any person with whom I am living as a husband or wife and acknowledge that all references to 'you' below include reference to my spouse or civil partner or of any person with whom I am living as a husband or wife.

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

**Please give details of (i) every employment, job, trade, business or vocation you have, for which you receive any benefit or gain (i.e. profit, salary or benefit in kind) including a short description of the activity e.g. 'Accountant' or 'Farmer' and (ii) the name of any employer or body, firm or company which you own or in which you have any beneficial interest.**

|                                                                                                                                                                   |  |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
| Description of employment, job, vocation, trade or business                                                                                                       |  |
| Name of Employer, body, firm or company by which you are employed or in which you are a partner or a remunerated Director in which you have a beneficial interest |  |

**2. Sponsorship**

Please give details of any person or body (other than the Council) who has made any payment to you in respect of your election or any expenses you have incurred in carrying out your duties as a Councillor.

**3. Securities: Interests in Companies**

Please give details of body which has a place of business or owns land in the Council's area and in which you have a beneficial interest (a shareholding) of more than £25,000 (nominal value) or more than 1/100<sup>th</sup> of the total share issue of that body (whichever is the lower) or if there is more than one class of share, the total nominal value of shares in any class of that body of more than 1/100<sup>th</sup> of the total shares of that class

*Note: It is not necessary to declare the nature or size of the holding, simply the name of the company or other body.*

**4. Contracts: for Goods, Works or Services with the Council**

Please give details of any current, existing contracts for goods, works or services between the Council and you or any body, firm or company by which you are employed or which you own or in which you have a beneficial interest, as referred to at 3 above.

**5. Landholdings and Licenses in the Area**

Please give the address or other description (sufficient to identify the location) of any land or property in the Council's area in which you have a beneficial interest, indicating whether you are the owner, lessee or tenant, including land in which you may have a licence, alone or with others, to occupy for a period of one month or longer.

You must include the land and house you live in and for example an allotment you own or use.

**6. Corporate Tenancies: Land leased from the Council**

**Please give the address or other description (sufficient to identify the location) of any land leased or licensed from the Council by a you or any body firm or company by which you are employed or which you own or in which you have a beneficial interest (specified at 3 above).**

**7. Membership of Other Bodies**

**Please give details of your membership of, or any position of general control or management, of any bodies in the categories listed below.**

Any Body or Organisation to which you have been appointed or nominated by the Council as its representative

Any body which exercises functions of a public nature directed to charitable purposes

*(e.g., an Industrial and Provident Society or Charitable Body)*

Any Body whose principle purpose is to influence public opinion or policy or which, in your view, might create a conflict of interest in carrying out their duties as a Councillor.

*(e.g. Political Party; Trade Union, Professional Association, Local Action Forum, Civic Society or Interest Group  
(e.g. National Trust; RSPB: Greenpeace or membership of the Freemasons or similar body)*

### **DECLARATION**

I recognise that if I fail to comply with the Code of Conduct for Members of the Council of the Borough of Torbay or:

- (i) omit any information that should be included in this Notice;
- (ii) give false or misleading information; or
- (iii) do not tell the Council of any changes to this Notice or new interests I acquire,

that may be a criminal offence and/or the matter may be referred for investigation.

Signed : .....

### **FOR OFFICE USE ONLY**

Received: ..... Update

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Appendix A

**General principles of public life**

**Selflessness** – members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

**Honesty and integrity** – members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly, and should on all occasions avoid the appearance of such behaviour.

**Objectivity** – members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

**Accountability** – members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

**Openness** – members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

**Leadership** – members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

**Personal judgement** – members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

**Respect for others** – members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers and its other employees.

**Duty to uphold the law** – members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

**Stewardship** – members should do whatever they are able to do to ensure that their authorities use their resources prudently, and in accordance with the law.

Appendix B

**Public sector equality duty (extract from s149 of the Equality Act 2010)**

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [the Equality Act 2010];

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

(a) tackle prejudice, and

(b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; and sexual orientation.

**Appendix C****Local Authority Code of Publicity****Introduction**

1. This code applies to all local authorities in England specified in section 6 of the Local Government Act 1986 and to other authorities in England which have that provision applied to them by other legislation. Where the term “local authorities” is used in this code it should be taken as referring to both those categories of authority. References to “the Act” are to the Local Government Act 1986.

2. Local authorities are required by section 4(1) of the Act to have regard to the contents of this code in coming to any decision on publicity. Section 6 of the Act defines publicity as “any communication in whatever form, addressed to the public at large or a section of the public”. The code therefore applies in relation to all decisions by local authorities relating to paid advertising and leaflet campaigns, publication of free newspapers and newssheets and maintenance of websites – including the hosting of material which is created by third parties.

