



Oversight and Governance

Chief Executive's Department
Plymouth City Council
Ballard House
Plymouth PL1 3BJ

Please ask for Helen Rickman
T 01752 668000
E Helen.rickman@plymouth.gov.uk
www.plymouth.gov.uk

Published 26 November 2021

AUDIT AND GOVERNANCE COMMITTEE

To Follow Reports Pack

Monday 29 November 2021
2.00 pm
Council House

Members:

Councillor Dr Mahony, Chair
Councillor Lowry, Vice Chair
Councillors Bingley, Evans OBE, Laing, Shayer

Independent Members: Mr Shipperley and Mrs Benny.

Please find enclosed additional information for your consideration under agenda item numbers 15, 16 and 18.

Tracey Lee

Chief Executive

Audit and Governance Committee

- 15. Executive Decisions Governance Route - To Follow (Pages 1 - 8)**
- 16. Working Group Update: Terms of Reference Review - To Follow (Pages 9 - 12)**
- 18. Tamar Bridge and Torpoint Ferry Joint Committee - Change to the Terms of Reference - To Follow (Pages 13 - 42)**

Audit and Governance Committee



Date of meeting:	29 November 2021
Title of Report:	Executive Decision Guidance
Lead Member:	Councillor John Riley (Cabinet Member for Governance, HR, IT & Community Safety)
Lead Strategic Director:	Giles Perritt (Assistant Chief Executive)
Author:	Jamie Sheldon (Senior Governance Advisor)
Contact Email:	Jamie.sheldon@plymouth.gov.uk
Your Reference:	JS21
Key Decision:	No
Confidentiality:	Part I - Official

I. PURPOSE OF REPORT

- 1.1. This amended report is provided following initial consideration by the committee in September.
- 1.2. The Committee raised several concerns in their initial discussion regarding the guidance, most principally the perceived risk that elected member decision-making powers could be curtailed. The committee collectively requested that the report was amended and brought forward for consideration at this meeting.

2. BACKGROUND

- 2.1. In 2010, the Council adopted the Strong Leader and Cabinet model of decision making. Under these arrangements all executive functions are vested in the Leader who can both delegate functions and revoke delegations as seen fit.
- 2.2. In Plymouth, all decisions made under these arrangements have been compliant with the relevant legislation and local processes. Since 2012 all decisions of the executive have been compliant with the provisions of [The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) (the regulations).
- 2.3. The Council is always concerned to engage in decision making on an informed basis. From time to time it will be necessary to consider courses of action that are new and innovative.
- 2.4. Whilst the statutory requirements in relation to executive decision making have not changed, this proposed guidance sets out the governance arrangements that should be considered when making key, innovative and unusual decisions to best ensure openness and transparency.

3. KEY / INNOVATIVE / UNUSUAL DECISIONS

- 3.1. Key decisions, as defined with Part A: 11.4 of the [constitution](#), are subject to regulation which requires that proper notice of decisions is drawn to the attention of the public due to their significance.
- 3.2. Other decisions may also reasonably be expected to benefit from enhanced transparency if they are of an unusual or innovative nature and this can include decisions relating to any aspect of Council business including treasury management.
- 3.3. From a governance perspective it is often preferable that any such decisions are taken in a public meeting where there is an opportunity for members of the public to hear the merits of the decision debate. This is particularly the case for unusual and innovative decisions.
- 3.4. There are well established processes to deal with sensitive and commercially confidential information at public meetings, therefore the inclusion of sensitive information should not be seen as a barrier to public decision making. Decisions which contain sensitive or confidential information can be made in public forum within the guidelines set down in the [Local Government \(Access to Information\) Act 1985](#).
- 3.5. There are also governance advantages in ensuring that key decisions which are unusual and innovative decisions are debated in public rather than being taken by individual members of council or officers as this will bring a wider perspective to the decision being taken.

Recommendations and Reasons

That the Audit and Governance Committee:

1. Endorses the guidance set out at Appendix A.
2. Approves the amendment to Part C: 5.2 of the Constitution as shown in Appendix B.

Reason:

To ensure that before taking any unusual or innovative decisions due consideration is given to certain factors to ensure transparency and openness.

Alternative options considered and rejected

The recommendations of the external auditors Grant Thornton were considered by the Corporate Management Team and following this consideration it was agreed that the recommendation should be accepted and not rejected.

Relevance to the Corporate Plan and/or the Plymouth Plan

The priorities within the Corporate Plan/Plymouth Plan are all supported by the decision making process in order for the Council to achieve outcomes against the priorities. This guidance and amendment to the Constitution supports decision makers to make decisions in a way that promotes transparency and good governance.

Implications for the Medium Term Financial Plan and Resource Implications:

There is no impact directly on the MTFP or resources from the creation of this guidance. However the use of this guidance ensures future decisions are taken with sound governance applied to the process in order for enhanced transparency and consultation

Financial risks:

No implications identified.

Carbon Footprint (Environmental) Implications:

None arising directly from the recommendations of this report, other than the positive impact of enhanced governance of any relevant future key decisions relating to environmental stewardship

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:

** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

Encouraging optimum governance is applied to the decision making process allows maximum opportunity for the implications/issues to be considered more thoroughly on a number of aspects such as health and safety, risk, child poverty and equalities.

Appendices

**Add rows as required to box below*

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
		1	2	3	4	5	6	7
A	Executive Key Decision Governance Route							
B	Constitutional amendment (Part C, 5.2)							

Background papers:

**Add rows as required to box below*

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of any background paper(s)	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
	1	2	3	4	5	6	7

Sign off:

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Originating Senior Leadership Team member: Giles Perritt (Assistant Chief Executive)

Please confirm the Strategic Director(s) has agreed the report? Yes

Date agreed: 25/11/2021

Cabinet Member approval: Councillor John Riley (Cabinet Member for Governance, HR, IT and Community Safety)

Date approved: 25/11/2021

APPENDIX A

EXECUTIVE DECISION GUIDANCE

1. PURPOSE

- 1.1. The framework for decision making within Plymouth City Council is laid out within the [Leader's Scheme of delegation](#). This document provides guidance to decision makers on when to exercise discretion, use the powers delegated to them and identify the most appropriate place to take decisions.

2. TAKING A KEY/UNUSUAL AND INNOVATIVE DECISION

- 2.1. When taking a decision, the decision maker should consider the following points to ensure enhanced openness and transparency:

- Is the decision key / unusual / innovative? (see process map below for criteria)
- Has the decision been published on the forward plan?
- Have all the potential and relevant options and key issues been considered?
- Should the decision be considered by a scrutiny committee before it is taken?
- Have the relevant stakeholders been consulted?
- Have the appropriate communications been put in place to manage the impact of the decision?
- Have all questions raised by stakeholders including external advisors and legal advisors been dealt with satisfactorily?
- Have alternative options been comprehensively considered and rejected?
- Has an equalities impact assessment been completed?

3. KEY DECISIONS

- 3.1. Key decisions can be taken by the Leader or by Cabinet. The flowchart below gives guidance on the circumstances in which it may be more appropriate for Cabinet to take a decision rather than an individual councillor, in order to enhance transparency and openness in the Council's decision making.

