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Date: Tuesday, 10 May 2016

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Dear Member

COUNCIL - WEDNESDAY, 11 MAY 2016

I am now able to enclose, for consideration at the Wednesday, 11 May 2016 meeting of the Council, the following reports that were unavailable when the agenda was printed.

Agenda No	Item	Page
11.	Review of Political Balance and Appointments to Committees	(Pages 204 - 231)
13.	Scheme of Delegation for Council Functions and Confirmation of Budget and Policy Framework Documents	(Pages 232 - 237)

Yours sincerely

June Gurry
Clerk

Agenda Item 11



Meeting: Council

Date: 11 May 2016

Wards Affected: All Wards in Torbay

Report Title: Review of Political Balance and Appointments to Committees and Other Bodies

Is the decision a key decision? No

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Councillor Mills, Deputy Mayor and Executive Lead for Health and Wellbeing and Corporate Services, derek.mills@torbay.gov.uk

Supporting Officer Contact Details: Teresa Buckley, Governance Team Leader, (01803) 207013, teresa.buckley@torbay.gov.uk

1. Proposal and Introduction

- 1.1 To appoint the Council's committees for the new municipal year. In addition to ensure the committees have appropriate terms of reference and appointments to those bodies are made in accordance with the relevant statutory requirements.
- 1.2 To wind up the Devon Authorities Waste Reduction and Recycling Committee Joint Committee (DAWRRC) and replace it with the Devon Authorities Strategic Waste Committee (DASWC). To be part of the DASWC, Torbay expects to pay a similar amount of funding into the Committee, as we did with DAWRRC (around £15,000 p.a.). The benefits to Torbay would be, taking advantage of the Devon-wide textile contract (administered by Devon CC)- worth approx £20,000 p.a., with the addition of the Devon-wide recycling and reuse campaigns throughout the year, joint funding bids and general joint partnership working.

2. Reason for Proposal

- 2.1 The Constitution requires Members at their annual Council meeting to determine which committees to establish for the forthcoming municipal year, their size and terms of reference and the allocation of seats in accordance with the political balance rules.
- 2.2 The Council is required to approve the winding up the Devon Authorities Waste Reduction and Recycling Committee Joint Committee and the establishment of the Devon Authorities Strategic Waste (Joint) Committee.

forward thinking, people orientated, adaptable - always with integrity.

3. Recommendation(s) / Proposed Decision

- 3.1 that the overall political balance of the committees, as set out in Appendix 1 to the submitted report, be approved;
- 3.2 that, subject to 3.1 above being approved, the committees be appointed with the terms of reference set out in Appendix 2 to the submitted report;
- 3.3 that, subject to 3.1 above being approved, nominations be received to fill the seats on the committees;
- 3.4 that the Mayor confirms the appointments to the Health and Wellbeing Board as set out in Appendix 2 to the submitted report;
- 3.5 that the Monitoring Officer be authorised to update the Committee Standing Orders to reflect the unanimous voting requirements by the Civic Committee for recommendation on Honorary Freeman applications; and
- 3.6 that the Council supports the establishment of a Joint Committee with Devon County Council and its District Councils called the Devon Authorities Strategic Waste (Joint) Committee which will replace the Devon Authorities Waste Reduction and Recycling Committee with membership (e.g. the Council's representative will be the Executive Lead for Planning, Transport and Housing – Councillor King) and terms of reference as set out in Appendix 3 to the submitted report. Councillor Mills will be appointed as the Deputy Committee member.

Appendices

- Appendix 1 Political balance of Committees
 - Appendix 2 Appointments to Committees
 - Appendix 3 Devon County Council Report – Winding up of the Devon Authorities Waste Reduction and Recycling Committee, and Establishment of Devon Authorities Strategic Waste (Joint) Committee
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Supporting Information

4. Position

- 4.1 The by-election held on 5 May 2016 resulted in changes to the political composition of the Council. There are now 25 members of the Conservative Group (including the elected Mayor), 8 members of the Liberal Democrat Group, 3 members of the Independent Group and 1 UK Independence Party (UKIP). The political balance is now:

Conservative Group	25 seats	= 67.57%
Liberal Democrat Group	8 seats	= 21.62%
Independent Group	3 seats	= 8.11%
UK Independence Party (UKIP)	1 seat	= 2.70%

- 4.2 The Local Government and Housing Act 1989 requires the Council to allocate seats on committees to political groups in accordance with the size of each group as a whole, unless alternative arrangements are notified to all members and agreed without any councillor voting against them. The Council is required to observe the following principles as far as it is reasonably practicable:
- (a) that not all seats on the body are allocated to the same group;
 - (b) that the majority of seats on the body are allocated to a particular political group if the number of persons belonging to that group is a majority of the authority's membership;
 - (c) subject to paragraphs (a) and (b) above, that the number of seats on the ordinary committees of a relevant authority which are allocated to each political group bears the same proportion to the total of all the seats on the ordinary committees of that authority as is borne by the number of Members of that group to the membership of the authority; and
 - (d) subject to paragraphs (a) to (c) above, that the number of seats on the body which are allocated to each political group bears the same proportion to the number of all the seats on that body as is borne by the number of Members of that group to the membership of the authority.
- 4.3 The Executive is excluded from the requirements of political balance.
- 4.4 The Council is required to determine the number of seats on each committee and the allocation of those seats to the political groups and the independent members. Applying the principles of the Local Government and Housing Act 1989 and the supporting Regulations, the distribution of seats (attached in the table set out in Appendix 1) would be proportional (co-opted members are not included in the calculation for proportionality purposes).
- 4.5 Members are asked to note that any decision to waive the requirements of political balance will require a resolution of the Council with no member voting against.
- 4.6 It has become apparent that there are discrepancies between different elements of the Constitution regarding voting on decisions and therefore this needs clarifying. The terms of reference of the Civic Committee has been amended to include 'To consider nominations for the title of Honorary Freeman and make recommendations to the Council as necessary following unanimous voting on acceptance of any nominations.' It is proposed that the Monitoring Officer be authorised to update the Committee Standing Orders to reflect this requirement in line with the Policy and Guidance on Honorary Freeman approved by Council on 27 November 2008.
- 4.7 The Council has been advised that at its meeting held on 9 February 2016 the Devon County Council Procedures Committee approved a report on the winding up of the Devon Authorities Waste Reduction and Recycling Committee, and the establishment of a new Devon Authorities Strategic Waste (Joint) Committee with Torbay Council and Devon County Council and its District Councils. As this is a joint committee the Council is required to approve the winding up of the old

committee and the establishment of the new committee. A copy of the report considered by the Procedures Committee which provides details of the proposed membership and terms of reference of the new committee is set out at Appendix 3 to this report. An extract of the Minutes from the meeting is set out below:

