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Date: Friday, 21 February 2025

Governance Support
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Dear Member

COUNCIL - THURSDAY, 27 FEBRUARY 2025

I am now able to enclose, for consideration at the Thursday, 27 February 2025 meeting of the Council, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
7.	Revenue and Capital Budget 2025/2026 Proposals	(Pages 3 - 4)
9.	Budget Monitoring 2024/25 - April to December 2024 Revenue and Capital Outturn Forecast	(Pages 5 - 6)
10.	Good Governance the Torbay Way - Effective Administration and Opposition - Leaders' Agreement, Principles and Constitution Amendments	(Pages 7 - 36)

Yours sincerely

June Gurry
Clerk

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Record of Decisions

Revenue and Capital Budget 2025/2026

Decision Taker

Cabinet on 18 February 2025.

Decision

That Cabinet recommend to Council;

1. That for 2025/26 a net revenue expenditure of £147.5m, resulting in a Council Tax requirement of £96.2m (a 4.75% increase in Council Tax, of which 2% is for Adult Social Care) be approved (as outlined in Appendix 1 to the submitted report);
2. that the proposed Fees and Charges for 2025/26 be approved as set out in Appendix 4 to the submitted report;
3. that in accordance with the requirement of the Local Government Act 2003, the advice given by the Chief Finance Officer with respect to the robustness of the budget estimates and the adequacy of the Council's Reserves, (as set out in the Reserves Statement published in November 2024), be noted;
4. that it be noted that the Brixham Town Council precept for 2025/26 of £531,935 will be included as part of the Torbay Council budget for Council Tax setting purposes;
5. that the Director of Public Health be instructed to prepare proposals for the increased allocation of the Public Health Grant, which meet the specified grant criteria, for consideration by the Council as part of the budget setting for 2025/26;
6. that the Revenue Reserves Statement 2025/26, Capital Strategy 2025/26 and Treasury Management Strategy 2025/26 be approved as published for Cabinet on 26 November 2024; and
7. that any technical adjustments to the Revenue and Capital Budget be delegated to the Section 151 Officer in consultation with the Cabinet Member for Housing and Finance.

Reason for the Decision

The Council has a statutory obligation to set a budget each financial year and must take account of all factors when setting the budget. The Cabinet's response to the recommendations of the Overview and Scrutiny Board were set out in the submitted report.

Implementation

The recommendations of the Cabinet will be considered at the meeting of Council being held on 27 February 2025.

Information

The Council has a statutory responsibility to set a budget each year. By setting and approving the net revenue budget for 2025/26 and the budget allocations proposed, the

budget would be used to achieve a range of objectives across several plans within the Council including the ambitions expressed within the Community and Corporate Plan and related strategies.

The Cabinet published its budget proposals on 26 November 2024 and commenced a period of consultation that ran until 12 January 2025. Feedback had been received from members of the public as well as from the Overview and Scrutiny Board who considered the draft budget proposals in December 2024. The provisional Local Government Finance Settlement was received on 18 December 2024, part way through the consultation period, and the Overview and Scrutiny Board subsequently received an update on the material changes to funding and resource assumptions on 8 January 2025. The Final funding Settlement was received on 3 February 2025.

The Cabinet's revised budget proposals, take into account changes announced within the Settlement and consultation feedback. At the meeting, Councillor David Thomas proposed and Councillor Tyerman seconded a motion that was agreed unanimously by the Cabinet, as set out above.

Alternative Options considered and rejected at the time of the decision

None

Is this a Key Decision?

Yes

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

21 February 2025

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Record of Decisions

Budget Monitoring 2024/25 - April to December 2024 Revenue and Capital Outturn Forecast

Decision Taker

Cabinet on 18 February 2025.

Decision

1. that Cabinet notes the forecasted revenue outturn position and amendments made to the published 2024/25 Capital Investment Plan; and recommends to Council:
2. that the revisions to the Capital Investment Plan, as set out in Appendix 1 to the submitted report be approved.

Reason for the Decision

To ensure the Council operates in a prudent manner and works to maintain a balanced budget.

Implementation

The Cabinet's recommendations will be considered at the Council meeting on 27 February 2025.

Information

The Budget Monitoring 2024/25 report set out a high-level budget summary of the Council's revenue and capital position for the financial year 2024/25, reviewing budgets and considering year-end forecasts. These forecasts were based upon the levels of spend and financial information at the end of quarter three (up to 31 December 2024).

The Overview and Scrutiny Board considered the Budget Monitoring 2024/25 report on 12 February 2025 and supported the proposals and recommendation to Cabinet. At the Cabinet meeting, Councillor Tyerman proposed and Councillor Chris Lewis seconded a motion that was agreed unanimously, as set out above.

Alternative Options considered and rejected at the time of the decision

There were no alternative options considered.

Is this a Key Decision?

No

Does the call-in procedure apply?

