

# Officer Scheme of Delegation

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### Definitions

"Council"	includes all Committees and Sub-Committees of the Council unless the context requires otherwise
"Council Function"	means a function on which the responsibility of the Council has been delegated by the Council
"Cabinet"	includes the Leader of the Council, all Committees of the Cabinet and any individual member of the Cabinet to whom the Leader of the Council has delegated decision making power unless the context requires otherwise
"Executive function"	means a function that is the responsibility of the Leader of the Council or has been delegated by the Leader of the Council, or a member or committee, of his Cabinet
"Cabinet member/s"	includes the Leader of the Council unless the context requires otherwise

“Officer” includes employees of the Council, persons seconded to the Council, agency workers and permanent employees of companies that are wholly-owned by the Council.

“relevant member” means:

For Executive Functions the Leader of the Council or any Cabinet member to whom he/she has delegated the relevant function; and

For Council functions:

the Chairman/woman of the appropriate Committee where the decision to be taken is within the power of the Committee; Or

the Civic Mayor (where no single political group has more than 18 elected members); Or

the Leader of the political group that comprises more than 18 elected members.

This may mean more than one member where the context or nature of decision made so requires.

Where the person referred to above is absent or has a pecuniary interest or a conflict of interest in the matter or is precluded by law from acting, the expression “relevant member” shall mean the Deputy Leader, Vice-Chairman/woman, Deputy Civic Mayor or Deputy Group Leader as applicable.

## General Delegations

Description	Responsibility delegated by
<b>1. General scheme of delegation</b>	
1.1 In managing the services and functions for which they are responsible Directors, Divisional Directors and Heads of Service shall be authorised to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions. Except Divisional Directors and Heads of Service shall not be authorised to take any decisions where they are expressly delegated to the Chief Executive, a specific Director, Divisional Director or Head of Service in this Scheme of Delegation unless so expressly delegated specifically to them.	Council/Cabinet
1.2 This authorisation shall include (but not be limited to) any decisions in relation to the budget for and resources (including employees) allocated to those service/s and function/s for which they are responsible, from time to time.	Council/Cabinet
1.3 To commission and award contracts in order to fulfil the powers, functions and duties of the service for which the Chief Executive, Director, Divisional Director or budget holder is responsible, where expenditure to do so is included in the approved revenue budget and where the contract value is up to £50,000 per annum and the total value for the contract does not exceed £200,000; the award of contracts above £50,000 per annum or with a total value for the duration of the contract between £200,001 and £500,000 is subject to approval in consultation with the relevant member (or in their absence the Leader of the Council or in his/her absence the Deputy Leader of the Council). Contracts with a total value above £500,000 are to be submitted to Cabinet or Council (where budget is not already approved) for approval to go out to tender. Where approval in consultation with the relevant member, or by Cabinet or Council is given to undertake the tendering, the Chief Executive, Director, Divisional Director or budget holder has the authority to award the resultant contract. But this paragraph shall not prevent the Chief Executive, Directors, Divisional Directors and Heads of Service authorising the acceptance of any tenders for goods or services where they are pursuant to the Council's approved Capital Programme.	Cabinet

Description	Responsibility delegated by
<p>(Note: The limitations in this paragraph shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)’</p>	
<p>1.4 Where the areas of responsibility and powers of an employee refer to specific Acts of Parliament, Regulations, Orders or guidance any subsequent re-enactment or amendment of the same shall apply.</p>	not applicable
<p>1.5 To retain contract staff or appoint consultants on matters related to their areas of responsibility.</p>	Council/Cabinet
<p>1.6 To make any decisions related to staff matters within their business unit in accordance with Council policy.</p>	Council
<p>1.7 So far as is lawful, Directors, Divisional Directors and Heads of Service may delegate (in such manner as is considered appropriate) matters within the services and functions for which they are responsible to officers within their portfolio/business unit or to other Directors, Divisional Directors or Heads of Service. Any such delegations may be revoked, varied or subject to such limitations as the delegating Director, Divisional Director or Head of Service considers appropriate.</p>	not applicable
<p>1.8 A Director or Divisional Director (following consultation with the Chief Executive and the relevant Head of Service) may (by written notice (including email)) withdraw (either permanently or temporarily) any of the above powers delegated to any Head of Service within his/her portfolio and/or impose restrictions or conditions upon the exercise of any of the above powers by that Head of Service. However, this paragraph shall not apply in relation to the following:</p>	not applicable
<p>(a) the Council’s Monitoring Officer when acting in that capacity;</p>	
<p>(b) the Head of Tor Bay Harbour Authority and Tor Bay Harbour Master when exercising powers or duties expressly reserved to him/her by law in respect of the Harbour Authority; and</p>	

