

# Introduction to the Constitution and how the Council operates

(References: Part 1A of the Local Government Act 2000; Localism Act 2011 (Commencement No.2 and Transitional and Saving Provisions) Order 2012/57)

The Borough of Torbay is situated on the south west coast of England and consists of three towns Brixham, Paignton and Torquay. Torbay is divided into 16 areas which are called wards.

Torbay Council's vision, through its Community and Corporate Plan, is for a healthy, happy and prosperous Torbay. This will be achieved through the following strategic themes:

- Community and People;
- Pride in Place; and
- Economic Growth.

## The Council's Constitution

The Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by law, while others are a matter for the Council to choose.

## What is in the Constitution?

The Constitution is divided into 15 Articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules (called Standing Orders) and protocols at the end of the document.

Article 1 sets out the Council's priorities and describes the principles of decision-making.

Articles 2 – 15 explain the rights of local people and how the key parts of the Council operate. These are:

- a) Members of the Council (Article 2)
- b) Local people and the Council (Article 3)
- c) The Council (Article 4)
- d) Overview and Scrutiny (Article 5)
- e) The Leader and Cabinet (Article 6)
- f) Regulatory and other committees (Article 7)
- g) Area committees (Article 8)
- h) Joint arrangements (Article 9)
- i) Officers (Article 10)
- j) Decision-making (Article 11)
- k) Finance, contracts and legal matters (Article 12)
- l) Review and revision of the Constitution (Article 13)

m) Suspension, interpretation and publication of the Constitution (Article 14)

n) Health and Wellbeing Board (Article 15)

### **How the Council operates**

The Council comprises 36 Councillors. The regular election of Councillors is held on the first Thursday in May every four years. Councillors are democratically elected and accountable to residents in their ward. The overriding duty of Councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them.

In taking office, Councillors have to agree to follow a Code of Conduct for Members to ensure high standards in the way they undertake their duties. The Standards Committee oversees and promotes high standards of conduct by all Councillors.

All Councillors meet together as the Council. Meetings of the Council are usually open to the public. Here Councillors decide the Council's framework of policies and set a budget each year. The Council appoints the Leader of the Council at the first Council meeting after an all-Council election. The Leader of the Council appoints a Deputy Leader of the Council. The Leader and Deputy Leader hold office for the next four years. The Council also appoints an Overview and Scrutiny Co-ordinator and Overview and Scrutiny Lead Members, plus a number of Regulatory and Other committees.

Within the Council, the group of Councillors which provides the leadership of the Council is called the 'Administration'. The Administration is responsible for proposing the Council's budget and policy framework and for making major decisions within the budget and policy framework set by the Council. The Administration works through the Cabinet and includes the Leader of the Council and normally holds the positions of Civic Mayor and Deputy Civic Mayor.

The Leader of the Council is responsible for appointing between two and nine Councillors to be members of the Cabinet and for deciding whether to allocate any areas of responsibility to these Councillors.

Those Councillors who are not part of the Administration, or the Cabinet are known as the 'Opposition'. The Opposition of the Council provides constructive challenge to the Administration and holds decision-makers to account. The Opposition works through Shadow Cabinet and normally holds the Overview & Scrutiny Co-Ordinator and the Audit Committee Chair positions.

A structure chart showing the relationship between the Council, the Cabinet and Overview and Scrutiny and other committees can be found at the end of this document.

### **How decisions are made**

The Cabinet is responsible for major decisions including key policy matters within a framework set by Full Council. These are referred to as "Executive Functions". When major decisions are to be discussed or made, these are published in the Forward Plan in so far as they can be anticipated. The Cabinet takes their decisions at meetings of the Cabinet and these meetings will generally be open for the public to attend except where exempt or confidential matters are being discussed. The Cabinet have to make decisions

which are in line with the policies and budget set by Council. If they wish to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide. The Council has an overview and scrutiny process which provides a 'critical friend' challenge to cabinet policy makers and decision making.

### **The Council's staff**

The Council employs staff (called officers) to give advice, implement the Councillors' decisions and manage the day-to-day delivery of its services. Officers make operational, day to day decisions in accordance with major policy guidelines and budget decisions made by the Cabinet and Councillors, following consultation with them when appropriate. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A local protocol governs the relationships between officers and members of the Council which can be found in Part 5 of the Council's Constitution.

For further information on how the Council operates and the information set out in this Constitution, please contact Governance Support (telephone 01803 207087 or e-mail [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)).