No

Declarations of interest (including details of any relevant dispensations issued by the Standards Committee)

None

Published

21 February 2025

Signed: _____ Date: _____
Leader of Torbay Council on behalf of the Cabinet

Meeting: Council

Date: 27 February 2025

Wards affected: All Wards in Torbay

Report Title: **Good Governance the Torbay Way – Effective Administration and Opposition – Leaders’ Agreement, Principles and Constitution**

When does the decision need to be implemented? Immediately

Cabinet Member Contact Details: Councillor David Thomas, Leader of the Council,
David.thomas@torbay.gov.uk

Director Contact Details: Anne-Marie Bond, Chief Executive, anne-marie.bond@torbay.gov.uk

1. Purpose of Report

- 1.1. The LGA Corporate Peer Challenge of the Council, undertaken in April 2024, highlighted the need for ‘pragmatism on the part of political leaders to find common ground on the top strategic priorities that must be determined and delivered collaboratively’ and recommended the Council find ways of working effectively in a context of the minority Administration No Overall Control arrangement. This report sets out the results of the work undertaken by all Group Leaders to co-create the changes needed and in response to the LGA’s recommendations. The changes include a Leaders’ Agreement, associated principles and amendments required to both the Constitution and our ways of working to embed effective Administration and Opposition in the ‘Torbay Way’ for good governance.

2. Reason for Proposal and its benefits

- 2.1 The proposals in this report help us to deliver our vision of a healthy, happy, and prosperous Torbay by strengthening the ‘Torbay Way’ for good governance of the Council, in recognition of all councillors working together for the best interests of the Council and the residents it serves, irrespective of the political make-up of the Council and in a way which is built on trust.

3. Recommendation(s) / Proposed Decision

1. That the Council approve the Group Leaders’ Agreement, the associated principles and amendments to the Constitution, as set out at Appendix 1 to this report, in order to embed effective Administration and Opposition in our ‘Torbay Way’ for good governance and for inclusion in the Council’s Constitution.

2. That, subject to approval of 1. above, the Group Leaders be requested to sign the Leaders' Agreement and principles at the Council Meeting on 27 February 2025.

4. Appendices

Appendix 1: Good Governance the Torbay Way – Effective Administration and Opposition (Leaders' Agreement, Principles and Associated Constitution Amendments)

5. Background Documents

- LGA Corporate Peer Challenge of Torbay Council, April 2024: [LGA Corporate Peer Challenge: Torbay Council | Local Government Association](#)
- Torbay Council Constitution: [Browse - Torbay Council's Constitution](#)

Supporting Information

6. Introduction

- 6.1. The LGA undertook a Corporate Peer of the Council in April 2024 and in respect of political relations made the following observations and recommendations in its resulting report:

A minority Administration under No Overall Control is a new way of working for all in Torbay and requires the appropriate adaptation of style and approach to reflect the fact that no single political party now has the majority of elected members on the council. Some success was seen in the 'Minority Administration Way of Working' developed a few months ago, not least the formal adoption of the Community and Corporate Plan and passing of the 2024/25 budget – both on a cross-party basis. Unfortunately, the 'Way of Working' has clearly broken down in recent weeks.

It is clear that the current political tensions, and the way they are being played out, are negatively impacting upon staff morale and motivation; the vast majority of elected members; the reputation of the council and the trust and confidence of partners. The issues are vested in a very small number of elected members, from across the Council Chamber, who must ask themselves what they want their legacy to be – in a context of this being that 'moment in time' for Torbay.

'No Overall Control' with a minority Administration is not unique to Torbay and there is no 'silver bullet'. It requires pragmatism on the part of political leaders to find common ground on the top strategic priorities that must be determined and delivered collaboratively. What is crucial is there being a genuine desire to listen on all 'sides' and not try to 'score political points'. It needs to be approached from the perspective of 'how do we get things done for the people of Torbay' and 'how do we collectively ensure good governance is maintained in the council'

Recommendation 2

The very small number of elected members from across the council chamber whose behaviours are impacting so negatively must ask themselves what they want their legacy to be and find ways of working effectively in a context of the minority Administration No Overall Control arrangement

Recommendation 9

Create the space for cross-party consideration of matters relating to Constitutional and elected member governance

- 6.2. The Group Leaders from all political groups have worked together, through facilitated sessions, to identify a way forward to deliver good governance. This work led to the development of the Group Leaders' Agreement (see Appendix 1 attached).
- 6.3. The Council Leadership Group (including all Group Leaders and Deputy Leaders) subsequently met on 10 December 2024, 7 January and 21 January 2025 to establish a number of principles and associated Constitution Amendments to embed the Group Leaders' Agreement. These are also set out at Appendix 1 and are presented to Council for approval.
- 6.4. Subject to Council's approval, the Group Leaders wish to sign the Leaders Agreement at the Council meeting on 27 February 2025.
- 6.5. It is recommended the signed Group Leaders' Agreement and associated principles are included in the Council's Constitution in order to embed effective Administration and Opposition in our 'Torbay Way' for good governance and for inclusion in the Council's Constitution.

7. Options under consideration

- 7.1. To not endorse the principles arising from the Group Leaders' Agreement and approve the associated Constitution Amendments. However, this option is not recommended as the proposed changes will strengthen the Council's governance arrangements.
- 7.2. To identify alternative changes to the Constitution. However, it should be noted the Constitution provides the basis for the Council's overarching governance arrangements and does not reflect the current political make-up of the Council as this may change at any time. Therefore, any alternative Constitutional changes should reflect the Group Leaders' Agreement as far as the Council's governance arrangements allow and without being timebound.