Description	Responsibility delegated by
(c) any other officer when exercising powers or duties expressly reserved to him/her by law.	
1.9 Directors and Divisional Directors are authorised to carry out an internal review of a decision to include an asset of community value on the List (Section 92, LA 2011) provided that they have not been involved with the original decision to list the asset.	
<b>2. Limitations on delegations to the Chief Executive, Directors and Divisional Directors, Heads of Service and all other officers</b>	
2.1 No decision shall be taken by any officer under this Scheme of Delegation if any relevant member or the Chief Executive requests that the matter shall be referred to the Council or the Cabinet (whichever shall be able to take the decision in question) or to the Chief Executive. (Note: This limitation shall not apply to decisions connected to the Council's emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)	Council/Cabinet
2.2 All decisions shall be in accordance with the law. Whether or not any decision is contrary to the Council's Constitution may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Monitoring Officer reasonably considers it to be contrary to the law.	No applicable

<b>Description</b>	<b>Responsibility delegated by</b>
<p>2.3 All decisions shall be in accordance with the Constitution and the Policy Framework of the Council and any other Policy of the Council which has been approved by Members. Whether or not any decision or action falls within the Policy Framework may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Monitoring Officer reasonably considers it to be contrary to the Policy Framework or contrary to a Policy approved by Members.</p> <p>(Note: This limitation shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)</p>	<p>Council and Cabinet</p>
<p>2.4 All decisions shall be in accordance with the Council’s Budget and Financial Regulations and Contracts Procedures. Whether or not any decision or action falls within the Budget and Financial Regulations may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee if the Chief Finance Officer or the Monitoring Officer reasonably considers it to be contrary to the Budget or Financial Regulations.</p> <p>(Note: This limitation shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)</p>	<p>Council</p>
<p>2.5 All decisions relating to the expenditure of unbudgeted additional income, or lower than budgeted expenditure shall be in accordance with the Financial Regulations and Contracts Procedures.</p>	<p>Council/Cabinet</p>

Description	Responsibility delegated by
<p>(Note: This limitation shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)</p>	
<p>2.6 All decisions shall be in accordance with the Council’s Standing Orders. Whether or not any decision or action is in accordance with the Council’s Standing Orders may, if necessary, be determined by the Council. However, no decision or action shall be taken by any employee which the Monitoring Officer reasonably considers to be contrary to the Council’s Standing Orders.</p>	Council
<p>(Note: This limitation shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)</p>	
<p>2.7 In relation to the authorisation of the institution, defence or conduct of legal proceedings no decision shall be taken without prior consultation with the Head of Legal Services and no such action shall be taken that is contrary to or not in accordance with any instruction from the Head of Legal Services.</p>	Council/Cabinet
<p>2.8 Before exercising (or deciding not to exercise) any delegated powers all employees shall undertake appropriate internal consultation. This consultation shall normally include (but not be limited to) the following:</p>	Council/Cabinet
<p>2.8.1 Where the proposal may have implications relating to the Council’s Corporate Plan, consultation with all relevant members and the Chief Executive;</p>	Council/Cabinet
<p>2.8.2 Where the proposal may have any policy implications, or any significant service implications, consultation with all relevant members and the Chief Executive;</p>	Council/Cabinet
<p>2.8.3 Where the proposal might reasonably be regarded as unusual or highly contentious, or involve an uncertain outcome, or has been the subject of (or is likely to result</p>	Council/Cabinet

<b>Description</b>	<b>Responsibility delegated by</b>
<p>in) an allegation of maladministration being made against the Council, consultation with the relevant member, the Chief Executive and appropriate other senior officers;</p>	
<p>2.8.4 Where the proposal has any legal implications, consultation with the relevant member and the Head of Legal Services and Monitoring Officer;</p>	<p>Council/Cabinet</p>
<p>2.8.5 Where the proposal may have significant implications for any particular Ward, consultation with all the members representing that Ward;</p>	<p>Council</p>
<p>2.8.6 Where the proposal may have any financial or audit (whether internal or external) implications, or any property implications, consultation with the Chief Finance Officer;</p>	<p>Council/Cabinet</p>
<p>2.8.7 Where the proposal may have any constitutional implications, consultation with the Monitoring Officer;</p>	<p>Council</p>
<p>2.8.8 Where the proposal may have any implications relating to the Council's insurance policies (or the ability of the Council to obtain insurance at reasonable rates in the future), consultation with the Head of Legal Services;</p>	<p>Council/Cabinet</p>
<p>2.8.9 Where the proposal may have any health and safety implications for the public or employees, consultation with the Divisional Director for Community and Customer Services;</p>	<p>Council/Cabinet</p>
<p>2.8.10 Where the proposal may have any human resources implications, consultation with the Head of Human Resources;</p>	<p>Council</p>
<p>2.8.11 Where the proposal may have any equalities implications, consultation with the Head of Information Compliance;</p>	<p>Council/Cabinet</p>
<p>2.8.12 Where the proposal may have any implications for another Council business unit, consultation with the relevant Director, Divisional Director and Head of Service;</p>	<p>Council/Cabinet</p>



