

Thursday, 16 May 2024

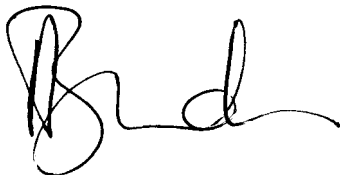
## **Adjourned Annual Meeting of the Council**

Dear Member

I am pleased to invite you to attend the Adjourned Annual meeting of Torbay Council which will be held in **Burdette Room, Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ** on **Thursday, 20 June 2024** commencing at **5.30 pm**

The items to be discussed at this meeting are attached.

Yours sincerely,



Anne-Marie Bond  
Chief Executive

(All members are summoned to attend the meeting of the Council in accordance with the requirements of the Local Government Act 1972 and Standing Orders A5.)

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**A Healthy, Happy and Prosperous Torbay**

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**June Gurry, Town Hall, Castle Circus, Torquay, TQ1 3DR**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# Adjourned Annual Meeting of the Council Agenda

## 1. Apologies for absence

## 2. Declarations of interests

- (a) To receive declarations of non pecuniary interests in respect of items on this agenda

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

- (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

## 3. Minutes

(Pages 4 - 5)

To confirm as a correct record the minutes of the Extraordinary meeting of the Council held on 30 April 2024.

## 4. Communications

To receive any communications or announcements from the Civic Mayor, the Leader of the Council, the Overview and Scrutiny Co-ordinator or the Chief Executive.

## 5. Petition

(Page 6)

To receive a petition and any oral representations from the public in accordance with Standing Order A23.

## 6. Appointment of Overview and Scrutiny Co-ordinator and Scrutiny Lead Members

## 7. Appointments to Council Committees, Working Parties and Appointment of Committee Chairmen/women and Vice-Chairmen/women for 2024/2025

(Pages 7 - 49)

To consider a report that seeks to appoint the Council's committees, working parties, Chairmen/women and Vice-Chairmen/women.

8. **Composition and Constitution of the Cabinet and Record of Delegations of Executive Functions** (Pages 50 - 52)  
To receive details from the Leader of the Council of the composition and constitution of the Cabinet for 2024/2025, together with the record of delegations of Executive functions (in accordance with Standing Order C2).
9. **Scheme of Delegation for Council Functions**  
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.  
  
(view:  
<https://www.torbay.gov.uk/DemocraticServices/ieListMeetings.aspx?CId=458&info=1>)
10. **Overview and Scrutiny Annual Report 2023/2024** (Pages 53 - 72)  
To receive the Overview and Scrutiny Annual Report for 2023/2024.
11. **Constitution Amendments - Local Code of Good Practice - Members and Council Officers Involved in the Planning Process** (Pages 73 - 107)  
To consider a report that sets out changes to the Council's Constitution in respect of operational arrangements for the Planning Committee and to reflect the current status of the Neighbourhood Forums in the Local Code of Good Practice - Members and Council Officers Involved in the Planning Process.
12. **Constitution Amendments - Outside Bodies Reporting Protocol** (Pages 108 - 115)  
To consider a report that sets out proposed changes to the Council's Constitution in respect of the reporting arrangements for Councillors who represent the Council on outside organisations.

### **Live Streaming**

To encourage more people to engage in our public meetings the Council is live streaming our Council meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

### **Minutes of the Council** **(Council decisions shown in bold text)**

**30 April 2024**

**-: Present :-**

**The Worshipful the Mayor of Torbay (Councillor Spacagna) (In the Chair)**  
**Deputy Civic Mayor of Torbay (Councillor Stevens)**

Councillors Amil, Atiya-Alla, Billings, Bye, Carter, Cowell, Steve Darling, Fellows, Harvey, Hutchings, Johns, Barbara Lewis, Chris Lewis, Long, Nicolaou, Penny, Pentney, Strang, David Thomas, Jacqueline Thomas, Tolchard, Tranter, Tyerman and Virdee

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#### **6 Opening of meeting**

In the absence of the Chaplain, The Worshipful The Mayor of Torbay opened the meeting with a moment for personal reflection. Following the opening, Members observed a minute's silence as a mark of respect in memory of Councillor Patrick Joyce, who had passed away on 12 April 2024.

#### **7 Apologies for absence**

Apologies for absence were received from Councillors Brook, Bryant, George Darling, Mandy Darling, Douglas-Dunbar, Fox, Law, Maddison and Twelves.

#### **8 Minutes**

The Worshipful The Mayor of Torbay proposed and Councillor Stevens seconded a motion, which was agreed (unanimously) by the Council as set out below:

**that the Minutes of the extraordinary meeting of the Council held on 30 March 2024 were confirmed as a correct record and signed by The Worshipful the Mayor of Torbay.**

#### **9 Proposed Devon and Torbay Combined County Authority and Devolution Deal**

The Council considered the Cabinet's recommendation on the proposed Devon and Torbay Combined County Authority and Devolution Deal following joint public consultation with Devon County Council on the draft proposal to establish the Devon and Torbay Combined County Authority, together with the revised Table of Powers/Functions published on 29 April 2024.

Councillor David Thomas proposed and Councillor Chris Lewis seconded a motion, which was agreed (unanimously) by the Council as set out below:

**That the Council:**

- (a) thanks all those who responded to the consultation, for the time they gave in considering the draft proposal and in preparing responses to it;**
- (b) considers the analysis of the responses (Appendix A) on the draft proposal for the Devon and Torbay Combined County Authority showing the variety, breadth and range of views expressed;**
- (c) approves the proposal (Appendix B) for the Devon and Torbay Combined County Authority (DT CCA) with the revised Table of Powers/Functions published on 29 April 2024, for submission to the Secretary of State for Levelling Up, Housing and Communities, taking into consideration and having due regard to the consultation responses and the Public Sector Equality Duty;**
- (d) delegates authority to the Chief Executive, in consultation with the Leader of the Council, to consent to the making of the necessary Regulations to create the Devon and Torbay Combined County Authority thereby implementing and giving effect to the proposal, subject to those Regulations reflecting the principles in the proposal document and this report;**
- (e) notes that, subject to the approval of the proposal and making of Regulations, the Council will give consideration to a draft constitution for the DT CCA in September 2024; and**
- (f) notes that Devon County Council will be asked to support the establishment of the Team Devon Joint Committee and with the proposed terms of reference being considered by Devon County Council in September 2024.**

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The Worshipful The Mayor of Torbay

## Petition – Road Safety on Ilsham Road

### 84 paper signatures and 38 e-petition signatures

We the undersigned petition the council to consider measures to improve the safety of Ilsham Road in Torquay.

The stretch of Ilsham Road between Ilsham Marine Drive and Meadfoot Green has no pavement and so cars are forced to avoid pedestrians. This often results in them having to stop if another vehicle is simultaneously travelling from the other direction. Cars coming from Meadfoot Beach have reduced visibility due to the bend and so are often caught unawares. There is a large volume of pedestrian traffic due to the popular green, playground and beach. This road is the 'advisory cycle route' as per Torbay Council who state they aim to provide routes that are:

- Safe - for children and less experienced cyclists
- Useful - for local journeys
- Memorable - for everyone It could be argued that at present this road does not fit this description.

Although most vehicles obey the current 30mph speed limit many are not prepared to stop or give the required 2m gap to pedestrians as per the updated highway code.

20 mph Zones were proposed around Torbay schools over nine years ago but since then very little has moved forward.

Local governments in towns, cities and villages around the world are rejecting nationally set 30mph or 50km/h speed limits as no longer “fit for purpose” in meeting the needs of citizens and society. 20mph or 30km/h is now seen as the maximum safe speed limit where motor vehicles mix with pedestrians and cyclists unless there are adequate segregated and crossing provisions.

Most countries have nationally set default speed limits for urban/village roads. The 30mph or 50km/h default speed limit had no science behind it and most were adopted many decades ago when motor vehicle usage was much lower. Since then, the challenges in society to protect vulnerable road users, advance active travel, increase public health, increase equality, reduce emissions and the sheer numbers of motorised vehicles now require a re-think of what should be the maximum speed where motor vehicles mix with pedestrians and cyclists.

Improving safe access to roads for all users is essential if we are to improve uptake of active travel which is key to tackling climate change.

**Meeting:** [Adjourned Annual Council](#)      **Date:** [16 May 2024](#)

**Wards affected:** [All Wards](#)

**Report Title:** : [Appointments to Council Committees and Working Parties and Appointment of Committee Chairmen/women and Vice-Chairmen/women for 2024/2025](#)

**When does the decision need to be implemented?** [Immediately](#)

**Cabinet Member Contact Details:** [Councillor Jackie Thomas, Cabinet Member for Culture, Tourism & Events and Corporate Services, Jackie.thomas@torbay.gov.uk](#)

**Director Contact Details:** [Matthew Fairclough-Kay, Director of Corporate Services, matthew.fairclough-kay@torbay.gov.uk](#)

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## 1. Purpose of Report

- 1.1 In accordance with annual appointing and the start of the new Municipal Year, to appoint the Council's committees, working parties, Chairmen/women and Vice-Chairmen/women for the new municipal year. In addition to ensure the committees and working parties have appropriate terms of reference and appointments to those bodies are made in accordance with the relevant statutory requirements.

## 2. Reason for Proposal and its benefits

- 2.1 The proposals in this report help us to deliver the ambition set out in the Community and Corporate Plan 2023-2043, by ensuring the Council complies with relevant statutory and Constitutional requirements thereby supporting all the priorities with the plan.
- 2.2 The Constitution requires Members at the Annual Meeting of the Council 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 rules of political balance. The political balance of the Council has changed following the passing of Councillor Joyce.
- 2.3 The Council is also requested to establish a Statutory Licensing Committee and a Regulatory Committee for this municipal year and is also requested to establish the Statutory Licensing and Regulatory Sub-Committees at this stage in order to make effective and efficient use of resources and to ensure that the Council can continue to discharge its Licensing function prior to a full meeting of the Licensing Committee.
- 2.4 Furthermore, the Council is also requested to appoint an Independent Member to the Audit Committee to ensure the Council follows best practice as recognised by CIPFA and the recommendations of the Redmond Review.

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

- 1) That the overall political balance of the committees as set out at Appendix 1 be approved;
- 2) That, in accordance with the Local Protocol for Working Parties, the overall political balance of working parties as set out in Appendix 2 be approved;
- 3) That, subject to 1) and 2) above, the Terms of Reference and membership for the Council's Committee's and working parties be approved as set out in Appendix 3
- 4) That, subject to 3) above being approved, nominations from Group Leaders be received to fill the seats on the committees;
- 5) That, subject to 3) above, the Chairmen/women and Vice-Chairmen/women of those Committee's be approved as set out in Appendix 4;
- 6) That, a sub-committee of both the Statutory Licensing Committee and Regulatory Committee be established both to comprise three Members of the relevant Statutory Licensing Committee or Regulatory Committee;
- 7) That both the Statutory Licensing Sub-Committee and Regulatory Sub-Committee be exempted from the rules of committee proportionality as defined in the Local Government and Housing Act 1989 and supporting regulations;
- 8) That Members' Allowance Scheme be updated to reflect the changes to the Licensing Committee with the SRA being the same for both Committees and Sub-Committees.
- 9) That the Head of Governance Support be authorised to empanel Members from the Statutory Licensing Committee and Regulatory Committee to serve on the Statutory Licensing Sub-Committee and Regulatory Sub-Committee as and when required.
- 10) That Mr Kristian Hawkes be appointed as the Independent Member to the Audit Committee effective from 27 March 2024, that the effectiveness of the Independent Member be kept under review by the Director of Finance in consultation with the Chairman of the Audit Committee and Head of Devon Audit Partnership.

### **Appendices**

Appendix 1: Political Balance of Committees

Appendix 2: Political Balance of Working Parties

Appendix 3: Committee Terms of Reference and Membership of Committees and Working Parties

Appendix 4: Nominations for Chairmen/women and Vice-Chairmen/women

**Background Documents:** None



# Supporting Information

## 1. Introduction

1.1 Following the passing of Councillor Joyce, the political composition of the Council is now 17 members of the Conservative Group, 15 members of the Liberal Democrat Group, 2 members of the Independent Group and 1 independent member. The political balance is:

Conservative Group	17 seats	= 48.57%
Liberal Democrat Group	15 seats	= 42.86%
Independent Group	2 seats	= 5.71%
Councillor Maddison	1 seat	= 2.86%

1.2 The Group Leaders have been consulted on the proportional distribution of seats on Committees between political groups and the joint Liberal Democrat and Independent Groups proposal is set out at Appendix 1.

1.3 Whilst not a legislative requirement, the Council has included in its Constitution for Working Parties to also be politically balanced. Similarly to Committees, the Group Leaders have been consulted on the proportional distribution of seats on Working Parties and the Liberal Democrat and Independent Groups proposal is set out at Appendix 2.

1.4 Recent legal guidance has indicated the need to separate out the functions of the former Licensing Committee, creating a Statutory Licensing Committee that discharges all functions relating to the Licensing Act 2003 and the Gambling Act 2005 and a Regulatory Committee to discharge all functions contained in schedule 101 and 102 of the Local Government Act 1972. Whilst the Regulatory Committee is required to be politically balanced, the Statutory Licensing Committee is not, but must be made up of 10 to 15 Members. The Members on both these Committees' can be the same. Given that Members must be trained before presiding, it is proposed that the Membership for both Licensing Committee's be the same. Therefore, maintaining political balance whilst remaining within the requirement of 10 to 15 Members.

1.5 In order to ensure the Council uses its resources in an effective and efficient manner, it is proposed that Council appoints the Sub-Committee's for both the Statutory Licensing Committee and Regulatory Committee, avoiding the necessity for full Committees to be convened solely to make a decision on this matter.

1.5 In accordance with, Committee and Sub-Committee Meetings Standing Order B1, the Council will also appoint the Chairmen/women and Vice-Chairmen/women for Committees, except for those Committees that meet on an ad hoc basis.

1.6 Appendix 3 sets out the terms of reference for Council Committees and Working Parties.

1.7 For a number of years the Audit Committee have been seeking an Independent Person in order to comply with CIPFA's recommended best practice and recommendations set out in the Redmond Review. The Independent Member is a

non-political role whose purpose is to bring specialist, technical knowledge to support the elected committee members.

- 1.8 Recognising that the Council along with many other local authorities within Devon and Cornwall had been unsuccessful in recruiting Independent Members for Audit Committees, the Devon Audit Partnership sought to establish a pool of Independent Members which would be assigned to local authorities, as such Kristian Hawkes was successfully recruited and assigned to Torbay. Mr Hawkes has an extensive professional background as a chartered and certified internal audit manager with a diverse level of experience in local authorities, third party suppliers, joint ventures, and blue light authorities within the public sector.

**2. How does this proposal support the ambitions, principles and delivery of the Community and Corporate Plan?**

- 2.1 The calculation of political balance of committees is a statutory requirement and supports all aspects of the Community and Corporate Plan through the good governance of the Council.

**3. How does this proposal contribute towards the Council's responsibilities as corporate parents?**

- 3.1 There is no direct contribution towards the Council's responsibilities as corporate parents. The legislation ensures that nominations to the seats on committees reflects the representation of different political groups on the Council.

**4 How does this proposal tackle deprivation?**

As section 3 above.

**5. What are the financial and legal implications?**

- 5.1 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.

- 5.2 The Council is required to determine the number of seats on each committee and the allocation of those seats to the political groups. Applying the principles of the Local Government and Housing Act 1989 and the supporting Regulations, the option for distribution would be proportional as set out at Appendix 1.
- 5.3 The allocation of seats includes a statutory bar on members of the Cabinet to be on the Overview and Scrutiny Board and a Council decision to exclude members of the Cabinet on the Audit Committee.
- 5.4 Political balance requirements may be dis-applied under Section 17, Local Government and Housing Act 1989 and Regulation 20, Local Government (Committees and Political Groups) Regulations 1990. This would allow the relevant seats to be allocated to another group. Any decision to dis-apply would require a resolution of the Council with no member voting against.
- 5.5 In respect of Working Parties, the Council's Constitution states that Working Parties considering non-executive functions will be appointed in accordance with the principles of political balance.

## **6. What are the risks?**

- 6.1 The Constitution and legislation requires the Council to undertake the annual appointments of committees, working parties and chairmen/women and vice-chairmen/women. There are no risks unless members fail to determine the matter.

## **7. Public Services Value (Social Value) Act 2012**

- 7.1 Not applicable.

## **8. Tackling Climate Change**

- 8.1 No impact.

## **9. What consultation have you carried out?**

- 9.1 The Group Leaders have received the proposed allocations to Council committees and working parties, along with the appointments to Chairmen/women and Vice-Chairmen/women and have been requested to provide options for political balance and nominations from their respective groups.