8. Financial Opportunities and Implications

- 8.1. None

9. Legal Implications

9.1. None – the proposed changes to the Constitution are within legislative requirements.

10. Engagement and Consultation

10.1. The Group Leaders and Deputy Leaders worked collectively to prepare the proposals set out in this report and consulted their respective political groups.

11. Procurement Implications

11.1. Not applicable.

12. Protecting our naturally inspiring Bay and tackling Climate Change

12.1. Not applicable.

13. Associated Risks

13.1. If the proposals set out in this report are not accepted, there is a risk the Council's governance will not be truly effective.

Equality Impact Assessment

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
Age	<p>18 per cent of Torbay residents are under 18 years old.</p> <p>55 per cent of Torbay residents are aged between 18 to 64 years old.</p> <p>27 per cent of Torbay residents are aged 65 and older.</p>	<p>The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.</p>	Not applicable	Not applicable
Carers	<p>At the time of the 2021 census there were 14,900 unpaid carers in Torbay. 5,185 of these provided 50 hours or more of care.</p>	<p>The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.</p>	Not applicable	Not applicable
Disability	<p>In the 2021 Census, 23.8% of Torbay residents answered that their day-to-day activities were limited a little or a lot by a physical or mental health condition or illness.</p>	<p>The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents.</p>	Not applicable	Not applicable

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
		It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.		
Gender reassignment	In the 2021 Census, 0.4% of Torbay's community answered that their gender identity was not the same as their sex registered at birth. This proportion is similar to the Southwest and is lower than England.	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
Marriage and civil partnership	Of those Torbay residents aged 16 and over at the time of 2021 Census, 44.2% of people were married or in a registered civil partnership.	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
Pregnancy and maternity	Over the period 2010 to 2021, the rate of live births (as a proportion of females aged 15 to 44) has been slightly but significantly higher in Torbay (average of 63.7 per 1,000) than England (60.2) and the South West (58.4). There has	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
	been a notable fall in the numbers of live births since the middle of the last decade across all geographical areas.			
Race	In the 2021 Census, 96.1% of Torbay residents described their ethnicity as white. This is a higher proportion than the South West and England. Black, Asian and minority ethnic individuals are more likely to live in areas of Torbay classified as being amongst the 20% most deprived areas in England.	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
Religion and belief	64.8% of Torbay residents who stated that they have a religion in the 2021 census.	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
Sex	51.3% of Torbay's population are female and 48.7% are male	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents.	Not applicable	Not applicable

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
		It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.		
Sexual orientation	In the 2021 Census, 3.4% of those in Torbay aged over 16 identified their sexuality as either Lesbian, Gay, Bisexual or, used another term to describe their sexual orientation.	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
V eterans	In 2021, 3.8% of residents in England reported that they had previously served in the UK armed forces. In Torbay, 5.9 per cent of the population have previously serviced in the UK armed forces.	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
Additional considerations				
Socio-economic impacts (Including impacts on child poverty and deprivation)		The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents.	Not applicable	Not applicable

Protected characteristics under the Equality Act and groups with increased vulnerability	Data and insight	Equality considerations (including any adverse impacts)	Mitigation activities	Responsible department and timeframe for implementing mitigation activities
		It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.		
Public Health impacts (Including impacts on the general health of the population of Torbay)		The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
Human Rights impacts		The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable
Child Friendly	Torbay Council is a Child Friendly Council and all staff and Councillors are Corporate Parents and have a responsibility towards cared for and care experienced children and young people.	The changes to the Council's Constitution will help ensure good governance and decision making which will support all of Torbay's residents. It is not anticipated that any adverse impacts will be caused by the implementation of the recommendations.	Not applicable	Not applicable

14. Cumulative Council Impact

14.1. None

15. Cumulative Community Impacts

15.1. None

Good Governance the Torbay Way – Effective Administration and Opposition

Leaders' Agreement and Principles

February 2025

Introduction

The Council has operated within no overall control by a single political party since 2019 and most recently since December 2023. All Group Leaders recognise there will always be a need to work together to ensure the good governance of the Council, which is built on trust and for the best interests of the Council and the residents it serves, irrespective of the political make-up of the Council.

To enhance the good governance of the Council, the respective roles of Administration and Opposition need to be clearly understood, defined and supported and expressed in our constitutional arrangements.

The Group Leaders have worked together to co-create the changes required to both the Constitution and our ways of working to embed effective Administration and Opposition in our 'Torbay Way' for good governance. This document sets out the resulting Group Leaders' Agreement and principles. Associated Constitution amendments are also appended.

The principles agreed by the Group Leaders', and the associated Constitution amendments required, bring the Group Leaders' Agreement into effect. The Constitution provides the basis for the Council's overarching governance arrangements and does not reflect the current political make-up of the Council as this may change at any time. However, the Constitutional changes set out below encompass the principles arising from the Leaders' Agreement as far as the Council's governance arrangements allow and without being timebound but provide the 'Torbay Way' for the Council's governance arrangements for effective administration and opposition working.