Description	Responsibility delegated by
2.8.13 Where any relevant member, Director, Divisional Director or Head of Service has expressed opposition to a proposal, consultation with the Chief Executive;	Council/Cabinet
2.8.14 Where the proposal is similar to a previous matter that has been the subject of consultation with any member (or which a member has expressed a desire to be consulted about), consultation with that member;	Council/Cabinet
2.8.15 Where the delegated power is expressly required to be exercised in consultation with one or more Community Partnership, the Community Partnership(s) specified in the decision to delegate;	Council/Cabinet
2.8.16 Where the proposal may have significant implications for one or more Community Partnerships, consultation with those Community Partnerships affected; and	Council/Cabinet
2.8.17 In any cases of doubt, consultation with the relevant member.	Council/Cabinet
<p>(Note: The limitations in 2.8 and associated sub-paragraphs shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall be made in consultation the designated lead member of the Senior Leadership Team or Chairman/woman of the Incident Management Team and follow the limitations on financial delegation arrangements outlined in 2.12 below.)</p>	
2.9 Freehold property acquisitions and disposals may not be authorised where in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS) the estimated market value of the land or property being acquired or disposed of exceeds £50,000 or (if a transaction is linked to another transaction) where the aggregate estimated value exceeds that amount (this includes disposals at a peppercorn rate). But this paragraph shall not prevent the Chief Executive, Directors and Divisional Directors authorising land/property acquisitions and freehold disposals where they are in accordance with the Council’s Capital Programme or an express Council decision.	Cabinet

Description	Responsibility delegated by
<p>(Note: This limitation shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)</p>	
<p>2.10 The Chief Executive, Directors and Divisional Directors and Heads of Service may not authorise leases if, in the reasonable opinion of a fellow or member of the Royal Institute of Charter Surveyors (RICS), the market value of the premium exceeds £25,000 or if the market value of the rent (including any service charge) should exceed £10,000 per year, or (if a transaction is linked to another transaction) where the aggregate relevant amounts exceeds those limits (this includes leases at a peppercorn rent). But this paragraph shall not prevent the Chief Executive, Directors, Divisional Directors and Heads of Service authorising leasehold disposals where they are in accordance with the Council’s Capital Programme or a Council or Cabinet decision.</p> <p>(Note: This limitation shall not apply to decisions connected to the Council’s emergency response and/or recovery in relation to any matters which deal with civil protection. The emergency response shall be triggered by the Local Resilience Forum declaring a major incident. Decisions connected to emergency response and/or recovery shall follow the limitations on financial delegation arrangements outlined in 2.12 below.)</p>	Cabinet
<p>2.11 No decision shall be taken that is contrary to the terms of any specific delegations whether in this Scheme or made by Council (or a Council Committee or Sub-Committee) or the Cabinet, or an employee of the Council.</p>	Not applicable
<p>2.12 Decisions in relation to the Council’s response or recovery to an emergency which involve expenditure above £50,000 or a reduction in income of £5,000 per annum shall be only be approved by the Chief Executive, or the Chief Finance Officer (or his/her designated deputies).</p>	

## Specific Delegations

Description	Responsibility delegated by
<b>1. Delegations to the Chief Executive</b>	
1.1 To advise the Cabinet and Council on policy development, the overall strategic direction and corporate governance of the Council.	Council/Cabinet
1.2 To act as the Council’s Head of Paid Service under section 4(1) of the Local Government and Housing Act 1989.	Council
1.3 To determine the organisation and management of the Council’s employees.	Council
1.4 To determine the appointment of all officers (excluding the Head of Paid Service and Directors or equivalent positions so far as that power has been specifically reserved to be exercised by the Employment Committee).	Council
1.5 To determine the terms and conditions of employment of all officers (excluding the Head of Paid Service and Directors or equivalent so far as that power has been specifically reserved to be exercised by the Employment Committee).	Council
1.6 To determine the appointment of non-Executive Directors on Boards of the Council’s wholly owned companies on behalf of the Council, in consultation with the Group Leaders.	Council
1.7 To be responsible for taking disciplinary action (including dismissal) in respect of any officer (except the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer).	Council
1.8 To be responsible for appropriate management arrangements across the Council including the co-ordination of functions and to resolve disputes between business units.	Council
1.9 In consultation with the relevant member to (by written notice) change the allocation of responsibilities for services and functions between Directors, Divisional Directors and Heads of Service.	Council/Cabinet
1.10 To exercise any powers delegated to any Director,	Council/Cabinet