3. Nothing in this code overrides the prohibition by section 2 of the Act on the publication by local authorities of material which in whole or in part appears to be designed to affect public support for a political party. Paragraphs 21 to 24 offer some guidance for local authorities on the management of publicity which may contain or have links to party political material.

**Principles**

4. Publicity by local authorities should:-

- be lawful
- be cost effective
- be objective
- be even-handed
- be appropriate
- have regard to equality and diversity
- be issued with care during periods of heightened sensitivity

**Lawfulness**

5. Local authorities should ensure that publicity complies with all applicable statutory provisions. Paid-for advertising must comply with the Advertising Standards Authority’s Advertising Codes.

6. Part 3 of the Communications Act 2003 prohibits political advertising on television or radio. Local authorities must ensure that their publicity does not breach these restrictions.

7. Section 125 of the Political Parties, Elections and Referendums Act 2000 places a specific restriction on the publication by a local authority of material relating to a referendum under Part 7 of that Act, during the period of 28 days immediately before the referendum is held.

8. Regulation 5 of the Local Authorities (Conduct of Referendums) (England) Regulations 2007 (S.I. 2007/2089) prohibits local authorities from publishing material in the 28 days immediately before a referendum which expresses support for, or opposition to a particular answer to a referendum question relating to the constitutional arrangements of the authority.

9. Regulation 15 of the Local Authorities (Referendums, Petitions and Directions) (England) Regulations 2000 (S.I. 2000/2852) prohibits local authorities from incurring expenditure to publish material which appears designed to influence people in deciding whether or not to sign a petition relating to the constitutional arrangements of the authority, or to assist others to publish such material.

### **Cost effectiveness**

10. In relation to all publicity, local authorities should be able to confirm that consideration has been given to the value for money that is being achieved, including taking into account any loss of potential revenue arising from the use of local authority-owned facilities to host authority publicity.

11. In some circumstances it will be difficult to quantify value for money, for example where the publicity promotes a local amenity which is free to use. In such a case authorities should be able to show that they have given thought to alternative means of promoting the amenity and satisfied themselves that the means of publicity chosen is the most appropriate.

12. If another public authority, such as central government, has issued publicity on a particular topic, local authorities should incur expenditure on issuing publicity on the same matter only if they consider that additional value is achieved by the duplication of that publicity. Additional value might be achieved if locally produced publicity gives a local context to national issues.

13. The purchase of advertising space should not be used as a method of subsidising voluntary, public or commercial organisations.

14. Local authorities should consider whether it is appropriate to seek advice from economic analysts, public relations experts or other sources of expert advice before embarking on a publicity campaign involving very large expenditure.

### **Objectivity**

15. Local authorities should ensure that publicity relating to policies and proposals from central government is balanced and factually accurate. Such publicity may set out the local authority's views and reasons for holding those views, but should avoid anything likely to be perceived by readers as constituting a political statement, or being a commentary on contentious areas of public policy.

16. Any publicity describing the council's policies and aims should be as objective as possible, concentrating on the facts or explanation or both. Local authorities should not use public funds to mount publicity campaigns whose primary purpose is to persuade the public to hold a particular view on a question of policy. It is acceptable for local authority publicity to correct erroneous material which has been published by other parties, despite the fact that the material being corrected may have been published with the intention of influencing the public's opinions about the policies of the authority. Such publicity should seek to explain the facts in an objective manner.

17. Where paid-for advertising is used by local authorities, it should be clearly identified as being advertising. Paid-for advertising, including advertisements for the recruitment of staff, should not be used in any publication owned or controlled by a political party.

18. Advertisements for the recruitment of staff should reflect the tradition of political impartiality of local authority employees and should not (except in the case of advertisements relating to the appointment of staff pursuant to section 9 of the Local Government and Housing Act 1989 (assistants for political groups)) refer to any political activities or affiliations of candidates.

### **Even-handedness**

19. Where local authority publicity addresses matters of political controversy it should seek to present the different positions in relation to the issue in question in a fair manner.

20. Other than in the circumstances described in paragraph 34 of this code, it is acceptable for local authorities to publicise the work done by individual members of the authority, and to present the views of those individuals on local issues. This might be appropriate, for example, when one councillor has been the "face" of a particular campaign. If views expressed by or attributed to individual councillors do not reflect the views of the local authority itself, such publicity should make this fact clear.

21. It is acceptable for local authorities to host publicity prepared by third parties – for example an authority may host a blog authored by members of the authority or a public forum on which members of the public may leave comments. Maintenance by a local authority of a website permitting the posting of material by third parties constitutes a continuing act of publication by that local authority which must accordingly have a system for moderating and removing any unacceptable material.