4. WHERE TO TAKE AN UNUSUAL AND INNOVATIVE DECISION

- 4.1. Decisions of this nature can be defined as decisions that are:

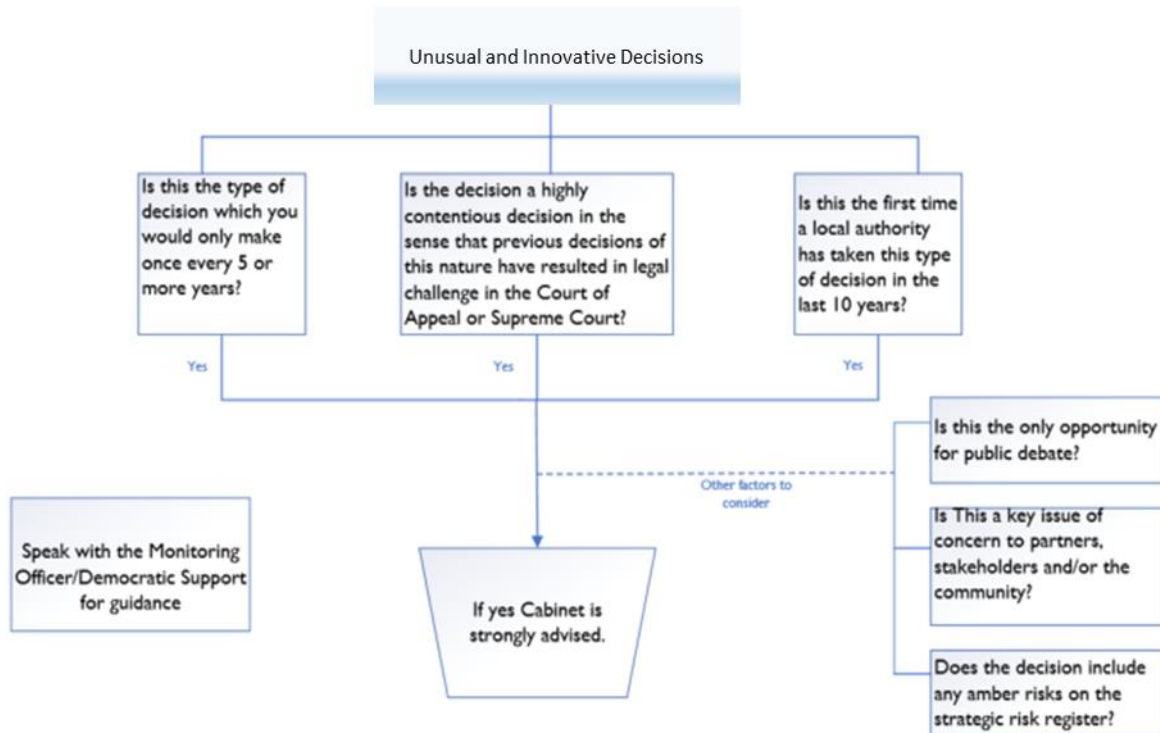
- only taken once every five or more years.
- could be considered highly contentious.
- decision(s) of a type not previously taken by a local authority.

- 4.2. They may not be key decisions, but still represent a significant decision in terms of impact or perception. In this instance the decision may be taken by the Leader, Cabinet, Cabinet Member or an officer, depending on the Scheme of Delegation. The flowchart below gives guidance on

the circumstances in which it may be more appropriate for Cabinet to take a decision rather than an individual.

5. Factors in favour of Cabinet decision making.

- 5.1. If the answer is yes to any of the following questions below then taking the decision within Cabinet is strongly advised.
- 5.2. If the answer is 'no' to all the questions below, the decision maker may exercise discretion and give consideration to other factors which may indicate a Cabinet decision is beneficial.



Note: All executive responsibilities are carried out on behalf of the council and in the council's name are subject to the indemnity scheme for members and officers.

Appendix B – Constitutional Amendment.

5. Cabinet Member Decision Making Procedures

5.1. Only those persons properly appointed to make decisions under the Leader's Scheme of Delegation shall be entitled to exercise these powers.

5.2. A Cabinet Member shall have the discretion not to exercise his or her delegated powers to make a decision, choosing in preference for the matter to be considered by and subject to decision by the full Cabinet or Leader. In deciding whether to exercise this discretion the **Cabinet Member should consider the 'Executive Decision Guidance'**.

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Audit and Governance Committee



Date of meeting:	29 November 2021
Title of Report:	Audit and Governance Terms of Reference Review Working Group Update.
Lead Member:	Councillor John Riley (Cabinet Member for Governance, HR, IT and Community Safety)
Lead Strategic Director	Brendan Arnold (Service Director for Finance)
Author:	Andrew Loton, Head of Governance Performance and Risk
Contact Email:	Andrew.loton@plymouth.gov.uk
Your Reference:	AGWG AL21
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of Report

The Audit Committee was reviewed in 2018 and led to the establishment of the Audit and Governance Committee which combined the audit and finance elements of the then Audit Committee with the member development, governance and constitutional elements of the Constitutional Review Group that existed up until May 2018.

During the last six months the Audit and Governance Committee has recognised that, after a period of two years, it would be appropriate to once again revisit the Terms of Reference for the committee to identify improvements that can be made to the way the committee functions at present.

This report identifies the scope and approach for a working group to consider how improvements could be made to the functioning of the committee to support the panel in having a greater focus and impact on the Council.

Scope of Review

The working group met for an initial discussion on the review of the Audit and Governance Terms of Reference (appendix A) and identified the following themes that will be considered:

- Performance of the Audit and Governance Committee since its last review in 2018.
- Committee positioning within the committee structure of Plymouth City Council.
- Remit and influence of the chair.
- Frequency of meetings.
- Agenda size.
- Panel make up and skills.
- Recruitment and retention of independent members.

Approach

The proposed approach is for a review of the Audit and Governance Committee to be conducted over the next two months to be reported back at an additional Audit and Governance Committee meeting to be set up in January for the purpose of receiving and discussion of recommendations from the working group on their findings. The findings will seek to clarify what is working well, what challenges

are currently faced by the committee in its work and provide recommendations for improvements to the way the committee is delivered. This will include a detailed look at agendas and past meetings, a benchmarking exercise with other Councils to examine different approaches, interviews with past and present members of the committee.

Recommendations and Reasons

Recommendations:

The Committee recommends that:

- **The working group be authorised to proceed with a review of the Terms of Reference and identify ways to optimise the impact of the Audit and Governance Committee.**
- **A meeting of the Audit and Governance Committee be convened in January to review the findings from the working group and to consider the recommendations put forward by the working group.**

Reasons: To enable a working group to continue to consider how improvements could be made to the functioning of the committee to support the panel in having a greater focus and impact on the Council.

Alternative options considered and rejected

The option not to review the Terms of Reference and wider working of the committee has been considered however this would not address certain issues widely accepted with the committee. It would also not allow the necessary exploration of the model to allow changes to be made in the next municipal year.

Relevance to the Corporate Plan and/or the Plymouth Plan

Effective framing and execution of the committees work programme is vital to the delivery of the Plymouth and Corporate Plan by enabling the Council to exercise the scrutiny and challenge of it's governance, finance, risk and audit processes.

Implications for the Medium Term Financial Plan and Resource Implications:

None arising specifically from this report.

Financial risks:

No implications identified.

Carbon Footprint (Environmental) Implications:

None arising specifically from this report

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:

** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

Appendices

*Add rows as required to box below

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
		1	2	3	4	5	6	7
A	Audit and Governance Terms of Reference Review working group update.							