Description	Responsibility delegated by
Divisional Director and/or Head of Service, subject to the limitations outlined above.	
1.11 In consultation with the relevant member to (by written notice) withdraw any powers delegated to any Director, Divisional Director and/or Head of Service.	Council/Cabinet
1.12 In managing the services and functions for which he/she is directly responsible to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to those services and functions, subject to the limitations outlined above.	Council/Cabinet
1.13 To retain contract staff or appoint consultants on matters related to the management of the Council.	Council/Cabinet
1.14 So far as is lawful, to delegate (in such manner in which he or she considers appropriate) to any other officer responsibility for any matters for which he/she is responsible. Any such delegations may be revoked, varied or subject to such limitations as the Chief Executive considers appropriate.	not applicable
1.15 To handle complaints made against the Council (including Ombudsman complaints) and (following consultation with the relevant member) to settle complaints locally.	Council/Cabinet
1.16 To represent the interests of the Council to the community, local interest groups and external agencies.	Council/Cabinet
1.17 In consultation with the relevant member, to deal with all matters in connection with the media and public relations including issuing press releases on behalf of the Council.	Council/ Cabinet
1.18 In consultation with the relevant member, to respond on behalf of the Council to Government and other consultation exercises in relation to proposed legislation and other matters relevant to the Council.	Council/Cabinet
1.19 To approve (in consultation with the relevant member) all civic and ceremonial arrangements including in relation to twinning.	Council/Cabinet

Description	Responsibility delegated by
<p>1.20 Where the Chief Executive is of the opinion that as a matter of urgency any decision in relation to a Council function shall be taken in the best interests of either the Council or the inhabitants of the Borough and it is not in his/her opinion reasonably practicable to convene a meeting of the Council to consider the matter he/she may take such decisions, as he/she considers necessary, following consultation with the Leader of the Council and Group Leaders. The decision will also be communicated to all members as soon as practicable after the decision has been taken. He/she will also submit to a meeting of the Council a written report of any action taken under this paragraph 1.19 (and the reasons for that action and the alternative options he/she considered) as soon as reasonably practicable.</p>	Council
<p>1.21 In the following circumstances:</p> <ul style="list-style-type: none"><li>a) during the interim period of a Local Election and Annual Council to appoint the new Leader of the Council; or</li><li>b) in absence of the Leader of the Council and in circumstances where no Deputy Leader is appointed and/or where the delegation arrangements by the Leader of the Council to Cabinet members are not in place; or</li><li>c) during the period where the Council has removed the Leader of the Council by resolution and the new Leader is to be appointed at the subsequent Council; or</li><li>d) where it is not practicable to call a meeting of the Cabinet,</li></ul> <p>and where the Chief Executive is of the opinion that as a matter of urgency any decision in relation to an Executive function shall be taken by him/her in the best interests of either the Council or the inhabitants of the Borough, as he/she considers necessary, following consultation, which in respect of (a)-(c) above is with any appointed Group Leaders and in respect of (d) above is with the Leader of the Council or the Deputy Leader of the Council (in the absence of the Leader of the Council). The decision will also be communicated to all members as soon as practicable after the decision has been taken. He/she will also submit to a meeting of the Cabinet a written report of any action taken under this paragraph</p>	Cabinet

Description	Responsibility delegated by
1.21 (and the reasons for that action and the alternative options he/she considered) as soon as reasonably practicable.	
1.22 In the absence of the Chief Executive his/her powers as may be exercised by the Director of Corporate Services.	Council/Cabinet
1.23 In consultation with the Leader of the Council and Group Leaders, to determine all appointments (or decide not to make appointments) to outside organisations at any time after the general review of such appointments in accordance with the Protocol on Relations between the Leader of the Council and Political Groups. Where consensus between the Leader of the Council and the Leaders of the all the political groups is not forthcoming, the Chief Executive may refer the matter to the Council for determination.	Council
1.24 In consultation with the Overview and Scrutiny Co-ordinator, to appoint representatives to serve on a Joint Health Scrutiny Committee in accordance with legislation, guidance and/or protocols in force at the time.	Council
1.25 In line with the statutory requirements set out in sections 36 – 41 of the Counter Terrorism and Security Act 2015, ensure compliance with the Channel duty guidance 2020 (and any future updates to this guidance) including the constitution of a Channel panel for its area.	Cabinet
<b>2. Delegations to the Director of Children’s Services</b>	
2.1 Approve all care package arrangements for children, irrespective of value.	Cabinet
<b>3. Delegations to the Director of Public Health</b>	Statutory delegation
3.1 The holder of the post of Director of Public Health is the statutory officer for the purposes of Section 73A of the National Health Service Act 2006 and is responsible for the strategic direction and overall management and delivery of the local authority’s functions relating to Public Health and without prejudice to the foregoing, shall have power, subject to compliance with the Constitution and approved policies of the Council or Cabinet (as appropriate) and all legal requirements, to discharge the following functions in relation to public health matters:	