“57 Constitutional Matters

(a) Proposed winding-up of the Devon Authorities Waste Reduction and Recycling Committee and establishment of a new Strategic Waste Management Joint Committee

(Councillor Croad attended in accordance with Standing Order 25(2) and spoke to this item at the invitation of the Committee).

The Cabinet considered the Report of the Head of Highways, Capital Development and Waste (HCW/16/9) on the proposal to wind-up the Devon Authorities Waste Reduction and Recycling Committee and replace it with a new strategic waste management joint committee in line with arrangements previously endorsed by the Cabinet on 11 November 2015 (Minute 430 refers) and subject to all partner authorities likewise agreeing so to do.

It was **MOVED** by Councillor Hart, **SECONDED** by Councillor Hughes, and

RESOLVED

(i) that the County Council be recommended to approve the winding-up of the Devon Authorities Waste Reduction and Recycling Committee with immediate effect and the establishment at the Council s Annual Meeting in 2016 of a new Devon Authorities Strategic Waste (Joint) Committee with the proposed membership, operating rules and terms of reference set out in Report HCW/16/9; acknowledging the assurance given by the Cabinet Member that the suggestion that the new Committee should only pursue partnerships in ways that do not undermine best practice by individual councils would be taken into account in its work;

(ii) that notwithstanding the proposed Joint Committee will operate under the County Council's Procedure Rules (Standing Orders), including the Scrutiny Procedure Rules, the Head of Highways, Capital Development and Waste be asked, in consultation with the Senior Waste Officer Group, to clarify and codify the role of all constituent authorities in scrutinising the work of this Committee.”

5. Possibilities and Options

- 5.1 The allocation of seats on committees must be proportional to the political composition of the Council unless the Council resolves otherwise with no member voting against.

6. Fair Decision Making

- 6.1 The appointments have regard to equal opportunities.

7. Risks

- 7.1 There is a statutory requirement to undertake a review of political balance following a change in the political composition of the Council. This review has been completed. Therefore there are no risks unless members fail to determine the matter.

Political Balance of Committees

Conservative Group	25 seats	= 67.57%
Liberal Democrat Group	8 seats	= 21.62%
Independent Group	3 seats	= 8.11%
UK Independence Party (UKIP)	1 seat	= 2.70%

Committee	Conservative Group	Liberal Democrat Group	Independent Group	UK Independence Party (UKIP)	Total
Overview and Scrutiny Board	6	2	1		9
Audit Committee	4	2			6
Development Management Committee	6	2	1		9
Licensing Committee	9	4	1	1	15
Harbour Committee	6	2	1		9
Employment Committee	4	1			5
Appeals Committee (School Transport, Student Awards, Licensing, Discretionary Housing Payments)	5	1		1	7
Civic Committee	5	1	1		7
Standards Committee	5	1	1		7
	50	16	6	2	74

Schedule 4 – Terms of Reference

Overview and Scrutiny Board and Sub-committees, Regulatory and Other Committees, Area Committees and Other Bodies

Name of Committee and Terms of Reference	Membership	Members
<p>Audit Committee:</p> <p>Terms of Reference:</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. 	<p>6 members of the Council excluding members of the Executive, in accordance with the political balance requirements</p> <p>Conservative (4)</p> <p>Liberal Democrat (2)</p>	<p>Councillors Bent, Manning, O’Dwyer and Tyerman</p> <p>Councillors Stocks and Stringer</p>

Name of Committee and Terms of Reference	Membership	Members
<p>8. To liaise with the Public Sector Audit Appointments Ltd over the appointment of the Council’s external auditor.</p> <p>9. To commission work from Internal and External Audit within approved resources.</p> <p>10. To support the Council’s compliance with the CIPFA Code of Practice for Treasury Management in Public Services including the role as nominated Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.</p>		
<p>Regulatory Framework</p>		
<p>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).</p>		
<p>12. To maintain a strategic overview of the Council’s compliance with the prevailing Accounts and Audit Regulations.</p>		
<p>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.</p>		
<p>14. To monitor the effective development and operation of risk management and corporate governance in the Council.</p>		

Name of Committee and Terms of Reference	Membership	Members
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).		
Accounts		
21. To consider the External Auditor's report to those charged with governance on issues arising from the audit of the accounts.		
22. On behalf of the Council, to consider and approve the annual statement of accounts.		