### Political Balance of Committees

Committee	Conservative Group	Liberal Democrat Group	Independent Group	Cllr Maddison Independent	Total
Audit Committee (excluding Cabinet Members)	3	4 (3 + 1)	0	4	7
Civic Committee	3	2	0	0	5
Employment Committee (to include a Cabinet member)	2	2	1	0	5
Harbour Committee	3	3	1	0	7
Regulatory Committee (excluding Cabinet Member with responsibility for Licensing)	6	4	1 (0 + 1)	4	11
Overview and Scrutiny Board (excluding Cabinet Members)	4	4	1	0	9
Planning Committee (excluding Cabinet Member with responsibility for Planning)	4	4	0	1	9
Standards Committee	3	2	0	0	5
<b>Totals</b>	28	25	4	1	58

### Political Balance of Non-Executive Working Parties

Working Party	Conservative Group	Liberal Democrat Group	Independent Group	Cllr Maddison Independent	Total
Airshow Working Party	2	2	1	0	5
Community Asset Transfer Panel (including appropriate Cabinet Member)	2	3 (2 +1)	0	4	5
Corporate Parenting Board	2	2	0	1	5
Harbour Asset Working Party (plus external advisors and membership restricted to Harbour Committee)	3	2	0	0	5
Harbour Budget Working Party (plus external advisors and membership restricted to Harbour Committee)	3	2	0	0	5
Oldway Mansion and Grounds Steering Group (Working Party)	3	2	0	0	5
Transport and Parking Working Party	3	3	1	0	7
<b>Totals</b>	18	16	2	1	37

**Schedule 4 – Terms of Reference**  
**Overview and Scrutiny Board and Sub-committees, Regulatory and Other Committees,**  
**Area Committees, Working Parties and Other Bodies**

Name and Terms of Reference	Membership
<p><b>Audit Committee:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. To consider summaries of specific Internal Audit reports as requested.</li> <li>3. To consider reports dealing with the management and performance of the providers of Internal Audit Services.</li> <li>4. To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.</li> <li>5. To consider the External Auditor’s Annual Letter, relevant reports, and the report to those charged with governance.</li> <li>6. To consider specific reports as agreed with the External Auditor.</li> <li>7. To comment on the scope and depth of external audit work and to ensure it gives value for money.</li> <li>8. To liaise with the Public Sector Audit Appointments Ltd over the appointment of the Council’s external auditor.</li> <li>9. To commission work from Internal and External Audit within approved resources.</li> <li>10. To support the Council’s compliance with the CIPFA Code of Practice for Treasury Management in Public Services including the role as nominated</li> </ol>	<p>7 members of the Council excluding members of the Cabinet, in accordance with the political balance requirements</p> <p>Conservative Group (3):</p> <p>Liberal Democrat Group (4):</p> <p>Non-voting Independent Member: Kristian Hawkes</p>

Name and Terms of Reference	Membership
<p>Committee to be responsible for ensuring effective scrutiny of the capital strategy, 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> <p>15. To monitor council policies on ‘Raising Concerns at Work’ and the ‘Anti-fraud and corruption strategy’ and the Council’s complaints process.</p> <p>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.</p> <p>17. To oversee the Council’s arrangements for corporate governance and consider necessary actions to ensure compliance with best practice.</p> <p>18. To review the Code of Corporate Governance.</p>	

Name and Terms of Reference	Membership
<p>19. To monitor the Council’s compliance with its own and other published standards and controls.</p> <p>20. To maintain a strategic overview of the Council’s compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).</p> <p>Accounts</p> <p>21. To consider the External Auditor’s report to those charged with governance on issues arising from the audit of the accounts.</p> <p>22. On behalf of the Council, to consider and approve the annual statement of accounts.</p>	
<p><b>Civic Committee:</b></p> <p>1. To consider nominations for the title of Honorary Freeman and Honorary Alderman subject to, those individuals meeting the criteria as set out in Section 249 of the Local Government Act 1972 and by unanimous vote, make recommendations to the Council as to acceptance of any nominations.</p> <p>2. To identify individuals to nominate for the King’s Birthday Honours and New Years’ Honours list subject to those individuals meeting the criteria as set out in Government guidance and by unanimous vote, request the Chief Executive to consider progressing applications for potential nominees.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (3):</p> <p>Liberal Democrat (2):</p>
<p><b>Employment Committee:</b></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 and senior management positions at Hay Grade 528 or above, or for the</p>	<p>5 members of the Council in accordance with the political balance requirements (to include a Cabinet member)</p> <p>Conservative Group (2):</p>



Name and Terms of Reference	Membership
<p>most senior management position where this is lower, for its wholly owned companies, including the terms and conditions of contracts, appointment procedures and arrangements.</p> <ol style="list-style-type: none"> <li>3. To consider applications for the position of Coroner and to recommend to Council the person to be appointed to that post.</li> <li>4. To hear and determine appeals in relation to disciplinary matters, in relation to dismissal.</li> <li>5. To consider any matters referred by the Chief Executive on the appointment of Non-Executive Directors on Council owned companies.</li> <li>6. To consider any matters referred by the Chief Executive on strategic matters relating to pay and conditions.</li> <li>7. To consider any disciplinary or grievance matters in relation to the Chief Executive.</li> <li>8. To consider and determine requests for Flexible Retirement from Senior Officers.</li> </ol>	<p>Liberal Democrat Group (2):</p> <p>Independent Group (1):</p>
<p><b>Harbour Committee</b></p> <p>To determine all matters relating to the strategic management of the Council’s function as a Harbour Authority as stipulated in The Port Good Governance Guidance, Tor Bay Harbour Port Masterplan and the Council’s Policy Framework. Specifically the Committee will:-</p> <ol style="list-style-type: none"> <li>1. manage all of the Harbour’s financial matters in accordance with The Port Good Governance Guidance, approved Council financial procedures and the Council’s aspirations for the harbour to be self financing as outlined in the Tor Bay Harbour Port Masterplan and including (but not limited to):</li> </ol>	<p>7 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.</p> <p>(Group Leaders will be asked to take account of the geographical spread of members in making appointments to the Committee)</p>

Name and Terms of Reference	Membership
<p>(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 and Director of Finance</p> <p>(b) to make recommendations to the Cabinet on the annual ring-fenced Harbour revenue budget to form part of the Cabinet’s overall recommendations to the Council on the Annual Revenue budget;</p> <p>(c) receiving quarterly budget monitoring reports and to 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>2. to act as Duty Holder for the purposes of the Port Marine Safety Code, the accountability for which cannot be assigned or delegated;</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 Head of Tor Bay Harbour Authority 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 Head of Tor Bay Harbour Authority;</p> <p>7. establish any sub-committee or working parties as the Committee sees fit;</p>	<p>Conservative Group (3):</p> <p>Liberal Democrat Group (3):</p> <p>Independent Group (1):</p>

Name and Terms of Reference	Membership
<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 Head of Tor Bay Harbour Authority and the Leader of the Council 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. Appointments will be merit based and be in accordance with the Local Protocol for members of the Harbour Committee.</p>	
<p><b>Harbour Appointments Sub-Committee</b></p> <p>1. To consider ad hoc applications for external advisor positions on the Harbour Committee and recommend to the Harbour Committee the persons who should be appointed to those posts as and when vacancies arise, and to determine the rolling programme for advisors tenure.</p>	<p>5 members of the Council in accordance with the political balance requirements to include the Chairman and Vice-Chairman of the Harbour Committee appointed from the Harbour Committee.</p> <p>Conservative (3):</p> <p>Liberal Democrat (2):</p>
<p><b>Health and Wellbeing Board</b></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>Leader of the Council or their nominee</p> <p>Director of Adults and Community Services;</p> <p>Director of Children’s Services;</p> <p>Director of Public Health;</p> <p>A representative of Healthwatch Torbay;</p>

Name and Terms of Reference	Membership
<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 Devon Clinical Commissioning Group; A representative of NHS England; Cabinet Member for Children’s Services;</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>Torbay and South Devon NHS Foundation Trust; Devon Partnership NHS Trust; Torbay Community Development Trust;</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"> <li>• Preparation of a Joint Strategic Needs Assessment; and</li> <li>• Preparation of a Joint Health and Wellbeing Strategy.</li> </ul>	<p>Chairman of Safer Communities Torbay; Chairman of Torbay Safeguarding Children Board; Chairman of Torbay Safeguarding Adults Board; Representative from Devon and Cornwall Police;</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>Divisional Director for Community and Customer Services;</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>Representative of the Ageing Well Assembly; Representative of Primary Care;</p>
<p>8. To exercise the statutory duty to promote co-operation between Torbay Council, its relevant partners and other partners or bodies as the Council considers appropriate, to improve the well-being of children in the area.</p>	<p>Representative of the Department for Work and Pensions; Representative of Torbay Schools.</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>	

Name and Terms of Reference	Membership
<p><b>Statutory Licensing Committee:</b></p> <ol style="list-style-type: none"> <li>1. To discharge the functions of the Council as a Licensing Authority, with the exception of approving the Gambling and Statement of Licensing Policy which is function of the Council.</li> <li>2. To approve future reviews and adoption of the Cumulative Impact Assessment. Since the introduction of section 5A of the Licensing Act 2003, all matters regarding Cumulative Impact Assessments are now the responsibility of the statutory Licensing Committee, by virtue of section 7(1), as it is no longer part of the Licensing Act 2003 Statement of Policy.</li> </ol>	<p>11 members of the Council, with the same membership as the Regulatory Committee</p> <p>(Note: Under the Licensing Act 2003 this Committee must be between 10 and 15 members and is not required to be politically balanced)</p>
<p><b>Statutory Licensing Sub-Committee</b></p> <p>To consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles).</p>	<p>To comprise 3 Members of the Statutory Licensing Committee.</p>
<p><b>Regulatory Committee</b></p> <p>To discharge the functions contained in schedule 101 and 102 of the Local Government Act 1972.</p>	<p>11 Members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (6):</p> <p>Liberal Democrat Group (4):</p> <p>Independent Group (1):</p>
<p><b>Regulatory Sub-Committee</b></p> <p>To consider and determine all matters in connection with Hackney Carriage and Private Hire Licences, Sex Establishment Licences, Street Trading Licences and Consents.</p>	<p>To comprise 3 members of the Regulatory Committee</p>

Name and Terms of Reference	Membership
<p><b>Overview and Scrutiny Board:</b></p> <ol style="list-style-type: none"> <li>1. To approve and co-ordinate the work programme for the overview and scrutiny function for the year.</li> <li>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).</li> <li>3. To appoint the Council's representatives to the Heart of the South West Local Enterprise Partnership (LEP) Joint Scrutiny Committee.</li> <li>4. To review or scrutinise decisions made, or other action taken, in connection with the discharge of functions which are the responsibility of the Cabinet.</li> <li>5. To make reports or recommendations to the Authority or the Cabinet with respect to the discharge of functions which are the responsibility of the Cabinet.</li> <li>6. To make reports or recommendations to the Authority or the Cabinet with respect to the discharge of functions which are not the responsibility of the Cabinet.</li> <li>7. To make reports or recommendations to the Authority or the Cabinet or the Council's partner authorities (as defined by the Local Government and Public Involvement in Health Act 2007) on matters which affect the Authority's area or the inhabitants of that area.</li> <li>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.</li> <li>9. To review and scrutinise the exercise by risk management authorities of flood</li> </ol>	<p>9 members of the Council in accordance with the political balance requirements (including the Overview and Scrutiny Co-ordinator and Overview and Scrutiny Lead Members) excluding Members of the Cabinet and the Chairman/woman of the Council plus 2 Diocesan and 2 Parent Governor Representatives</p> <p>Conservative Group (4):</p> <p>Liberal Democrat Group (4):</p> <p>Independent Group (1):</p>

Name and Terms of Reference	Membership
<p>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><b>Adult Social Care and Health Overview and Scrutiny Sub-Board:</b></p> <ol style="list-style-type: none"> <li>1. to review how the needs and interests of adults are met by all departments, policies, services and decisions; and how performance is evaluated and improved;</li> <li>2. to review universal, targeted and specialist services for adults including: <ul style="list-style-type: none"> <li>• prevention and management of risk;</li> <li>• social care;</li> <li>• adults wellbeing;</li> <li>• education – supporting and enabling learning for adults;</li> <li>• internal and external partnership working for adults;</li> <li>• supporting adults and carers; and</li> <li>• relevant financial management;</li> </ul> </li> <li>3. 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;</li> <li>4. to assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity; and</li> <li>5. to make reports and recommendations as appropriate arising from this area of overview and scrutiny.</li> </ol>	<p>This is a Sub-Committee of the Overview and Scrutiny Board and comprises 5 members of the Council in accordance with the political balance requirements (excluding Members of the Cabinet), Chaired by the Scrutiny Lead for Health and Adult Services.</p> <p>Conservative Group (3):</p> <p>Liberal Democrat Group (2):</p> <p><b>Non-Voting Co-opted Members:</b></p> <p>Healthwatch (1):</p> <p>Chair of Voluntary Sector Network (1):</p>

Name and Terms of Reference	Membership
<p><b>Children and Young People’s Overview and Scrutiny Sub-Board:</b></p> <ol style="list-style-type: none"> <li>1. to review how the needs and interests of children and young people are met by all departments, policies, services and decisions; and how performance is evaluated and improved;</li> <li>2. to review universal, targeted and specialist services for children and young people including: <ul style="list-style-type: none"> <li>• prevention and management of risk;</li> <li>• social care;</li> <li>• children’s and young people’s wellbeing;</li> <li>• education – supporting and enabling learning for all children and young people;</li> <li>• internal and external partnership working for children and young people;</li> <li>• supporting parents and families; and</li> <li>• relevant financial management;</li> </ul> </li> <li>3. to assess the effectiveness of decisions of the Cabinet in these areas of the Council’s statutory activity; and</li> <li>4. to make reports and recommendations as appropriate arising from this area of overview and scrutiny.</li> </ol>	<p>This is a Sub-Committee of the Overview and Scrutiny Board and comprises 5 members of the Council in accordance with the political balance requirements (excluding Members of the Cabinet), Chaired by the Scrutiny Lead for Children’s Services.</p> <p>Conservative Group (3):</p> <p>Liberal Democrat Group (2)</p> <p><b>Statutory Education Co-opted Members:</b></p> <p>Statutory parent governor representatives (primary, secondary and academy trust) (3):</p> <p>Statutory Church of England representative (1):</p> <p>Statutory Roman Catholic Diocesan representative (1):</p> <p><b>Non-Voting Co-opted Members:</b></p> <p>Devon and Cornwall Police representative (1):</p>



Name and Terms of Reference	Membership
	Play Torbay representative (1):  Care experienced young person (1):  Young Person Panel representative (1):  Voluntary and Community Sector and Alternative Provider (Education) representative (1):
<p><b>Planning Committee:</b></p> <ol style="list-style-type: none"> <li>1. 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.</li> <li>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:                             <ul style="list-style-type: none"> <li>Town and Country Planning, including                                     <ul style="list-style-type: none"> <li>• Conservation Areas</li> <li>• Listed Buildings</li> <li>• Scheduled Ancient Monuments</li> <li>• The display of advertisements</li> <li>• Tree Preservation Orders</li> <li>• Complaints about high hedges</li> <li>• Public Rights of Way</li> <li>• Minerals</li> <li>• Highways matters</li> <li>• Waste</li> </ul> </li> </ul> </li> </ol>	9 members of the Council (excluding the Cabinet Lead with responsibility for Planning, in accordance with the political balance requirements) with membership comprising, if reasonably possible, members from the various areas of the Borough  Conservative Group (4):  Liberal Democrat Group (4):  Independent Member (1):

Name and Terms of Reference	Membership
<ul style="list-style-type: none"> <li>• Enforcement; and</li> <li>• Environmental Assessment</li> </ul> <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 Divisional Director Planning, Housing and Climate Emergency or the opinion of the Director of Pride in Place) not be in accordance with the Development Plan for Torbay unless they recommend such determination and the determination is consistent with the Divisional Director’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 Development Plan for Torbay then (unless their determination is consistent with the recommendation of the Divisional Director Planning, Housing and Climate Emergency) the item shall be referred to Council for determination.</p>	
<p><b>Standards Committee:</b></p> <ol style="list-style-type: none"> <li>1. To promote and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives.</li> <li>2. To assist councillors, co-opted members and church and parent governor representatives to observe the Members’ Code of Conduct.</li> <li>3. To advise the Council on the adoption or revision of the Members’ Code of Conduct.</li> <li>4. To monitor the operation of the Members’ Code of Conduct.</li> <li>5. To advise, train or arrange to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members’ Code</li> </ol>	<p>5 members of Torbay Council in accordance with the political balance requirements</p> <p>Conservative Group (3):</p> <p>Liberal Democrat Group (2):</p>

Name and Terms of Reference	Membership
<p>of Conduct.</p> <ol style="list-style-type: none"> <li>6. To assist the Monitoring Officer in carrying out his/her responsibilities pursuant to the Code of Conduct and its protocols.</li> <li>7. To review the Council’s local protocols as contained in the Constitution.</li> <li>8. To review the Constitution in relation to ethics and probity issues.</li> <li>9. To advise others on probity and ethics.</li> <li>10. To consider any alleged breaches of local protocols by members.</li> <li>11. To share experience with other standards committees.</li> </ol> <p>The Council may arrange for the Standards Committee to exercise such other functions as the Council considers appropriate.</p>	
<p><b>Airshow Working Party</b></p> <ol style="list-style-type: none"> <li>1. To enable Members to be kept fully briefed on the progress of the Torbay Air Show</li> <li>2. To monitor the budget allocated for the Torbay Air Show.</li> <li>3. To consider how the Torbay Air Show can provide an opportunity to create greater benefits which support the Council’s broader corporate objectives (including providing opportunities for the Council’s Looked After Children).</li> </ol>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (2):</p> <p>Liberal Democrat Group (2):</p> <p>Independent Group (1):</p>
<p><b>Community Asset Transfer Panel</b></p> <p>To assess applications made at Stage 1 and Stage 2 of the Community Asset Transfer process in accordance with the criteria set out in the Community Asset Transfer</p>	<p>5 members of the Council in accordance with the political balance requirements, to include the appropriate Cabinet Member</p>

Name and Terms of Reference	Membership
Policy.	Conservative Group (2):  Liberal Democrat Group (3):
<p><b>Corporate Parenting Board</b></p> <p>1. To provide a forum for regular, detailed discussions of issues in relation to, and a positive link with, our Children Looked After, in accordance with the Council’s Children Looked After and Corporate Parenting Strategy.</p>	5 members of the Council in accordance with the political balance requirements  Conservative Group (2)::  Liberal Democrat Group (2):  Independent Member (1):
<p><b>Harbour Asset Working Party (plus external advisors)</b></p> <p>1. To review all assets within Tor Bay Harbour and the Harbour Estate.</p> <p>2. To establish how each asset is performing.</p> <p>3. To identify any assets that are surplus.</p>	5 members of the Council in accordance with the political balance requirements (membership restricted to Harbour Committee members)  Conservative Group (3):  Liberal Democrat Group (2):
<p><b>Harbour Budget Working Party (plus external advisors)</b></p> <p>1. To scrutinise the draft Tor Bay Harbour Authority budget prior to presentation to the Harbour Committee and to review the full range of harbour charges.</p> <p>2. To assist Officers to monitor and review the budget ahead of each quarterly Harbour Committee meeting.</p>	5 members of the Council in accordance with the political balance requirements (membership restricted to Harbour Committee members)  Conservative Group (3):

Name and Terms of Reference	Membership
	Liberal Democrat Group (2):
<p><b>The Oldway Mansion and Grounds Steering Group (Working Party)</b></p> <ol style="list-style-type: none"> <li>1. To review any condition surveys for buildings on the site.</li> <li>2. To review proposals for use of buildings and grounds.</li> <li>3. To ascertain community views in respect of these matters.</li> <li>4. To make recommendations about how future use of building should be taken forward.</li> <li>5. To identify relevant members from the local community and relevant representatives from the business, public and voluntary sectors to be invited to meetings.</li> <li>6. To specify, fully cost and prioritise the works to Oldway as identified in Phase 1 of the DCA report (presented to Council on 21 June 2018).</li> <li>7. To explore with the community all potential sources of funding for the entirety of the Phases, including, but not limited to:               <ul style="list-style-type: none"> <li>• Grant funding</li> <li>• Fund raising events</li> <li>• Crowd funding</li> <li>• Business opportunities and investment</li> <li>• Legacies</li> <li>• Philanthropic contributions</li> </ul> </li> <li>8. To produce a flexible programme of proposed delivery of restoration works which aligns with the availability of funding.</li> </ol>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (3):</p> <p>Liberal Democrat Group (2):</p>

Name and Terms of Reference	Membership
<p>9. To provide strategic oversight of commissioning and delivery of any restoration works.</p>	
<p><b>Transport and Parking Working Party</b></p> <p>1. To consider current and emerging highways and transportation issues and to make recommendations to the appropriate decision-maker.</p> <p>2. To consider current and emerging parking issues and to make recommendations to the appropriate decision maker.</p>	<p>7 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (3)::</p> <p>Liberal Democrat Group (3):</p> <p>Independent Group (1):</p>

### Nominations for Chairmen/women and Vice-Chairmen/women of Committee's 2024-2025

Committee	Chairman/woman	Vice-Chairman/woman
Audit Committee		
Harbour Committee		
Health and Wellbeing Board  (Note: In accordance with Standing Order H3.1 nominations reflect the members of the Health and Wellbeing Board which includes officers and partners.)		
Statutory Licensing Committee and Regulatory Committee		
Overview and Scrutiny Board		
Children and Young People Overview and Scrutiny Board (Sub-Committee of Overview and Scrutiny)		
Adult Social Care and Health Overview and Scrutiny Sub-Board (Sub-Committee of Overview and Scrutiny)		
Planning Committee		
Standards Committee		

(Note: In accordance with Committees and Sub-Committees Standing Order B1, Committees that meet on an ad hoc basis and require a different Chairman/woman are not included.)