Background papers:

*Add rows as required to box below

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

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	1	2	3	4	5	6	7

Sign off:

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Originating Senior Leadership Team member: Giles Perritt (Assistant Chief Executive)											
Please confirm the Strategic Director(s) has agreed the report? Yes											
Date agreed: 24/11/21											
Cabinet Member approval: Councillor John Riley (Cabinet Member for Governance, HR, IT and Community Safety)											
Date approved: 26/11/21											

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Audit and Governance Committee



Date of meeting:	29 November 2021
Title of Report:	Change to Terms of Reference, Tamar Bridge Torpoint Ferry Joint Committee
Lead Member:	Councillor Jonathan Drean (Cabinet Member for Transport)
Lead Strategic Director:	Anthony Payne (Strategic Director for Place)
Author:	Adrian Trim (Head of Plymouth Highways)
Contact Email:	Adrian.trim@plymouth.gov.uk
Your Reference:	ART16/11/21
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of Report

This report notes proposed recent changes to the Terms of Reference (ToR) regarding the operation of the Tamar Bridge Torpoint Ferry Joint Committee (TBTFJC). The proposed changes were discussed and agreed by the Joint Committee at their meeting of the 01/10/21. This report is tabled for the Committee to ratify these changes as part of the Council's governance process before going to Full Council for approval.

Recommendations and Reasons

The Committee is asked:

To accept the changes to the ToR as agreed by the TBTFJC on the 01/10/21

Reason: this will improve the efficacy and governance of the Joint Committee going forward.

Alternative options considered and rejected

For the Joint Committee to continue operating under the existing ToR. **Rejected** as issues have been identified that have reduced the effectiveness and efficiency of the TBTFJC requiring a review and updating of the ToR to meet current practices and improve the Committee's ability to better manage the Tamar crossings.

Relevance to the Corporate Plan and/or the Plymouth Plan

As a regional centre, Plymouth plays a major role economically, culturally and industrially, providing a focus for the innovation, technology, it is also a desirable location for the quality of life that it offers. The bridge and ferry crossings are vital strategic and local links that enable the Council to progress its ambitious agendas as a world class City.

Implications for the Medium Term Financial Plan and Resource Implications:

TBTF operate on a 'user pays' basis, where all operational and maintenance costs are covered by Tolling, as a consequence there are no financial implications for the Council.

Financial Risks

Financial risks are mitigated through the Democratic process requiring Cabinet and Full Council sign off of annual budget and MTFP spend for TBTF.

Carbon Footprint (Environmental) Implications:

There are no environmental implications regarding this report.

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:

No other implications

Appendices

*Add rows as required to box below

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		1	2	3	4	5	6	7
A	Change to Terms of Reference Tamar Bridge Torpoint Ferry Joint Committee							
B	Equalities Impact Assessment (if applicable)							

Background papers:

*Add rows as required to box below

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	1	2	3	4	5	6	7
Governance report, Tamar Bridge Torpoint Ferry Joint Committee Proposed Terms of Reference changes 01/10/21 https://democracy.cornwall.gov.uk/documents/s149434/final_Appendix_1_Governance_Report_Proposed_TOR_final_dl.pdf							
Draft Minutes – TBTFJC meeting 01/10/21 For enquiries on this agenda please contact (cornwall.gov.uk)							

Sign off:

Fin	djn.2 1.22. 177	Leg	LS/37 676/A C/18/ 11/21	Mon Off		HR		Asset s		Strat Proc	
Originating Senior Leadership Team member: Philip Robinson (Service Director for Street Scene)											
Please confirm the Strategic Director(s) has agreed the report? Yes Date agreed: 18/11/2021											
Cabinet Member approval: Councillor Jonathan Drean (Cabinet Member for Transport) Date approved: 17/11/2021											

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CHANGE TO TERMS OF REFERENCE TAMAR BRIDGE TORPOINT FERRY JOINT COMMITTEE



Appendix A

1.0 Introduction

- 1.1 Tamar Bridge and Torpoint Ferry crossings are jointly managed by Plymouth City Council and Cornwall Council, in accordance with the requirement of the Tamar Bridge Act 1957.
- 1.2 This is delivered by means of a Joint Committee, comprising five councillors from each Authority that meet four times a year to manage the crossings in accordance with the Tamar Bridge Acts 1957, 1979 and 1988 (The Tamar Bridge Acts).
- 1.3 The current Terms of Reference (ToR) that provide Governance for the Joint Committee have been in place since 2010

2.0 The need to update the ToR

- 2.1 TBTF undertook a Peer Challenge Review by the Government Association in December 2018 and one of the findings was the need to update the ToR so that they better fit the needs of the crossings management and operation.
- 2.2 Additionally duplication of processes in PCC and CC and a lack of clarity have been disadvantageous to decision making and Committee efficacy.

3.0 Proposed changes - Functions and Delegations

- 3.1 **Change i)** To make clear that any in year changes to the Business Plan that are within budget and policy framework can be approved by either the relevant Cabinet Member or Cabinet; and any in year changes to the Business Plan that are outside of budget and policy framework can only be approved by the Council.
- 3.2 **Change ii)** The current ToR make no reference to what functions relevant Cabinet Members can discharge. The revised ToR proposed functions are:
 - 3.2.1 To approve in year variations to the business plan if within budget and policy framework.
 - 3.2.2 Endorse in year variations to the business plan if outside of budget and policy framework for consideration by Cabinet.
 - 3.2.3 Approve the acquisitions and disposals of land for the undertaking
 - 3.2.4 Approve items of revenue and capital expenditure.
 - 3.2.5 Approve suspension of tolls on the recommendation of the Joint Committee.
- 3.3 **Change iii)** The previous ToR made no reference on who can approve the suspension of Tolling (a recent example of needing to do so during the pandemic). The revised ToR expressly sets this out and enable the relevant Cabinet Member or Cabinet to make this decision on the recommendation of the Joint Committee.

- 3.4 **Change iv)** The previous ToR was silent on what functions the Joint Committee cannot discharge, the revised ToR set these out for clarity.
- 3.5 **Change v)** To clarify the authority of the relevant Strategic Director for each Constituent Council in respect functions/ decisions in relation to the undertaking as the previous ToR implied that they only have authority for functions / decisions not assigned to others. The revised ToR make it clear that the Strategic Director has authority for function/decisions which may also be assigned to other decision makers in accordance with each constituent Council's Scheme of Delegation.
- 3.6 **Change vi)** Relates to Membership, whereby the updated ToR seeks to ensure the most appropriate link with the Cabinet to the Parent Authorities. The current ToR requires 5 Members from each Parent Authority whereas the new ToR sets out an expectation that the Membership will include a Relevant Cabinet Member from each Parent Authority.
- 3.7 **Change vii)** Relates to applicable procedures to the business of the Joint Committee with the aim of simplifying the governance processes to make clear these procedures. It is clear under the previous ToR that Cornwall Council's procedure rules should apply but silent on how far this should extend. Historically financial procedure rules for the Joint Committee were adopted but in practice, these have not been applied. Previously both Parent Authorities Financial Regulations and Procedure Rules and Contract Procedure Rules are applied which results in duplication. The new ToR applies Cornwall Council's Constitution where the ToR are silent, to include Financial Regulations and Procedure Rules and Contract Procedure Rules.
- 3.8 **Change viii)** Procedure for dispute. The previous ToR had a dispute provision, however it did not reflect the requirement in the Tamar Bridge Act 1957 for the Joint Committee to recognise a situation where the interests of the Constituent Councils are not the same and to refer it up to their constituent Council's. The new ToR reflect the requirements of the Act and the process is set out more clearly.

4.0 Approval Process

- 4.1 The Joint Committee approved the above changes to the Terms of Reference at their meeting of the 1st October 2021. The Draft Minutes of the Joint Committee meeting can be found at [here](#).
- 4.2 The Democratic process for adoption of the ToR requires that the Audit and Governance Committee recommend proposed changes to Full Council.
- 4.3 It is recognised that issues discussed in paragraph 3.7 will be the subject of further council decisions and will be presented to the appropriate body for approval.