Leaders' Agreement

As Group Leaders, we have worked together and with our respective Groups through a facilitation process. All Members recognise that the best interest of the Council and the residents it serves, is through the good governance of the Council which is built on trust.

To deliver good governance, the respective roles of the administration and the opposition need to be clearly understood and supported. In this regard all Members recognise the need for effective Shadow Cabinet arrangements and have worked together to co-create the required changes to the Constitution, to embed this as the 'Torbay Way.'

The 'Torbay Way' will provide for the following key roles for the opposition:

1. Overview and Scrutiny Co-ordinator; and
2. Chair of Audit Committee

It will also provide that Committee Vice-Chair positions will be held by opposition members, who will work in partnership with the Chairman, in advance of meetings.

The allocation of these roles for the opposition will allow them to be a truly resilient and effective opposition and allow the Administration of the Council to effectively lead the organisation. It will be for the Administration to determine the allocation to all other positions.

Agreement

1. Effective Administration provides the leadership of the Council, 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. It is recognised that the appointment of the Civic Mayor and Deputy Civic Mayor sits with and is within the gift of the Administration.
2. Effective Opposition provides constructive challenge to the Administration and holds decision-makers to account. The Opposition works through Shadow Cabinet. The Opposition also holds the positions of Overview & Scrutiny Co-ordinator and Chair of Audit Committee.
3. It also means that where a member of the Administration Chairs a Committee the Vice-Chair will be a member of the opposition, and vice versa.
4. The associated Constitution amendments (appended) set out in this Agreement bring into effect that agreed.

As Group Leaders of the three Political Groups on Torbay Council, we hereby confirm our agreement to all elements of this Agreement, its principles and associated Constitutional amendments which have been approved by Full Council.

Specifically, we confirm by agreement that the Political Groups will not put forward alternative nominations and as Group Leaders, we will seek to minimise any votes in opposition to the following positions:

1. The Administration's nominations for Civic Mayor and Deputy Civic Mayor (including Civic Mayor and Deputy Civic Mayor elect); and
2. The Oppositions nominations for:
 1. Overview and Scrutiny Co-ordinator; and
 2. Chairman of Audit Committee

Effective Administration and Opposition – Principles

The following principles and changes have been built using the Leaders' Agreement:

Definition of Administration and Opposition

The following definition sets out the respective roles of Administration and Opposition:

The Administration of the Council provides the leadership of the Council, 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. As part of the Leaders' Agreement, it is recognised that the appointment of the Civic Mayor and Deputy Civic Mayor sits with and is within the gift of the Administration.

The Opposition of the Council provides constructive challenge to the Administration and holds decision-makers to account. The Opposition works through Shadow Cabinet. The Opposition also holds the positions of Overview & Scrutiny Co-ordinator and Chair of Audit Committee. The Opposition will also hold Vice-Chair positions on other Committees where the Administration holds the Chair positions.

Shadow Cabinet Arrangements

The Shadow Cabinet shall mirror the Leader of the Council's Cabinet, in terms of number and portfolios and is normally led by the Leader of the largest Opposition Political Group. The Shadow Cabinet provides the collective responsibility for providing an effective challenge to the Administration and constructive political opposition of the achievement of the Council's corporate and service objectives and priorities.

To strengthen the existing arrangements, the following will be introduced for the Shadow Cabinet:

- Mirrors the Cabinet size and portfolios;
- Includes a Shadow Cabinet Leader and Deputy;
- Enable members from other opposition groups to be appointed as Shadow Cabinet members by the Leader of the largest opposition group;
- Establish formal 1:1s between the Leader and Deputy Leader of the Council and Leader and Deputy Leader of the Shadow Cabinet;
- Regular Cabinet Members and Shadow Cabinet Members meeting;
- Recognise Shadow Cabinet Members as opposition spokespersons at Cabinet and Council meetings (where Shadow Cabinet Members are not seconding the Cabinet's proposals at Council meetings);
- Confidentiality shall be maintained on confidential matters shared;
- Strengthen and clarify support by Senior Officers, through 1:1s and meetings of Shadow Cabinet; and
- Effective cascade arrangements from Shadow Cabinet through their respective Group(s) and ward councillors, where appropriate, to ensure effective communication.

Key Roles for Opposition

The Leaders' Agreement recognises that for effective opposition in holding the Administration to account, the following key roles will be held by the Opposition and where the political balance of the Council allows:

- Overview & Scrutiny Co-ordinator; and
- Chair of Audit Committee

Whilst holding the above positions, the requirements of the Council's approach to its statutory functions of overview and scrutiny and guiding principles (as set out in the Local Protocol for Overview & Scrutiny and Cabinet Relations) shall be maintained, namely: 'whilst the membership of Overview and Scrutiny bodies reflect the Council's political proportionality, their meetings should reflect the statutory guidance that scrutiny work be conducted in a non-party political manner'.

Where the Administration hold Committee Chair positions, the Opposition will hold the Vice-Chair positions and vice versa.