Name of Committee and Terms of Reference	Membership	Members
<p>Civic Committee:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To consider nominations for the title of Honorary Freeman and Honorary Alderman and make recommendations to the Council as necessary following unanimous voting on acceptance of any nominations. 2. To consider and promote nominations for national and local awards. 3. To identify events to attract Royal visits. 4. To keep updated on major national civic events. 	<p>7 members of the Council in accordance with the political balance requirements</p> <p>Conservative (5)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>	<p>Councillors Amil, Bent, Cunningham, Kingscote and Sykes</p> <p>Councillor Mandy Darling</p> <p>Councillor Stockman</p>
<p>Development Management Committee:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. At all times to have regard to the adopted Torbay Local Plan 1995-2011 (“the Torbay Local Plan”) and, following submission to the Secretary of State, the new Torbay Local Plan 2012 - 2032. 2. To consider and (if appropriate) determine (unless such determination is reserved by law to Council) all applications and all other matters (including issuing notices, making Orders and requesting the Monitoring Officer to issue civil or criminal proceedings) relating to: <p style="text-align: center;">Town and Country Planning, including</p>	<p>9 members of the Council (in accordance with the political balance requirements) with membership comprising, if reasonably possible, members from the various areas of the Borough</p> <p>Conservative (6)</p> <p>Liberal Democrat (2)</p>	<p>Councillors Barnby, Cunningham, Kingscote, Robson, Tolchard and Winfield</p> <p>Councillors Steve Darling</p>

Name of Committee and Terms of Reference	Membership	Members
<ul style="list-style-type: none"> • Conservation Areas • Listed Buildings • Scheduled Ancient Monuments • The display of advertisements • Tree Preservation Orders • Complaints about high hedges • Public Rights of Way • Minerals • Highways matters • Waste • Enforcement; and • Environmental Assessment <p>so far as they are set out in Schedule 2 of this Part 3 of the Constitution (Council Functions) or are identified as Council functions in Schedule 1 of this Part 3 (Local Choice Functions): i.e. so far as they are not Executive functions.</p> <p>3. The Committee shall not determine any application (or other matter) in a manner that would (in the opinion of the Executive Head of Business Services) not be in accordance with the adopted and/or new Torbay Local Plan unless both those Officers recommend such determination and the determination is consistent with the Executive Head’s recommendation.</p> <p>If, contrary to officer recommendation, the Committee consider that an application (or other matter) shall be determined not in accordance with the adopted and /or Torbay Local Plan then (unless their determination is consistent with the recommendation of the Executive Head of Business Services) the item shall be</p>	<p>Independent Group (1)</p>	<p>and Stringer</p> <p>Councillor Morey</p>

Name of Committee and Terms of Reference	Membership	Members
<p>referred to Council for determination.</p> <p>4. The Committee shall not determine any application (or other matter) that relates to land owned, controlled or occupied by the Council in a manner that is not in accordance with the recommendation of the Executive Head of Business Services. If the Committee consider that an application (or other matter) that relates to land owned, controlled or occupied by the Council shall be deferred or determined not in accordance with the recommendation of the Executive Head of Business Services the Executive Head may refer that matter to Council for consideration or determination.</p>		
<p>Employment Committee:</p> <p>Terms of Reference:</p> <p>1. To make recommendations to Council on the appointment of the Head of Paid Service including the terms and conditions of his/her employment.</p> <p>2. To determine appointments to post of Director or equivalent positions of the Council, including the terms and conditions of contracts, appointment procedures and arrangements.</p> <p>3. To consider applications for the position of Coroner and to recommend to Council the person to be appointed to that post.</p> <p>4. To hear and determine appeals in relation to disciplinary matters, in relation to dismissal.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative (4)</p> <p>Liberal Democrat (1)</p>	<p>Mayor Oliver, Councillors Lewis, John Thomas and Tyerman</p> <p>Councillor Steve Darling</p>

Name of Committee and Terms of Reference	Membership	Members
<p>5. To consider any matters referred by the Chief Executive on the appointment of Directors on Council owned companies.</p> <p>6. To consider any disciplinary or grievance matters in relation to the Chief Executive.</p> <p>7. To consider and determine requests for Flexible Retirement from Senior Officers.</p>		
<p>Harbour Committee:</p> <p>Terms of Reference:</p> <p>To determine all matters relating to the strategic management of the Council’s function as a Harbour Authority, in line with the Tor Bay Harbour and Maritime Strategy, the Council’s Policy Framework. Specifically the Committee will:-</p> <p>1. manage all of the Harbour’s financial matters in accordance with approved financial procedures and the Council’s aspirations for the harbour to be self financing as outlined in the Harbour and maritime strategy and including (but not limited to):</p> <ul style="list-style-type: none"> (a) the setting of harbour charges from time to time (including in-year changes to the schedule) normally following consultation with the relevant Harbour Liaison Forums; (b) approving the annual revenue budgets within the ring-fenced harbour accounts; (c) receiving quarterly budget monitoring reports and to 	<p>9 members of the Council in accordance with the political balance requirements, plus up to five external non-voting advisors appointed by the Committee on a four year term and one non-voting advisor who is a private sector representative of the Board of the Torbay Economic Development Company Limited.</p> <p>(Group Leaders will be asked to take account of the geographical spread of members in making appointments to the Committee)</p>	

Name of Committee and Terms of Reference	Membership	Members
<p>approve variances as appropriate; and</p> <p>(d) monitoring the harbour reserve funds and to seek to ensure that the funds are kept above an appropriate minimum contingency level and ensure the harbour remains self-financing;</p> <p>providing that no decision by the Harbour Committee shall impact adversely on the Council’s general fund or capital budget.</p> <p>2. to act as Duty Holder for the purposes of the Port Marine Safety Code;</p> <p>3. approve and monitor a business plan for Tor Bay Harbour, in line with the Council’s policy framework, and address any issues relating to performance;</p> <p>4. review these terms of reference annually and request the Council to make any necessary amendments and/or additions;</p> <p>5. review annually the powers delegated to the Executive Head Tor Bay Harbour Authority – Tor Bay Harbour Master and refer any proposed changes to the Council for determination. The Committee itself shall not authorise any changes;</p> <p>6. consider any other matters referred to the Committee by the Executive Head Tor Bay Harbour Authority;</p> <p>7. establish any sub-committee or working parties as the Committee sees fit, in particular a Harbour Appointments Sub-Committee for</p>	<p>Conservative (6)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (1)</p>	<p>Councillors Amil, Bye, Manning, O’Dwyer, Robson and Sykes</p> <p>Councillors Carter and Stringer</p> <p>Councillor Ellery</p>