**Schedule 4 – Terms of Reference**  
**Overview and Scrutiny Board and Sub-committees, Regulatory and Other Committees,**  
**Area Committees, Working Parties and Other Bodies**

Name and Terms of Reference	Membership
<p><b>Audit Committee:</b></p> <ol style="list-style-type: none"> <li>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.</li> <li>2. To consider summaries of specific Internal Audit reports as requested.</li> <li>3. To consider reports dealing with the management and performance of the providers of Internal Audit Services.</li> <li>4. To consider a report from Internal Audit on agreed recommendations not implemented within a reasonable timescale.</li> <li>5. To consider the External Auditor’s Annual Letter, relevant reports, and the report to those charged with governance.</li> <li>6. To consider specific reports as agreed with the External Auditor.</li> <li>7. To comment on the scope and depth of external audit work and to ensure it gives value for money.</li> <li>8. To liaise with the Public Sector Audit Appointments Ltd over the appointment of the Council’s external auditor.</li> <li>9. To commission work from Internal and External Audit within approved resources.</li> <li>10. To support the Council’s compliance with the CIPFA Code of Practice for Treasury Management in Public Services including the role as nominated</li> </ol>	<p>7 members of the Council excluding members of the Cabinet, in accordance with the political balance requirements</p> <p>Conservative Group (3): Cllrs Brook, Fellows and Hutchings</p> <p>Liberal Democrat Group (4): Mandy Darling, Douglas-Dunbar, Harvey, Penny</p> <p>Non-voting Independent Member: Kristian Hawkes</p>



Name and Terms of Reference	Membership
<p>Committee to be responsible for ensuring effective scrutiny of the capital strategy, 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> <p>15. To monitor council policies on ‘Raising Concerns at Work’ and the ‘Anti-fraud and corruption strategy’ and the Council’s complaints process.</p> <p>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.</p> <p>17. To oversee the Council’s arrangements for corporate governance and consider necessary actions to ensure compliance with best practice.</p> <p>18. To review the Code of Corporate Governance.</p>	

Name and Terms of Reference	Membership
<p>19. To monitor the Council’s compliance with its own and other published standards and controls.</p> <p>20. To maintain a strategic overview of the Council’s compliance with the Regulation of Investigatory Powers Act 2000 (RIPA).</p> <p>Accounts</p> <p>21. To consider the External Auditor’s report to those charged with governance on issues arising from the audit of the accounts.</p> <p>22. On behalf of the Council, to consider and approve the annual statement of accounts.</p>	
<p><b>Civic Committee:</b></p> <p>1. To consider nominations for the title of Honorary Freeman and Honorary Alderman subject to, those individuals meeting the criteria as set out in Section 249 of the Local Government Act 1972 and by unanimous vote, make recommendations to the Council as to acceptance of any nominations.</p> <p>2. To identify individuals to nominate for the King’s Birthday Honours and New Years’ Honours list subject to those individuals meeting the criteria as set out in Government guidance and by unanimous vote, request the Chief Executive to consider progressing applications for potential nominees.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (3): Cllrs Barbara Lewis, Tolchard and Jackie Thomas</p> <p>Liberal Democrat (2): Douglas-Dunbar and Mandy Darling</p>
<p><b>Employment Committee:</b></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 and senior management positions at Hay Grade 528 or above, or for the</p>	<p>5 members of the Council in accordance with the political balance requirements (to include a Cabinet member)</p> <p>Conservative Group (2): Cllrs Chris Lewis and David Thomas</p>

Name and Terms of Reference	Membership
<p>most senior management position where this is lower, for its wholly owned companies, 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. To consider any matters referred by the Chief Executive on the appointment of Non-Executive Directors on Council owned companies.</p> <p>6. To consider any matters referred by the Chief Executive on strategic matters relating to pay and conditions.</p> <p>7. To consider any disciplinary or grievance matters in relation to the Chief Executive.</p> <p>8. To consider and determine requests for Flexible Retirement from Senior Officers.</p>	<p>Liberal Democrat Group (2): Cllrs Steve Darling and Law</p> <p>Independent Group (1): Cllr Cowell</p>
<p><b>Harbour Committee</b></p> <p>To determine all matters relating to the strategic management of the Council’s function as a Harbour Authority as stipulated in The Port Good Governance Guidance, Tor Bay Harbour Port Masterplan and the Council’s Policy Framework. Specifically the Committee will:-</p> <p>1. manage all of the Harbour’s financial matters in accordance with The Port Good Governance Guidance, approved Council financial procedures and the Council’s aspirations for the harbour to be self financing as outlined in the Tor Bay Harbour Port Masterplan and including (but not limited to):</p>	<p>7 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.</p> <p>(Group Leaders will be asked to take account of the geographical spread of members in making appointments to the Committee)</p>

Name and Terms of Reference	Membership
<p>(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 and Director of Finance</p> <p>(b) to make recommendations to the Cabinet on the annual ring-fenced Harbour revenue budget to form part of the Cabinet’s overall recommendations to the Council on the Annual Revenue budget;</p> <p>(c) receiving quarterly budget monitoring reports and to 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>2. to act as Duty Holder for the purposes of the Port Marine Safety Code, the accountability for which cannot be assigned or delegated;</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 Head of Tor Bay Harbour Authority 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 Head of Tor Bay Harbour Authority;</p> <p>7. establish any sub-committee or working parties as the Committee sees fit;</p>	<p>Conservative Group (3): Cllrs Bye, Strang and Twelves</p> <p>Liberal Democrat Group (3): Cllrs Carter, Fox and Penny</p> <p>Independent Group (1): Cllr Amil</p>

Name and Terms of Reference	Membership
<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 Head of Tor Bay Harbour Authority and the Leader of the Council 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. Appointments will be merit based and be in accordance with the Local Protocol for members of the Harbour Committee.</p>	
<p><b>Harbour Appointments Sub-Committee</b></p> <p>1. To consider ad hoc applications for external advisor positions on the Harbour Committee and recommend to the Harbour Committee the persons who should be appointed to those posts as and when vacancies arise, and to determine the rolling programme for advisors tenure.</p>	<p>5 members of the Council in accordance with the political balance requirements to include the Chairman and Vice-Chairman of the Harbour Committee to be appointed by the Harbour Committee.</p>
<p><b>Health and Wellbeing Board</b></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>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>Leader of the Council or their nominee</p> <p>Director of Adults and Community Services;</p> <p>Director of Children’s Services;</p> <p>Director of Public Health;</p> <p>A representative of Healthwatch Torbay;</p> <p>A representative of Devon Clinical Commissioning Group;</p> <p>A representative of NHS England;</p> <p>Cabinet Member for Children’s Services;</p>

Name and Terms of Reference	Membership
<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>Torbay and South Devon NHS Foundation Trust;</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"> <li>• Preparation of a Joint Strategic Needs Assessment; and</li> <li>• Preparation of a Joint Health and Wellbeing Strategy.</li> </ul>	<p>Devon Partnership NHS Trust;</p> <p>Torbay Community Development Trust;</p> <p>Chairman of Safer Communities Torbay;</p> <p>Chairman of Torbay Safeguarding Children Board;</p> <p>Chairman of Torbay Safeguarding Adults Board;</p> <p>Representative from Devon and Cornwall Police;</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>Divisional Director for Community and Customer Services;</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>Representative of the Ageing Well Assembly;</p> <p>Representative of Primary Care;</p> <p>Representative of the Department for Work and Pensions;</p>
<p>8. To exercise the statutory duty to promote co-operation between Torbay Council, its relevant partners and other partners or bodies as the Council considers appropriate, to improve the well-being of children in the area.</p>	<p>Representative of Torbay Schools.</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><b>Statutory Licensing Committee:</b></p>	<p>11 members of the Council, with the same membership as the Regulatory Committee</p>

Name and Terms of Reference	Membership
<ol style="list-style-type: none"> <li>1. To discharge the functions of the Council as a Licensing Authority, with the exception of approving the Gambling and Statement of Licensing Policy which is function of the Council.</li> <li>2. To approve future reviews and adoption of the Cumulative Impact Assessment. Since the introduction of section 5A of the Licensing Act 2003, all matters regarding Cumulative Impact Assessments are now the responsibility of the statutory Licensing Committee, by virtue of section 7(1), as it is no longer part of the Licensing Act 2003 Statement of Policy.</li> </ol>	<p>(Note: Under the Licensing Act 2003 this Committee must be between 10 and 15 members and is not required to be politically balanced)</p>
<p><b>Statutory Licensing Sub-Committee</b></p> <p>To consider and determine all matters in connection with licensing applications (including those set out in the Statement of Licensing Policy and Gambling Act Policy/Statement of Principles).</p>	<p>To comprise 3 Members of the Statutory Licensing Committee.</p>
<p><b>Regulatory Committee</b></p> <p>To discharge the functions contained in schedule 101 and 102 of the Local Government Act 1972.</p>	<p>11 Members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (6): Cllrs Barbara Lewis, Chris Lewis, Hutchings, Stevens, Jackie Thomas and Tolchard</p> <p>Liberal Democrat Group (4): Cllrs Douglas-Dunbar, Johns, Pentney, and Virdee</p> <p>Independent Group (1): Cllr Amil</p>
<p><b>Regulatory Sub-Committee</b></p> <p>To consider and determine all matters in connection with Hackney Carriage and</p>	<p>To comprise 3 members of the Regulatory Committee</p>

Name and Terms of Reference	Membership
Private Hire Licences, Sex Establishment Licences, Street Trading Licences and Consents.	
<p><b>Overview and Scrutiny Board:</b></p> <ol style="list-style-type: none"> <li>1. To approve and co-ordinate the work programme for the overview and scrutiny function for the year.</li> <li>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).</li> <li>3. To appoint the Council's representatives to the Heart of the South West Local Enterprise Partnership (LEP) Joint Scrutiny Committee.</li> <li>4. To review or scrutinise decisions made, or other action taken, in connection with the discharge of functions which are the responsibility of the Cabinet.</li> <li>5. To make reports or recommendations to the Authority or the Cabinet with respect to the discharge of functions which are the responsibility of the Cabinet.</li> <li>6. To make reports or recommendations to the Authority or the Cabinet with respect to the discharge of functions which are not the responsibility of the Cabinet.</li> <li>7. To make reports or recommendations to the Authority or the Cabinet or the Council's partner authorities (as defined by the Local Government and Public Involvement in Health Act 2007) on matters which affect the Authority's area or the inhabitants of that area.</li> <li>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</li> </ol>	<p>9 members of the Council in accordance with the political balance requirements (including the Overview and Scrutiny Co-ordinator and Overview and Scrutiny Lead Members) excluding Members of the Cabinet and the Chairman/woman of the Council plus 2 Diocesan and 2 Parent Governor Representatives</p> <p>Conservative Group (4): Cllrs Brook, Fellows, Strang and Twelves</p> <p>Liberal Democrat Group (4): Cllrs Steve Darling, Douglas-Dunbar, Harvey and Law</p> <p>Independent Group (1): Cllr Cowell</p>



Name and Terms of Reference	Membership
<p>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><b>Adult Social Care and Health Overview and Scrutiny Sub-Board:</b></p> <p>1. to review how the needs and interests of adults are met by all departments, policies, services and decisions; and how performance is evaluated and improved;</p> <p>2. to review universal, targeted and specialist services for adults including:</p> <ul style="list-style-type: none"> <li>• prevention and management of risk;</li> <li>• social care;</li> <li>• adults wellbeing;</li> <li>• education – supporting and enabling learning for adults;</li> <li>• internal and external partnership working for adults;</li> <li>• supporting adults and carers; and</li> <li>• relevant financial management;</li> </ul> <p>3. 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>4. to assess the effectiveness of decisions of the Cabinet in these areas of the Council's statutory activity; and</p> <p>5. to make reports and recommendations as appropriate arising from this area of overview and scrutiny.</p>	<p>This is a Sub-Committee of the Overview and Scrutiny Board and comprises 5 members of the Council in accordance with the political balance requirements (excluding Members of the Cabinet), Chaired by the Scrutiny Lead for Health and Adult Services.</p> <p>Conservative Group (3): Cllrs Fellows, Tolchard and Twelves</p> <p>Liberal Democrat Group (2): Cllrs Douglas-Dunbar and Johns</p> <p><b>Non-Voting Co-opted Members:</b></p> <p>Healthwatch (1):</p> <p>Chair of Voluntary Sector Network (1):</p>

Name and Terms of Reference	Membership
<p><b>Children and Young People’s Overview and Scrutiny Sub-Board:</b></p> <ol style="list-style-type: none"> <li>1. to review how the needs and interests of children and young people are met by all departments, policies, services and decisions; and how performance is evaluated and improved;</li> <li>2. to review universal, targeted and specialist services for children and young people including: <ul style="list-style-type: none"> <li>• prevention and management of risk;</li> <li>• social care;</li> <li>• children’s and young people’s wellbeing;</li> <li>• education – supporting and enabling learning for all children and young people;</li> <li>• internal and external partnership working for children and young people;</li> <li>• supporting parents and families; and</li> <li>• relevant financial management;</li> </ul> </li> <li>3. to assess the effectiveness of decisions of the Cabinet in these areas of the Council’s statutory activity; and</li> <li>4. to make reports and recommendations as appropriate arising from this area of overview and scrutiny.</li> </ol>	<p>This is a Sub-Committee of the Overview and Scrutiny Board and comprises 5 members of the Council in accordance with the political balance requirements (excluding Members of the Cabinet), Chaired by the Scrutiny Lead for Children’s Services.</p> <p>Conservative Group (3): Cllrs Fellows, Tolchard and Twelves</p> <p>Liberal Democrat Group (2): Cllrs Law and Nicolaou</p> <p><b>Statutory Education Co-opted Members:</b></p> <p>Statutory parent governor representatives (primary, secondary and academy trust) (3):</p> <p>Statutory Church of England representative (1):</p> <p>Statutory Roman Catholic Diocesan representative (1):</p> <p><b>Non-Voting Co-opted Members:</b></p>

Name and Terms of Reference	Membership
	<p>Devon and Cornwall Police representative (1):</p> <p>Play Torbay representative (1):</p> <p>Care experienced young person (1):</p> <p>Young Person Panel representative (1):</p> <p>Voluntary and Community Sector and Alternative Provider (Education) representative (1):</p>
<p><b>Planning Committee:</b></p> <p>1. 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.</p> <p>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> <p style="padding-left: 40px;">Town and Country Planning, including</p> <ul style="list-style-type: none"> <li>• Conservation Areas</li> <li>• Listed Buildings</li> <li>• Scheduled Ancient Monuments</li> <li>• The display of advertisements</li> <li>• Tree Preservation Orders</li> <li>• Complaints about high hedges</li> </ul>	<p>9 members of the Council (excluding the Cabinet Lead with responsibility for Planning, in accordance with the political balance requirements) with membership comprising, if reasonably possible, members from the various areas of the Borough</p> <p>Conservative Group (4): Cllrs Brook, Billings, Strang and Tolchard</p> <p>Liberal Democrat Group (4): Cllrs Mandy Darling, Fox, Pentney and Virdee</p>

Name and Terms of Reference	Membership
<ul style="list-style-type: none"> <li>• Public Rights of Way</li> <li>• Minerals</li> <li>• Highways matters</li> <li>• Waste</li> <li>• Enforcement; and</li> <li>• Environmental Assessment</li> </ul> <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 Divisional Director Planning, Housing and Climate Emergency or the opinion of the Director of Pride in Place) not be in accordance with the Development Plan for Torbay unless they recommend such determination and the determination is consistent with the Divisional Director’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 Development Plan for Torbay then (unless their determination is consistent with the recommendation of the Divisional Director Planning, Housing and Climate Emergency) the item shall be referred to Council for determination.</p>	<p>Independent Member (1): Cllr Maddison</p>
<p><b>Standards Committee:</b></p> <ol style="list-style-type: none"> <li>1. To promote and maintain high standards of conduct by councillors, co-opted members and church and parent governor representatives.</li> <li>2. To assist councillors, co-opted members and church and parent governor representatives to observe the Members’ Code of Conduct.</li> <li>3. To advise the Council on the adoption or revision of the Members’ Code of Conduct.</li> </ol>	<p>5 members of Torbay Council in accordance with the political balance requirements</p> <p>Conservative Group (3): Barbara Lewis, Jackie Thomas</p> <p>Liberal Democrat Group (2): Cllrs Atiya-Alla and George Darling</p>

Name and Terms of Reference	Membership
<p>4. To monitor the operation of the Members’ Code of Conduct.</p> <p>5. To advise, train or arrange to train councillors, co-opted members and church and parent governor representatives on matters relating to the Members’ Code of Conduct.</p> <p>6. To assist the Monitoring Officer in carrying out his/her responsibilities pursuant to the Code of Conduct and its protocols.</p> <p>7. To review the Council’s local protocols as contained in the Constitution.</p> <p>8. To review the Constitution in relation to ethics and probity issues.</p> <p>9. To advise others on probity and ethics.</p> <p>10. To consider any alleged breaches of local protocols by members.</p> <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>	
<p><b>Airshow Working Party</b></p> <p>1. To enable Members to be kept fully briefed on the progress of the Torbay Air Show</p> <p>2. To monitor the budget allocated for the Torbay Air Show.</p> <p>3. To consider how the Torbay Air Show can provide an opportunity to create greater benefits which support the Council’s broader corporate objectives (including providing opportunities for the Council’s Looked After Children).</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (2): Cllrs Brook and Jackie Thomas</p> <p>Liberal Democrat Group (2): Cllrs Carter and Nicolaou</p> <p>Independent Group (1): Cllr Amil</p>

Name and Terms of Reference	Membership
<p><b>Community Asset Transfer Panel</b></p> <p>To assess applications made at Stage 1 and Stage 2 of the Community Asset Transfer process in accordance with the criteria set out in the Community Asset Transfer Policy.</p>	<p>5 members of the Council in accordance with the political balance requirements, to include the appropriate Cabinet Member</p> <p>Conservative Group (2): Cllrs Chris Lewis, Stevens and Tyerman</p> <p>Liberal Democrat Group (3): Cllrs Douglas-Dunbar, Fox and Virdee</p>
<p><b>Corporate Parenting Board</b></p> <p>1. To provide a forum for regular, detailed discussions of issues in relation to, and a positive link with, our Children Looked After, in accordance with the Council's Children Looked After and Corporate Parenting Strategy.</p>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (2): Cllrs Bye and Tolchard</p> <p>Liberal Democrat Group (2): Cllrs Steve Darling and Law</p> <p>Independent Member (1): Cllr Maddison</p>
<p><b>Harbour Asset Working Party (plus external advisors)</b></p> <p>1. To review all assets within Tor Bay Harbour and the Harbour Estate.</p> <p>2. To establish how each asset is performing.</p> <p>3. To identify any assets that are surplus.</p>	<p>5 members of the Council in accordance with the political balance requirements (membership restricted to Harbour Committee members)</p> <p>Conservative Group (3): Cllrs Bye, Strang and Twelves</p>

Name and Terms of Reference	Membership
	Liberal Democrat Group (2): Cllrs Carter and Fox
<p><b>Harbour Budget Working Party (plus external advisors)</b></p> <ol style="list-style-type: none"> <li>1. To scrutinise the draft Tor Bay Harbour Authority budget prior to presentation to the Harbour Committee and to review the full range of harbour charges.</li> <li>2. To assist Officers to monitor and review the budget ahead of each quarterly Harbour Committee meeting.</li> </ol>	<p>5 members of the Council in accordance with the political balance requirements (membership restricted to Harbour Committee members)</p> <p>Conservative Group (3): Cllrs Bye, Strang and Twelves</p> <p>Liberal Democrat Group (2): Cllrs Carter and Penny</p>
<p><b>The Oldway Mansion and Grounds Steering Group (Working Party)</b></p> <ol style="list-style-type: none"> <li>1. To review any condition surveys for buildings on the site.</li> <li>2. To review proposals for use of buildings and grounds.</li> <li>3. To ascertain community views in respect of these matters.</li> <li>4. To make recommendations about how future use of building should be taken forward.</li> <li>5. To identify relevant members from the local community and relevant representatives from the business, public and voluntary sectors to be invited to meetings.</li> <li>6. To specify, fully cost and prioritise the works to Oldway as identified in Phase 1 of the DCA report (presented to Council on 21 June 2018).</li> </ol>	<p>5 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (3): Cllrs Billings, Barbara Lewis and Chris Lewis</p> <p>Liberal Democrat Group (2): Cllrs Johns and Virdee</p>

Name and Terms of Reference	Membership
<p>7. To explore with the community all potential sources of funding for the entirety of the Phases, including, but not limited to:</p> <ul style="list-style-type: none"> <li>• Grant funding</li> <li>• Fund raising events</li> <li>• Crowd funding</li> <li>• Business opportunities and investment</li> <li>• Legacies</li> <li>• Philanthropic contributions</li> </ul> <p>8. To produce a flexible programme of proposed delivery of restoration works which aligns with the availability of funding.</p> <p>9. To provide strategic oversight of commissioning and delivery of any restoration works.</p>	
<p><b>Transport and Parking Working Party</b></p> <p>1. To consider current and emerging highways and transportation issues and to make recommendations to the appropriate decision-maker.</p> <p>2. To consider current and emerging parking issues and to make recommendations to the appropriate decision maker.</p>	<p>7 members of the Council in accordance with the political balance requirements</p> <p>Conservative Group (3): Cllrs Billings, Hutchings and Strang</p> <p>Liberal Democrat Group (3): Cllrs George Darling, Fox and Virdee</p> <p>Independent Group (1): Cllr Amil</p>



### Nominations for Chairmen/women and Vice-Chairmen/women of Committee's 2024-2025

<b>Committee</b>	<b>Chairman/woman</b>	<b>Vice-Chairman/woman</b>
Audit Committee	Councillor Penny	Councillor Brook
Harbour Committee	Councillor Amil	Councillor Twelves
Health and Wellbeing Board  (Note: In accordance with Standing Order H3.1 nominations reflect the members of the Health and Wellbeing Board which includes officers and partners.)	Councillor David Thomas	Matt Fox (partner representative)
Statutory Licensing Committee and Regulatory Committee	Councillor Johns	Councillor Barbara Lewis
Overview and Scrutiny Board	Councillor Steve Darling	Councillor Twelves
Children and Young People Overview and Scrutiny Board (Sub-Committee of Overview and Scrutiny)	Councillor Law	Councillor Twelves
Adult Social Care and Health Overview and Scrutiny Sub-Board (Sub-Committee of Overview and Scrutiny)	Councillor Douglas-Dunbar	Councillor Johns
Planning Committee	Councillor Maddison	Councillor Billings
Standards Committee	Councillor Barbara Lewis	Councillor George Darling

(Note: In accordance with Committees and Sub-Committees Standing Order B1, Committees that meet on an ad hoc basis and require a different Chairman/woman are not included.)