The Vice-Chairs shall work in partnership with the Chairs of Committees, attend any pre-briefings to shadow the Chairs on agenda preparation, which will ensure that information is shared, and they gain experience to create capacity building.

All other roles will be held by the Administration to determine their allocation.

Civic Mayor and Deputy Civic Mayor Appointment with Administration

As stated above and as part of the Leaders' Agreement, it is recognised that the appointment of the Civic Mayor and Deputy Civic Mayor sits with and is within the gift of the Administration, to fulfil its leadership role of the Council. The Administration may determine to appoint a Civic Mayor and/or Deputy Civic Mayor from a Member of the Opposition group.

Within the Local Protocol on Civic and Ceremonial Mayor and the Deputy Civic Mayor, clarity has been provided for these roles and their consorts/escorts, in respect of their conduct at civic engagements to ensure and strengthen their political neutrality. In addition, the update provides clarity for the role of the Civic Mayor when exercising their right to vote at Council meetings.

This Agreement and associated principles were adopted by Council on 27 February 2025 and, on behalf of all Torbay Councillors, we as the Council's Political Group Leaders hereby sign this statement to demonstrate our joint commitment to uphold good governance for effective administration and opposition working within Torbay Council:

Councillor David Thomas

Leader Conservative Group

Councillor Swithin Long

Leader Liberal Democrat Group

Councillor Darren Cowell

Leader Independent Group

Annex 1 - Associated Constitution Amendments:

Definition of Administration and Opposition

Part 1 – Introduction to the Constitution and how the Council operates ‘How the Council operates’

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.

Local Protocol on Relations between the Leader and Political Groups

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, irrespective of the political make-up of the Council. In recognition of this, and to ensure the effective governance of the Council, Political Groups will work together in a co-operative, open, transparent and a participatory manner and within the defined roles of Administration and Opposition.
- 1.2 This Protocol is intended to facilitate such a working relationship and to help Councillors perform effectively. This Protocol gives guidance on Councillors' 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 Administration” includes the group of Members which provides the leadership of the Council;

“the Opposition” includes the group of Members who are not part of the Administration and provide constructive challenge to the Administration and holds decision-makers to account;

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

“the Shadow Cabinet” includes Opposition Members;

"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 arm's 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.

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, other Members and between Political Groups, and through their respective roles of Administration and Opposition. 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 Members 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.
- 5.2 As with their relations with officers, in their dealings with fellow elected 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, respect and civility must be maintained at all times.
- 5.3 Fellow elected Members must not be subject to name-calling, personal criticism or abuse. A fellow elected 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, including use of social media.

7. Meetings Between the Leader of the Council, Cabinet Members, Shadow Cabinet Members and 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, plus Cabinet Members and Shadow Cabinet Members to discuss issues including: -
- (a) Council meeting business and strategic issues;
 - (b) Member capacity and performance;
 - (b) Constitutional issues;

(c) Scrutiny programme; and

(d) Priorities.

Shadow Cabinet Arrangements

Article 6 – The Leader and Cabinet

6.08 Shadow Cabinet

Normally, the Leader of the largest Political Group that does not form part of the Executive may choose to form a Shadow Cabinet by their nomination from amongst the Members of the Opposition. The Head of Governance Support shall be notified of the names of the Members nominated to form a Shadow Cabinet and of any changes in the membership of the Shadow Cabinet which may occur from time to time. The Shadow Cabinet will operate in accordance with the Local Protocol for Shadow Cabinet as set out in Part 5 of this Constitution.

Local Protocol on Shadow Cabinet

1. Composition

1.1 Normally, the Leader of the largest Political Group that does not form part of the Executive may choose to form a Shadow Cabinet by their nomination from amongst the Members of the Opposition. If so, they shall notify the Head of Governance Support the names of the Members nominated to form a Shadow Cabinet and of any changes in the membership of the Shadow Cabinet which may occur from time to time.

2. Number of Members and Shadow Cabinet Leader and Shadow Cabinet Deputy Leader

2.1 The Shadow Cabinet shall comprise of Members of the Opposition and mirror the Leader of the Council's Cabinet in terms of number and portfolios..

2.2 The Shadow Cabinet shall include a Shadow Cabinet Leader and Shadow Cabinet Deputy Leader.

3. Role and Operation

3.1 The Shadow Cabinet will have collective responsibility for providing an effective challenge to the controlling Administration and constructive political opposition of the achievement of the Council's corporate and service objectives and priorities.

- 3.2 Shadow Cabinet Members shall be recognised as Opposition spokespersons at Cabinet and Council meetings (where the Shadow Cabinet is not seconding the Cabinet's proposals at Council meetings).
- 3.3 Regular meetings shall be held between the Leaders and Deputy Leaders of both the Cabinet and Shadow Cabinet, along with Members of the Cabinet and Shadow Cabinet. The purpose of these meetings is to ensure briefing and communication from the Cabinet to the Shadow Cabinet, which in turn shall be effectively cascaded from the Shadow Cabinet through to their respective Opposition group(s) and ward Councillors (where appropriate), to ensure effective communication throughout the Council. Confidentiality shall be maintained on all confidential matters shared with the Shadow Cabinet.