Description	Responsibility delegated by
a) taking appropriate steps to improve the health of the people in the authority's area. Steps that may be taken include: providing information and advice; providing services or facilities designed to promote healthy living; providing services or facilities for the prevention, diagnosis or treatment of illness; providing financial incentives to encourage individuals to adopt healthier lifestyles; providing assistance (including financial assistance) to help individuals to minimise any risks to health arising from their accommodation or environment; providing or participating in the provision of training for persons working or seeking to work in the field of health improvement; making available the services of any person or any facilities; and providing grants or loans;	
b) dental public health as prescribed by the Secretary of State under Section 111 of the 2006 Act;	
c) joint working with the prison service in relation to improving the way in which the authority's functions are exercised to secure and maintain the health of prisoners;	
d) the medical inspection of pupils and the weighing and measuring of children;	
e) research, obtaining and analysing data or other information, and obtaining advice from persons with appropriate professional expertise;	
f) planning for, or responding to, emergencies involving a risk to public health;	
g) co-operating with arrangements for assessing risks posed by violent or sexual offenders;	
h) any public health function of the Secretary of State (or functions exercisable in connection with those functions): <ul style="list-style-type: none"><li>• which the authority is required by regulations to exercise; or</li></ul>	

Description	Responsibility delegated by
<ul style="list-style-type: none"> <li>• in respect of which arrangements have been made;</li> <li>i) any other function prescribed by the Secretary of State as the responsibility of the Director of Public Health;</li> <li>j) the oversight of clinical governance arrangements;</li> <li>k) making representations to the licensing authority in relation to applications for the grant, variation and review of premises licences as responsible authority for public health for the purposes of the Licensing Act 2003; and</li> <li>l) provision of contraceptive services.</li> </ul>	
<p><b>4. Delegations to the Head of Legal Services</b></p>	
<p>4.1 Institute, defend and conduct any legal proceedings and take all steps necessary to enforce judgements in accordance with any policies approved by the Council or the Cabinet.</p>	Cabinet
<p>4.2 To authorise employees to appear on behalf of the Council in the County Court and/or Magistrates’ Court pursuant to Section 60 of the County Courts Act 1984 and Section 223 of the Local Government Act 1972.</p>	Council/Cabinet
<p>4.3 Where the Council or the Cabinet or an officer acting under delegated powers has made a decision to acquire or dispose of a freehold or leasehold property interest, to determine the detailed terms of acquisition/disposal. No term shall be agreed that is contrary to any term imposed by the decision maker without the consent of the decision maker or (in the case of the Cabinet, the express approval of the Leader of the Council);</p>	Council (so far as part of the Capital Plan) – otherwise Cabinet
<p><b>5. Delegations to the Divisional Director of Planning, Housing and Climate Emergency</b></p>	
<p>5.1 To consider and determine (unless such determination is reserved by law or the Council’s Constitution to Council all applications and all other matters (including issuing Notices, making Orders and requesting Legal Services to issue civil or criminal proceedings) relating to the</p>	Council



Description	Responsibility delegated by
Buildings Act 1984 and Building Regulations as appropriate.	
5.2 To consider and take any action under the Town and Country Planning Act 1990 in connection with tree preservation and enforcement.	Council
5.3 To consider and (if appropriate) determine (unless such determination is reserved by law or the Council’s Constitution to Council or its Planning Committee) all applications and all other matters (including issuing Notices, making Orders and requesting the Head of Legal Services to issue civil or criminal proceedings) relating to:	Council
<p>Town and Country Planning;            Conservation Areas;            Listed Buildings;            Scheduled Ancient Monuments;            The display of advertisements;            Public Rights of Way;            Environmental Impact Screening/Scoping;            Screening Assessments and Appropriate Assessments pursuant to the Habitats Regulation;            Applications for prior approval and prior notification made under the General Permitted Development Order;            Amendments to planning obligations (s.106 agreements); and            Collection of the Community Infrastructure Levy.</p>	
5.4 Following consultation with the relevant member, to determine applications for planning permission where an application that is materially the same has previously been refused because of a failure to execute a Section 106 Agreement and such determination would otherwise be contrary to a limitation set out in paragraph 5.5 to 5.7 below, or where an appropriate Section 106 Agreement has been executed and there has been no other material change in circumstances.	Council
<p><b>Limitations to Delegated Powers to the Divisional Director of Planning, Housing and Climate Emergency</b></p>	
5.5 At all times to have regard to the Development Plan (as defined in S.38 of the Planning and Compulsory Purchase Act 2004) for Torbay (“the Development Plan”).	Council
5.6 The Divisional Director of Planning, Housing and Climate	Council