## Schedule 5 - Scheme of Delegation of Executive Functions to the Cabinet, Committees of the Cabinet and Officers

This report is presented to the Adjourned Annual meeting of Council on 16 May 2024 in accordance with Standing Order C4.2(a) for inclusion in the Council’s Scheme of Delegation (Schedule 5 of Part 3) of the Constitution of Torbay Council.

1. The names, addresses and wards of the people appointed to the Cabinet by the Leader of the Council are set out below:

Name	Address	Electoral Ward
Cabinet Member for Place Development and Economic Growth and Deputy Leader – Councillor Chris Lewis	Torbay Council Town Hall Torquay TQ1 3DR	Preston
Cabinet Member for Pride in Place, Transport and Parking – Councillor Billings	Torbay Council Town Hall Castle Circus Torquay TQ1 3DR	Churston with Galmpton
Cabinet Member for Housing, and Finance – Councillor Tyerman	Torbay Council Town Hall Torquay TQ1 3DR	Churston with Galmpton
Cabinet Member for Adult and Community Services, Public Health and Inequalities – Councillor Tranter	Torbay Council Town Hall Torquay TQ1 3DR	Goodrington with Roselands
Cabinet Member for Children’s Services - Councillor Bye	Torbay Council Town Hall Torquay TQ1 3DR	Wellswood
Cabinet Member for Tourism, Culture & Events and Corporate Services – Councillor Jackie Thomas	Torbay Council Town Hall Torquay TQ1 3DR	Kings Ash

2. The Cabinet will carry out all the local authority's functions which are not the responsibility of any other part of the local authority, whether by law or under this Constitution. Executive functions will be exercised collectively unless the Leader of the Council directs otherwise in accordance with Article 6.06 of the Constitution.

<b>Cabinet Member</b>	<b>Service Areas</b>
<p>Leader of the Council</p> <p>Councillor David Thomas</p>	<p>Oversight of all areas</p> <p>Strategy and Place Leader, Regional Policy and external relations</p>
<p>Cabinet Member for Place Development and Economic Growth and Deputy Leader</p> <p>Councillor Chris Lewis</p>	<p>TDA Services, Economic Growth, Development Management, Strategic Planning (excluding Transport), Building Control, Harbours, Beaches and Climate Emergency</p>
<p>Cabinet Member for Pride in Place, Transport and Parking</p> <p>Councillor Billings</p>	<p>SWISCo Services</p> <p>Transport and Parking</p>
<p>Cabinet Member for Housing and Finance</p> <p>Councillor Tyerman</p>	<p>Housing, Finance, Procurement, Debt Recovery, Council Tax, Business Rates,</p>
<p>Cabinet Member for Adult and Community Services, Public Health and Inequalities</p> <p>Councillor Tranter</p>	<p>Adult Social Care delivery Adult Social Care Inspection regime Market Management</p> <p>Customer Services Housing Standards Housing Options Anti Social Behaviour and Vulnerability</p> <p>Public Health Improvement Health Protection Equalities (Directorate crossing)</p>
<p>Cabinet Member for Children's Services</p> <p>Councillor Bye</p>	<p>Children's Social Care Education Youth Justice</p>

<b>Cabinet Member</b>	<b>Service Areas</b>
Cabinet Member for Tourism, Events & Culture and Corporate Services	Tourism, Culture & Events, Legal, IT, Business Improvement and Change, Libraries, Coroner, Emergency Planning, Health and Safety, Policy, Performance and Community Engagement, Governance, Human Resources

3. No executive functions have been delegated to area committees, any other authority or any joint arrangements at the present time.
4. The Leader of the Council has also (so far as lawful) delegated to officers the discharge of those functions that are referred to in Schedule 6 and are executive functions in the manner set out in that Schedule, in accordance with (and subject to) the Council’s Standing Orders in relation to the Cabinet.
5. So far as the Constitution requires officers to consult with “the relevant member”, the areas of responsibility of the Cabinet Members are as set out paragraph 2 above.

# Overview and Scrutiny Annual Report 2023/2024

April 2024



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# Foreword

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This year has been a busy year for Overview and Scrutiny, following Local Government Elections in May 2023 and continuing to respond to the issues arising from the cost-of-living crisis, as well as working with our communities and partners to make improvements in respect of services for our children as well as holding partners in health to account and being a critical friend to our adult social care service through the main Board and the Children and Young People's Overview and Scrutiny Sub-Board and Adult Social Care and Health Overview and Scrutiny Sub-Board.

We continued to take a leading role in the Leader and Cabinet's Budget development for 2024/2025 and I am pleased that most of our recommendations informed the final budget proposals. In addition to the budget, the Board and its Sub-Boards have investigated several issues and I believe has made a notable difference in some of the key decisions made by the Cabinet, the public and private sector partners. I would like to particularly draw attention to the following parts of the report:

**Spotlight Review of South West Water** - Our review of issues around water quality in Torbay was a timely piece of work as this matter continues to be in the media over the last 12 months. The Board invited South West Water along to a meeting and we were able to hold the company to account around the public of Torbay's concerns.

**Spotlight Review of Child and Adolescent Mental Health Services (CAMHS)** - It was particularly heartening to hear directly from the voice of young people around their experiences of this service.

**Spotlight Review of Dementia Support in Torbay** - Raised awareness of the need for advanced dementia care and training, which would be addressed through the development of a co-produced Dementia Strategy to ensure that Torbay residents can access information and support they need.



I would like to take this opportunity to thank everyone who has played a part in contributing towards the work of the Council's Overview and Scrutiny Boards, Sub-Boards and Panels. Particular thanks should go to Councillor Adam Billings and Councillor Yvonne Twelves who have both ably Chaired the Board prior to my appointment in December 2023. Overview and Scrutiny, the Cabinet and our key partners in Health, the voluntary sector and Police have continued to work together to try to make a positive difference for the people of Torbay.

Councillor Steve Darling  
Overview and Scrutiny Co-ordinator

# 1. Key information about Overview and Scrutiny

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## The operation of overview and scrutiny

There have been a number of changes to the Leadership and membership of Overview and Scrutiny over the past year.

Overview and Scrutiny Co-ordinator:

Councillor Billings from May 2023 until July 2023

Councillor Twelves from 7 September 2023 until 7 December 2023

Councillor Steve Darling since 7 December 2023

The Overview and Scrutiny Co-ordinator is supported by Scrutiny Lead Members:

- Councillor Law – Children’s Services;
- Councillor Joyce – Adult, Community Services, Public Health and Inequalities;
- Councillors Twelves and Hutchings – Housing, Finance and Corporate Services; and
- Councillors Maddison and Long – Place Development, Economic Growth and Culture.

The Overview and Scrutiny Board meets monthly with Task and Finish Panels created to consider topics in greater detail. During the last year the following Members have served on the Overview and Scrutiny Board: Councillors Billings, Brook, Bryant, Cowell, Steve Darling, Douglas-Dunbar, Fellows, Fox, Harvey, Hutchings, Johns,

Joyce, Law, Barbara Lewis, Long, Maddison, Strang, Jackie Thomas, Tolchard and Twelves.

There are two dedicated Sub-Boards:

The Adult Social Care and Health Overview and Scrutiny Sub-Board provides greater focus on issues in relation to adult social care and health and fulfils the statutory health overview and scrutiny function and normally meets monthly.

This Board comprised of five Councillors and was Chaired by the Scrutiny Lead for Adult, Community Services, Public Health and Inequalities - Councillor Joyce. During the last year the following Members have served on the Sub-Board: Councillors Billings, Fellows, Harvey, Johns, Joyce, Barbara Lewis, Long, Maddison, Tolchard and Twelves. Representatives from Healthwatch Torbay and the Voluntary Sector Network were appointed as non-voting co-opted members on the Board to help provide independent expert advice.

The Children and Young People’s Overview and Scrutiny Sub-Board is responsible for overview and scrutiny of Children’s Services and meets bi-monthly.

This Sub-Board comprised of five Councillors and was Chaired by the Scrutiny Lead for Children’s Services – Councillor Law. During the last year the following Members have served on the Sub-Board: Councillors Billings, Fellows, Joyce, Law, Nicolaou, Tolchard and Twelves. Representatives from Devon and Cornwall Police, Play Torbay, Voluntary and Community Setor and Alternative Provision (Education) and the Church of England Diocese to help provide the voice of the child or young person and independent expert advice.

## Scrutiny's Role

To make recommendations to the Cabinet, Council or key partners in accordance with following principles:

- Focusing on the issues which matter.
- Policy Development is of equal importance to “holding to account”.
- The Forward Plan is the key tool for managing the decision making process.
- The relationship between overview and scrutiny and the Cabinet should seek to complement one another.
- All Councillors should have the opportunity to help shape policy decisions at an early stage.

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## Meetings:

- Are open to the public to attend.
  - Typically last 2-3 hours.
  - Meet regularly (during the daytime and evenings).
  - Have a formal structure, but are run in an accessible way.
  - Papers are published on the Council's website at [Committee structure \(torbay.gov.uk\)](http://torbay.gov.uk).
- 

## Residents and stakeholders can get involved by:

- Attending public meetings;
  - Giving evidence to one of the Panels, Boards/Sub-Boards; and
  - Sending in comments about a review.
-

## 2. Snapshot of scrutiny development in 2023/2024

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### **Focusing on the issues which matter**

The Adult Social Care and Health Overview and Scrutiny Sub-Board has undertaken the statutory health scrutiny duty (on behalf of the main Board) providing oversight of health services in Torbay and clinical services across the peninsula and has also taken part in masterclass sessions run by Devon County Council. It has held our health partners to account including Torbay and South Devon NHS Foundation Trust, One Devon and NHS England for delivery of services to the residents of Torbay.

The Overview and Scrutiny Board continued to receive regular reports on the Council's revenue and capital budgets and monitor key performance indicators. It has closely monitored and challenged the performance and outcomes for children holding the Cabinet and our key partners to account through the Children and Young People's Overview and Scrutiny Sub-Board.

### **Equal importance placed on policy development**

The Overview and Scrutiny Board and its Sub-Boards provided feedback during the development of the following Council's key Policy Framework Documents.

- Community and Corporate Plan

- Thriving Communities Where People Can Prosper - Draft Strategy for Adult Social Care in Torbay
- Torbay Council English Riviera (Outdoor) Events Strategy 2021 – 2027
- English Riviera Destination Management Plan 2022 – 2030

### **Complementing the work of the Cabinet**

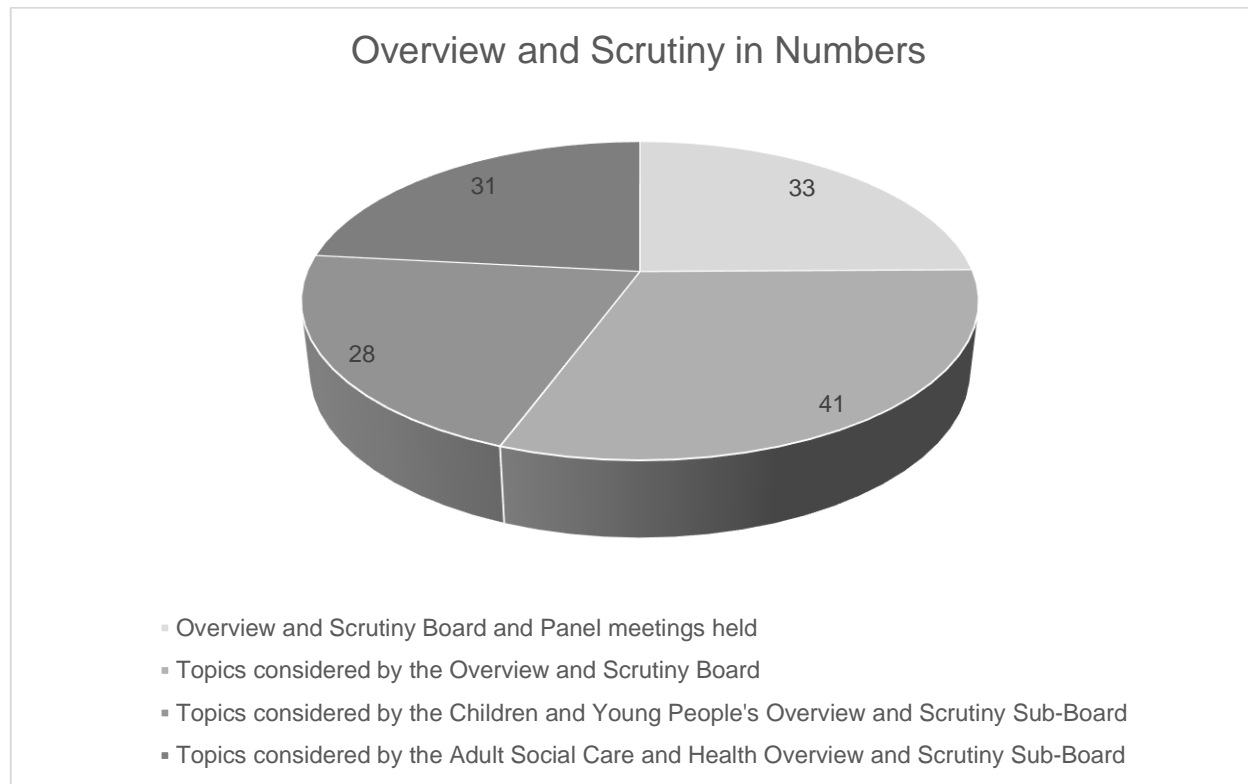
The Overview and Scrutiny Board continue to seek to complement the work of the Cabinet, with Quarterly Overview and Scrutiny Leadership meetings held between the Overview and Scrutiny Co-ordinator, Overview and Scrutiny Board Vice-Chairman, Group Leaders and Chairman of the Audit Committee to review work programmes and determine where Overview and Scrutiny can add value.

### **Pre-Briefings and Work Planning**

Monthly briefings have enabled better member engagement and more focussed debate at Board meetings, developing key lines of questioning and exploring upcoming items to ensure relevant items are considered at the right time with key attendees invited to contribute towards discussions. They have also monitored implementation of recommendations and received updates on topics to determine if they should be included in the Work Programmes. The Forward Plan was also used as a tool to identify key issues for consideration by the Board and Sub-Boards.

### 3. Overview and Scrutiny in Numbers 2023/2024

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**Key:**

- 33 Overview and Scrutiny Board and Panel meetings held
- 41 Topics considered by the Overview and Scrutiny Board
- 28 Topics considered by the Children and Young People's Overview and Scrutiny Board
- 31 Topics considered by the Adult Social Care and Health Overview and Scrutiny Sub-Board

## 4. Snapshot of some of the Key Achievements 2023/2024

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### Overview and Scrutiny Board

At its first meeting of the year, the Overview and Scrutiny Board considered a report on the future operation of Overview and Scrutiny which sought to encourage greater awareness and engagement both across the Council and in the community of the important role of Overview and Scrutiny.

The report included ten recommendations – see [Operation of Overview Scrutiny.pdf \(torbay.gov.uk\)](#). The following actions have been taken to address these recommendations:

1. A Cabinet and Overview and Scrutiny Role Protocol has been developed and is due to be approved by Council on 16 May 2024;
2. Cabinet Members and relevant Directors have continued to attend meetings of Overview and Scrutiny Boards/Sub-Boards to respond to questions;
3. Introduction to Overview and Scrutiny and Scrutiny of Partners training sessions have been held and Councillors have been encouraged to attend further training provided by the Centre for Governance and Scrutiny (CfGS) and the Local Government Association (LGA) to expand their knowledge;
- 4/5. Promotion of topics of interest with the support of our Communications and Engagement Team through emails, press releases, social media posts and also invitations to the

public to take part in providing questions and evidence for topics such as dentistry, dementia support and child and adolescent mental health services (CAMHS). This has also resulted in some TV coverage as well as articles appearing on the BBC Devon News webpage;

6. Utilised all different methods identified in recommendations (a) to (f) over the past year;
7. Implemented the Quarterly Overview and Scrutiny meeting as well as continued the Council Leadership Group with who receive the latest work programmes;
8. The Director of Corporate Services was nominated as the Lead Officer from the Senior Leadership Team to assist in providing a strategic overview and support to Overview and Scrutiny working closely with the Statutory Scrutiny Officer;
9. The creation of a six monthly bulletin was not implemented as regular communications have been sent out to staff, Councillors and the public on the work of Overview and Scrutiny and it was felt that this was not needed; and
10. The monthly Overview and Scrutiny Briefings have been utilised to reflect on reviews and the work of Overview and Scrutiny to learn and make improvements.