4. Officer Support

- 4.1 In addition to the support provided to the Cabinet and Shadow Cabinet Member meetings (as outlined in paragraph 3.3 above), the Chief Executive, or senior officers shall attend private meetings of the Shadow Cabinet in order to brief the Shadow Cabinet on:
- (a) proposals that are to be considered by the Cabinet and that have been published; and
 - (b) other matters identified by the Shadow Cabinet.
- 4.2 Officer briefings at private Shadow Cabinet meetings shall be factual and professional and non-political in nature and shall not extend to the evaluation of policy options, justifying or defending proposals of the Cabinet, or revealing information and advice that is properly confidential in nature.
- 4.3 Officers shall not speak or answer questions at Shadow Cabinet meetings that are open to the general public or anyone who is not an elected Member of Torbay Council, save for any properly appointed External Advisors and any officer present at the request of the Chief Executive.
- 4.4 Shadow Cabinet Members may hold one to one meetings with a relevant Director as required.
- 4.5 Individual shadow Portfolio Holders are not holders of office within the Council. However, shadow Portfolio Holders may receive advice and support from the Chief Executive or senior officers. All such advice and support will need to comply with the Local Protocol on Member and Officer Relations and confidentiality shall be maintained on all confidential matters shared.

5. Powers

- 5.1 For the avoidance of doubt the Shadow Cabinet does not have any Executive powers and in this respect, officers cannot be instructed to act on behalf of the Shadow Cabinet or individual Members of the Shadow Cabinet in any way.

6. The Role of Members – Specific Functions

- 6.1 Members have different responsibilities depending upon the specific roles they are undertaking.
- (a) The Leader of the Council will provide strategic policy guidance as to his/her political priorities and assist in the formulation of the Council's corporate objectives in line with those priorities.
 - (b) Members of the Cabinet will support the Leader of the Council in the formulation of the Council's corporate objectives.
 - (c) Members who sit on the Overview and Scrutiny Board, its sub-committees or any working parties of the Board will be involved in reviewing the Council's decisions and services. They will also contribute towards the development of new Council policies and may be asked to take a key role in the Best Value process. Individual members of the Overview and Scrutiny Board, its sub-Committees or any working parties of the Board (including Chairmen/women) have no decision-making powers.
 - (d) Members of the Council's Regulatory and other Committees will be responsible for taking decisions in relation to the functions of those Committees in accordance with the Scheme of Delegation of Council Functions. Individual members of these Committees (including Chairmen/women) have no decision-making powers.
 - (e) Members of the Shadow Cabinet collectively have responsibility for providing an effective challenge to the Administration and constructive political opposition of the achievement of the Council's corporate and service objectives and priorities.
- 6.2 The Leader of the Council, the Civic Mayor, Members of the Cabinet, Members of the Shadow Cabinet, the Overview and Scrutiny Co-ordinator, Members of the Overview and Scrutiny bodies and Chairmen/women of Committees, all have additional responsibilities. Because of those responsibilities, they are entitled to have greater expectations of senior officers. Because of this, their relationships with senior officers may be different from and more complex than those of Members without such responsibilities. However, such Members must still respect the impartiality of all officers. In particular, such Members must not ask officers to undertake work of a party political nature, or to do anything that would put them in difficulty in the event of a change in the political composition of the Council.

Key Roles for Opposition

Article 5 – Overview and Scrutiny

5.04 Overview and Scrutiny Co-ordinator

The Council will appoint a Councillor who is a member of the Overview and Scrutiny Board to act as the Overview and Scrutiny Co-ordinator. The Overview and Scrutiny Co-ordinator will normally be a Member from the Opposition (where political balance allows) and be the person elected as Chairman/woman of the Overview and Scrutiny

Board. The role of the Overview and Scrutiny Co-ordinator will have equivalent status to the role of a Member of the Cabinet and have special responsibility for leading the overview and scrutiny function. The Council may at any time remove the Member from the post of Overview and Scrutiny Co-ordinator.

Schedule 4 – Terms of Reference

<p>Audit Committee:</p> <ol style="list-style-type: none"> 1. To consider the Head of Internal Audit's annual report and opinion, and a summary of Internal Audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements. 2. To consider summaries of specific Internal Audit reports as requested. 3. To consider reports dealing with the management and performance of the providers of Internal Audit Services. 4. To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale. 5. To consider the External Auditor's Annual Letter, relevant reports, and the report to those charged with governance. 6. To consider specific reports as agreed with the External Auditor. 7. To comment on the scope and depth of external audit work and to ensure it gives value for money. 8. To liaise with the Public Sector Audit Appointments Ltd over the appointment of the Council's external auditor. 9. To commission work from Internal and External Audit within approved resources. 10. To support the Council's compliance with the CIPFA Code of Practice for Treasury Management in Public Services 	<p>6 members of the Council excluding members of the Cabinet, in accordance with the political balance requirements</p> <p>Normally chaired by an Opposition Member, where political balance allows</p> <p>Conservative Group (3):</p> <p>Liberal Democrat Group (2):</p> <p>Councillor Maddison (1):</p> <p>Non-voting Independent Member:</p>
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including the role as nominated Committee to be responsible for ensuring effective scrutiny of the capital strategy, treasury management strategy and policies.