**TERMS OF REFERENCE
CORNWALL COUNCIL AND PLYMOUTH CITY COUNCIL
TAMAR BRIDGE AND TORPOINT FERRY JOINT COMMITTEE**

A. Background

- A1.** Cornwall Council and Plymouth City Council (the "Constituent Councils") have agreed that the following arrangements will apply in relation to the Tamar Bridge and Torpoint Ferry (the "Undertaking"). They have also agreed to form a Joint Committee (within the meaning of Section 102 Local Government Act 1972) in accordance with the requirement of the Tamar Bridge Act 1957, whose role is to make sure that the Bridge and Ferry are managed appropriately and in accordance with the Tamar Bridge Acts 1957, 1979 and 1998 (the Tamar Bridge Acts).

B. Responsibility for Functions

B1. General

The functions are those functions for the Undertaking as set out in the Tamar Bridge Acts. Where authority to discharge the function can be discharged by more than one body/individual it is for each Constituent Council to determine the most appropriate route in accordance with the Constituent Council's Constitution and Scheme of Delegation.

B2. The Joint Committee has the authority to:

- (i) propose a strategic and annual business plan and budget to cabinet.
- (ii) monitor performance of the Undertaking against the business plan.
- (iii) recommend in-year variations to the business plan to Cabinet if within (iv) budget and policy framework.
- (v) recommend in-year variations to the business plan if outside of budget (vi) and policy framework to Council via Cabinet.
- (vii) recommend the suspension of tolling to Cabinet or the relevant Cabinet Member unless urgency requires that the decision be taken without such recommendation.
- (viii) monitor performance of the Undertaking to ensure value for money is achieved.
- (xv) ensure the management of the Undertaking accords with proper financial and legal practice applicable to local authorities.
- (x) ensure proper audit and risk management procedures are in place.
- (xi) make sure appropriate inspections of the Undertaking take place.
- (xii) undertake appropriate consultation and engagement with key stakeholders.

B3. The Joint Committee may not discharge the following functions:

- (i) the acquisition, appropriation, leasing or disposal of land.

- (ii) ceasing to demand and take and recover tolls and resuming the demanding, taking and recovery of tolls.
- (iii) financial matters set out in Part VI of the Tamar Bridge Act 1957 such as borrowing, power to create reserve funds, accounts and deficiencies and superannuation.
- (iv) authorise any material alteration in the construction or design of the bridge works.

B4. Each relevant Cabinet Member has the authority to:

- (i) approve acquisitions, appropriation, leasing or disposal of land.
- (ii) approve items of revenue and capital expenditure.
- (iii) approve the suspension of tolls upon the recommendation of the Joint Committee unless urgency requires that the decision be taken without such recommendation in which case such decision will be taken, where practicable, in consultation with the joint Chairmen of the Joint Committee.

B5. Each Cabinet has the authority to:

- (i) recommend the strategic and annual business plans and budget to Council.
- (ii) recommend in-year variations to the business plan if outside of budget and policy framework to Council.
- (iii) approve in-year variations to the business plan if within budget and policy framework.
- (iv) appoint (via the Leader) a Cabinet Member with responsibility, amongst other things, for the Undertaking.
- (v) approve acquisitions and disposals of land.
- (vi) approve items of revenue and capital expenditure.
- (vii) recommend to Council any proposal to cease demanding tolls or to reinstate the demand for tolls should they have been previously ceased, to Council.
- (viii) approve the suspension of tolls upon the recommendation of the Joint Committee unless urgency requires that the decision be taken without such recommendation in which case such decision will be taken, where practicable, in consultation with the joint Chairmen of the Joint Committee.
- (xv) recommend to Council any material alteration in the construction or design of the bridge works.

B6. Each Council has the authority to:

- (i) approve the strategic and annual business plans and budget for the Undertaking.
- (ii) approve any in-year variations to the business plan if outside of budget and policy framework.
- (iii) take decisions to cease demanding tolls or to reinstate the demand for tolls should they have been previously ceased.
- (iv) approve any material alteration in the construction or design of the bridge works.

B7. The relevant Strategic Director has the authority to:

(i) discharge functions and to make decisions relating to the Undertaking in accordance with the relevant Constituent Council's Constitution and Scheme of Delegation. This includes the virement of funds between the budget heads of the Undertaking. The relevant Strategic Director can onward delegate these functions where appropriate.

C. Committee Procedures**C1. Membership**

(i) The Joint Committee shall consist of ten members. Each Constituent Council shall appoint five Members to act as Members of the Joint Committee there is an expectation that this will include the relevant Cabinet Member. Each Constituent Council shall have the power to appoint substitutes with full powers of their principals, (including the power to vote) to sit in place of the Members when any of those Members are unable to attend a meeting of the Joint Committee.

C2. Support

(i) The Chief Executives of the Constituent Councils have agreed that democratic support shall be provided by Cornwall Council.

C3. Appointment of Chair

(i) In the first meeting of the municipal year the Members of the Joint Committee shall appoint two Joint Chairs, one from each Constituent Council, and the first meeting will be chaired by the Joint Chair from Plymouth City Council following which at every subsequent meeting the Joint Chairs will alternate.

(ii) If either Joint Chair is not present at a meeting he or she should be chairing, his or her place will be taken by the other Joint Chair. If neither Joint Chair is present the members of the Joint Committee who are present shall appoint one of their number to chair the meeting.

(iii) The Joint Committee shall have the power to appoint co-opted Members to the Joint Committee provided that such persons shall be treated as non-voting members of the Joint Committee.

C4 Meetings of the Joint Committee

(i) The Joint Committee shall not meet less than twice in each municipal year.

(ii) Members, including co-opted Members of the Joint Committee, shall be given not less than five clear working days notice of a meeting of the Joint Committee and the venue for that meeting. It shall be the responsibility of Members wishing to appoint substitutes for a meeting to notify those substitutes of the date, venue and purpose of the meeting. It shall not be

an invalid notice if the substitute is given less than five clear working days notice.

(iii) The venue for meetings of the Joint Committee shall normally alternate between a venue in Cornwall and Plymouth but the presiding Chair may at his/her discretion fix alternative venues provided that in exercising this discretion the presiding Chair shall have regard to the need to ensure that the venue is convenient to all Members.

C5. Quorum

(i) The quorum for any meeting of the Joint Committee shall be two Members from each Constituent Council or their substitutes.

C6. Minutes

(i) The minutes of the business transacted at each meeting of the Joint Committee and the names of the Members present shall be prepared by the democratic support to the Joint Committee. Once the minutes are agreed by the Joint Committee at the next meeting as an accurate record they will be signed by the presiding Chair of the Joint Committee and each page shall be initialled by the presiding Chair of the Joint Committee.

C7. Motions

(i) Any motion moved by the Chair or any Member or substitute of a Member of the Joint Committee shall require to be seconded by another Member of the Joint Committee before such a motion is put to the vote.

C8. Applicable Procedures

(i) Any procedural requirements not specified in these Terms of Reference shall be undertaken in accordance with Cornwall Council's procedural rules as set out in its Constitution.

C9. Public Questions

(i) The procedure for public questions is set out at Annex A.

C10. Voting at the Meeting

(i) Voting shall be upon a show of hands unless a majority of the Members of the Joint Committee who are present and entitled to vote request that a recorded vote be taken.

(ii) In the case of an equality of votes the presiding Chair of the Committee shall have a second or casting vote.

C11. Disorderly Conduct by Members

(i) If a Member keeps on disrupting the meeting by persistently disregarding the ruling of the Chair or by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Joint Committee,

the Chair may order the Member to leave the meeting room for the remainder of the Joint Committee's business for that meeting.