Name of Committee and Terms of Reference	Membership	Members
<p>the recruitment of advisors;</p> <p>8. recommend the format, composition and governance of the Harbour Liaison Forums and keep the arrangements under review;</p> <p>9. to provide strategic direction to the Executive Head Tor Bay Harbour Authority and the elected Mayor in relation to those assets within Tor Bay Harbour and the harbour estate that are managed by Tor Bay Harbour Authority.; and</p> <p>10. appoint advisors following receipt of recommendations from the Harbour Appointments Sub-Committee and the Board of Torbay Economic Development Company Limited. Appointments will be merit based and be in accordance with the Local Protocol for members of the Harbour Committee.</p>		
<p>Health and Wellbeing Board</p> <p>Terms of Reference:</p> <p>1. To encourage those who arrange for the provision of any health or social care services in the area to work in an integrated manner for the purpose of advancing the health and wellbeing of the people in its area.</p> <p>2. To provide advice, assistance and support, as it thinks appropriate for the purpose of encouraging the making of arrangements under Section 75 (arrangements between NHS bodies and local authorities) of the National Health Service Act 2006 in connection with the provision of such services.</p>	<p>This is a Council Committee with up to five members of the Council (to be appointed by the elected Mayor);</p> <p>Membership: Director of Adult Social Services Director of Children’s Services Director of Public Health</p>	

Name of Committee and Terms of Reference	Membership	Members
<p>3. To encourage those who arrange for the provision of health-related services in its area to work closely with the Health and Wellbeing Board.</p>	<p>A representative of HealthwatchTorbay</p>	<p>Mayor Oliver, Councillors Parrott and Mills</p>
<p>4. To encourage those who arrange for the provision of any health or social care services in its area and those who arrange for the provision of any health-related services in its area to work closely together.</p>	<p>A representative of South Devon and Torbay Clinical Commissioning Group</p>	<p>Councillor Doggett</p>
<p>5. To exercise the functions of Torbay Council and South Devon and Torbay Clinical Commissioning Group under sections 116 (health and social care: joint strategic needs assessments) and 116A (health and social care: joint health and wellbeing strategy) of the Local Government and Public Involvement in Health Act 2007, namely:</p> <ul style="list-style-type: none"> • Preparation of a Joint Strategic Needs Assessment; and • Preparation of a Joint Health and Wellbeing Strategy. 	<p>A representative of NHS England</p> <p>Conservative (3): Mayor; Executive Lead for Adults and Children; and Executive Lead for Health and Wellbeing;</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>	<p>Councillor Stockman</p>
<p>6. To assess needs for pharmaceutical services in Torbay and publish a statement of its first assessment and of any revised assessment.</p>	<p>Non-voting Co-opted Members: Torbay and South Devon NHS Foundation Trust</p>	
<p>7. To provide the Council its opinion on whether the local authority is discharging its duty under section 116B (duty to have regard to assessment and strategies) of the Local Government and Public Involvement in Health Act 2007.</p>	<p>Police and Crime Commissioner</p>	
<p>8. To exercise the statutory duty to promote co-operation between Torbay Council, its relevant partners and other partners or bodies</p>	<p>Devon Partnership NHS Trust</p>	

Name of Committee and Terms of Reference	Membership	Members
<p>as the Council considers appropriate, to improve the well-being of children in the area.</p> <p>9. To consider the annual report of the Torbay Safeguarding Children’s Board.</p> <p>10. To make any decisions that legislation or government guidance reserves to Health and Wellbeing Board’s and/or proposes that Health and Wellbeing Boards would be appropriate forum for such decisions to be made.</p>	<p>Torbay Community Development Trust</p> <p>Torbay Schools Representative</p> <p>A Representative of the GP Consortia</p>	
<p>Licensing Committee:</p> <p>Terms of Reference:</p> <p>To carry out the Licensing functions of the Council.</p>	<p>15 members of the Council (politically balanced)</p> <p>Conservative (9)</p> <p>Liberal Democrat (4)</p> <p>Independent Group (1)</p> <p>UK Independence Party (UKIP) (1)</p>	<p>Councillors Barnby, Brooks, Cunningham, King, Stubley, Sykes, David Thomas, John Thomas, Tolchard</p> <p>Councillors Mandy Darling, Doggett, Pentney and Stocks</p> <p>Councillor Ellery</p> <p>Councillor Parrott</p>

Name of Committee and Terms of Reference	Membership	Members
<p>Overview and Scrutiny Board:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To approve and co-ordinate the work programme for the overview and scrutiny function for the year. 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). 3. To review or scrutinise decisions made, or other action taken, in connection with the discharge of functions which are the responsibility of the Executive. 4. To make reports or recommendations to the Authority or the Executive with respect to the discharge of functions which are the responsibility of the Executive. 5. To make reports or recommendations to the Authority or the Executive with respect to the discharge of functions which are not the responsibility of the Executive. 6. To make reports or recommendations to the Authority or the Executive or the Council’s partner authorities (as defined by the Local Government and Public Involvement in Health Act 2007) on matters which affect the Authority's area or the inhabitants of that area. 	<p>9 members of the Council in accordance with the political balance requirements (including the Overview and Scrutiny Co-ordinator and Scrutiny Lead Members) excluding the elected Mayor, other members of the Executive and the Chairman/woman of the Council plus 2 Diocesan and 2 Parent Governor Representatives</p> <p>Conservative (6)</p> <p>Liberal Democrat (2)</p> <p>Independent Group (1)</p>	<p>Councillors Barnby, Bent, Bye, Lewis, Tolchard and Tyerman</p> <p>Councillors Darling and Stocks</p> <p>Councillor Stockman</p>