Regulatory Framework

11. To maintain a strategic overview of the Council's Constitution in respect of contract procedure rules, financial regulations and codes of conduct and behaviour (the primary responsibility for considering and ensuring that the constitution is fit for purpose lies with the Monitoring Officer and the Standards Committee in relation to the codes of conduct).
12. To maintain a strategic overview of the Council's compliance with the prevailing Accounts and Audit Regulations.
13. To review any issue referred to it by the Chief Executive, a Director, the Monitoring officer, Section 151 Officer (Chief Finance Officer) or any Council body.
14. To monitor the effective development and operation of risk management and corporate governance in the Council.
15. To monitor council policies on 'Raising Concerns at Work' and the 'Anti-fraud and corruption strategy' and the Council's complaints process.
16. To consider the findings of reviews of the effectiveness of the system of internal control including the Annual Governance Statement and to recommend its adoption.
17. To oversee the Council's arrangements for corporate governance and consider necessary actions to ensure compliance with best practice.
18. To review the Code of Corporate Governance.
19. To monitor the Council's compliance with its own and other published standards and controls.
20. To maintain a strategic overview of the Council's compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).

<p>Accounts</p> <p>21. To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.</p> <p>22. On behalf of the Council, to consider and approve the annual statement of accounts.</p>	
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<p>Overview and Scrutiny Board:</p> <p>1. To approve and co-ordinate the work programme for the overview and scrutiny function for the year.</p> <p>2. To appoint sub-committees and/or working parties to perform the overview and scrutiny function (the membership of such bodies to be in accordance with Standing Order D2 in relation to Overview and Scrutiny).</p> <p>3. To appoint the Council's representatives to the Heart of the South West Local Enterprise Partnership (LEP) Joint Scrutiny Committee.</p> <p>4. To review or scrutinise decisions made, or other action taken, in connection with the discharge of functions which are the responsibility of the Cabinet.</p> <p>5. To make reports or recommendations to the Authority or the Cabinet with respect to the discharge of functions which are the responsibility of the Cabinet.</p> <p>6. To make reports or recommendations to the Authority or the Cabinet with respect to the discharge of functions which are not the responsibility of the Cabinet.</p> <p>7. To make reports or recommendations to the Authority or the Cabinet or the Council's partner authorities (as defined by the Local Government and Public Involvement in Health Act</p>	<p>10 members of the Council in accordance with the political balance requirements (including the Overview and Scrutiny Co-ordinator and Overview and Scrutiny Lead Members) excluding Members of the Cabinet and the Chairman/woman of the Council plus 2 Diocesan and 2 Parent Governor Representatives</p> <p>Normally chaired by an Opposition Member, where political balance allows</p> <p>Conservative Group (5):</p> <p>Liberal Democrat Group (4):</p> <p>Independent Group (1):</p>
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<p>2007) on matters which affect the Authority's area or the inhabitants of that area.</p> <p>8. To consider all matters and issues arising from the Council's power to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions in accordance with the Police and Justice Act 2006.</p> <p>9. To review and scrutinise the exercise by risk management authorities of flood risk management functions or coastal erosion risk management functions which may affect the local authority's area in accordance with Flood and Water Management Act 2010.</p>	
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Standing Orders – Council Meetings

A1. Annual Meeting of the Council

(This Standing Order may not be suspended)

A1.2 At the Annual Meeting, the Council will:

- (ix) appoint the Overview and Scrutiny Co-ordinator and (if any) up to four Overview and Scrutiny Lead Members. (Note 1: Cabinet Members shall not be appointed as the Overview and Scrutiny Co-ordinator or Scrutiny Lead Members. Note 2: the Overview and Scrutiny Co-ordinator will normally be a Member from the Opposition and where political balance allows). Consent shall be given by individuals nominated for these positions prior to the meeting where possible or prior to any vote being taken if consent has not been obtained in advance of the meeting;
- (x) 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). Consent shall be given by individuals nominated for these positions prior to the meeting where possible or prior to any vote being taken if consent has not been obtained in advance of the meeting. (Note 1: normally the Chairman/woman of Overview & Scrutiny Bodies and Audit Committee shall be an Opposition Member, where political balance allows; and, Note 2: normally where the Administration hold Committee Chair positions, the Opposition will hold the Vice-Chair positions and vice versa, where political balance allows.);

Civic Mayor and Deputy Civic Mayor

Article 4 – The Council

4.06 Role and function of the Civic Mayor of the Council

The Civic Mayor shall have precedence in the Borough as first citizen (but not so as to prejudicially affect Her Majesty's royal prerogative) and Section 3(4) of the Local Government Act 1972 (as amended) shall apply and hold the full title of The Worshipful the Mayor of Torbay. As first citizen of the borough, the Civic Mayor will perform the civic and ceremonial duties for the borough. Any future change to these arrangements will be a matter for the Council to determine.

The Civic Mayor will be elected by the Council annually and normally the Administration hold the position of Civic Mayor. Cabinet Members are not permitted to be the Civic Mayor.