C12. Disclosure of Interests

(i) The Members' Code of Conduct of each Constituent Council shall apply to the respective Members at all meetings of the Joint Committee.

(ii) All Members of the Joint Committee shall declare any interest they have in any business of the Joint Committee at the start of the item of business or when they realise they have an interest if that is later. They must say they have an interest and what the interest is unless they do not know they have the interest and could not be expected to know about it, or they cannot describe the interest without revealing sensitive information in which case they need to say they have an interest but they do not need to describe it.

(iii) Once a Member has declared a personal interest they can stay in the meeting and speak and vote unless the personal interest is also a prejudicial interest in which case they must leave the meeting while the item is dealt with.

(iv) Disclosures, withdrawals and dispensations shall be recorded in the minutes of the meeting.

C13. Dispute Resolution

(i) **General** – where any dispute arises in relation to the respective interests of the Constituent Councils, including where their interests are not identical, the Joint Committee will in the first instance endeavour to seek resolution through the informal process articulated below, reverting to the formal process only where the informal process has been unsuccessful, and without prejudice to the provisions of section 70(4) of the Tamar Bridge Act 1957. The Joint Committee will endeavour to agree by consensus whether in relation to any particular issue the interests of the Constituent Councils are not identical but a memorandum in writing signed by a majority of the Members of the Joint Committee representing either of the Constituent Councils will be conclusive as to whether those interests are identical or not.

(ii) **Informal Process** – Where the Constituent Councils' interests are not identical and there is a possibility of a dispute arising, the relevant Cabinet Member and relevant Strategic Director from each Constituent Council will discuss the issue with their counterparts for informal resolution. If necessary, the matter may be escalated to the Leaders and Chief Executives of both Constituent Councils for informal resolution. Where the matter cannot be informally resolved the formal process set out below should be followed.

(iii) **Formal Process** – If after following the informal process set out above, where at a meeting of the Joint Committee a question arises on a

matter in which the interests of the Constituent Councils are not identical, the majority of Members of the Joint Committee from either of the Constituent Councils shall make a formal written request, signed by them and presented to the chairman of the meeting, that the question be put to the Constituent Councils for determination. Such written request may also be subscribed to by additional Members of the Joint Committee, provided that the preceding minimum subscription is achieved. Upon such written request being presented the question shall be referred to the Constituent Councils for determination through their appropriate decision making process, according to the nature of the question. If the Constituent Councils are unable to agree on the resolution of the question, and once every effort has been made to reconcile the disagreement, the matter shall be referred for mediation and/or arbitration to be agreed by the Constituent Councils. The Constituent Councils shall bear the costs of mediation and/or arbitration equally, each bearing their own costs of representation and participation.

C14. Revenue and Capital Expenditure

(i) Revenue and Capital Expenditure incurred by the Joint Committee shall be defrayed and income shared by the Constituent Councils in equal portions.

C15. Delegation to Working Groups and officers

(i) The Joint Committee shall have the power to form working parties or other such groups as it may decide to provide advice and recommendations to it or to an officer. It may also form sub-committees and may delegate to such sub-committees such of its powers as it chooses. The Joint Committee may also delegate such of its powers as it chooses to an officer of either of the Constituent Councils.

Adopted

Cornwall Council: [date] 2021

Plymouth City Council: [date] 2021

Annex A

Procedure for Public Questions (as approved by the Joint Committee on 15 June 2012)

1. Subject to the rules set out in Cornwall Council's Constitution, members of the public may ask questions at meetings of the Tamar Bridge and Torpoint Ferry Joint Committee.
2. A person wishing to ask a question must submit the question in writing. All questions must be received by email to tamarbridge@cornwall.gov.uk, by no later than midday, 3 clear working days before the meeting of the Joint Committee at which it is to be asked. The person's name and address must be included in the question.
3. All questions put shall relate to Tamar Bridge and Torpoint Ferry Joint Committee business, shall not exceed 50 words in length and shall be so framed as to elicit information rather than make a statement.
4. No member of the public may submit more than 1 question to any 1 meeting or more than 2 questions in any 1 financial year.
5. Questions shall be printed and asked in order of receipt and circulated to the members of the Joint Committee prior to the meeting.
6. The Chairman will invite the questioner to put the question to the meeting. If the questioner is unable to be present, the Chairman will put the question and a written response will be provided to the questioner.
7. In instances where a similar question is received from more than one person, a spokesperson should be nominated to ask the question at the meeting; if a spokesperson cannot be agreed then preference will be given to the first registered questioner.
8. A questioner who has put a question may, at the discretion of the Chairman, put one supplementary question on the same topic without notice to the Joint Committee.
9. The Chairman reserves the right to terminate any question if he/she considers the speaker is becoming abusive or disruptive.
10. No discussion shall be allowed on questions or answers.
11. The period for questions shall be restricted to a maximum of 15 minutes, provided that where a question to which an answer is to be given is not reached within the time limit, a written answer shall be given to the

questioner within 7 working days of the meeting and circulated to all Members of the Joint Committee.

12. The relevant Strategic Director or their nominated representative, in consultation with the joint Chairmen and Monitoring Officer, are authorised to reject a question prior to the meeting from the public if:-

- i) it is not a matter for which the Tamar Bridge and Torpoint Ferry Joint Committee has responsibility;
- ii) it is unsuitable in form, frivolous, defamatory, derogatory or otherwise offensive;
- iii) it is substantially the same as a question put to a meeting of the Joint Committee in the past 6 months;
- iv) it relates to a matter which the Joint Committee would be likely to consider in the absence of the Press and public and answering it would require the disclosure of confidential or exempt information. In instances where a question is rejected, the questioner will be informed in writing of the reason(s) in accordance with categories (i) – (iv) above.

**TERMS OF REFERENCE
CORNWALL COUNCIL AND PLYMOUTH CITY COUNCIL
TAMAR BRIDGE AND TORPOINT FERRY JOINT COMMITTEE**

A. Background

A1. Cornwall Council and Plymouth City Council (the "Constituent Councils") have agreed that the following arrangements will apply in relation to the Tamar Bridge and Torpoint Ferry (the "Undertaking"). They have also agreed to form a Joint Committee (within the meaning of Section 102 Local Government Act 1972) in accordance with the requirement of the Tamar Bridge Act 1957, whose role is to make sure that the Bridge and Ferry are managed appropriately and in accordance with the Tamar Bridge Acts 1957, 1979 and 1998 (the Tamar Bridge Acts).

B. Responsibilityies for Functions

B1. General

The functions are those functions joint responsibilities for the UndertakingTamar Bridge and Torpoint Ferry as set out in the Tamar Bridge Acts. Where authority to discharge the function can be discharged by more than one body/individual it is for each Constituent Council to determine the most appropriate route in accordance with the Constituent Council's Constitution and Scheme of Delegation.

Who carries out the responsibilities:-

B2.4 The Joint Committee has the authority to:

- propose a strategic and annual business plan and budget to cabinet.
- monitor performance of the Undertaking against the business plan.
- recommend in-year variations to the business plan to Cabinet if within budget and policy framework.
- recommend in-year variations to the business plan if outside of budget and policy framework to Council via Cabinet.
- recommend the suspension of tolling to Cabinet or the relevant Cabinet Member unless urgency requires that the decision be taken without such recommendation.
- monitor performance of the Undertaking to ensure value for money is achieved.

- ensure the management of the Undertaking accords with proper financial and legal practice applicable to local authorities.
- ensure proper audit and risk management procedures are in place.
- make sure appropriate inspections of the Undertaking take place.
- undertake appropriate consultation and engagement with key stakeholders.