Description	Responsibility delegated by
<p>Emergency shall not determine any application (or other matter) in a manner that would (in his/her opinion or the opinion of the Director of Pride in Place not be in accordance with the Development Plan and any such application (or other matter) shall be referred to the Planning Committee (or, if he/she considers it appropriate, Council).</p>	
<p>5.7 Save in the circumstances set out in paragraph 5.7.1 below, the Divisional Director of Planning, Housing and Climate Emergency may not determine and must refer to the Planning Committee (or, if he/she considers it appropriate, Council) any application (or other matter) that:</p> <ul style="list-style-type: none"><li data-bbox="352 864 1166 1227">(a) Constitutes a “Major Development” (as defined (from time to time) by the Secretary of State) for the purposes of the Council’s PS1 Return except for<ul style="list-style-type: none"><li data-bbox="480 1010 1166 1155">i. minor amendments to planning obligations made in connection with Major Development where there are no objections to the proposed variation; and</li><li data-bbox="480 1160 1166 1227">ii. minor material amendments to permissions for Major Development</li></ul></li><li data-bbox="352 1267 719 1305">(b) Relates to Minerals;</li><li data-bbox="352 1346 1094 1413">(c) Relates to the handling, transfer or disposal of Waste or Hazardous Waste;</li><li data-bbox="352 1453 1166 1565">(d) Relates to land owned, controlled or occupied by the Council (unless there are no objections or it is a minor variation to an existing planning permission);</li><li data-bbox="352 1606 1129 1740">(e) The Divisional Director of Planning, Housing and Climate Emergency, or any Director, Divisional Director or Head of Service has requested be referred to the Planning Committee or Council;</li><li data-bbox="352 1780 1139 1848">(f) By law requires determination by Council or a Council Committee or the Secretary of State; and</li><li data-bbox="352 1888 1161 2069">(g) Having consulted with the Chairman/woman or Deputy Chairman/woman of the Planning Committee, he/she considers should be referred to members for consideration or determination in the interest of the Council or the public or for any other</li></ul>	Council/Cabinet

Description	Responsibility delegated by
reason.	
<p>5.7.1 Subject to paragraph 5.7.2 below, the limitations set out in paragraphs 5.7 (a) to (e) on the power of the Divisional Director of Planning, Housing and Climate Emergency to determine planning and other applications shall not apply in circumstances where:</p> <ul style="list-style-type: none"> <li>(a) emergency legislation has the effect of prohibiting the holding of Council meetings; or</li> <li>(b) as a result of quarantine, whether mandatory or advisory, or illness of Members it is not possible for a quorate meeting of the Planning Committee to be held on the date scheduled in the Council’s Calendar of Meetings; and</li> </ul>	
<p>the best endeavours of the Divisional Director of Planning, Housing and Climate Emergency shall be used to ensure that notice of decisions made under this paragraph is sent electronically to the Chairman, all Members of the Planning Committee and relevant Ward Members.</p>	
<p>5.7.2 In respect of major developments (as defined in paragraph 5.7(a) above), the delegations outlined in 5.7.1 above shall only apply in exceptional circumstances and consultation prior to decisions being taken shall include the Leader of the Council and Group Leaders, in addition to the Chairman/woman of the Planning Committee.</p>	
<p>5.8 The Divisional Director of Planning, Housing and Climate Emergency shall refer to the Leader of the Council for determination any matters the determination of which is an Executive Function (e.g. preparation of supplementary planning guidance, designation of conservation areas, designation of areas of archaeological interest, designation of nature reserves, removal of permitted development rights through Article 4 Directions and making compulsory purchase orders).</p>	not applicable
<p><b>6. Delegations to the Head of Tor bay Harbour Authority and Tor Bay Harbour Master</b></p>	
<p>6.1 To serve or receive notices, make orders, authorise any action or the institution, defence or conduct of proceedings and appeals and authorise named employees to enforce specific powers in respect of Tor Bay Harbour Authority.</p>	Council

