

**Meeting:** Cabinet/Council

**Date:** 27 February 2025

**Wards affected:** All Wards

**Report Title:** Constitution Amendments – Various

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

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## 1. Purpose of Report

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- 1.1 This report sets out changes to the Council's Constitution in respect of the proposed changes to the thresholds for officer decisions in respect of leases, following benchmarking with other local authorities. The following documents have been updated:
- a. Officer Scheme of Delegation; and
  - b. Financial Regulations and Contracts Procedures.
- 1.2 This report also sets out sets out changes to the Council's Constitution in respect of minor changes to the rules around the number of petitions and public questions that can be presented at a Council meeting.

## 2. Reason for Proposal and its benefits

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- 2.1 The proposals in this report ensure that the Officer Scheme of Delegation and Financial Regulations and Contracts Procedures within the Constitution are up to date, fit for purpose, reflect best practice and current legislation.

- 2.2 The proposals will also ensure that the Standing Orders – Council Meetings – Petitions Scheme is up to date and reflects the same principles as the limits for questions by Members and Public Question Time in order to facilitate the efficient operation of our Council meetings, whilst ensuring good public participation.

### 3. Recommendation(s) / Proposed Decision

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1. That Council approves the amendments to the following parts of the Constitution:
  - a. Officer Scheme of Delegation – Appendix 1;
  - b. Financial Regulations and Contracts Procedures – Appendix 2;
  - c. Standing Orders Council Meetings – Petitions Scheme, as set out Appendix 3; and
  - d. Standing Orders – Council Meetings – Public Question Time, as set out Appendix 4 to this report.

### Appendices

Appendix 1 – Officer Scheme of Delegation

Appendix 2 - Financial Regulations and Contracts Procedures

Appendix 3 – Standing Orders Council Meetings – Petitions Scheme

Appendix 4 - Standing Orders – Council Meetings – Public Question Time

### Background Documents

Torbay Council Constitution: [Browse - Torbay Council's Constitution](#)

### 4. Introduction

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- 4.1 Article 13 – Review and Revision of The Constitution sets out the arrangements for revisions to the Council's Constitution. This enables the Monitoring Officer to keep the Constitution under review and to make changes that are required for technical or legal reasons. The Monitoring Officer to also make other changes to the Constitution that he/she believes are in the best interests of the Council and/or local people, in consultation with Group Leaders, with an escalation provision to report matters to full Council for a decision.
- 4.2 It has been apparent for several years the threshold levels for lease transactions set out in the Office Scheme of Delegation and Financial Regulations and Contracts Procedures, in the Council's Constitution are set at a very low level. The procedure to be followed before the necessary level of authority is obtained before the Council can enter into a new lease agreement is long and requires approval at various stages. With the ongoing merger of the former TDA property assets into the Torbay Council Portfolio it has become more apparent in the last few months the Officer Scheme of Delegation as drafted should ideally be varied by increasing the threshold levels upwards.
- 4.3 As TDA assets are brought into the Council's ownership and control the Scheme of Delegation applies to all lease transactions and the management of those assets. When the merger of the TDA estate is completed, there will be 53 assets (excluding Investment Assets which are covered under a separate delegated authority) with a rent above £20k pa, 78 assets with a rent over £10k pa and 293 assets with a rent less that £10k pa.
- 4.4 Consequently, all new leases, lease renewals and assignments will formally require either an Officer ROD to be signed and published or a Cabinet Decision before officers will be able to complete the lease. Given the number of assets identified there is the potential for a significant level of time and resource to absorbed. Presently, any lease with a rent under £10k pa / lease renewals and assignments requires an Officer ROD and anything above that rental level per annum requires a Cabinet Decision. The Investment portfolio is different where Director of Pride in Place retains delegated authority to complete on all leases regardless of rent level, although a ROD is still needed to be published.
- 4.5 A benchmarking exercise was undertaken to review levels of delegation given to officers in other Council's in the Southwest as set out overleaf:

Local Authority	Officer Level	Cabinet	Comments
Torbay	Up to £10k p.a.	£10k +	
East Devon	Up to £15k p.a.	£15k +	
Exeter CC	Up to 75k p.a.	£75k +	
Teignbridge	Up to £10k p.a.	£50k +	*up to £50k in consultation with Portfolio Holder & CFO with ROD
Plymouth	Up to £200k p.a.	£200k +	* officer level decisions are with relevant Cabinet Member approval (not a cabinet decision)
South Hams & WD	Up to £300k p.a.	£300k +	*officer level decision are max. 15 year terms
Stroud	Any	If at less than MV	*No financial limit on officer level decisions as long as they are within budget and policy
Dorset Council	£500k total	£500k +	

- 4.6 The threshold levels granted to officers in the other local authorities varied. However, other than the two district authorities of Teignbridge and East Devon Council all the others are significantly above Torbay at c.£200 - 500k pa level. At these levels officers have the ability, subject to consultation with relevant Portfolio / Cabinet Members to proceed at pace with lease agreements and amendments, freeing up officer time which could be deployed elsewhere.
- 4.7 This report proposes an uplift in the thresholds currently stated in the Officer Scheme of Delegation and Financial Regulations and Contracts Procedures as set out in Appendices 1 and 2 to this report and the relaxation for Records of Decisions to be published on leasehold transactions where the rent is below £50k pa. For efficiency and speed these transactions should be authorised through delegation given to Strategic Head of Asset Management with a further level of approval from the Director of Finance, in consultation with Portfolio Holder, and a published Record of Decision, for any transaction £50k+ pa.
- 4.8 The following amendments are proposed to the Officer Scheme of Delegation, as set out in Appendix 1:

- Replace all references to £10,000 to £50,000; and
- New (f) to effect freehold disposals of land not required for operational purposes up to £50,000 in value. This reflects the same powers delegated to the Harbour Master to ensure consistency.