B3. The Joint Committee may not discharge the following functions:

- the acquisition, appropriation, leasing or disposal of land.
- ceasing to demand and take and recover tolls and resuming the demanding, taking and recovery of tolls.
- financial matters set out in Part VI of the Tamar Bridge Act 1957 such as borrowing, power to create reserve funds, accounts and deficiencies and superannuation.
- authorise any material alteration in the construction or design of the bridge works.

B4. Each relevant Cabinet Member has the authority to:

- approve acquisitions, appropriation, leasing or disposal of land.
- approve items of revenue and capital expenditure.
- approve the suspension of tolls upon the recommendation of the Joint Committee unless urgency requires that the decision be taken without such recommendation in which case such decision will be taken, where practicable, in consultation with the joint Chairmen of the Joint Committee.

B5. Each Cabinet has the authority to:

- recommend the strategic and annual business plans and budget to Council.
- recommend in-year variations to the business plan if outside of budget and policy framework to Council.
- approve in-year variations to the business plan if within budget and policy framework.
- appoint (via the Leader) a Cabinet Member with responsibility, amongst other things, for the Undertaking.
- approve acquisitions and disposals of land.
- approve items of revenue and capital expenditure.
- recommend to Council any proposal to cease demanding tolls or to reinstate the demand for tolls should they have been previously ceased, to Council.
- approve the suspension of tolls upon the recommendation of the Joint Committee unless urgency requires that the decision be taken without such recommendation in which case such decision will be taken, where practicable, in consultation with the joint Chairmen of the Joint Committee.

- recommend to Council any material alteration in the construction or design of the bridge works.

B6. Each Council has the authority to will:

- approve~~agree~~ the strategic and annual business plans and annual budget for the Undertaking Tamar Bridge and Torpoint Ferry.
- approve~~agree~~ any in-year variations to the business plan if outside of budget and policy framework~~extra spending outside the budget.~~
- take decisions to ~~cease~~stop demanding tolls or to reinstate the demand for tolls should they have been previously ceased.
- approve any material alteration in the construction or design of the bridge works.

B2 Each Cabinet will:

- recommend the strategic and annual business plan and budget to Council as part of the budget process;
- recommend in-year variations to the business plan if outside of budget and policy framework for consideration by Council; extra spending outside the agreed budget to Council;
- approve in-year variations to the business plan if within budget and policy framework.
- appoint (via the Leader) a Cabinet Member with responsibility, amongst other things, for the Tamar Bridge and Torpoint Ferry.
- approve~~take any decisions about the~~ acquisitions and /disposals of land for the undertaking.
- Approve major items of revenue and capital expenditure (as defined by the authorities from time to time) as part of the capital programme in Plymouth and in Cornwall

Note 1: On researching members' concerns regarding the clarity of this provision (regarding the financial limits for Cabinet decisions) with Plymouth and Cornwall Legal Officers, this provision is deleted as unnecessary. Spending within approved budgets will be authorised in accordance with the authorities' schemes of delegations. Spending outside approved budgets and virement rules will be dealt with as set out in this paragraph. Guidance will be provided to the operational staff as to the requirements for publication of key decisions.

- make any recommendations to Council on the issue of any proposal to stop demanding tolls or to reinstate the demand for tolls should they have been previously ceased, to Council.
- approve the suspension of tolls upon the recommendation of the Joint Committee unless urgency requires that the decision be taken without such recommendation in which case such decision will be taken, where practicable, in consultation with the Chair and Vice Chair or the Joint Committee.

Commented [LM1]: Members. The sections highlighted in yellow have been moved to B2 – B4 above as the feedback from the Workshop was that the functions of the Joint Committee should be set out first, followed by Cabinet and then Council. I have left the highlighted text in just so that you can still see any tracked changes in the text from the current terms of reference to the proposed terms of reference.

B4 The Joint Committee will:

- propose a strategic and annual business plan and budget to cabinet;
- monitor performance of the Undertaking against the business plan;
- ~~r-and~~ recommend in-year variations to the business plan to the Cabinet or relevant Cabinet Members if within budget and policy framework;
- recommend in-year variations to the business plan to the Cabinet or relevant Cabinet Member which is outside of budget and policy framework.
- recommend the suspension of tolling to the Cabinet or relevant Cabinet Member unless urgency requires that the decision be taken without such recommendation.
- monitor performance of the Undertaking to ensure value for money is achieved;
- ensure the management of the Undertaking Bridge and Ferry accords with proper financial and legal practice applicabl~~er~~appropriate to local authorities;
- ensure proper audit and risk management procedures are in place;
- ~~m~~Make sure an appropriate inspection of the Undertaking Bridge and Ferry takes place on an annual basis;
- ~~u~~Undertake appropriate consultation and engagement with key stakeholders.

The Joint Committee may not discharge the following functions:

- the acquisition, appropriation, leasing or disposal of land.
- ceasing to demand and take and recover tolls and resuming the demanding, taking and recovery of tolls.
- financial matters set out in Part VI of the Tamar Bridge Act 1957 such as borrowing, power to create reserve funds, accounts and deficiencies and superannuation.
- authorise any material alteration in the construction or design of the bridge works.

B7.4 The relevant Strategic Director has the authority to: Director for Development and Regeneration in Plymouth and the Director for Environment Planning and Economy in Cornwall have

- discharge functions and to make decisions relating to the Undertaking in accordance with the responsibility for ensuring that all other functions are relevant Constituent Council's Constitution and Scheme of Delegation. This includes the virement of funds between

the budget heads of the Undertaking undertaken. The relevant Strategic Director can onward delegate these functions where appropriate.

C. Committee Procedures

C1. Membership

- 1.1 The Joint Committee shall consist of ten members. Each Constituent Council shall appoint five ~~of their respective~~ Members to act as Members of the Joint Committee there is an expectation that this will include the relevant Cabinet Member. Each Constituent Council and shall ~~also~~ have the power to appoint substitutes with full powers of their principals, (including the power to vote) to sit in place of the Members when any of those Members are unable to attend a meeting of the Joint Committee.

C2. Support

- 1.2 The Chief Executives of the Constituent Councils have agreed that ~~d~~Democratic ~~s~~support shall be provided by Cornwall Council.

C3.—Appointment of Chair

- 1.3 In the first meeting of the municipal year ~~(as referred to in Clause 3(a))~~ the Members of the Joint Committee shall appoint two Joint Chairs, one from each Constituent Council, and the first meeting will be chaired by the Joint Chair from Plymouth City Council following which at every subsequent meeting the Joint Chairs will alternate.

- ~~2.1.4~~ If either Joint Chair is not present at a meeting he or she should be chairing, his or her place will be taken by the other Joint Chair. If neither Joint Chair is present the members of the Joint Committee who are present shall appoint one of their number to chair the meeting.

- ~~3.1.5~~ The Joint Committee shall have the power to appoint co-opted Members to the Joint Committee provided that such persons shall be treated as non-voting members of the Joint Committee ~~in accordance with Section 13 of the Local Government and Housing Act 1989.~~

C4. Meetings of the Joint Committee

- ~~2.1.~~ The Joint Committee shall not meet less than twice in each municipal year ~~commencing May of one year and ending in April of the next.~~
- 2.2 Members, including co-opted Members of the Joint Committee, shall be given not less than ~~at~~ five clear working days notice of a meeting of the Joint Committee and the venue for that meeting. It shall be the

responsibility of Members wishing to appoint substitutes for a meeting to notify those substitutes of the date, ~~and~~ venue and purpose of the meeting. ~~and for the purpose~~ It shall not be an invalid notice if the substitute is given less than five clear working days notice.