### Spotlight Review of South West Water

The Overview and Scrutiny Board held a Spotlight Review on issues of concern regarding services provided by South West Water (SWW) and how the Council could work together with SWW to improve outcomes and communication for the residents of Torbay. The Panel heard evidence from the Director of Waste Water Services, Recovery, Treatment and Networks; Waste Water Services Regional Operations Manager; Operations Manager; Tor

Bay Harbour Master and Divisional Director – Maritime & Coastal Services and Principal Policy and Project Planner, Strategy and Project Management. The review resulted in:

- Improved communication and greater public engagement with the Council, residents and South West Water (SWW), including local campaigns and raising awareness of the need to save water and protect the environment and ecology as well as reporting leaks etc to SWW and sharing SWW social media posts on the Council’s social media;
- Helped raise awareness of pollution incidents in our seas around Torbay and how SWW was seeking to tackle them;
- All Councillors and Planning Officers being invited to take part in Planning Training on Drainage and Flooding;
- A follow up session planned for 2024/2025 with the Environment Agency also invited to take part as it has a lead role in monitoring water quality; and
- Tor Bay Harbour Authority working towards replacing signs bay wide to have the relevant links to QR codes for water quality to raise awareness.

Full details on this Spotlight Review can be viewed at [Agenda for Overview and Scrutiny Board on Thursday, 5 October 2023, 5.30 pm \(torbay.gov.uk\)](#)

## Review of Events, Culture and Tourism

The Overview and Scrutiny Board established a Review of Events, Culture and Tourism Task and Finish Group who worked with the Cabinet Member for Pride in Place, Culture & Events and Parking, the Divisional Director Economy, Environment and Infrastructure,

the Service Manager for Culture and Events, the Executive Director of Torbay Culture and the Chief Executive of the English Riviera Business Improvement District to explore issues around:

- Use of our cultural assets;
- Use of data to inform our decision-making;
- The Torbay Council English Riviera (Outdoor) Events Strategy 2021 – 2027 (Events Strategy) and the English Riviera Destination Management Plan (DMP) 2022 – 2030 to ensure they are up to date; and
- events.

This Review resulted in the following:

- positive action and raised profile in connection with the English Riviera UNESCO Global Geopark with further bids for funding being supported;
- additional funding being allocated to events in the 2024/2025 Revenue Budget;
- the Overview and Scrutiny Board reviewing annually the delivery against the Torre Abbey Business Plan, Events Strategy and Destination Management Plan;
- a refresh of the Events Strategy;
- a full review of the Events information and application information on the Council’s website being undertaken;

The full report and details of the Cabinet’s response to the Review can be viewed at [Agenda for Cabinet on Tuesday, 19 March 2024, 5.30 pm \(torbay.gov.uk\)](#)

## Continued to Support Children's Services Improvement Journey

The Children and Young People's Overview and Scrutiny Sub-Board has had a busy year working with and holding to account the Director of Children's Services and Cabinet Member for Children's Services and our key partners across a wide range of topics.

In response to feedback the time of the Sub-Board meetings will be amended from 9.30 am - 12.30 pm to 3pm - 6pm with effect from June 2024 to enable more young people to attend the meetings.

## Spotlight Review of Child and Adolescent Mental Health Services (CAMHS)

The Children and Young People's Overview and Scrutiny Sub-Board undertook a Spotlight Review on Child and Adolescent Mental Health Services (CAMHS). They heard evidence from young people, members of the public, School Representative, Healthwatch Torbay, NHS Devon, the Director of Children's Services, Public Health, Clinical Director CAMHS, Child and Family Devon, Devon Partnership NHS Trust and Torbay and South Devon NHS Foundation Trust. The Review acknowledged that it was a multi-agency partnership responsibility to ensure that the needs of our children and young people requiring support for their mental health needs are met.

The Review resulted in the following:

- raising the profile of CAMHS services and other ways of supporting young people with their emotional and mental health needs;
- identified a need to reduce waiting times for formal CAMHS referrals;
- better signposting to available support was required;
- the importance of co-designing services with young people and their families; and
- the need to develop better pathways for early years support.

Full details of the Spotlight Review can be viewed at [Agenda for Children and Young People's Overview and Scrutiny Sub-Board on Thursday, 7 December 2023, 1.30 pm \(torbay.gov.uk\)](#).

## Scrutiny of Adult Social Care and Health

The Adult Social Care and Health Sub-Board has spent the last 12 months getting up to speed and understanding the complexities of adult social care and health. This included the new Care Quality Commission Regulation of local authority functions relating to Adult Social Care with a similar inspection regime to Children's Services which is carried out by Ofsted, as well as the new Integrated Care Organisation and Board arrangements which had come into force regionally.

The Sub Board held Torbay and South Devon NHS Foundation Trust to account for the delivery of services at Torbay Hospital and continue to receive regular updates in relation to the delivery of the capital programme and redesign of Torbay Hospital.



## Spotlight Review of Homelessness

The Adult Social Care and Health Overview and Scrutiny undertook a Spotlight Review on homelessness to:

- better understand how homelessness could be prevented in Torbay;
- how people could be helped;
- how people were assisted into accommodation and how people were supported when in accommodation;
- identify whether existing pathways and systems in place to prevent homelessness could be improved in Torbay and how; and
- identify and target specific areas for more detailed scrutiny investigation.

As part of the Review Members visited the Leonard Stocks Hostel and temporary accommodation facility at Morgan Avenue. They also viewed a video which was commissioned as part of the Safer Street grant funding which provided a human face to homelessness and the valuable work undertaken by the Leonard Stocks Hostel. They heard evidence from the Divisional Director of Community and Customer Services, the Head of Housing Needs, the Anti-Social Behaviour and Noise Lead Officer, the Service Manager Torbay Recovery Initiatives (Torbay Drug and Alcohol Services), the Locality Practice Lead (South), and the Chief Executive of the Citizen's Advice Bureau.

The Review resulted in:

- further publicising the Landlord Tenancy Matching Scheme and its benefits to unlock additional housing capacity within the private rented sector;
- promotion of the positive work of the Leonard Stocks Hostel via One Torbay and to local communities and businesses as part of the Safer Streets Initiative;
- continued and wider user engagement to inform the revised Homelessness and Rough Sleeping Strategy;
- a review of security for the Leonard Stocks Hostel;
- a review of support contracts to assist those with mental health and housing support needs;
- agreement with the Police that additional resources were needed to tackle anti-social behaviour around Castle Circus;
- a review of communications around benefits assistance available that could support those threatened with homelessness as well as working with the Community Helpline and other organisations; and
- the Director of Pride in Place was instructed to develop detailed delivery plans to accelerate the provision of new affordable housing to meet Torbay's local housing need, specifically social rented housing and affordable rented housing.

The full report and details of the Cabinet's response to the Review can be viewed at [Agenda for Cabinet on Tuesday, 9 January 2024, 5.30 pm \(torbay.gov.uk\)](#).

## Spotlight Review of Dementia Support in Torbay

The Adult Social Care and Health Overview and Scrutiny Sub-Board undertook a Spotlight Review on Dementia to understand support and services available to people living with Dementia and people Caring for those living with Dementia in Torbay, together with the challenges currently faced and how this could be improved. They heard evidence from the Director of Adult and Community Services, Divisional Director of Adult Social Care, Consultant in Public Health, Head of Integrated Care (South West) NHS Devon, Community Services Manager (Health and Social Care) Torbay and South Devon NHS Foundation Trust/Devon Care Partnership, Chief Executive Officer Healthwatch Torbay, Chief Officer Age UK Torbay, Chief Executive Rowcroft Hospice.

The Review resulted in:

- support for the co-production of a wider Dementia Strategy with specific interest in ensuring that Torbay residents can easily access information and support through a joint organisational approach;
- a request for the Cabinet Member for Adult and Community Services, Public Health and Inequalities to write to the Secretary of State and the Integrated Care System for Devon to highlight the need for advanced Dementia care which is innovative and which can provide efficient services for Torbay, being a coastal resort with an ageing population facing an increase in significant bed shortages particularly for those living with dementia;

- a request for the Director of Adult and Community Services to scope what access to training exists across the Voluntary Sector, Carers and domiciliary care agencies and to explore with NHS Partners wider access to online portal training for dementia awareness and support; and
- a request for the Director of Adult and Community Services to explore whether access to hive models could be included on Torbay Council's website.

The background to the Review can be viewed at [Agenda for Adult Social Care and Health Overview and Scrutiny Sub-Board on Thursday, 14 March 2024, 2.00 pm \(torbay.gov.uk\)](#). It is expected that the Review will be considered at the Cabinet meeting on

## 6. Topic List

### Overview and Scrutiny Board

- Budget Monitoring Outturn 2022/2023
- Internal Audit Review of Torbay Food and Music Festival Process Review
- Cost of Living Crisis Funding
- Operation of Overview and Scrutiny
- Initial Overview and Scrutiny Work Programme 2023/2024
- Disposal of Assets Call-In
- Spotlight Review on English Riviera Airshow
- Levelling Up Bill and Regeneration Bill
- Review of Planning Services Fit for the Future
- Review of current climate change related work - including Torbay Climate Emergency Action Plan (consultation draft 2023-2025)
- Budget Monitoring Quarter 1 2023/2024
- South West Water Spotlight Review
- Community and Corporate Plan
- Capital and Growth Highlight Report on Capital Programme Monitoring
- Torbay Council Investment Portfolio - KPI Dashboard
- Armed Forces Covenant and Military Compensation Call-in of Cabinet Decision
- Prostate Cancer UK Campaign 'Boys need bins' Call-in of Cabinet Decision
- Draft Key Performance Indicators for the Special Educational Needs and Disabilities (SEND) Local Area Strategy
- Budget Monitoring Quarter 2 2023/2024
- Safer Communities Torbay Annual Review, including:
  - Domestic Abuse and Sexual Violence
  - Torbay Combating Drugs Partnership

- Operation Loki
- Anti-social Behaviour
- Prevent and Modern Slavery
- Review of Political Balance of Overview and Scrutiny Review Panels
- SWISCo Annual Report
- Councillor Call for Action - Review of Investigation into Removal of the Palm Trees at the Italian Gardens, Torquay
- Performance Monitoring 2023/2024 Quarter 3
- Budget Monitoring 2023/24 – Quarter 3 Revenue and Capital Outturn Forecast
- Revenue and Capital Budget 2024/2025 - Report of the Overview and Scrutiny Board
- Events, Culture and Tourism Review - Report of the Overview and Scrutiny Board
- Torbay Interagency Carers' Strategy 2024-27
- Review of investigation into the removal of palm trees from Torquay's Italian Gardens
- Review of Capital Projects
- Councillor Call for Action - Planning Enforcement
- Council Business Plan
- Governance and Commissioning Review of Local Authority Company – SWISCo
- Review of Council Procurement Policies and Food and Music Festival
- Overview and Scrutiny Annual Report 2023/2024
- Initial Overview and Scrutiny Work Programme 2024/2025

## Children and Young People's Overview and Scrutiny Sub-Board

- Ofsted Annual Conversation Letter
- Our Promise to You - The Torbay Pledge to care for and care experienced children/young people
- Exploitation and Children Missing
- Children's Continuous Improvement Board Update
- Children and Young People's Overview and Scrutiny Sub-Board Work Programme 2023/2024
- Children and Young People's Overview and Scrutiny Sub-Board Action Tracker
- Review of Membership of Children and Young People's Overview and Scrutiny Sub-Board
- Youth Provision in Torbay
- Adopt South West - Regional Adoption Agency Annual Report
- Torbay Local Area Special Educational Needs and Disability (SEND) Joint Inspection Written Statement of Action Update
- Children and Young People's Overview and Scrutiny Sub-Board Action Tracker
- Child and Adolescent Mental Health Services (CAMHS) and Emotional Wellbeing Support Spotlight Review
- Youth Justice Service
- Family Hub Sustainability and Holiday Activity and Food Programme
- Exclusions and Absence
- Progress Report on the Implementation of the Children's Service Continuous Improvement Plan 2022/25
- Children and Young People's Overview and Scrutiny Sub-Board Action Tracker
- Virtual School Annual Report 2022/2023

- School Mental Health Programme
- Children's Services Self-Assessment
- Children and Young People's Overview and Scrutiny Sub-Board Action Tracker
- Sufficiency Strategy and Permanence for Children
- Schools Capital Programme Review
- Update on UNICEF work to be a Child Friendly Torbay
- Update on Special Educational Needs (SEND)
- Torbay Local Area Special Educational Needs and Disability (SEND) Joint Inspection Written Statement of Action Update
- Joint Targeted Area Inspection (JTAI)
- Children and Young People's Overview and Scrutiny Sub-Board Action Tracker

## Adult Social Care and Health Overview and Scrutiny Sub-Board

- Terms of Reference and Membership of the Adult Social Care and Health Overview and Scrutiny Sub-Board
- Adult Social Care and Health Overview and Scrutiny Sub-Board Work Programme 2023/24
- Torbay and South Devon NHS Foundation Trust Quality Account 2022/23
- Adult Social Care and Health Overview and Scrutiny Sub-Board Action Tracker
- Thriving Communities Where People Can Prosper - Draft Strategy for Adult Social Care in Torbay
- Draft Learning Disability Strategy
- Adult Social Care Procurement and Contracting Review and Action Plan

- Adult Social Care and Health Overview and Scrutiny Sub-Board Action Tracker
- NHS Delivery - Building a Brighter Future Programme Update
- Adult Social Care and Health Overview and Scrutiny Sub-Board Action Tracker
- Spotlight Review on Homelessness in Torbay
- Torbay update - Where are we now in the local context?
- NHS England and NHS Improvement South West Dental Reform Strategy
- Psychiatric Medication Supervision
- Quality of Care and Domiciliary Care
- Adult Social Care and Health Overview and Scrutiny Sub-Board Action Tracker
- Adult Social Care Self Assessment
- CQC update following inspection
- Adult Social Care renewal of Memorandum of Understanding
- Review of Adults' safeguarding
- Review of new pathways for adults with learning difficulties
- Update on the Pharmacy First scheme
- Public Health infection prevention and control
- Public Health – Building Heart Healthy Communities in Torbay
- Adult Social Care Improvement Board co-production update
- Progress on new diagnostic unit
- Residential Nursing and Care Homes
- Adult Social Care and Health Overview and Scrutiny Sub-Board Action Tracker
- Spotlight Review on Dementia Support in Torbay
- NHS Delivery - Building a Brighter Future Programme Update
- Local Government Association (LGA) Contract Management Review

## Panels

- Review of Events, Culture and Tourism
- Review of Council Procurement Policies and Food and Music Festival
- Priorities and Resources Review Panel

## 7. Current and Future Work Programme

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The Overview and Scrutiny work programme needs to be flexible in order to address any issues that arise throughout the Municipal Year. A number of new topics were added to the programme during the year and the timing of some of the items was varied to enable key items to be considered in a timely manner.

The Work Programmes for 2024/2025 will be submitted to Overview and Scrutiny Board on 10 April 2024 and then to the subsequent Sub-Boards.

Overview and Scrutiny will continue with its flexible approach to work programming to ensure that it is able to react to issues as they arise and in respect of Task and Finish Review Panels and Spotlight Reviews, which will be subject to available staff resources.

## 8. Call-in of decisions

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The call-in process is one of the mechanisms which can be used to hold the Cabinet to account. The purpose of a call-in is to examine the decisions reached by the Cabinet (or other decision makers) and the reasoning behind those decisions. The process enables further public debate to be held on the subject. The Overview and Scrutiny Board can then consider whether in their view, the decision was appropriate and make recommendations accordingly.

There were three call-ins during 2023/2024.

- Disposal of Assets Call-In
- Armed Forces Covenant and Military Compensation Call-in of Cabinet Decision
- Prostate Cancer UK Campaign 'Boys need bins' Call-in of Cabinet Decision

## 10. Councillor Call for Action

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Any Member of the Council can ask for Overview and Scrutiny to request officers to prepare a report on a topic for overview and scrutiny. There were two Councillor Calls for Action in the past twelve months:

- Councillor Call for Action - Review of Investigation into Removal of the Palm Trees at the Italian Gardens, Torquay
- Councillor Call for Action - Planning Enforcement

## 9. Community involvement

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The Overview and Scrutiny Boards and Panels engage with a wide selection of groups, organisations and individuals. We welcome the opportunity to hear from members of the public at our meetings whose input is important in understanding the concerns and needs of our communities. To support this approach and in addition to the statutory education co-opted members the Children and Young People's Overview and Scrutiny Sub-Board includes a number of non-voting co-opted members to provide independent expert advice and help represent the voice of the child and young person.

Representatives from Healthwatch Torbay and the Voluntary Sector Network were also appointed as non-voting co-opted members on the Adult Social Care and Health Overview and Scrutiny Sub-Board to help provide independent expert advice together with relaying a service user perspective.

## How to get involved in overview and scrutiny

- **Attend meetings** – our scrutiny meetings are open to the public and you are welcome to come along and listen to the debate and discussion. Please note that reports may be considered in private if they contain confidential information.
- **Ask a question or make a point** – if you would like to make a representation at a meeting, please email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) at least two days before the meeting so that we can let the Chairman know in advance. It is helpful to know what you would like to raise in order for it to be considered at the appropriate time during the discussions.
- **Request a review** – if there is something you think scrutiny could look at, then let us know via [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

Page 71 **Consultation and participation** – you could be asked for your views on an issue or be invited to provide specialist knowledge you might have by being a witness in a scrutiny review.

## Contact Us

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[governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

[www.torbay.gov.uk/scrutiny](http://www.torbay.gov.uk/scrutiny)





**Meeting:** Council

**Date:** 16 May 2024

**Wards affected:** All Wards

**Report Title:** Constitution Amendments – Local Code of Good Practice - Members and Council Officers Involved in the Planning Process

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

**Cabinet Member Contact Details:** Councillor Jackie Thomas, Cabinet Member for Culture, Tourism & Events and Corporate Services, jackie.thomas@torbay.gov.uk

**Lead Officer Contact Details:** Amanda Barlow, Monitoring Officer, amanda.barlow@torbay.gov.uk

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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 operational arrangements for the Planning Committee and to reflect the current status of the Neighbourhood Forums in the Local Code of Good Practice - Members and Council Officers Involved in the Planning Process.

## 2. Reason for Proposal and its benefits

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- 2.1 The proposals in this report ensures that the following section of the Constitution is up to date and fit for purpose:
- Local Code of Good Practice - Members and Council Officers Involved in the Planning Process.

## 3. Recommendation(s) / Proposed Decision

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1. That Council approves the following revised Constitution document, as set out in Appendix 1 to this report:
- Appendix 1 - Local Code of Good Practice - Members and Council Officers Involved in the Planning Process.

## Appendices

- Appendix 1 - Local Code of Good Practice - Members and Council Officers Involved in the Planning Process

## Background Documents

None

## Supporting Information

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### 1. Introduction

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- 1.1 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.
- 1.2 The following amendments are proposed to Local Code of Good Practice - Members and Council Officers Involved in the Planning Process, as set out in Appendix 1:
- To include reference to the Broadsands, Churston and Gamlpton Neighbourhood Forum and remove reference to the Paignton Neighbourhood Forum as the Paignton Neighbourhood Forum no longer exists.
  - To provide guidance to Councillors who are Members of Brixham Town Council or Broadsands, Churston and Gamlpton Neighbourhood Forum or Torquay Neighbourhood Forum and also a Member of the Planning Committee regarding their role at Planning Committee and declaration of interests.
  - Paragraph 16.2 - To remove the ability for members of the public to submit written materials, photos or mock ups at the Planning Committee or electronic presentations for inclusion as part of the officer presentation. Members of the public are able to make formal representation within the statutory deadlines, therefore submission of additional information at the Planning Committee does not give the applicant or Planning Officers sufficient time to check the accuracy of the information or arrange for a formal response to be presented at the meeting. Members of the public are still able to speak at the Planning Committee meeting to present their views if they register by 11 am on the day of the meeting as well as submitting additional written representations via the Planning Portal or emailing [planning@torbay.gov.uk](mailto:planning@torbay.gov.uk) up to

4pm on the Friday before the meeting and may refer to their submitted documents if they have registered to speak, provided that they agree this in advance with the Planning Officer so that they can include it in their presentation.