22. It is generally acceptable for local authorities to host publicity, such as a blog, which itself contains links to external sites over which the local authority has no control where the content of those sites would not itself comply with this code. This does not

amount to giving assistance to any person for the publication of material which local authorities are not permitted to publish. However, particular care must be taken by local authorities during the period before elections and referendums to ensure that no breach of any legal restriction takes place. It may be necessary to suspend the hosting of material produced by third parties or public forums which contain links to impermissible material during such periods.

23. It is acceptable for publicity containing material prepared by third parties and hosted by local authorities to include logos of political parties or other organisations with which the third parties are associated.

24. It is acceptable for publicity produced or hosted by local authorities to include a logo associated with a particular member of the authority, such as the leader of the authority. Publicity material produced by local authorities relating to a particular member must not seek to affect public support for that individual.

25. Where local authorities provide assistance to third parties to issue publicity they should ensure that the principles in this code are adhered to by the recipients of that assistance.

### **Appropriate use of publicity**

26. Local authorities should not incur any expenditure in retaining the services of lobbyists for the purpose of the publication of any material designed to influence public officials, Members of Parliament, political parties or the Government to take a particular view on any issue.

27. Local authorities should not incur expenditure on providing stands or displays at conferences of political parties for the purpose of publicity designed to influence members of political parties to take a particular view on any issue.

28. Local authorities should not publish or incur expenditure in commissioning in hard copy or on any website, newsletters, newssheets or similar communications which seek to emulate commercial newspapers in style or content. Where local authorities do commission or publish newsletters, newssheets or similar communications, they should not issue them more frequently than quarterly, apart from parish councils which should not issue them more frequently than monthly. Such communications should not include material other than information for the public about the business, services and amenities of the council or other local service providers.

29. Publicity about local authorities and the services they provide should be freely available to anyone who wishes to receive such information in a format readily accessible and understandable by the person making the request or by any particular group for which services are provided.

30. All local authority publicity should clearly and unambiguously identify itself as a product of the local authority. Printed material, including any newsletters, newssheets

or similar publications published by the local authority, should do this on the front page of the publication.

**Equality and diversity etc**

31. Publicity by local authorities may seek to influence (in accordance with the relevant law and in a way which they consider positive) the attitudes of local people or public behaviour in relation to matters of health, safety, crime prevention, race relations, equality, diversity and community issues.

32. Local authorities should consider how any publicity they issue can contribute to the promotion of any duties applicable to them in relation to the elimination of discrimination, the advancement of equality and the fostering of good relations.

**Care during periods of heightened sensitivity**

33. Local authorities should pay particular regard to the legislation governing publicity during the period of heightened sensitivity before elections and referendums – see paragraphs 7 to 9 of this code. It may be necessary to suspend the hosting of material produced by third parties, or to close public forums during this period to avoid breaching any legal restrictions.

34. During the period between the notice of an election and the election itself, local authorities should not publish any publicity on controversial issues or report views or proposals in such a way that identifies them with any individual members or groups of members. Publicity relating to individuals involved directly in the election should not be published by local authorities during this period unless expressly authorised by or under statute. It is permissible for local authorities to publish factual information which identifies the names, wards and parties of candidates at elections.

35. In general, local authorities should not issue any publicity which seeks to influence voters. However this general principle is subject to any statutory provision which authorises expenditure being incurred on the publication of material designed to influence the public as to whether to support or oppose a question put at a referendum. It is acceptable to publish material relating to the subject matter of a referendum, for example to correct any factual inaccuracies which have appeared in publicity produced by third parties, so long as this is even-handed and objective and does not support or oppose any of the options which are the subject of the vote.

Appendix D

**Interests and Outside Organisations**

You may be appointed by the Council onto an organisation (referred to as an 'outside organisation') in one of two roles:-

1. **General member:** where you take no part in the management or governance of the outside organisation and your role is only to attend and vote at general meetings of the outside organisation on behalf of the Council; or
2. **Full member:** Where you are appointed as a member of the board of directors; managing trustees or management committee and therefore take part in the management and governance of the outside organisation.

**Things you need to do:**

If you are appointed onto an outside organisation you must ensure that it is included in your register of interests within 28 days of your appointment. It is your responsibility to ensure that this is done.

**Declaring interests**

Where you are as a 'general member' (appointed only to attend and vote at general meetings of the outside organisation on behalf of the Council) it is unlikely you will have a disclosable pecuniary interest in matters arising at any of the Council's meetings which may affect that outside organisation, although you will have a personal interest.

Where you are appointed as a 'full member' (appointed member of the board of directors; a managing trustee or on to the management committee) of an outside organisation you are likely to have a disclosable pecuniary interest where an issue being discussed at any of the Council's meetings which affects the financial interests of that outside organisation.

In either capacity when you are appointed to an outside organisation you must comply with the Members' Code of Conduct in so far as it does not conflict with any lawful obligations to which the outside organisation may be subject.