- 2.3. The venue for meetings of the Joint Committee shall normally alternate between a venue in Cornwall ~~(Liskeard)~~ and Plymouth but the presiding Chair may at his/her discretion fix alternative venues provided that in exercising this discretion the presiding Chair shall have regard to the need to ensure that the venue is convenient to all Members.

C5. Quorum

- 2.1.4 The quorum for any meeting of the Joint Committee shall be two Members from each Constituent Council or their substitutes.

C6. Minutes

- 1.2.5 ~~The minutes of the business transacted at each meeting of the Joint Committee and the names of the Members present shall be prepared by the democratic support to the Joint Committee. Once the minutes are agreed by the Joint Committee at the next meeting as an accurate record they will be entered in a book and signed by the presiding Chair of the Joint Committee and each page shall be initialled by the presiding Chair of the Joint Committee. and each page of the minutes shall be initialled by the Chair at the next meeting.~~

C7.2.6 Motions

1. Any motion moved by the Chair or any Member or substitute of a Member of the Joint Committee shall require to be seconded by another Member of the Joint Committee before such a motion is put to the vote.

C8. Applicable Procedures

- 1.2.6 Any procedural requirements not specified in these Terms of Reference ~~standing orders~~ shall be undertaken in accordance with Cornwall Council's procedural rules as set out in its Constitution.

C9. Public Questions

1. The procedure for public questions is set out at Annex A.

C10.3 Voting at the Meeting

- 3.1. Voting shall be upon a show of hands unless a majority of the Members of the Joint Committee who are present and entitled to vote request that a recorded vote be taken.

3-2. In the case of an equality of votes the presiding Chair of the Committee shall have a second or casting vote.

C11.4 Disorderly Conduct by Members

1. If a Member keeps on disrupting the meeting by persistently disregarding the ruling of the Chair or by behaving irregularly, improperly or offensively or by wilfully obstructing the business of the Joint Committee, the Chair may order the Member to leave the meeting room for the remainder of the Joint Committee's business for that meeting day.

C12.5 Disclosure of Interests

5-1. ~~The Members' Code of Conduct of each Constituent Council for Councillors (as amended from time to time by legislation) shall apply to the respective Members at~~ all meetings of the Joint Committee.

5-2. All ~~M~~members of the Joint Committee shall declare any interest they have in any business of the Joint Committee at the start of the item of business or when they realise they have an interest if that is later. They must say they have an interest and what the interest is unless they do not know they have the interest and could not be expected to know about it ~~or~~ they cannot describe the interest without revealing sensitive information in which case they need to say they have an interest but they do not need to describe it.

5-3. Once a ~~M~~member has declared a personal interest they can stay in the meeting and speak and vote unless the personal interest is also a prejudicial interest in which case they must leave the meeting while the item is dealt with.

5-4. ~~Disclosures, withdrawals and dispensations shall be recorded in the minutes of the meeting.~~

C6 Referral of Business to Constituent Councils

~~6.1 Where the Chief Executive of either Council considers any matters arising should be referred to the Cabinet of his/her Constituent Council no action shall be taken on that matter unless and until the same shall have been approved by the Cabinet of each Constituent Council.~~

C13.7 Dispute Resolutions

7-1. General – where any dispute arises in relation to the respective interests of the Constituent Councils, including where their interests are not identical, the Joint Committee will in the first instance endeavour to seek resolution through the informal process articulated below, reverting to the formal process only where the informal process has been unsuccessful, and without prejudice to the provisions of section 70(4) of the Tamar Bridge Act 1957. The Joint

Committee will endeavour to agree by consensus whether in relation to any particular issue the interests of the Constituent Councils are not identical but a memorandum in writing signed by a majority of the Members of the Joint Committee representing either of the Constituent Councils will be conclusive as to whether those interests are identical or not.

2. **Informal Process** – Where the Constituent Councils’ interests are not identical and there is a possibility of a dispute arising, the relevant Cabinet Member and relevant Strategic Director from each Constituent Council will discuss the issue with their counterparts for informal resolution. If necessary, the matter may be escalated to the Leaders and Chief Executives of both Constituent Councils for informal resolution. Where the matter cannot be informally resolved the formal process set out below should be followed.
3. **Formal Process** – If after following the informal process set out above, where at a meeting of the Joint Committee a question arises on a matter in which the interests of the Constituent Councils are not identical, the majority of Members of the Joint Committee from either of the Constituent Councils shall make a formal written request, signed by them and presented to the chairman of the meeting, that the question be put to the Constituent Councils for determination. Such written request may also be subscribed to by additional Members of the Joint Committee, provided that the preceding minimum subscription is achieved. Upon such written request being presented the question shall be referred to the Constituent Councils for determination through their appropriate decision making process, according to the nature of the question. If the Constituent Councils are unable to agree on the resolution of the question, and once every effort has been made to reconcile the disagreement, the matter shall be referred for mediation and/or arbitration to be agreed by the Constituent Councils. The Constituent Councils shall bear the costs of mediation and/or arbitration equally, each bearing their own costs of representation and participation.

Where the Constituent Councils do not agree on a matter, once every effort has been made to reconcile any differences between the authorities, the matter may be referred for mediation to a mediator to be agreed by the Constituent Councils, with each party bearing the cost of doing so.

C14.8 Revenue and Capital Expenditure

- 8.1 Revenue and Capital Budgets for each financial year shall be such as shall be agreed by each Constituent Council through the usual budget setting process. The Joint Committee will propose a business plan and budget to Cabinet. If both Cabinets approve the business plan they will in turn recommend the budget to Council. Any variations to the business plan within the year that would result in

~~extra spending need to be reported to each of the relevant Cabinet Members, who will decide whether to recommend that Cabinet approve the changes and recommend that each of the Constituent Councils approve the additional spending. The Business Plan shall be available by 31 October in order to feed into the budget setting process.~~

~~1.8.2~~ Revenue and Capital Expenditure incurred by the Joint Committee shall be defrayed and income shared by the Constituent Councils in equal portions.

C159. Delegation to Working Groups and officers

~~1.~~ The Joint Committee shall have the power to form working parties or other such groups as it may decide to provide advice and recommendations to it or to an officer. It may also form sub-committees and may delegate to such sub-committees ~~working parties etc.~~ such of its powers as it chooses. The Joint Committee may also delegate such of its powers as it chooses to an officer of either of the Constituent Councils.

Adopted

Cornwall Council: [date] 20~~21~~¹⁰

Plymouth City Council: [date] 20~~21~~¹⁰

Annex A

Procedure for Public Questions (as approved by the Joint Committee on 15 June 2012)

1. Subject to the rules set out in Cornwall Council's Constitution, members of the public may ask questions at meetings of the Tamar Bridge and Torpoint Ferry Joint Committee.

2. A person wishing to ask a question must submit the question in writing. All questions must be received by email to tamarbridge@cornwall.gov.uk, by no later than midday, 3 clear working days before the meeting of the Joint Committee at which it is to be asked. The person's name and address must be included in the question.

3. All questions put shall relate to Tamar Bridge and Torpoint Ferry Joint Committee business, shall not exceed 50 words in length and shall be so framed as to elicit information rather than make a statement.

4. No member of the public may submit more than 1 question to any 1 meeting or more than 2 questions in any 1 financial year.

5. Questions shall be printed and asked in order of receipt and circulated to the members of the Joint Committee prior to the meeting.

6. The Chairman will invite the questioner to put the question to the meeting. If the questioner is unable to be present, the Chairman will put the question and a written response will be provided to the questioner.