- Paragraph 16.3 allows for submission of models subject to certain conditions.

## 2. Options under consideration

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- 2.1 To leave the current sections of the Constitution in place however, this does not reflect the current/intended operational processes in respect of the Planning Committee.

## 3. Financial Opportunities and Implications

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- 3.1 None

## 4. Legal Implications

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- 4.1 None

## 5. Engagement and Consultation

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- 5.1 The revised section of the Constitution has been circulated to all Councillors and discussed with Group Leaders and their suggestions have been incorporated into the final version of the documents, in accordance with the current Article 13 of the Constitution.

## 6. Purchasing or Hiring of Goods and/or Services

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- 6.1 Not applicable

## 7. Tackling Climate Change

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- 7.1 Not applicable.

## 8. Associated Risks

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- 8.1 None

## 9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	We live stream our Planning Committee meetings which helps makes them more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.	There is no differential impact.	
People with caring Responsibilities	We live stream our Planning Committee meetings which helps makes them more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access	There is no differential impact.	

	to the internet, they have the option to attend in person.		
People with a disability	<p>The Council remains committed to promoting equality and ensuring that it meets its obligations under the Equality Act. As part of the implementation of this proposal we will be reviewing the reasonable adjustments provided to Members of the Planning Committee to ensure accessibility and participation in the Committee meeting and its business, such arrangements will be reviewed at least once a year.</p>	<p>The proposals identified in paragraph 16.2 of the Good Practice Guide clarify the current operational policies for determining Planning Applications and are aimed to make it clear to the public how they can present information to the Planning Committee.</p> <p>For some people with disabilities having a physical model of a Planning Application could aid with the interpretation of information. Due to the relatively small numbers of Applications where a model is likely to be produced it was felt that allowing models with certain caveats, set out at Paragraph 16.3, would be a reasonable adjustment for some people with disabilities.</p> <p>Whilst not a normal requirement for determining an application, an agent/applicant could use a model as part of the public consultation process and the Council would notify Members of the Planning Committee of this so that they could access this during the consultation process.</p> <p>The Committee agenda is provided in a reasonable time to make an assessment of the submitted application. Information is presented electronically prior to the meeting so that all parties can access this beforehand. Members undertake a site visit prior to the meeting and a verbal presentation outlining the key points is given by the Planning Officer at the meeting. Members of the Committee are able to request reasonable adjustments.</p>	
Women or men	We live stream our Planning Committee	There is no differential impact.	

	meetings which helps makes them more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.		
People who are from a black, Asian or minority ethnic background (BME) (Please note Gypsies / Roma are within this community)	We live stream our Planning Committee meetings which helps makes them more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.	There is no differential impact.	
Religion or belief (including lack of belief)	We live stream our Planning Committee meetings which helps makes them	There is no differential impact.	

	<p>more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.</p>		
<p>People who are lesbian, gay or bisexual</p>	<p>We live stream our Planning Committee meetings which helps makes them more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.</p>	<p>There is no differential impact.</p>	
<p>People who identify as transgendered</p>	<p>We live stream our Planning Committee meetings which helps makes them more accessible to those with other</p>	<p>There is no differential impact.</p>	

	<p>commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.</p>		
<p>People who are in a marriage or civil partnership</p>	<p>We live stream our Planning Committee meetings which helps makes them more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.</p>	<p>There is no differential impact.</p>	
<p>Women who are pregnant / on maternity leave</p>	<p>We live stream our Planning Committee meetings which helps makes them more accessible to those with other commitments such as full-time</p>	<p>There is no differential impact.</p>	



	<p>employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.</p>		
<p>Socio-economic impacts (Including impact on child poverty issues and deprivation)</p> <p style="writing-mode: vertical-rl; transform: rotate(180deg);">Page 81</p>	<p>There is no differential impact.</p>	<p>There is a potential impact on those who are less financially prosperous that they would be at a disadvantage if we allowed the submission of models at the meeting as they are very expensive and many people would not be able to afford to have them produced, which was one of the reasons for clarifying that they would not be accepted at the Planning Committee meetings.</p> <p>There is potential concern over the accuracy of any physical model produced in terms of scale, topography, position, height and that this could lead to misinterpretation of the application. This is why Paragraph 16.3 proposes that any model must be undertaken by a professional with an accurate scale and fair representation of the existing and proposed changes.</p> <p>The model would not be able to be seen by attendees watching the livestream and would therefore put them at a disadvantage. However, it would be mentioned on the agenda that a model would be available to view at 5 pm and so members of the public could choose to attend the meeting in person if they wanted to view the model.</p> <p>Physical models may be used as part of the public consultation and pre-application process by the applicant/agent. However, detailed scale plans and virtual presentations can be submitted for consideration at the Planning Committee in advance of the meeting. Members also undertake a site visit to view the site</p>	

		to understand the proposal. This is in accordance with National Planning Policy guidelines.	
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	We live stream our Planning Committee meetings which helps makes them more accessible to those with other commitments such as full-time employment who can either watch them live or at a later date via YouTube. For those without access to the internet, they have the option to attend in person.	There is no differential impact.	

## 10. Cumulative Council Impact

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10.1 None

## 11. Cumulative Community Impacts

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11.1 None

## **Local Code of Good Practice – Members and Council Officers Involved in the Planning Process**

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## 1. Introduction

- 1.1 Town and country planning is often highly contentious. It is seldom, if ever, an exact science: rather, it relies on informed judgement within a complex legislative and policy framework. Planning decisions frequently affect the daily lives of local people and the private lives of individuals. It is therefore essential that planning decisions be taken openly and impartially, with sound judgement and for justifiable reasons. The planning process must leave no grounds for suggesting that a decision has been partial, biased or not well-founded in any way.
- 1.2 An elected member on a Planning Committee has to balance representing the needs and interests of individual constituents and the community, with the need to maintain public confidence in the fairness and impartiality of the planning decision-making process. As the Nolan Committee (in its third report in 1997) acknowledged, this dual role can give rise to great tensions.
- 1.3 The purpose of this Local Code is to provide clarity in the way in which Members and officers of the Council will deal with planning matters and to set the standard of conduct, that other parties to the process are entitled to expect of the Council. Whilst this Local Code deals primarily with the determination of planning applications, the principles it endorses must be taken into account when considering forward planning (the Development Plan) and other planning policy issues, planning enforcement and all other planning matters.
- 1.4 In this Local Code, ‘member’ includes all elected members of the Council.
- 1.5 This Local Code is intended to ensure that the planning process is characterised by open and transparent decision making. Adherence to the Local Code will help to protect the Council against allegations of maladministration, legal challenges to its decisions and applications for costs based on grounds of ‘unreasonable behaviour’. The Local Code’s is based on the main principles are that decision-makers must:
- (a) **not** favour unfairly (or appear to favour unfairly) any individual or group.
  - (b) **not** make decisions in advance of being presented with all the relevant facts.
  - (c) take into account all relevant considerations and not take into account irrelevant considerations
  - (d) not be biased in favour of any individual, bodies or locality or put themselves in a position where they appear to do so.
  - (e) by law determine all applications in accordance with the statutory development plans, unless material considerations indicate otherwise.
  - (f) have mutual respect for the positions of Officers and Members.

## 2. Relationship with the Council’s Codes Of Conduct

- 2.1 This Code is concerned with the integrity of the planning process and maintaining public confidence in the planning system. Whilst there is a degree of overlap with the Council’s Codes of Conduct for Members and Employees, this Local Code of Good Practice also imposes additional obligations in the specific context of Town

and Country Planning.

- 2.2 This Local Code contains advice based upon recommendations from the Local Government Association, the Royal Town Planning Institute (RTPI) and the Local government and Social Care Ombudsman ('the Ombudsman'). Failure to follow this Local Code may be taken into account in investigations into possible maladministration and may result in allegations that a Member or Council Officer has breached the Council's Codes of Conduct (and a Member being referred to the Monitoring Officer or an officer being subject to disciplinary action).

### **3. Application of this Local Code**

- 3.1 This Local Code applies to both Members and Council Officers who become involved in the planning system. It applies to all planning decisions (whether taken at Council, committee, or by Council Officers under delegated powers).
- 3.2 The Code also applies to site visits, site review meetings and all other formal and informal contacts between Members, Council Officers, applicants, agents, objectors, landowners and other members of the public involved in the planning process. Whilst this Code primarily addresses the determination of planning applications, its underlying principles must also be applied to forward planning (the Development Plan process) and to the enforcement of planning control.
- 3.3 When determining whether there has been a breach of this Local Code the standard to be applied will be that of the reasonable member of the public with knowledge of the relevant facts and the standard of proof will be that of the balance of probabilities.

### **4. The Roles and Conduct of Members and Council Officers**

- 4.1 Members and Council Officers have different but complementary roles. These are explored in detail in the Council's Local Protocol on Member and Officer Relations contained in Part 5 of the Council's Constitution. The guidance contained in that Protocol is relevant to the planning process.
- 4.2 Both members and Council Officers are subject to formal Codes of Conduct adopted by Torbay Council. In addition, Council Officers who are Chartered Town Planners are guided by the Royal Town Planning Institute's (RTPI's) Code of Professional Conduct, breaches of which may lead to disciplinary action by the Institute.
- 4.3 The Council's Codes of Conduct for Members and Employees cover issues central to the preservation of an ethical approach to Council business. In particular, Members must register and declare pecuniary and non-pecuniary interests (as defined in the Code of Conduct for Members). Similarly, certain Council Officers must register and declare personal interests (as defined in the Employees Code of Conduct). However, the Codes also govern relationships between Members, Council Officers and the public and these provisions will impact on the way in which Members and Council Officers participate in the planning process. Of particular relevance to Members and Council Officers involved in planning decisions is the requirement under the Code of Conduct for Members that they;

*'must act solely in the public interest and should never improperly to confer an advantage or disadvantage on any person or act to gain financial or other material*

*benefits for themselves, a member of their family, close associate or relevant person'*

- 4.4 The planning system involves the consideration of private proposals in the context of the wider public interest. Much is often at stake in this process and opposing views are frequently very strongly held by those involved. Whilst Members and Council Officers need to listen to these views, if they are involved in the **determination** of a planning matter, they must **not** unfairly favour (or appear to unfairly favour) any person, body or organisation, or any group or locality, nor put themselves in a position where they **appear** to do so. **Members or Council Officers who do not feel that they can act in this way must ensure that they do not take part in the determination of a planning matter.**
- 4.5 Members and Council Officers must be especially cautious about accepting gifts or hospitality in the context of the planning process. As a minimum standard, they must comply with the requirements of the Council's Codes of Conduct and the Local Protocol on Gifts and Hospitality (see Part 5 of the Council's Constitution).
- 4.6 It is wholly unacceptable for any Member or Council Officers ever to be offered, receive or seek any gift as part of the planning process. It exposes the recipient to the most serious allegations of impropriety and may result in criminal charges for corruption (punishable on conviction by a long prison term and/or heavy fine) and/or referral to the Monitoring Officer.
- 4.7 All offers of hospitality (greater than a cup of tea, or equivalent) from people with any interest in a planning proposal should also be politely but firmly declined. If the refusal of very modest hospitality is likely to cause real offence, Members and Council Officers should ensure that it is of the minimum level and declare its receipt as soon as possible. Occasionally, in appropriate circumstances, it may also be reasonable to accept hospitality by way of a modest working lunch (or other meal) if that is conducive to the effective and professional conduct of a matter. Any hospitality accepted (or offered) should be recorded in the relevant member or employee Hospitality Book.
- 4.8 The functions of Council Officers are:
- (a) To carry out the administrative tasks associated with planning applications and inquiries, to negotiate, where appropriate (and in accordance with this Local Code), with consultees, applicants and their agents.
  - (b) To prepare a comprehensive and balanced report normally with a clear recommendation of either conditional approval and/or with a requirement for a planning obligation, or refusal of an application when it is to be determined by a Planning Committee. (For further information see Section 13).
  - (c) To determine planning matters as authorised by the Council's Scheme of Delegation and in accordance with planning law and policies.
  - (d) To advise and assist Members and the general public in respect of any queries falling within the planning function.
- 4.9 In carrying out these responsibilities, Council Officers will provide:
- (a) Impartial guidance to all parties including applicants, objectors, consultees

and members and provide professional advice to the Council in accordance with the Royal Town Planning Institute's Code of Professional Conduct.

- (b) Ensure, so far as possible, that all information necessary to make a decision has been obtained, evaluated and properly taken into account (when making a decision or formulating a recommendation) and (if applicable) properly reported to the decision making person or body.

## 5. Registration and Declaration of Interests

- 5.1 The Council's Codes of Conduct for Members require pecuniary and non-pecuniary interests to be registered and declared. These requirements **must** be followed scrupulously. Responsibility for fulfilling the requirements rests individually with each member and includes an obligation to ensure that their entries in the Registers of Interests are kept up to date.
- 5.2 All relevant pecuniary and non-pecuniary interests must be declared by members at every Council, committee or working party meeting where the interest is relevant to an item for discussion and on all other relevant occasions (such as site visits).
- 5.3 As the Council's planning function is a quasi judicial one, Members are also required to consider whether they have interests other than pecuniary and non-pecuniary interests that would mean a reasonable member of the public might consider a conflict of interest to arise members need to ensure that there can be no question of predetermination or bias. Where a specific planning application might reasonably be regarded as affecting your well-being or financial position, or the wellbeing or financial position of a relevant person, to a greater extent than the majority of other council taxpayers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision, the Member should declare that interest and, depending on the nature of that interest, may wish to exclude him or herself from taking part in the decision.

(2) In the above paragraph "relevant person" would be –

- (a) a member of the Member's family or any person with whom he or she has a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are directors; or
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000.
- 5.4 All Council Officers must comply with the Council's Employee Code of Conduct which is contained at Part 5 of the constitution and which imposes several requirements on employees including an obligation to declare any interests at meetings of the Council in which they are in attendance. When involved in the planning process Council Officers should also consider whether they should remain at meetings whilst a discussion and/or decision is taking place that relates to their interests and employees must always inform their line manager when any interest arises regardless of who is making the decision.

Where a Member has an interest in a planning application, which means that they

will not be present when the application is under discussion (see part 7), he/she may attend the meeting, but only for the purpose of making representations, provided that the public are also allowed to attend the meeting for the same purpose. Having made his/her representations he/she must withdraw from the meeting room and can not vote on the matter.

Members and Council Officers are required to register requests to speak on a planning application, as set out in Standing Orders in relation to Council Meetings.

- 5.5 If a Member is a member in a personal capacity of an outside body that is making (or supporting or objecting to) a planning application it is very likely that they have a declarable non-pecuniary interest and quite likely that they have a pecuniary interest that will preclude them from taking part in the matter or even being in the room when the committee consider the matter. In these circumstances Members are strongly recommended to seek advice from the Monitoring Officer.
- 5.6 If a Member is a member of the Brixham Town Council, or Broadsands, Churston and Galampton Neighbourhood Forum, or the Torquay Neighbourhood Forum (“relevant body”) then in any case where the relevant body is considering a planning application the Member needs to consider whether they can properly act as both member of the relevant body and a Member of the Planning Committee. If a Member wishes to consider a planning application at the Planning Committee they should not be seen as directing support for or objection to any planning application as a member of the relevant body. In these circumstances Members are strongly recommended to seek advice from the Monitoring Officer. As a minimum in any consideration of a planning application by the relevant body the Member should declare an interest which should be recorded in the minutes of the meeting and should declare that as a Member of the Planning Committee, they are required to keep an open mind and consider all relevant material planning considerations when the planning application comes before the Planning Committee. The Member ought to declare an interest as a member of the relevant body when the application comes before the Planning Committee. A Member must not determine a planning matter if it would render such decision liable to challenge in the courts on the grounds of bias or pre-determination.
- 5.7 If a planning matter under consideration relates to an outside body to which a Member has been nominated by the Council, careful thought must be given by the member before deciding that it is appropriate to rely the general dispensation provided by the Monitoring Officer that Members appointed to such bodies can take part in decisions affecting those organisations.
- 5.7 Due to the nature of planning it may not be appropriate for a Member who is a Council representative on an outside body to vote on a planning matter affecting that body if they are a director or trustee of the outside body. This is because those roles impose very onerous legal obligations to act in the best interests of the outside body and may create an inherent conflict with the member’s role as a councillor. If in doubt, the advice of the Monitoring Officer should be sought on this issue.
- 5.10 Where a Member who is a Council representative on an outside body (in whatever capacity, not just as a director or trustee) has taken a firm view on a planning matter, either in meetings of the outside body or otherwise, they may be open to an accusation of predetermination and must **not** vote on the matter at any Council



meeting. This is discussed more fully in part 6 below. Failure to follow this advice may result in a planning decision being challenged in the courts.

## 6. Bias, Pre-determination and Pre-disposition

- 6.1 Irrespective of whether a Member or Council Officer has a non-pecuniary or pecuniary interest in a planning matter, they must not determine (i.e. vote on, or take a decision in relation to) a planning matter if it would render such decision liable to challenge in the courts on the grounds of bias, pre-determination or pre-disposition. These are common law concepts which have been developed by the courts over the years and which are continuing to evolve.
- 6.2 The test for bias (or apparent bias) was summarised by Mr Justice Richards in the case of *Georgiou v. Enfield London Borough Council* in 2004 as follows:
- ‘ ... in considering the question of apparent bias in accordance with the test in Porter v Magill, it is necessary to look beyond ... personal interests and to consider in addition whether, from the point of a view of a fair-minded and informed observer, there was a real possibility that the Planning Committee or some of its’ members were biased in the sense of approaching the decision with a closed mind and without impartial consideration of all relevant planning issues.’*
- 6.3 The courts will quash a decision even if just one person involved in the decision is tainted by bias. This would have very serious financial consequences for the authority and very likely result in significant reputational harm to it and the member or employee in question.
- 6.4 Pre-determination is very like bias, but probably has a less pejorative connotation. The Localism Act 2011 states that a decision-maker is not to be taken to have had, or to have appeared to have had, a closed mind when making the decision just because—(a) the decision-maker had previously done anything that directly or indirectly indicated what view the decision-maker took, or would or might take, in relation to a matter, and (b) the matter was relevant to the decision. **Regardless of this provision, Members must be aware that the courts can still determine a Member has not considered the application fairly and therefore quash any decision made. Should Members have any doubts as to whether they should take part in a decision of the Planning Committee they should seek advice from the Monitoring Officer in advance of the meeting.**
- 6.5 Pre-disposition is a more complex concept than pre-determination or bias. However, a Member who is associated with policy statements that are relevant to an application is at risk of being accused of having a pre-disposition to determine that application in a certain manner. In these circumstances the Member should give very careful consideration before deciding that it is appropriate to vote on the matter at committee and if in any doubt seek the advice of the Monitoring Officer.
- 6.6 This situation might arise, for example, where a Cabinet Member is perceived as advocating certain types of development as part of their portfolio responsibilities. It would best preserve public confidence in the impartiality of the planning process if the member in question does not vote in the determination of planning applications that are relevant to his/her portfolio responsibilities. Members should seek advice at the earliest possible stage from the Monitoring Officer but should avoid a potential conflict of roles wherever possible.