Name of Committee and Terms of Reference	Membership	Members
<p>7. To consider all matters and issues arising from the Council's power of scrutinising local health services in accordance with the Health and Social Care Act 2001, the National Health Service Act 2006 and Health and Social Care Act 2012.</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>		
<p>Appeals Committee:</p> <p>Terms of Reference:</p> <p>To determine appeals in respect of school transport.</p>	<p>7 members of the Council in accordance with the political balance requirements</p> <p>Conservative (5)</p> <p>Liberal Democrat (1)</p> <p>UK Independence Party (UKIP) (1)</p>	<p>Councillors King, Lewis, Manning, Sykes, David Thomas</p> <p>Councillor Stringer</p> <p>Councillor Parrott</p>

Name of Committee and Terms of Reference	Membership	Members
<p>Standards Committee:</p> <p>Terms of Reference:</p> <ol style="list-style-type: none"> 1. To promote and maintain high standards of conduct by the elected Mayor, councillors, co-opted members and church and parent governor representatives. 2. To assist the elected Mayor, councillors, co-opted members and church and parent governor representatives to observe the Members’ Code of Conduct. 3. To advise the Council on the adoption or revision of the Members’ Code of Conduct. 4. To monitor the operation of the Members’ Code of Conduct. 5. To advise, train or arrange to train the elected Mayor, councillors, co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct. 6. To assist the Monitoring Officer in carrying out his/her responsibilities pursuant to the Code of Conduct and its protocols. 7. To review the Council’s local protocols as contained in the Constitution. 8. To review the Constitution in relation to ethics and probity issues. 9. To advise others on probity and ethics. 10. To consider any alleged breaches of local protocols by members. 	<p>7 members of Torbay Council in accordance with the political balance requirements</p> <p>Conservative (5)</p> <p>Liberal Democrat (1)</p> <p>Independent Group (1)</p>	<p>Councillors Brooks, Haddock, O’Dwyer, David Thomas and John Thomas</p> <p>Councillor Stocks</p> <p>Councillor Morey</p>

Name of Committee and Terms of Reference	Membership	Members
<p>11. To share experience with other standards committees.</p> <p>The Council may arrange for the Standards Committee to exercise such other functions as the Council considers appropriate.</p>		

HCW/16/9

Procedures Committee
9 February 2016

Winding up of the Devon Authorities Waste Reduction and Recycling Committee, and Establishment of Devon Authorities Strategic Waste Committee

Report of the Head of Highways, Capital Development and Waste

Please note that the following recommendations are subject to consideration and determination by the Committee before taking effect.

Recommendations: that the County Council be recommended to endorse the proposal that:

- (a) the Devon Authorities Waste Reduction and Recycling Committee be wound up;**
- (b) a new Devon Authorities Strategic Waste Committee be established with the proposed membership, operating rules, terms of reference set out hereunder be approved.**

1. Summary

This Report outlines proposals to wind up the Devon Authorities Waste Reduction and Recycling Committee and replace it with a new strategic waste management joint committee.

2. Background/Introduction

The Devon Authorities Waste Reduction and Recycling Committee (DAWRRC) at its meeting on 20 October 2015 (Minute 60) resolved:

“(a) that the proposals to develop a new strategic waste management joint committee to replace DAWRRC and to name the new committee the Devon Authorities Strategic Waste Committee be supported;
(b) that all partner authorities be recommended to approve the establishment of a Devon Authorities Strategic Waste Committee and its Constitution, Terms of Reference and Working Arrangements, and to join the new Committee.”

The proposed new arrangements were subsequently endorsed by the Cabinet on 11 November 2015 (Minute 430 refers).

Devon Authorities have worked together for 23 years following the setting up of a working party in 1990 to coordinate waste recycling. A Joint Recycling Committee was first established in 1992 and was subsequently replaced by the existing Joint Committee in November 1999.

Initially the need to work together began as an enlightened approach to increasing recycling in Devon from 2% in 1990 when it was carried out solely by the community sector. It gained drivers along the way particularly when the Government included statutory combined recycling and composting targets for district councils and county councils together and when the EU Landfill Directive came into play.

DAWRRC is made up of Members from all Devon District Councils, the County Council and Torbay Council. Plymouth City Council withdrew from the Committee in 2014.

Devon Authorities have over the years worked together on a number of initiatives to deliver waste reduction, re-use, recycling and composting initiatives across Devon, Torbay and Plymouth. Most notably these include the Waste Management Strategy for Devon, the award winning 'Don't let Devon go to Waste' behavioural change campaign, the Schools Waste Education Strategy and letting of joint material contracts as well as successful bids of more than £10 million from Government Department of Environment, Farming & Rural Affairs, Business and Industry Services, Department for Communities & Local Government and Waste & Resource Action Programme. Joint working has helped move Devon's recycling rate from 2% to 55% and in 2010/11 Devon was the top recycling county in the country. The amount of residual waste disposed of has reduced from 292,295 tonnes in 2000/01 to 164,434 tonnes in 2014/15 (down 56%). Similarly Torbay has seen a rise to 42% recycling with a reduction in residual waste from 49,570 tonnes in 2003/4 to 36,440 in 2014/15.

However, over the last two years attempts have been made with some consultancy support to develop a single waste service for Devon and whilst it has not proved possible to form a formal partnership, the desire to work closer together on more strategic waste issues remains, particularly with the need to deliver further savings whilst maintaining or improving performance.

All Devon Authorities have recently signed up to the Heart of the South West Statement of Intent towards devolution and development of a new more strategic waste management committee would support those principles.

3. Proposal

Whilst DAWRRC has played a significant role in developing and promoting waste minimisation and recycling initiatives, it is recognised that its remit has been somewhat limited with regard to wider strategic work issues.