**Conflicts of interest**

Where you are a 'full member' (appointed as a member of the board of directors; a managing trustee or on to the management committee of an organisation) you may have duties that you owe to that outside organisation as well as the duties you owe to the Council. For example the duties of company directors are now expressly set out in the Companies Act 2006.

In the event of a conflict of those duties you must balance the duties you owe to the Council and to that of the outside organisation and make your decision accordingly. If you are not sure of your position you should seek legal advice from the Council's Monitoring Officer or a solicitor.

If the outside organisation is a company, its Articles of Association will have details of how conflicts of interests should be dealt with and it is possible that a charity or other organisation that is not a company will have a trust deed or constitution that gives similar details. If you comply with these rules when you have a conflict of interest, you are unlikely to be in breach of your duties to that outside organisation. If you are not sure of your position you should seek legal advice from the Council's Monitoring Officer or a solicitor.

# Joint Statement of Conduct by Elected Members

Adopted by Annual Council, May 2022

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## Introduction

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The Jo Cox Foundation and the Committee for Standards in Public Life have prepared the Joint Statement of Conduct, a high-level statement of principle which all political parties in Westminster have signed up to. The Joint Standard seeks to agree on a responsible framework for legitimate public debate and to help protect candidates during an election campaign. It sits alongside party codes of conduct and asks for minimum standards of behaviours expected at all times.

At a local level, Torbay Council also supports and expects high levels of conduct and has adopted the following Joint Statement for conduct of its members to sit alongside and support the Members' Code of Conduct and Local Protocols.

## The Joint Statement of Conduct

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1. Representative democracy is a central and valued characteristic of our way of life. We believe it is in the interests of us all for Parliament and Local Authority's to reflect the diverse population it serves so that decisions that impact the public reflect the realities of life in the UK. In recent years, intimidation (see Annex A) experienced by Parliamentary candidates and others in public life has increased and has threatened the diversity, integrity, and vibrancy of our democracy.
2. This joint statement on conduct of Councillors (the Statement), Members' Code of Conduct and Local Protocols sets out the minimum standards of behaviour we expect from Councillors at all times.
3. The Seven Principles of Public Life (the Nolan Principles) - selflessness, integrity, objectivity, accountability, openness, honesty and leadership - have long been the basis for ensuring high standards in public life. This is the context for the behaviours set out below.

4. Councillors will aspire to:
  - a) take responsibility for setting an appropriate tone for campaigning and communication;
  - b) lead by example to encourage and foster constructive democratic debate and tolerance of other points of view; and
  - c) promote and defend the dignity of others, including political opponents, treating all people with courtesy and respect.
5. As a minimum, Councillors will not engage in intimidation by:
  - a) using or threatening violence or other unlawful force;
  - b) damaging property or making threats to damage property;
  - c) engaging in bullying, harassment or victimisation, or unlawfully discriminating against another person or group;
  - d) using abusive or threatening words or behaviour, including the use of hateful or sexualised language or imagery;
  - e) making vexatious or malicious allegations of illegal or improper conduct; or
  - f) using violent metaphors or allusions to violence.
6. Councillors are expected to challenge unacceptable behaviour wherever it occurs.
7. Behaviour that falls within the unacceptable behaviour listed in this Statement will be dealt with under Torbay Council's Members Code of Conduct.
8. In some cases, including but not limited to offences against the person and damage to property, as well as credible threats of violence, the behaviour may be illegal. We will refer any breach of this Statement which appears to break the criminal law to the police

This statement was adopted by Annual Council on 17 May 2022 and, on behalf of all Torbay's Councillors, we as the Council's political group leaders hereby sign this statement to demonstrate our joint commitment:



**Councillor Steve Darling**

Leader Liberal Democrat Group



**Councillor David Thomas**

Leader Conservative Group



**Councillor Robert Loxton**

Leader Independent Group

## Annex A

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### What is intimidatory behaviour?

The 2017 Report of the Committee on Standards in Public Life, *Intimidation in Public Life*, interpreted intimidatory behaviour as: ‘words and/or behaviour intended or likely to block or deter participation, which could reasonably lead to an individual wanting to withdraw from public life.’

1. Intimidation can include physical violence, threats of violence, damage to property, and abusive online and offline communications, amongst other behaviour. Sometimes, the collective impact of a number of individual actions can also be intimidatory, for example, co-ordinated social media attacks. A clear finding of Intimidation in Public Life is that intimidation is disproportionately likely to be directed towards women, those from ethnic and religious minorities, and LGBT candidates.
2. Robust political disagreement is part of the democratic process; highly personalised attacks are not. Intimidatory actions are not a way to apply legitimate political pressure. Instead, they are intended and likely to cause an individual to withdraw from a public space, including social media, public events, or from public life altogether. This can have the effect of limiting freedom of expression.