6.7 **The overriding principle is that a person should avoid being both an advocate for (or against) a planning proposal prior to the committee meeting and a member of the committee when the application is determined.**

## **7. Development Proposals by Members and Council Officers**

7.1 Applications by Members, the Chief Executive, Directors, Divisional Directors, Heads of Service or Council Officers involved in the planning process (or by their friends or relatives as defined in the Codes of Conduct) will not be determined under powers delegated to Council Officers and must be determined by the Planning Committee unless they are of a minor nature and there are no objections. A record will be kept of such instances. The Divisional Director of Planning, Housing and Climate Emergency may decide that this procedure will apply to any other officer of the Council on a case by case basis. The paramount consideration in exercising this discretion will be to maximise public confidence in the impartiality of the planning process.

7.2 Any Member or Council Officer to whom para 7.1 applies who makes an application (or who has any other interest in an application which means they will not be taking part in the decision) shall:

- (a) Promptly inform the Divisional Director of Planning, Housing and Climate Emergency. The Divisional Director of Planning, Housing and Climate Emergency shall ensure that a written record of such interest is placed on the application file.
- (b) Take no part in the processing or determination of the application.
- (c) At the meeting of the Planning Committee, exercise the same rights to speak as a member of the public. In these circumstances the Member or Council Officer with an interest in the planning application may **not** speak at committee unless the general public has a right to do so. Nor may they even remain in the public gallery to observe or listen to the committee debate (failure to adhere to this requirement has been found to be maladministration). In these circumstances, the Member or Council Officer with the interest which excludes them from the decision-making may request a spouse/partner/agent/friend to attend and speak on their behalf.
- (d) If in any doubt as to the nature of any interest, take advice from the Monitoring Officer in relation to the matter.

7.3 A Member or Council Officer who has an interest that means they will not be taking part in the decision may:

- (a) make written representations in a private capacity, to the Planning Officer, disclosing the nature of the interest and not seeking any preferential treatment;
- (b) use a professional representative, or arrange for a partner, close associate or family member, to make the application or representations; or
- (c) in the case of Members, arrange for another Member to represent the views of the Member's constituents on such matters.

- 7.4 Where a Member or Council Officer has an interest in a planning matter, the Council's Codes of Conduct also require that they must not seek *improperly* to influence a decision about a matter.
- 7.5 It is important to emphasise that *improperly* does not imply that a Member or Council Officer is to be precluded from seeking to explain and justify their proposal to a planning officer (whether over the phone, face to face or in writing) in advance of consideration of the matter by committee.

## 8. Planning Applications by the Council

- 8.1 The Council itself requires planning permission to carry out or authorise certain types of development on land it owns. These applications will generally be determined by the Planning Committee (or Council) and this Local Code will apply to such applications. The Divisional Director of Planning, Housing and Climate Emergency may determine such applications if they are (a) applications of a minor nature and there have been no objections, (b) applications which are a repeat of, or contain only non-material amendments or material minor amendments

## 9. Lobbying of and by Members

- 9.1 If Members are to undertake fully their constituency roles, it is inevitable that they will be subject to lobbying on planning matters. **Lobbying is a normal and perfectly proper part of the political process.** Local concerns about development proposals need to be adequately aired as part of the planning process. **However, a Member must not lobby or act as advocate for (or against) a planning proposal and vote on the determination of the matter.** Members must comply with the guidance in relation to pre-determination as set out in part 6 of this Local Code.
- 9.2 Members may organise support for or against a planning application or lobby other Members. However, whilst they may be able to speak at the committee meeting when the application is determined they must not vote on the item.
- 9.3 Great care is required by Members and Council Officers in order to maintain public confidence in the integrity and the impartiality of the planning process and the Council. A failure to follow the advice in this section may result in a finding of maladministration against the Council or a legal challenge to the Council's decision.
- 9.4 When being lobbied members in general, but members of the Planning Committee in particular, must take care about stating how they will vote before they have considered all relevant matters at committee. In such circumstances it is preferable for a Member to restrict their comments to procedural advice and to encourage those lobbying to speak or write to the planning officer in order that their opinions can be included as part of the decision-making process.
- 9.5 Where the Monitoring Officer (or his/her representative at committee) reasonably believes that a Member has prejudiced his/her position by expressing a conclusive view on an application before its determination by the committee, he/she will advise the member that it would be inappropriate for the member to vote on the application however **it is the Member's decision on whether to vote.**
- 9.6 Whilst lobbying is a normal and perfectly proper part of the political process, in order to protect their impartiality and integrity from being called into question, Members of the Planning Committee must so far as is practicable, minimise their contacts

(including social contacts) with known developers and agents.

- 9.7 Members shall normally avoid requesting information from professional applicants or objectors and direct their enquiries to the planning officer. If interested parties provide members with new information or additional documents they shall pass this to the planning officer as soon as possible. Where a person requires planning or procedural advice, he/she shall be referred to the appropriate officer but this will not preclude Members from giving information to general members of the public to assist them in understanding the planning process.
- 9.8 If a Member is approached in their role as ward councillor by a third party, neighbour, potential objector or supporter of a planning application, then it is natural that they will want to consider the representations. This can help Members' understanding of the issues and concerns associated with an application. However, Members must take care to avoid expressing an opinion which may be taken as indicating that they have already made up their minds on an issue before they have heard all the evidence and arguments at committee.
- 9.9 Unless a Member is prepared to refrain from voting on an application (i.e. to be regarded as an advocate for (or against) the proposed development) they must take great care to maintain impartiality when attending public meetings in relation to planning matters, or during telephone discussions with a constituent. During such meetings or discussions it is preferable for no view on the merits or otherwise of a proposal to be given
- 9.10 Where a Member is lobbied they shall explain clearly that whilst they can listen to what is said, it would prejudice their impartiality to express an intention to vote one way or the other. Where Members are invited to attend such meetings, wherever possible they shall only do so in the presence of a Council Officer and, in any event, shall always declare such attendance prior to the consideration of the item at committee. Any written representation received should be passed to the Planning Officer for inclusion on the application file and placing in the public domain. Requests for information on procedural advice relating to planning applications should be directed to the Planning Officer to avoid misrepresentation and the possibility of a poor perception being gained of the impartiality of the planning process.
- 9.11 Members are encouraged where practicable (and particularly if the application is highly contentious) to keep a dated written record of lobbying and the response given. Appendix 1 contains a form designed for this purpose. In accordance with this Local Code it will be considered to be good practice for members to hand in any completed form at the relevant committee meeting. All completed records must be made available to the Monitoring Officer on request.
- 9.12 Where a Member's ward may be affected by a planning application which is to be considered by the Planning Committee, but that councillor is not a member of the committee, he/she may address the committee in order to represent the views of residents. The procedure is laid down in the Council's Standing Orders.
- 9.13 Non-voting Members should remember that to be effective in representing the views of interested parties, and not mislead them about the planning decision process, they should be fair in their representations and not just act as an advocate for one point of view without considering the broader planning context. When lobbied, they should,

(and advise others to), consider all aspects of the development which includes the relevant planning policies and the wider interests of the community as a whole. Members should advise that local opposition to, or support for, a planning proposal is not in itself a ground for refusing or granting permission unless founded upon valid planning reasons which can be substantiated. Where opposition to/support for a scheme is not founded upon real planning argument they should avoid giving the impression that such representations can be given weight and be careful about promoting that opposition/support both before and at the Planning Committee. To do so may raise false expectations of a decision which cannot be justified when it comes to objective formal consideration, potentially resulting in disillusionment and confusion over both the decision process and the role of that Member.

## **10. Pre-application Discussions**

- 10.1 It is both proper and important that Members involve themselves in discussions with developers, their constituents and others about planning matters. However, potential difficulties will be minimised if all members adhere to the general guidelines that are set out in Appendix 3. These have been derived from ‘Probity in Planning’ and ‘Positive Engagement – a guide for planning councillors’, produced collaboratively by a number of organisations including the Government, Local Government Association, Royal Town Planning Institute and Standards for England.

## **11. Discussions and Negotiations with Applicants**

- 11.1 Formally convened pre-application meetings are organised by officers to negotiate, where possible, an acceptable scheme prior to a planning application being submitted.
- 11.2 In any discussions on planning issues, it will always be made clear at the outset that the discussion and any views expressed are based on the planning officer’s professional judgement but will not bind the Council to any particular decision. This is because, by the nature of such meetings, not all the relevant information will be to hand and consultations with interested parties will not normally have taken place.
- 11.3 Advice given will be consistent and based on the Development Plan, relevant national, regional and local planning policies and any other material planning considerations. Every effort will be made to ensure consistent interpretation of planning policies by different planning officers.
- 11.4 Written notes shall be taken at all such meetings detailing attendees, the nature of the proposal, advice sought and given and any other matters discussed. Notes shall be retained in a form readily retrievable by planning officers and their managers. Any request to inspect such notes shall normally be granted during the pre-application stage unless confidentiality has been requested (for example, if the developer’s interest in the site is commercially sensitive).
- 11.5 Confidentiality will not be expected to apply once a proposal has become the subject of an application. However, in exceptional circumstances, some limited information relating to the commercial viability of a development may need to remain confidential. Where appropriate more than one officer will attend meetings on major planning issues. As a matter of good practice, a follow-up letter will be sent recording the planning officer’s comments. In the event that a planning application is subsequently received any such letter shall be referred to in any committee report and included in the schedule of representations.

11.6 Members may request or be encouraged to take part in the pre-application discussions with potential applicants. When Members are involved, they will normally be advised by appropriate officers (which will normally include a senior planning officer). Member involvement in such discussions will be recorded on the planning file.

## **12. Officer Reports to Committee**

- 12.1 Reports to committee on planning matters must be accurate and cover all relevant points and no irrelevant matters.
- 12.2 The planning officer's report will include a full description of the site and any related planning history. It will refer to the provisions of the Development Plan and all other relevant material planning considerations and, where appropriate, any relevant issues arising under the Human Rights Act 1998 and any other relevant legislation. It will include the substance of representations and the views of consultees. The only information which may be taken into account in determining planning application is that formally submitted to the planning officer in advance of the meeting date, so that he or she can assess it. This will prevent the Committee being misled or the decision being challenged on grounds of legality or maladministration. No papers shall be permitted to be circulated on the day of the meeting.
- 12.3 The report will clearly identify the key planning issues and material considerations to be taken into account. The report shall contain the merits for and against the application and will give a technical appraisal that clearly justifies the stated recommendation. Oral reporting to the committee (other than to up-date an existing report), will not normally occur unless a late representation identifies a material planning consideration which has not been addressed in the report in which case it will be reported by the planning officer together with any response by the applicant.
- 12.4 All reports will normally have a written recommendation either to conditionally approve or refuse the application. A planning officer may recommend that the matter is deferred if information needed for the meeting has not arrived or if significant issues have arisen since the preparation of the report which warrants deferment.
- 12.5 Where the recommendation is one of conditional approval, then all the proposed conditions will normally be attached to the report unless there is some substantial and exceptional reason preventing this. To be lawful a planning condition must meet the six tests specified in the National Planning Practice Guidance.

To be lawful a condition must be:

- (a) Necessary; and
- (b) Relevant to planning; and
- (c) Relevant to the development to be permitted; and
- (d) Enforceable; and
- (e) Precise; and
- (f) Reasonable in all other respects.

- 12.6 The report must also give full details of any requirement for a Planning Agreement under Section 106 of the 1990 Act (as amended). The subject matter of the planning obligations to be included in the Agreement should be justified in order to facilitate discussion at the Planning Committee. The National Planning Practice Guidance provides advice on the use of planning obligations.
- 12.7 Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Planning obligations should not be used where the development proposed could be made acceptable through the use of planning conditions. A planning obligation may only be sought where all of the following tests are satisfied:
- (a) it is necessary to make the proposed development acceptable in planning terms; and
  - (b) it is directly related to the proposed development; and
  - (c) it is fairly and reasonably related in scale and kind to the proposed development.
- 12.8 The Secretary of State emphasises that the use of planning obligations must be governed by the fundamental principle that planning permission may not be bought and sold. It is not legitimate for unacceptable development to be permitted because of benefits or inducements offered by a developer which are not necessary to make the development acceptable in planning terms.
- 12.9 The officer's recommendation must specify the reasons for refusal/approval and refer to all Development Plan policies and all relevant policy guidance which justify that decision.
- 12.10 Where the planning officer's recommendation is contrary to the provisions of the Development Plan this must be clearly stated together with the material considerations which justify the recommendation.

### **13. The Decision-Making Process - General**

- 13.1 In determining all types of applications submitted pursuant to the Town and Country Planning Act 1990, the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Hazardous Substances Act 1991, the Council will follow the relevant Government guidance, as interpreted by the courts.
- 13.2 The planning system involves making decisions about the use and development of land. Section 38(6) of the Planning and Compulsory Purchase Act requires that all planning applications are determined in accordance with the Local Development Plan/Framework unless material planning considerations indicate otherwise.
- 13.3 When determining planning matters Members and Council Officers must approach each application with an open mind and carefully weigh up material planning considerations, particularly with reference to the Development Plan and national policy guidance. They must disregard all considerations that cannot lawfully be taken into account (for example that a planning application has been made retrospectively).
- 13.4 No group of Members (for example, from the same political group, or from the same

ward) and no informal meeting of a particular group on a committee may be used to decide how Members shall vote in a committee determining an application. **It is unlawful for a planning decision to be subjected to the discipline of the political whip and to do so would also constitute maladministration.** This does not preclude the holding of pre-meetings prior to the commencement of a formal planning related meeting in order to discuss the business management of the forthcoming public meeting (but **not** the merits of individual agenda items). However, such pre-meetings must be open to **all** members entitled to attend the subsequent public meeting and the rules relating to the declaration of interests must be strictly applied.

- 13.5 Where an application is to be determined by the Planning Committee there will be an opportunity for interested parties to address the committee prior to the determination of the application. The procedure is laid down in Council's Standing Orders. No papers shall be permitted to be circulated on the day of the meeting.
- 13.6 Members and Council Officers with a personal interest in an application must declare the interest in accordance with the Council's Codes of Conduct and this Local Code and, if required by the relevant Code of Conduct, they shall then withdraw from the meeting before any discussions take place on the matter.
- 13.7 Members and officers will address one another during the debate in a proper manner and through the Chairman/woman. Members shall respect the impartiality and integrity of officers.
- 13.8 Senior legal and planning officers shall always attend meetings of the Planning Committee to ensure that procedures have been properly followed and planning issues properly addressed.
- 13.9 In discussing and determining a planning application, Members will confine themselves to the planning merits of the case and the reasons for making a final decision shall be clear, convincing and supported by planning evidence.
- 13.10 On occasions the Planning Committee will disagree with the planning officer's recommendation. Planning committees are entitled to reach their own decisions by attaching different weight to the various planning criteria which are relevant to the application. However, the same strict legal requirements have to be met, as the reasoning in the planning officer's report will no longer apply.
- 13.11 Where Members propose approval with conditions or wish to impose additional conditions, they must apply the same criteria referred to at paragraph 12.5 above. They must be of the opinion that if the condition were not applied then the planning application ought to be refused. Conditions shall be tailored to tackle specific problems rather than impose general control. Where Members are of the view a planning agreement is appropriate, then the same considerations as outlined in paragraph 12.7 above shall be applied.
- 13.12 The committee shall not approve any application (or other matter) which would (in the opinion of the Divisional Director of Planning, Housing and Climate Emergency) not be in accordance with the Development Plan unless the Divisional Director has recommend approval and the decision of the Committee is consistent with the Divisional Director's recommendation.



- 13.13 If, contrary to the recommendation of the Divisional Director of Planning, Housing and Climate Emergency, the Committee consider that an application (or other matter) shall be approved and such approval is not in accordance with the Development Plan, then the item shall be referred to Council for determination.
- 13.14 Where a Member proposes to recommend approval contrary to an officer's recommendation of refusal, the Chairman/woman will give the planning officer an opportunity to respond to that recommendation and to discuss any appropriate conditions (and/or Planning Agreement). The planning officer may request further time in order that appropriate conditions (and/or the terms of a Planning Agreement) may be drafted.
- 13.15 Where a Member moves refusal of an application contrary to the officer recommendation, the Member must give reasons based upon planning grounds as the Member may be required to speak at any subsequent appeal hearing. Such reasons must be sufficiently clear and precise to enable the planning officer to apply relevant Development Plan policies to those reasons.
- 13.16 Where it is the planning officer's professional view that a proposal for refusal is improper, this advice will be given to the committee and, where necessary, further advice shall be given by the Solicitor as to the potential implications of such a decision.
- 13.17 Before any matter is put to the vote any member of the committee may request the Chairman/woman to ask the clerk to read to the meeting the full text of the proposal to be voted upon. This is a mandatory requirement if a proposal does not follow the officer recommendation.

#### **14. Planning and Human Rights**

- 14.1 The Human Rights Act 1998 requires all public bodies to exercise their powers and duties in ways that do not breach the rights of individuals, as identified in the European Convention on Human Rights.
- 14.2 The following provisions of the European Convention on Human Rights are most likely to be relevant to the planning system:

**Article 6: the right to a fair trial.** In the context of planning, this means that where their property or life is affected by a decision, everyone is entitled to a fair and public hearing (within a reasonable time) by an independent and impartial tribunal established by law. This is provided for applicants who are dissatisfied with a planning decision through the appeals process and for objectors through the availability of judicial review. However, the principles underpinning this Article also require openness and transparency throughout the decision-making process.

**Article 8: the right to respect for private and family life.** Everyone has the right to respect for his or her private and family life, home and correspondence. This may only be subject to interference by a Public Authority in accordance with the law and only *so far as is necessary in a democratic society*. This means that any such interest must be justifiable on the grounds of national security, public safety, the national economic well being, the prevention of disorder or crime, the protection of health or morals or for the protection of the rights and freedoms of others.

**The First Protocol – Article 1: protection of property.** Every person (including legal persons, such as companies) is entitled to the peaceful enjoyment of their possessions. This may only be restricted or prevented in the public interest in accordance with the law. Accordingly, whilst the Council may enforce planning laws where it is necessary to control the use of property in accordance with the general interest, its action must be *proportionate* in all the circumstances.

## **15. Decision Making – Delegation to Council Officers**

- 15.1 The Council's Scheme of Delegation specifies clearly the categories of applications that may be determined by officers; those that will be referred to the Planning Committee; and those that must be determined by Council. The Chairman/woman or (in his/her absence) the Vice Chairman/woman of the Planning Committee may in exceptional circumstances request the Divisional Director of Planning, Housing and Climate Emergency to refer a planning application which would normally be delegated to Council Officers to the Planning Committee. The terms of reference of the Planning Committee are set out in Part 3, Schedule 5 of the Council's Constitution.
- 15.2 Where officers are determining applications under their delegated powers, the Case Officer processing the application will complete an officer report which must record that all material planning considerations have properly been taken into account. The Case Officer will then make a recommendation to the Team Leader. The Team Leader will assess the report and recommendation and make the final decision on behalf of the Divisional Director of Planning, Housing and Climate Emergency.
- 15.3 In the case of a divergence of view and the rejection of the Case Officer's recommendation, the Team Leader's decision and planning justification must be recorded in full on the file. In the event that the Case Officer is a team leader then any delegated decisions taken by that officer will be referred to the Divisional Director of Planning, Housing and Climate Emergency for the final decision, which shall be recorded in the same manner.