Discussions have therefore continued over the purpose and role of the current Committee with a view to ensuring a more strategic waste management body is in place and it is suggested that the current Committee be therefore wound-up and replaced by a new body (to be known as the Devon Authorities Strategic Waste Committee) with new working practices/operating principles and terms of reference to reflect those wider, more strategic, aims and objectives. This would mean, for example, that any new Joint Committee would henceforth consider matters such as, inter alia:

- joint procurement e.g. of vehicles, bins and in-cab technology
- joint materials contracts – new materials e.g. card and mixed plastics
- proposed waste service changes
- behavioural change/ prevention strategy for Devon
- mechanism for sharing savings between County and District Councils
- organic waste strategy for Devon
- collection and disposal of Healthcare waste.

The new Committee could take ownership and be responsible for developing and implementing the Resource and Waste Management Strategy for Devon Action Plan.

If the Council – and all other constituent Councils – are minded to approve these proposals the first meeting of the new Committee could be in June 2016 with the last meeting of the DAWRCC being in February 2016.

The proposed draft membership, operating rules and terms of reference are attached at Appendix 1.

4. Consultations/Representations/Technical Data

This proposal has been presented to and is supported by the current DAWRRC and the Devon Local Government Steering Group.

5. Financial Considerations

If the Councils are minded to establish a new Joint Committee for the purposes outlined herein that body be also vested with authority to utilise any outstanding DAWRRC funds and, as the de facto successor body, to audit DAWRRC's accounts.

The current DAWRRC budget for 2015/16 stands at £188,644. This is made up of a topslice of the recycling credits paid by the County Council to the District Councils, and includes additional contributions from Devon County Council and Torbay Council. This budget could be reviewed as part of the remit of any new Committee.

6. Environmental Impact Considerations

There are no direct environmental impacts but working closer together on strategic waste issues should lead to more sustainable waste management practices in the future.

7. Equality Considerations

There are no impacts from equality considerations.

Where relevant to the decision, the Equality Act 2010 Public Sector Equality Duty requires decision makers to give due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

Taking account of age, disability, race/ethnicity (includes Gypsies and Travellers), gender and gender identity, religion and belief, sexual orientation, pregnant women/ new and breastfeeding mothers, marriage/civil partnership status in coming to a decision, a decision maker may also consider other relevant factors such as caring responsibilities, rural isolation or socio-economic disadvantage.

This may be achieved, for example, through completing a full Equality Impact Needs Assessment/Impact Assessment or other form of options/project management appraisal that achieves the same objective.

8. Legal Considerations

The lawful implications/consequences of the proposals/recommendations/proposed course of action have been considered and taken into account in the preparation of this report/formulation of the recommendations set out above.

9. Risk Management Considerations

Establishing a new strategic committee is essential to continue to build on the success of the partnership working that DAWRRC has already developed and delivered. Consequently developing a more strategic approach relies on all Partner Authorities signing up to the new Committee, otherwise there is a risk of a less co-ordinated approach than exists currently.

10. Public Health Impact

There are no implications for public health.

11. Options/Alternatives

Without a single waste authority with delegated powers to deliver a joined up strategic approach to waste collection and disposal across the geographical area of Devon providers will be less effective and potentially lead to duplication of effort and expenditure, obviating economies of scale. Formation of this new Committee will go some way to help achieve the objectives and potential benefits that a single waste partnership would have realised.

12. Reason for Recommendation/Conclusion

A new Devon Authorities Strategic Waste Committee would enable a more strategic approach to be taken with regard to both waste collection, treatment and disposal operations, as well as strengthening demand management and waste prevention measures. This should lead to efficiencies in service delivery and overall savings to the public purse.

David Whitton
Head of Highways, Capital Development and Waste

Electoral Divisions: All

Cabinet Member for Community and Environmental Services: Councillor Roger Croad

Strategic Director, Place: Heather Barnes

Local Government Act 1972: List of Background Papers

Contact for enquiries: Wendy Barratt

Room No. Matford Offices, County Hall, Exeter. EX2 4QD

Tel No: (01392) 383000

Background Paper	Date	File Reference
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Nil

wb211215pc Winding up of DAWRRC and establishment of DASWC
hk 05 250116

**OPERATING RULES AND TERMS OF REFERENCE FOR THE DEVON AUTHORITIES
STRATEGIC WASTE COMMITTEE**

1. Working Practices

1. The Committee is established under the provisions of Section 101 of the Local Government Act 1972. The area in which the Committee is to exercise its authority is within the administrative areas of Devon County Council and Torbay Council.
2. The Committee shall comprise of one elected Member with Cabinet/Executive or 'portfolio' responsibility for waste management from each of the respective Authorities, appointed by each Authority. Each Authority will ensure that its appointed Committee Member is a member of its Cabinet or Executive. Each Authority will elect a named substitute with full voting rights to attend if the appointed Member of the committee is unable to attend. Each Authority should notify the Administering Authority in writing of any appointment of a Deputy Committee Member. Authorities may change their appointee (in line with that Council's own procedures) at any time and notify the Administering Authority in writing.
3. Each Member of the Joint Committee appointed by a constituent Council shall be entitled to one vote on all matters before the Joint Committee.

Voting rights shall be restricted to those local authorities which make a financial contribution to the Committee's budget.

4. The role of each Committee Member will be to attend meetings of the Committee, to vote on items of business, to commit to and make a positive contribution to the Joint Committee, and to act as a champion and ambassador for the Committee, seeking any necessary approvals from their Authority.
5. The Committee shall normally meet 3 times per year, with an annual presentation of statistical performance.

The quorum for a meeting of the joint committee is one quarter of the whole number of the committee

6. The Chairman and Vice-Chairman shall be elected annually by the Committee; the offices of Chairman and Vice-Chairman shall rotate annually between the County Council and Torbay [as a group] and the District Councils [as a group], provided the relevant Committee Member represents a local authority with voting rights. Nominations for these posts may be stipulated by the constituent council or made and seconded by any Member of the Committee with all Members present holding voting rights being able to vote. The inaugural Chairman will be the County Council or Torbay Council appointee with the Vice Chairman being a District Council Member. This would then alternate, with a District Council Member as Chairman with a County Council or Torbay Member as Vice-Chairman and rotate annually. The County Council shall be the Administering Authority for the Committee. The County Council's Procedure Rules (Standing Orders) and Financial Regulations shall apply to the Committee's procedures and activities.