Description	Responsibility delegated by
6.2 The following powers in this paragraph are statutory powers which cannot be exercised by any officer other than the Head of Tor bay Harbour Authority and Tor Bay Harbour Master, his/her Deputy or appointed assistants (such appointments being specifically referred to in their job description). Likewise they cannot be withdrawn by the Chief Executive or any other officer.	Statutory delegation
6.2.1 To give general directions to regulate the movement and berthing of ships and the safety of navigation.	
6.2.2 To give directions prohibiting the entry into, or requiring the removal from, the Harbour of any dangerous vessels.	
6.2.3 To prohibit the entry into the Harbour, and to regulate the movement, of any vessel carrying dangerous substances and to control similarly the entry onto the Harbour estate of dangerous substances brought from inland.	
6.2.4 To detain a vessel, if he/she has reason to believe that it has committed an offence by discharging oil, or a mixture containing oil, into the waters of the Harbour.	
6.2.5 Only in relation to property forming part of the Harbour Estate and always having first obtained the approval of a fellow or member of the Royal Institute of Charter Surveyors (RICS) as to the value and terms of such disposal:-  (a) to grant or enter into the terms of leases, sub leases, or licences where the consideration does not exceed £25,000 per annum on any single transaction (or series of linked transactions);  (b) to grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £20,000 on any single transaction (or series of linked transactions);  (c) to effect freehold disposals of land not required for operational purposes up to £100,000 in value;  (d) to renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments; and	Cabinet

Description	Responsibility delegated by
(e) to approve variations to (including the release of) restrictive and other covenants.	
6.2.6 To regulate the time and manner of a ship's entry into, departure from and movement within the Harbour waters and related purposes.	Council
6.3 To vary (by addition or waiver (in full or as to part)) the approved Schedule of Harbour Charges in such manner as the Head of Tor bay Harbour Authority and Tor Bay Harbour Master shall consider reasonable; including for example (without restricting the generality of this power) where he/she considers:	Council (as part of the budget)
(i) the variation to be in the best interest of the Harbour Authority and/or local people;	
(ii) the variation would fairly reflect actual or part-year usage;	
(iii) that it would be appropriate where a vessel owner/operator has made use of a facility as a result of what the Head of Tor bay Harbour Authority and Tor Bay Harbour Master considers to be extreme or unusual weather conditions, an accident at sea, or other emergency; and	
(iv) it appropriate to levy a charge above or in addition to those matters contained within the approved Schedule of Charges for anything done or provided by (or on behalf of) the Harbour Authority in accordance with the Harbours Act 1964 and/or Section 24 of the Tor Bay Harbour Act 1970 or any amendments or re-enactments of those Acts.	
<p>PROVIDED THAT the Head of Tor bay Harbour Authority and Tor Bay Harbour Master shall maintain a proper written record of all variations approved under this paragraph and shall, at least twice a year, report to the Harbour Committee the total value of the additional charges levied and the total value of the charges waived under this paragraph.</p>	
<p><b>7. Delegations to the Chief Finance Officer (as Section 151 Officer)</b></p>	
7.1 In accordance with the Council's Standing Orders and Financial Regulations:	Cabinet

Description	Responsibility delegated by
(a) to take any decisions (including any Key Decisions) and to exercise all legal powers relevant to the Council's borrowing, investments, and financial management;	
(b) to approve the re-phasing of expenditure between years on approved schemes, provided that the impact does not exceed the overall level of the approved programme and the level of resources estimated to be available;	
(c) to authorise the opening and closing of any such bank accounts, purchasing cards etc. as may be considered necessary in the Council's interest;	
(d) in respect of National Non Domestic Rates, Council Tax including Council Tax Support Scheme, and other income and debtors, to exercise all the powers of the Council (including the institution of legal proceedings and all steps necessary to enforce judgements) in accordance with any policies approved by the Council or the Cabinet;	
(e) in respect of any sums due to the Council, to approve the writing off of sums that he/she considers to be irrevocable (or uneconomic to recover). If the amount to be written off exceeds £1,000 the Chief Finance Officer shall first consult with the relevant Cabinet member with responsibility for finance;	
(f) to submit bids and accept any grant offers, including the terms and conditions attached to such offers subject to the grant offer and terms and conditions being in accordance with the Council's policies and objectives, and make any resulting budget virements;	
(g) in consultation with the Chief Executive to approve any use of contingency budgets, carry forwards (positive or negative) that the Chief Finance Officer deems necessary;	
(h) in consultation with the Chief Executive to approve the use of Earmarked reserves in accordance with Financial Regulations;	