4.9 Following on from the above proposed changes to the Officer Scheme of Delegation and recommendations from the audit of the food and music festival procurement, the Financial Regulations have been reviewed by the Head of Commercial Services, in consultation with the Director of Finance and Cabinet Member for Housing and Finance, to ensure they align to the new delegated authority limits and revised Contract Procedures. The Contract Procedures has also been amended to specifically reference the Procurement Act 2023 which comes into force on 24 February 2025 and also some of the revised terminology being use by government and in the Act.

4.10 The following amendments are proposed to the Financial Regulation and Contracts Procedures, as set out in Appendix 2:

- Changes to Asset Disposal and Leases paragraphs 9.13 to reflect the requirement to publicly advertise disposals or leases over £50,000;
- Removal of paragraph 9.14, with subsequential renumbering of paragraphs, as this is covered by operational procedures;
- Changes to 9.16(b) to clarify the threshold which will not be subject to paragraph 9.13 as follows:
  - (b) Where the Grants of leases or licences relates to an asset where the length of the lease is less than 10 years;
    - where the value of the asset is over £25,000, the disposal has been discussed with the portfolio holder; and
    - the market rent for an annual market rent does not exceed £50,000 per annum; or
    - the market value of the asset does not exceed £50,000.
  - (d) Disposals of freehold in land where the interest disposed of is estimated not to exceed £50,000 in market value in the professional opinion of a member or fellow of RICS;
- Changes to Acquisitions from £50,000 to £200,000 to reflect the changes previously approved by the Cabinet;
- Various minor changes to Sections 14, 23, 26, 27, 32, 35, 37, 40, 41, 42, 45, 47, 48 and the definitions to reflect best practice and changes to procurement regulations; and
- New paragraph 18.12 requiring suppliers to hold appropriate levels of insurance.

4.11 The following amendments are proposed to the Standing Orders – Council Meetings – Petitions Scheme, as set out in Appendix 3:

- Limit to the time for petitions to 30 minutes to be consistent and in line with the time limit set for Public Question Time and questions from Members;
- In order to manage the time allocated, 5 petitions to be permitted per meeting;
- Petitions with over 1,000 valid signatures will be listed as separate agenda items for debate and will not be within the 30 minutes time limitation;
- To amend the number of valid signatures for petitions from 25 to 50 in order that petitions reflect the significance and importance of the issue raised to local people living or working in Torbay; and
- Petitions submitted will be dealt with on a first come first served basis, with any petitions submitted after the numbers have been reached included on the agenda for the following Council meeting. The Civic Mayor will continue to have discretion to allow additional questions on grounds of urgency, along similar lines to existing Standing Orders for late submission of Member questions.

4.12 The following amendments are proposed to the Standing Orders – Council Meetings – A24 Public Question Time, as set out in Appendix 4:

- 3 public questions to be permitted per meeting (5 minutes for each question, including supplementary and 5 minutes for response = 30 minutes);
- Questions submitted will be dealt with on a first come first served basis, with any questions submitted after the numbers have been reached refused and referred back to the person asking the question. The Civic Mayor will continue to have discretion to allow additional questions on grounds of urgency, along similar lines to existing Standing Orders for late submission of Member questions; and
- The number of questions will be restricted to one per person and one per organisation to allow for equal distribution.

## 5. Options under consideration

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5.1 To leave the current sections of the Constitution in place however, this does not reflect the current/intended operational processes and best practice. Also the changes to the Petitions Scheme make it clear to the number of petitions and public questions that can be presented to a single Council meeting within the 30 minutes limit, which is the same for other public participation elements.

## 6. Financial Opportunities and Implications

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6.1 None

## 7. Legal Implications

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7.1 None

## 8. Engagement and Consultation

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- 8.1 The revised sections of the Constitution discussed with Group Leaders and their suggestions have been incorporated into the final versions of the documents, in accordance with Article 13 of the Constitution.

## 9. Procurement Implications

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- 9.1 Not applicable

## 10. Protecting our naturally inspiring Bay and tackling Climate Change

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- 10.1 Not applicable.

## 11. Associated Risks

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- 11.1 None

## 12. 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 Torbay's most vulnerable residents.</p> <p>It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.</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 Torbay's most vulnerable residents.</p> <p>It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.</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</p>	<p>The changes to the Council's Constitution will help ensure good governance and decision making which</p>	Not applicable	Not applicable



	a physical or mental health condition or illness.	will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.		
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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	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 been a notable fall in the	The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable

	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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable

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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
Veterans	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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
<b>Additional considerations</b>				
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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable
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 Torbay's most vulnerable residents.	Not applicable	Not applicable

		It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.		
Human Rights impacts		The changes to the Council's Constitution will help ensure good governance and decision making which will support Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	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 Torbay's most vulnerable residents. It is not anticipated that any adverse impacts will be caused by the implementation of the revised/new Constitution documents.	Not applicable	Not applicable

## 13. Cumulative Council Impact

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13.1 None

## 14. Cumulative Community Impacts

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14.1 None