The Civic Mayor shall not be a member of any committee, sub-committee or working party or attend any meeting as a substitute.

The Civic Mayor will carry out the roles laid down in the Civic Mayor's Job Description as set out in Part 6 of this Constitution.

4.07 The Deputy Civic Mayor of the Council

The Deputy Civic Mayor will be appointed by the Council annually and normally the Administration hold the position of the Deputy Civic Mayor. Cabinet members are not permitted to be the Deputy Civic Mayor. In the Civic Mayor's absence, the Deputy Civic Mayor will have the roles and functions set out in the Civic Mayor's Job Description as set out in Part 6 of this Constitution.

The Deputy Civic Mayor of the Council shall be permitted to be a member of any Council appointed committee, sub-committee or working party or attend any meetings as a substitute.

Standing Orders – Council Meetings

A1. Annual Meeting of the Council

(This Standing Order may not be suspended)

A1.2 At the Annual Meeting, the Council will:

- (iii) elect the Civic Mayor for the ensuing Municipal Year. Consent shall be given by the individual(s) nominated for this position prior to the meeting where possible or prior to any vote being taken if consent has not been obtained in advance of the meeting. (Note 1: Members of the Cabinet are not permitted to be the Civic Mayor; and Note 2 the Civic Mayor will normally be a Member from the Administration.);
- (iv) elect the Deputy Civic Mayor for the ensuing Municipal Year. Consent shall be given by the individual(s) nominated for this position prior to the meeting where possible or prior to any vote being taken if consent has not been obtained in advance of the meeting. (Note 1: Members of the Cabinet are not permitted to be the Deputy Civic Mayor; and Note 2 the Deputy Civic Mayor will normally be a Member from the Administration.);

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. 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. Consent shall be given by the individuals nominated for Civic Mayor Elect and Deputy Civic Mayor Elect prior to the meeting where possible or prior to any vote being taken if consent has not been obtained in advance of the meeting.

Local Protocol on Civic and Ceremonial

2. Key responsibilities of the Civic Mayor and Deputy Civic Mayor

- 2.1 Key responsibilities are as set out in the Job Descriptions for the Civic Mayor and Deputy Civic Mayor in the Council's Constitution. The Civic Mayor acts as an ambassador for the Council and also for the Borough of Torbay, as a non-political, impartial figure, representing the whole community. The Civic Mayor visits communities and businesses, representing the Council and the Borough, and they can also welcome delegates, dignitaries and visitors to Torbay on behalf of the community and does so as a non-political, impartial figure.

(Note: For clarity, the Leader of the Council's role is to act as an ambassador for the Council promoting its work and acting as its principal political spokesperson.)

- 2.2 The Civic Mayor, Deputy Civic Mayor and their Consorts/Escorts, when undertaking their civic and ceremonial roles shall:
- i. Conduct themselves in a manner appropriate and fitting to their positions, in accordance with the requirements of the Council's Constitution, generally and in particular, the Code of Conduct for Members;
 - ii. Act in a non-political and impartial manner;
 - iii. Not bring the Council into disrepute, through abuse of office;
 - iv. Have regard to advice given by the Council's Governance Support and Events Team;
 - v. Not attend any function or otherwise give support to any organisation or person, whose objectives are contrary to law and/or Council Policy;
 - vi. Not solicit engagements or visits at home or otherwise procure favours or gifts by virtue of office;
 - vii. Not overspend the budget/allowance allocated to the Civic Mayor; and

viii. Be capable of undertaking the demands of the role (for example to be able to: maintain high levels of concentration during long Council meetings; to cope and manage controversial debate at Council meetings; attend a large number of civic events, including during unsocial hours; hold and engage an audience at civic events for long periods of time; and attend civic events which may be held outside in inclement weather).

2.3 The ability to meet the criteria and responsibilities outlined in paragraph 2.2 above, shall be taken into account by the Council, when considering nominees for the roles of Civic Mayor and Deputy Civic Mayor.

3. Annual Meeting of the Council and conduct at Council Meetings

3.1 The election of a Civic Mayor of the Council and Deputy Civic Mayor shall be the first item of business conducted by the Council, in accordance with the Local Government Act 1972.

3.2 The Civic Mayor's term of office is one municipal year, and during this time, they continue to be a Member of the Council. Whilst the Civic Mayor shall preside over meetings of Council, with political neutrality, it is recognised they will exercise their vote and use their casting vote as they determine.

6. Consort or Escort

6.1 The Civic Mayor may identify one person to accompany them to the civic and social activities to which they are invited. Alternatively, the Civic Mayor may choose to attend events alone.

6.2 The position of Consort/Escort is discretionary, and may be a person who is independent of the Council. The Consort/Escort is expected to uphold the high standards of conduct as outlined in paragraph 2 of this Protocol and should not bring the Council into disrepute, either by way of actions or words. The Consort/Escort must appreciate that the role, together with that of the Civic Mayor is politically neutral and therefore political neutrality must be maintained by them when acting in their capacity as Consort/Escort. The Consort/Escort cannot represent the Civic Mayor at civic events, their role is purely to accompany the Civic Mayor to events. The Consort/Escort is not entitled to receive any payment in respect of their role.

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