7. The Committee shall have the power to co-opt other representatives to serve in a non-voting capacity. These would be Associate Members without voting rights but the ability to speak.
8. The County Treasurer shall hold a separate account for the Committee.

2. Terms of Reference

The purpose of the Committee is:-

1. To promote sustainable, cost effective and efficient service delivery through a shared approach to resource and waste management in Devon.
2. To take ownership of and be responsible for the development, implementation and review of the Resource and Waste Management Strategy for Devon Action Plan.
3. To exercise those responsibilities delegated to the Committee and to make recommendations to the respective Authorities including through the Chief Executives and Leaders group on matters of strategic importance including future strategy, collection, treatment and disposal of wastes; and to implement and further develop initiatives as requested by this group and joint consultative committees.
4. To share resources wherever practicable, having due regard to the opportunities for economies of scale to ensure effective use of resources including joint procurement opportunities to deliver savings to the public purse.
5. To continue to develop and implement behavioural change & education initiatives to ensure that communities are well informed and are actively encouraged to maximise their opportunities for waste minimisation, reuse and recycling & composting.
6. To consider and adopt funding policies for the Committee's Budget.
7. To administer payments from the Committee's Budget in accordance with the County Council's Financial Regulations to finance waste management activities; to receive accounts relating to Joint Schemes; and to consider the annual budget for the Committee.

3. Working Arrangements

1. Funding the Committee
 - (a) The County Council will withhold an agreed percentage of the recycling credit payment due to the District Councils (credits paid to voluntary groups are excluded from this calculation), with additional contributions from Devon County Council and Torbay Council. This amount will be accounted for separately and held by the County Treasurer on behalf of the Committee. The amount withheld will be agreed by the Committee annually, and will be calculated to produce an agreed budget for supporting waste management projects in Devon. The contribution will be calculated by applying the agreed percentage of the applicable recycling

credit rate for the area. In the event that the amount withheld is insufficient to fund agreed countywide projects, the shortfall will be made up by an adjustment in the following financial year.

- (b) The Committee's budget will comprise the payments described in 1(a), plus existing balances held.

2. **Membership of the Committee**

If any of the parties wishes to cease making a financial contribution [as specified in paragraph 1(a) above], it shall be able to do so at the end of the financial year, on giving at least 6 months' prior written notice to that effect to each of the other parties and on such cessation and shall automatically cease to be (voting members) of the Committee from that date;

it shall be released from further contributions on condition that it accepts liability whether financial or otherwise for the effect of its action upon any commitments or other arrangements entered into in good faith by member authorities [on behalf of the Committee] with third parties prior to such cessation and shall automatically cease to be (voting members) of the Committee from any such agreed date.

- 3. Each party shall take out and maintain a public liability policy of insurance in respect of its activities as a member of the Committee in such sum and upon such terms as it shall see fit.
- 4. Reports for the Committee are to be considered by a Senior Waste Officer Group comprising of waste service managers from each of the respective Authorities which shall meet as required by the programme of Committee meetings. The Senior Waste Officer Group shall set up Working Parties as necessary to consider specific project areas, which will report back to the Senior Waste Officer Group and subsequently to Committee. A Recycling Officers' Forum, made up similarly, will report to the Senior Waste Officer Group on waste minimisation, re-use, recycling & composting initiatives and performance, and attend the Committee on an annual basis.
- 5. Minutes of the Committee shall be submitted to the relevant Cabinet/Executive or Committee of each constituent Council.
- 6. The County Council's Head of Service responsible for Waste shall collate annual recycling statistics for the Committee's consideration

Agenda Item 13



Meeting: Annual Council

Date: 11 May 2016

Wards Affected: All Wards

Report Title: Scheme of Delegation for Council Functions and Confirmation of Budget and Policy Framework Documents

Is the decision a key decision? No

When does the decision need to be implemented? Immediately

Executive Lead Contact Details: Councillor Mills, Deputy Mayor and Executive Lead for Health and Wellbeing and Corporate Services, derek.mills@torbay.gov.uk

Supporting Officer Contact Details: Anne-Marie Bond, Assistant Director Corporate and Business Services, (01803) 207160, anne-marie.bond@torbay.gov.uk

1. Proposal and Introduction

- 1.1 Each year the Council is required to agree the scheme of delegation for Council functions, as set out in Part 3 of the Constitution in so far as they relate to Council functions.
- 1.2 Following the budget setting process in February 2016, it was not clear to Members which reports formed the actual Capital and Revenue Budgets and which documents were Policy Framework documents which are approved annually as part of the budget setting process. This report seeks to clarify this by amending Article 4 – The Council.

The Revenue Budget included the following documents:

- Revenue Budget 2016/2017 (Revenue Budget)
- Budget Digest 2016/2017 (Revenue Budget)
- Proposals for service change, income generation and savings 2016/2017 (Revenue Budget)
- Equality Impact Assessments 2016/2017 (Revenue Budget)
- Fees and Charges 2016/2017 (Revenue Budget)
- Review of Reserves 2016/2017 (Policy Framework)
- Treasury Management Strategy 2016/2017 (incorporating the Annual Investment Strategy 2016/2017 and the Minimum Revenue Provision Policy 2016/2017) (Policy Framework)

forward thinking, people orientated, adaptable - always with integrity.

The Capital Plan Budget included the following documents:

- Capital Plan and Supplementary Information (Capital Budget)
- Corporate Capital Strategy (Policy Framework)
- Corporate Asset Management Plan (Policy Framework)

2. Reason for Proposal

- 2.1 To confirm the scheme of delegation for Council functions and clarify which documents relate to the budget and which documents are Policy Framework documents.