Description	Responsibility delegated by
<ul style="list-style-type: none"> <li>(i) in consultation with the Chief Executive, the Leader of the Council and Cabinet Lead Member for Finance, to make adjustments to and introduce new fees and charges in year if it has no adverse impact upon the revenue or capital budget;</li> <li>(j) to make any changes to the budgets for technical reasons;</li> <li>(k) the approval of the estimated distribution on the Collection Fund for both Council Tax and Non Domestic Rates; and</li> <li>(l) approval of the Council’s estimate of Business Rate Income as required to be submitted to central government.</li> </ul>	
<p>7.2 In consultation with the relevant member, to determine all applications for grants or concessions from the Council up to the value of £25,000 (to any one person or organisation whether or not extending over more than one financial year) and to impose such conditions on any approved grant as he/she shall consider appropriate. In exercising this power the Chief Finance Officer shall have regard to all relevant matters including the following:</p> <ul style="list-style-type: none"> <li>(a) the extent to which the grant requested would facilitate a contribution towards the Council’s priorities;</li> <li>(b) the extent to which the grant requested would be likely to assist the grantee to obtain additional funding from third parties;</li> <li>(c) whether alternative sources of funding are available to the grantee;</li> <li>(d) value for money;</li> <li>(e) the extent to which the grant is likely to enable the grantee to apply the principle of “invest to save”;</li> <li>(f) the likely medium and long-term implications for the Council’s Revenue Budget; and</li> <li>(g) the extent to which the grantee is able to demonstrate that it has in place (or is able to put in place) effective auditing arrangements to</li> </ul>	Cabinet

Description	Responsibility delegated by
monitor and control the expenditure of the grant monies.	
7.3 Changes to rent terms arising from changes in market rents linked to economic conditions or rent breaks and renewals shall only be approved by the Chief Finance Officer (or his/her designated deputies) in consultation with Director of Pride in Place and Deputy Leader of the Council and Cabinet Member for Finance.	Cabinet
7.4 To make adjustments to the Exceptional Hardship Policy and Fund and the Vulnerable Policy in consultation with the Leader of the Council and Cabinet Lead for Finance.	Council/Cabinet
<b>Limitations to Delegated Powers to the Chief Finance Officer</b>	
7.5 That the provisions outlined above exclude decisions to make loans or provide guarantees to external organisations and that these require approval by Full Council. However loans of less than £50,000 to be approved by the Chief Finance Officer, in consultation with the Chief Executive and the Leader of the Council.	Council/Cabinet
<b>8. Delegations to the Head of Governance Support</b>	
8.1 To authorise additional training and development that is not included within the Members’ Development Programme in accordance with the Local Protocol on relations between the Leader of the Council and Political Groups.	Council
8.2 The appointment of Political Group Assistants where budget is allocated for such posts.	Council
8.3 The taking of disciplinary action (including dismissal) in relation to any Group Assistant (in consultation with the relevant group leader).	Council/Cabinet
8.4 To approve members’ and co-opted members’ travel and subsistence allowances that technically fall outside the scheme where he/she is satisfied that the expenses incurred are essential to the proper conduct of Council related business.	Council
<b>9. Delegations to the Monitoring Officer</b>	
9.1 To make changes to the Council’s constitution required for	Council/Cabinet



Description	Responsibility delegated by
technical or legal reasons.	
<b>10. Delegations to the Head of Human Resources</b>	
10.1 To negotiate and reach agreement on behalf of the Council on policies and procedures concerning employees.	Cabinet
10.2 To obtain the necessary statistical information to enable the Council to monitor the composition of its workforce in accordance with its equal opportunity and other policies and good practice.	Cabinet
<b>11. Delegations to the Director of Finance</b>	
<b>Property Management, Acquisition and Disposal:</b>	
11.1 (a) To grant or enter into easements, licences, agreements, restrictive covenants or other rights or obligations where the consideration does not exceed £10,000 per annum on any single transaction (or series of linked transactions);  (b) To grant leases for up to 40 years to sports clubs on acceptable terms which each case being considered on its merits;  (c) To renew leases (regardless of the level of rent payable), licences and undertake a review of rents and licence fees when necessary and to agree surrenders, sub-letting and approve assignments;  (d) To approve variations to (including the release of) restrictive and other covenants; and  (e) To approve terms for the appropriation of land previously authorised by the Cabinet or the Council.	
11.2 To take all operational decisions in relation to the management of the Council's Investment and Regeneration Fund and Economic Growth Fund Portfolios.	Cabinet/Council