## **16. Public Speaking and presentation at Planning Committees**

- 16.1 Members of the public are entitled to speak at meetings of the Planning Committee and Council when planning applications are being considered. Details of this procedure are set out in Standing Orders in relation to Council Meetings.
- 16.2 Members of the public may not present any written materials, photos or mock-ups at the Planning Committee meeting. Members of the public are able to submit written representations through the Council's website at [torbay.gov.uk/planningapp](http://torbay.gov.uk/planningapp) and searching for the property or by emailing [planning@torbay.gov.uk](mailto:planning@torbay.gov.uk) up to 4 pm the Friday before the meeting, which Members of the Planning Committee will be able to view prior to the meeting, this includes photos or attached documents. Members of the public who have registered to speak may refer to such documents when speaking at the Planning Committee meeting (Note: where speakers intend to refer to submitted documents at the Planning Committee meeting this must be agreed with the Planning Officer in advance of the meeting so that they can include it in their presentation).

- 16.3 Members of the public may submit models for consideration at the Planning Committee meeting:
- a. provided they are submitted to the Case Officer ten clear working days before the date of the Committee meeting;
  - b. provided they are undertaken by a professional with an accurate scale and fair representation of the existing and proposed changes;
  - c. subject to the Case Officer, in consultation with the Chairman/woman, determining that they are a fair interpretation of the planning application; and
  - d. where models are accepted they will be available for inspection in the Committee meeting room at 5 pm to enable all parties to access them prior to the start of the meeting (this will be noted on the Committee agenda for that item).

**17. Role of Council Officers Where a Recommendation is not Followed**

- 17.1 The Nolan Report considered the role of officers in the planning process and concluded that *“Planning Officers exist to advise Planning Committees, which are entitled to reach their own decisions, by attaching different weights to the various planning criteria which are relevant to an application”*.
- 17.2 Council Officers shall, therefore, give full support to the Council’s case where an appeal is made against the Local Authority’s decision whether it be by written representations, informal hearing or public inquiry. However, in doing so, planning officers shall adhere to the good practice advocated by the Royal Town Planning Institute and ‘shall not make or subscribe to any statements or reports which are contrary to their own bona fide professional opinions’. The same principles shall apply to other Council Officers who have to act in accordance with their own professional codes.
- 17.3 Where, however, a planning officer believes that a committee decision is based on no reasonable planning grounds and is therefore “improper” they will normally seek to draw this to the attention of the Committee and must draw this to the attention of the Council’s Divisional Director of Planning, Housing and Climate Emergency and the Monitoring Officer.
- 17.4 Where a planning officer has advised a committee that its decision is, in their professional opinion, improper then that officer will only be required to give evidence on appeal in exceptional circumstances and having regard to any limitations imposed by the Royal Town Planning Institute’s Code of Professional Conduct. The advice of the Council’s Monitoring Officer will be sought if such a situation arises. In such circumstances members may be asked to give evidence on behalf of the Council at any appeal.

**18. Committee Site Visits**

- 18.1 Council Officers will make arrangements for site visits by all committee members prior to the scheduled committee meeting. Site visits can be requested by a Member but shall only be requested where a site visit will clearly assist the Members in determining the planning application. For example:-

- (a) When the impact of the proposed development is difficult to visualise from the plans and supporting material.
  - (b) There is a good reason why the comments of the applicant or objectors or consultees cannot be adequately understood from written or verbal presentation at the Committee meeting.
  - (c) When the proposal is particularly contentious.
- 18.2 Efforts will be made to ensure that all Members involved in the decision and the Planning Officers attend each site at the same time. This is because:-
- (a) Members have no right of access to land.
  - (b) Members may be subject to lobbying or to accusations of bias.
  - (c) Separate visits are likely to result in confusion about the material planning considerations.
  - (d) Planning officers will be able to explain the plans and answer any technical questions.
- 18.3 Site visits will only be used for gathering factual information, seeking clarification from the planning officer and making a visual assessment. Therefore, Members must not discuss the merits of the case at the site inspection with any applicants, agents, objectors (or supporters) or members of the public who are present. The site visit is not part of the formal consideration of the application and public rights of attendance do not apply.

## **19. Site Review Meetings**

- 19.1 The overwhelming majority of planning applications can be dealt with quite appropriately by Council Officers under delegated powers. However, given the inherently controversial nature of planning it is sometimes the case that even very straight forward applications excite strong feelings and generate objections. In an attempt to increase public confidence in the transparency and fairness of the planning system the Council has adopted a system of holding informal Site Review Meetings as a mechanism for hearing concerns from local residents and deciding whether an application will be determined under delegated powers or referred to the Planning Committee for determination.
- 19.2 The Council has adopted a protocol in relation to Site Review Meetings and this is set out in Appendix 2.
- 19.3 The requirement to hold Site Review Meetings may periodically be suspended by the Divisional Director of Planning, Housing and Climate Emergency in exceptional circumstances, including for example during a pandemic.

## **20. Reviews of Decisions**

- 20.1 The Planning Committee will review, at least annually, a sample of the implemented decisions made by that committee to assess the quality of those decisions. Visits will be incorporated into the schedule of site visits arranged for that committee. The purpose is to improve the quality and consistency of decision making and will assist

in reviews of planning policy and monitoring the quality of decisions as required by Best Value Performance Indicators. Members and officers will undertake reviews together and include consideration of whether there is a need to initiate a review of any policies or practices.

- 20.2 At quarterly meetings of the Planning Committee, the results of recent Planning Inspectorate decisions will be reported. A short report will be provided to identify whether the decision was a delegated officer decision or one taken by the committee and briefly outlining the main issues.

## **21. Enforcement of Planning Control**

- 21.1 The Council has various powers to take enforcement action in respect of breaches of planning control. These powers may arise for example if development has been carried out without the requisite planning permission or a person has failed to comply with a condition imposed on a planning permission. Enforcement powers also exist in relation to special controls such as planning obligations, listed buildings, Tree Preservation Orders and untidy land.

- 21.2 The Council has dedicated Planning Investigation Officers who can be contacted by a Member or member of the public if they believe a breach of planning control has occurred. The Planning Investigation Officer will need the address of the planning site and brief details of the alleged breach in order to undertake initial inquiries. The Planning Investigation Officer has specific powers under the 1990 Act to investigate breaches of planning control and therefore once the matter has been referred to the officer he/she will take responsibility for the investigation. The officer will keep the Member or member of the public informed as to progress as appropriate.

- 21.3 The completion of the Planning Investigation Officer's investigation may lead to one or more of the following:

- A finding of fact that no breach of planning control has occurred;
- A finding that although there has been a breach of planning control it is purely technical in nature or so minor that it is not expedient or in the public interest that it does not justify any further action being taken;
- Where there has been a breach of planning control, but the officer considers a conditional grant of planning permission might be acceptable, an invitation to the landowner/developer to submit an application for planning permission;
- In controversial or difficult cases, or those cases outside officers' delegated powers, a report being submitted to the Planning Committee for determination
- Where the planning merits of the case so justify, instructions to the Council's Legal Services Manager to take enforcement action.

- 21.4 Starting development in anticipation of receiving planning permission (premature development) is not in itself a ground for justifying refusal of planning permission or the taking of enforcement action. However, the Divisional Director of Planning, Housing and Climate Emergency will put in place systems to ensure that where practical Planning Investigation Officers are notified of instances of premature development and the landowners/developers advised in writing that such activity is carried out at their own risk and may be the subject of planning enforcement action.

**22. Training in the Planning Process for Members**

- 22.1 All members of the Council on being elected must undertake initial training on the planning process. This will be provided by the Council in a seminar and/or workshop programme. This training will include guidance on Town and Country Planning with particular reference to the material considerations which Members have to take primarily into account. Members of the Planning Committee will be given refresher training when changes are made to planning law or procedure and will also receive ongoing training in relation to development management.
- 22.2 All elected Members are required to comply with the core requirements of the Council's annual Members' Development Programme which includes Development Management training.
- 22.3 Members who have not undertaken the relevant Development Management training shall not be permitted to be a member of or substitute for other Members on the Planning Committee, or take part in consideration of any Development Management matters referred to full Council, and should not make themselves available for attending Site Review Meetings.(See Para 19).
- 22.4 Any failure to comply with the core Development Management training requirements may be referred to the Monitoring Officer and to the appropriate Group Leader.

**23. Complaints**

- 23.1 Any issues of concern arising from this Code may, in the interest of speed, be raised informally with the Monitoring Officer in the first instance. Should a member of the public wish to make a formal complaint within the framework of the Council's complaints system then they shall write to the Divisional Director of Planning, Housing and Climate Emergency, Torbay Council, Town Hall, Castle Circus, Torquay, Devon, TQ1 3DR.
- 23.2 Where a Member alleges a breach of this Code in respect of another Member, they will refer the matter to the Council's Monitoring Officer.
- 23.3 Where there are issues of maladministration, these can be referred to the Local Government Ombudsman.

Appendix 1

Planning Attendance Note

Planning application Number:
Development Site:
Enquiry from:
Nature of Representations:
Response Given:
Member:
Date:

**Appendix 2**

**Site Review Meetings Protocol**

1. The Government has made it clear to Local Planning Authorities that in order to speed up the planning process the vast majority of planning applications should be determined by officers using delegated powers.
2. Most planning applications are now initially identified as being appropriate for determination by the Divisional Director of Planning, Housing and Climate Emergency under delegated powers. Only major applications (those for 10 or more residential units, or over 1000 square metres of new floor area) will automatically be referred to the Planning Committee. The Divisional Director of Planning, Housing and Climate Emergency may refer other applications to the Committee for determination if he considers it appropriate. In determining whether to refer other applications to the Committee for determination the Divisional Director of Planning, Housing and Climate Emergency may consult with the Chairman/woman of the Planning Committee and/or any relevant Ward Members.
3. In deciding whether or not to refer a planning application to the Planning Committee for determination, the Divisional Director of Planning, Housing and Climate Emergency will have regard to the number and complexity of planning issues the application raises. This is not necessarily reflected in the number of objections received and no particular number of objections (or letters of support) will ensure that any particular application is referred to Committee.
4. Where officers are recommending approval of an application and there are objections on valid planning grounds made within the 21 day period for response, the Ward Councillors will be advised of the objections by e-mail and be given 5 working days to respond to officers, either by telephone or e-mail. Having considered the merits and significance of the application, Ward Members may, in exceptional circumstances, request that a Site Review Meeting (SRM) is arranged. The Ward Member must be available in the next 7-10 days so that the SRM can be arranged in that timeframe. Officers will proceed to arrange the meeting unless in exceptional circumstances there are clear differences of opinion between the officers and the Member about whether such a meeting is necessary. In these circumstances the matter will be referred to the Chairman/woman of the Planning Committee for decision.
5. Where there are 5 or more objections to an application and officers are recommending approval, the same procedure as described above will apply in relation to the need for an SRM. Officers will however automatically discuss with the Chairman/woman of the Planning Committee whether the application should be heard at Committee. Again, it will be the decision of the Chairman/woman as to whether that application should be determined at Committee or under delegated powers.
6. The purpose of a Site Review Meeting is to decide whether a decision should be made under delegated powers or referred to the Planning Committee for determination. The meeting is not intended to debate or argue about the issues but to allow everyone to look at the site, view and understand fully the proposals and hear the views of the applicant and the objector(s).



7. After the Site Review Meeting, the Senior Planning Officer present will discuss the matter with the Ward Councillor(s) in attendance and then make a recommendation to the Divisional Director of Planning, Housing and Climate Emergency as to whether or not the matter should be referred to Committee for determination. If in exceptional circumstances the Divisional Director of Planning, Housing and Climate Emergency is not minded to agree with the views expressed by any Ward Member as to whether or not to refer the matter to Committee, he will consult with the Chairman/woman of the Planning Committee who will make a decision.
8. All parties will be informed in writing of the outcome of the Site Review Meeting.
9. Site Review Meeting may be terminated by the Planning Officer in attendance in the event that any person present fails to adhere to the principles of this Protocol or fails to treat other people present with courtesy and respect.
10. In all cases, Officers will continue to make recommendations in reports either for signing off by team leaders or for consideration at Committee, and Officer Reports will highlight and discuss the merits of objections, indicating how the objections raised have been considered in reaching the decision.

## Appendix 3

## Discussions with Third Parties – Do's and Dont's

It is important that members involve themselves in discussions with applicants, their constituents and others about planning matters. The Audit Commission has recommended that councils should develop effective approaches to pre-application discussions involving councillors, to ensure the issues relating to proposed planning applications are identified, discussed and, if possible or necessary, accommodated early in the process. Such discussions have no binding effect on either party; the Council encourages developers to engage in full and transparent public consultation at an early stage so that both the Council and the applicant are aware of issues arising and members can observe and listen to a range of points of view. Potential difficulties will be minimised if all members adhere to the following general guidelines.

**Do**

- Read the Council's Local Code of Good Practice in relation to Planning Matters
- Attend discussions organised by officers before a planning application is made, **not** after it has been submitted to the Council
- Structure discussions and always be accompanied by a planning officer
- Keep an open mind; refrain from expressing strong views directly to a prospective applicant rather than via the planning officer during the pre-determination stage; preface any discussion with appropriate and clear disclaimers; keep a dated note of meetings and calls; and make **clear at the outset** (and in subsequent contacts) that discussions are **not** binding
- Adhere to policies included in adopted plans, but also pay heed to any other considerations relevant to planning
- Where appropriate encourage positive outcomes
- Request and participate in training on planning and probity issues
- Refuse any gift however insistently offered
- Attend developer presentations to be fully informed prior to an application being submitted
- Attend public consultation meetings as part of your role in taking fully into account public opinion and relevant planning issues emerging

**Do Not**

- Meet applicants alone, or put yourself in a position where you may appear to favour unfairly any person, body or group or may be misinterpreted. Even a 'friendly' private discussion with an applicant may cause others to question your impartiality
- Accept hospitality unless refusal of minimal hospitality would be impolite
- Expect to lobby and actively support (or resist) an application and still vote at Committee
- Remain in any public meeting where you have a pecuniary interest
- Seek improperly to influence others or put pressure on them to support a particular outcome in relation to a planning matter
- Invent local guides on probity in planning which are incompatible with current national guidance and best practice
- Advise, correspond or negotiate (or give the appearance of so doing) with applicants

This list of do's and don'ts is derived from a range of national documents including

principally “Positive Engagement” (a guide for planning councillors), and “Probity in Planning” produced collaboratively by a number of organisations including the Government, LGA, RTPi and Standards for England.

**Meeting:** Council

**Date:** 16 May 2024

**Wards affected:** All Wards

**Report Title:** Constitution Amendments – Outside Bodies Reporting Protocol

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

**Cabinet Member Contact Details:** Councillor Jackie Thomas, Cabinet Member for Culture, Tourism & Events and Corporate Services, jackie.thomas@torbay.gov.uk

**Lead Officer Contact Details:** Amanda Barlow, Monitoring Officer, amanda.barlow@torbay.gov.uk

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## 1. Purpose of Report

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- 1.1 This report sets out proposed changes to the Council's Constitution in respect of the reporting arrangements for Councillors who represent the Council on outside organisations.

## 2. Reason for Proposal and its benefits

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- 2.1 The proposals in this report ensures that the following section of the Constitution are up to date and fit for purpose:
- Standing Orders – Access to Information.

## 3. Recommendation(s) / Proposed Decision

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1. That Council approves the revised section E22 – Outside Bodies Reporting Protocol and requests the Head of Governance Support to update the Standing Orders – Access to Information to reflect the changes set out in Appendix 1 to this report.

### Appendices

Appendix 1 - Standing Orders – Access to Information – Revised Outside Bodies Reporting Protocol

## Background Documents

None

## Supporting Information

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### 1. Introduction

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- 1.1 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. Whilst the proposed changes are technical and operational the Council Leadership Group has determined that these matters should come before the Council to approve, as the sovereign body.
- 1.2 The following amendments are proposed to the Standing Orders in relation to Access to Information, as set out in Appendix 1:
- To remove the specific list of outside bodies for the Overview and Scrutiny Board to receive updates from.
  - To allow the Overview and Scrutiny Board to determine a programme for receiving reports from any Councillor representative on an organisation.
  - To provide an accessible format for the Outside Bodies – Member Reporting Form.

### 2. Options under consideration

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- 2.1 To leave the current sections of the Constitution in place. However, this does not reflect the current/intended operational processes in respect of the Planning Committee.

### 3. Financial Opportunities and Implications

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- 3.1 None

### 4. Legal Implications

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- 4.1 None

## 5. Engagement and Consultation

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- 5.1 The revised sections of the Constitution have been circulated to all Councillors and discussed with Group Leaders and their suggestions have been incorporated into the final version of the documents, in accordance with the current Article 13 of the Constitution.

## 6. Purchasing or Hiring of Goods and/or Services

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- 6.1 Not applicable

## 7. Tackling Climate Change

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- 7.1 Not applicable.

## 8. Associated Risks

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- 8.1 None

## 9. Equality Impacts - Identify the potential positive and negative impacts on specific groups

	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
People with caring Responsibilities	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
People with a disability	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
Women or men	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
People who are from a black, Asian or minority ethnic background (BME) (Please note Gypsies / Roma are within this community)	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
Religion or belief (including lack of belief)	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	

People who are lesbian, gay or bisexual	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
People who identify as transgendered	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
People who are in a marriage or civil partnership	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
Women who are pregnant / on maternity leave	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
Socio-economic impacts (Including impact on child poverty issues and deprivation)	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	
Public Health impacts (How will your proposal impact on the general health of the population of Torbay)	The implementation of the Local Protocol will have a positive impact on this group.	There is no differential impact.	

## 10. Cumulative Council Impact

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10.1 None

## 11. Cumulative Community Impacts

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11.1 None



## Standing Orders – Access to Information

### Revised Outside Bodies Reporting Protocol – Proposed Constitution Amendment

Reason for changes - The current Protocol includes outside bodies which the Council no longer appoints a Councillor to represent them and Members on any outside body should be prepared to report on the activities of that body. It is therefore proposed that the Constitution be amended as follows:

#### **E22. Outside Bodies Reporting Protocol**

- E22.1 The Council appoints Members to represent Torbay Council on a number of outside organisations. Representative Members are required to report on the activities of the outside organisation, the impact of those activities on the local community and Council service delivery, in order to keep the Council informed. Reports from Members on outside organisations will also allow the Council to evaluate the value and benefits of its continued membership. Members will not disclose any information that is confidential to that organisation.
- E22.2 The Overview and Scrutiny Board will determine a programme for receiving Reports from Representative Members on outside bodies as part of its annual Work Planning. Where possible, Reports will be submitted following the annual meeting of the body, unless exceptional circumstances require a further report. Reports will be prepared by the Representative Member(s) so not to draw on officer resource and be submitted in writing to [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) using the prescribed form (attached at Appendix 1 to these Standing Orders), and so far as is reasonably practicable, limited to two sides of A4. Reports will be considered by the Overview and Scrutiny Board to enable it to make recommendations to the Council or Cabinet, as appropriate.
- E22. Where the Council nominates more than one Representative Member to an outside organisation, a Lead Representative Member will be nominated to be responsible for co-ordinating the Report to the Council (this can include a joint report by all members on the outside body being prepared). If an organisation does not have an annual meeting, then the Council's Lead Representative Member will report in the third quarter of the year so that the Council can consider the benefits of retaining its representation.

**Outside Bodies - Member Reporting Form**

**Name of Organisation:**

**Elected Member:**

**Objectives of Organisation:**

**Role and responsibility of the Council representative?** (For example, Observer, Trustee, Director):

**What have you achieved through the relationship?**

**How often does the organisation meet?**

**How often have you attended meetings?**

**Have you been provided with any training to support your role?** If yes, please give details.

**What are key issues that have arisen?**

**What is the performance against their key performance indicators and what action is being taken to address any red or amber performance?**

**What are the key risks for the organisation and what is being done to mitigate the risks?**