3. Recommendation(s) / Proposed Decision

- 3.1 That the scheme of delegation of Council functions, as set out in Part 3 of the Constitution in so far as they relate to Council functions be approved.
- 3.2 That the revised Article 4 – The Council be approved.

Appendices

Appendix 1: Article 4 – The Council

Background Documents

[Constitution](#)

Article 4 – The Council

(Reference: Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended)
Sections 3, 5, 245 and Schedule 2, Local Government Act 1972
Schedule 3, Local Government Act 2000)

4.01 Meanings

(a) Policy Framework

The Policy Framework consists of significant and overarching major plans and strategies and is made up of the following:

- (i) Communication, Engagement and Consultation Strategy;
- (ii) Corporate Asset Management Plan (approved annually as part of the budget setting process);
- (iii) Corporate Capital Strategy (approved annually as part of the budget setting process);
- (iv) Corporate Plan (incorporating equalities objectives);
- (v) Economic Regeneration Plan (incorporating the Tourism Strategy and Cultural Strategy);
- (vi) Housing Strategy (incorporating the Homelessness Strategy and Housing Allocations Policy);
- (vii) Gambling Act Policy/Statement of Principles;
- (viii) Joint Health and Wellbeing Strategy (incorporating the Children's and Young People's Plan);
- (ix) Licensing Policy;
- (x) Local Transport Plan (incorporating the Parking Strategy);
- (xi) Plans and Strategies which together comprise the Development Plan (incorporating the Port Master Plan);
- (xii) **Review of Reserves (approved annually as part of the budget setting process)**
- (xiii) Strategic Agreement between Torbay and South Devon NHS Foundation Trust and Torbay Council/Torbay and South Devon Clinical Commissioning Group;
- (xiv) **Treasury Management Strategy (incorporating the Annual Investment Strategy and Minimum Revenue Provision Policy) (approved annually as part of the budget setting process)**
- (xv) Waste Management Strategy;

(xiv) such other plans and strategies which the Council may decide shall be added to the Framework in accordance with Regulation 4 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

(b) Budget

The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirements, investments, its capital expenditure (including the funding of that expenditure as approved by Council) and the setting of virement limit.

4.02 Functions of the Council

Only the Council will exercise the following functions:

- (i) adopting and changing the Constitution,
- (ii) approving or amending the Policy Framework and the budget,
- (iii) subject to the urgency procedure contained in the Standing Orders in relation to Access to Information in Part 4 of this Constitution, making decisions about any matter in the discharge of an executive function which is covered by the Policy Framework or the budget where the decision-maker is minded to make it in a manner which would be contrary to the Policy Framework or contrary to or not wholly in accordance with the budget,
- (iv) establishing and agreeing and/or amending the terms of reference for all Council committees (including the Overview and Scrutiny Board), deciding on their composition and making appointments to them,
- (v) appointing the Overview and Scrutiny Co-ordinator and any Overview and Scrutiny Lead Members,
- (vi) appointing representatives to outside organisations unless the appointment is an executive function or has been delegated by the Council,
- (vii) adopting a Members' Allowances Scheme (for the Elected Mayor, members and co-opted members of the Council),
- (viii) changing the name of the area and conferring the title of Honorary Alderman, Honorary Freeman or Freedom of the Borough,
- (ix) confirming the appointment of the Head of the Paid Service, the Monitoring Officer, Section 151 Officer, the Director of Adult Services and the Director of Children's Services,
- (x) making, amending, revoking, re-enacting or adopting bylaws and promoting or opposing the making of local legislation or personal Bills,
- (xi) all local choice functions set out in Part 3 of this Constitution which the Council decides shall be undertaken by itself rather than the Executive, and
- (xii) all other matters which, by law, must be reserved to Council.

4.03 Council meetings

There are three types of Council meeting:

- (i) the annual meeting;
- (ii) ordinary meetings; and
- (iii) extraordinary meetings

and they will be conducted in accordance with the Standing Orders in relation to Council Meetings in Part 4 of this Constitution.

4.04 Responsibility for functions

Part 3 of this Constitution (Responsibility for Functions) gives details of which body or individual has responsibility for all of the Authority's functions.

4.05 Guiding Principles for Members

When carrying out functions they are responsible for Members are expected to act as follows:

- accept the democratic mandate of the Elected Mayor;
- be clear about the limits of their role in developing policy;
- work collectively with the Elected Mayor and Executive to help them develop the most coherent set of policies for the local people;
- enable officers to develop priorities into clear, costed plans of action which are shared and agreed with partners;
- adopt leadership styles which are open, inclusive, and engender trust from staff, other partners, and the public; and
- act as ambassadors for the Council in the wider area and with partners.

4.06 Role and function of the Chairman/woman of the Council

The Chairman/woman shall have precedence in the Borough as first citizen (but not so as to prejudicially affect Her Majesty's royal prerogative) and Section 3(4A) of the Local Government Act 1972 (as amended) shall apply. As first citizen of the borough, the Chairman/woman will perform the civic and ceremonial duties for the borough. The Elected Mayor will perform those functions as the Council's representative where they relate to the promotion of the business of the Council or Torbay. Any future change to these arrangements will be a matter for the Council to determine.

The Chairman/woman of the Council will be elected by the Council annually. The Elected Mayor is not permitted to be the Chairman/woman of the Council.

The Chairman/woman of the Council shall not be a member of any committee, sub-committee or working party or attend any meeting as a substitute.

The Chairman/woman of the Council will carry out the roles laid down in the Chairman/woman's Job Description as set out in Part 6 of this Constitution.

4.07 The Vice Chairman/woman of the Council

The Vice Chairman/woman of the Council will be appointed annually by the Council. In the Chairman/woman's absence, the Vice Chairman/woman will have the roles and functions set out in the Chairman/woman's Job Description as set out in Part 6 of this Constitution.

The Vice Chairman/woman of the Council shall be permitted to be a member of any committee, sub-committee or working party or attend any meetings as a substitute.