7. In instances where a similar question is received from more than one person, a spokesperson should be nominated to ask the question at the meeting; if a spokesperson cannot be agreed then preference will be given to the first registered questioner.

8. A questioner who has put a question may, at the discretion of the Chairman, put one supplementary question on the same topic without notice to the Joint Committee.

9. The Chairman reserves the right to terminate any question if he/she considers the speaker is becoming abusive or disruptive.

10. No discussion shall be allowed on questions or answers.

11. The period for questions shall be restricted to a maximum of 15 minutes, provided that where a question to which an answer is to be given is not reached within the time limit, a written answer shall be given to the

Commented [LM2]: Members please note that the only changes I have made to this procedure is to update it in respect of current addresses and current postholder titles and removed the text in 12 below shown as strikethrough.

questioner within 7 working days of the meeting and circulated to all Members of the Joint Committee.

12. The relevant Strategic Director or their nominated representative, in consultation with the joint Chairmen and Monitoring Officer, are authorised to reject a question prior to the meeting from the public if:-

- i) it is not a matter for which the Tamar Bridge and Torpoint Ferry Joint Committee has responsibility or affects the Joint Committee;
- ii) it is unsuitable in form, frivolous, defamatory, derogatory or otherwise offensive;
- iii) it is substantially the same as a question put to a meeting of the Joint Committee in the past 6 months;
- iv) it relates to a matter which the Joint Committee would be likely to consider in the absence of the Press and public and answering it would require the disclosure of confidential or exempt information. In instances where a question is rejected, the questioner will be informed in writing of the reason(s) in accordance with categories (i) – (iv) above.

Powers to operate the Tamar Bridge and Torpoint Ferry

The framework for the Joint Committee is set out in the Tamar Bridge Act 1957 (as amended by the 1979 Act and 1998 Acts) —altogether referred to as the Acts. This paper is intended as a guide to the statutory powers only and is not intended to be definitive legal advice.

- 1.—The powers set out in this paper are the principal powers that the Joint Authorities have, as set out in the Acts. These powers are then delegated by the Joint Authorities to the Joint Committee. In any specific case however, reference must be made back to the legislation to ensure proper application of the powers.
- 2.—The formation of a Joint Committee is required by the Acts (section 70 1957 Act) and it is a committee of Plymouth City Council and Cornwall Council (the Joint Authorities). The key role of the Joint Committee is to oversee the operational activities and to undertake a strategic planning role.
- 3.—All matters set out within the Acts are to be referred by the Joint Authorities to the Joint Committee for consideration, except where specifically excluded by the Acts (see below). This means that the Joint Authorities must not determine any matter which is contained in the Act before it has been considered by the Joint Committee.
- 4.—The Act then goes on to delegate the Joint Authorities' powers under the Acts to the Joint Committee. This means that not only are the Joint Committee to be consulted, but they can make decisions on the

~~matters contained within the Acts on behalf of the Joint Authorities. The Joint Committee does not appear to have any additional powers delegated through either parent council's constitution at the date of this paper.~~

- ~~5.—The delegation of powers to the Joint Committee is subject to exceptions specified in the Acts.~~
- ~~6.—The exceptions are those issues that relate to:~~
- ~~6.1.—the acquisition/disposal of land;~~
 - ~~6.2.—a decision to stop demanding tolls or to reinstate the demand for tolls should they have been previously ceased and finally;~~
 - ~~6.3.—issues relating to the finances of the undertaking.~~
- ~~7.—In relation to 6.3 above i.e. finances, the Acts covered in the section headed finances includes:~~
- ~~7.1.—the application of monies in the renewal, extension and improvement of works and conveniences for the purposes of the undertaking;~~
 - ~~7.2.—the provision of funds for working capital or the provision of funds under Schedule 13 of the 1972 Local Government Act (this schedule largely repealed so requires clarification).~~
- ~~8.—7.1 above would indicate that the Joint Authorities must approve the expenditure of monies for works on the bridge and related structures and 7.2. indicates that monies to be used for working capital must be similarly approved.~~

Operational Functions

~~The key role of the Joint Committee on behalf of the Councils is ensuring that the operation of the bridge and ferry is in accordance with the powers and to be responsible for the oversight of operations and the strategic planning responsibilities. The Tamar Bridge Acts also set out a number of powers which are essentially operational functions, i.e. they assist in the operation (and construction) of the Bridge and Ferry. These were intended to supplement the powers available to the Joint Authorities at the time. These are in the main undertaken by the General Manager of these operations under delegated authority from the appropriate Directors, rather than the Joint Committee taking on a more operational role.~~

Lands:

- ~~9.—The Joint Authorities may provide and manage car parks and other facilities for travellers using the bridge or ferry and may make a reasonable charge for using these facilities.~~

~~10. The Joint Authorities may use land that is part of the undertaking for schemes of traffic management in relation to the use of the bridge and the ferry.~~

~~11. The Joint Authorities may purchase land (as noted, this is not within the remit of the Joint Committee).~~

~~Works:~~

~~12. The Joint Authorities may go on to adjoining land to undertake bridge works provided compensation is paid for any damage done to those lands.~~

~~13. The Joint Authorities may undertake subsidiary works in the river connected to the use of or maintenance of the bridge subject to certain conditions.~~

~~14. The Joint Authorities may lay out the bridge, carriage way and foot ways as they think proper.~~

~~15. The Joint Authorities have the power to maintain the undertaking.~~

~~16. The Joint Authorities may close the bridge (either fully or partially) and use boats/barges to convey persons and animals!~~

~~17. The Joint Authorities may sell materials obtained but not required as a result of construction of the bridge e.g. excavated materials.~~

~~18. The Joint Authorities may demand, take and recover tolls in one or both directions and there is flexibility about the toll collection e.g. to not collect tolls at certain times of day. The flexibility around toll collection must be differentiated from the decision to cease to demand tolls, which only the Joint Authorities may do. The Acts also make provision for toll booths/houses, and the use of tickets instead of cash tolls. Of note is that should the Joint Authorities decide to cease demanding tolls the bridge becomes a highway maintainable at public expense and would therefore fall to the authorities to fund directly.~~

Ferries

~~19. The Joint Authorities may make byelaws for regulating the use of vessels, boats, buildings etc particularly in relation to uses behaviour and in order to limit nuisance. There are byelaws in place currently dating back to 1965. It is believed these remain in force. Any other general provisions relating to tolls and the ferries are dealt with in the~~

remainder of the legislation as they apply equally to the ferries as the bridge.

Finance

20. As noted above at paragraph 6.3, it is not within the Joint Committee's remit to be responsible for finances as defined in the Acts. The only notable exception is for any function to be exercised in relation to pensions under the Local Government Pension Scheme Regulation. The 1957 Act confirms that Cornwall Council is the administering authority of the pension fund and that for the purposes of the pensions regulations, the employers are deemed to be the Joint Authorities acting through the Joint Committee. This is because there are functions which may need to be undertaken by the Joint Authorities from time to time in relation to employees' pensions. If this should become necessary for the "employees of the undertaking", it is for the Joint Committee to fulfil that role. Further the legislation clarifies that the "employee of the undertaking" reference made at Section 63 is defined as being a person employed for the purposes of the undertaking rather than to imply that the Joint Committee has the ability to be an employer.

Protection of Provisions

21. Part 7 of the Tamar Bridge Act 1957 sets out the savings and protections for the Duchy of Cornwall and statutory undertakers (water, electricity, gas, sewage etc). These have been updated by the 1998 legislation but essentially the protective provisions remain in force and deal with the relationship between the operation of the undertaking and the respective rights of those statutory undertakers.

Miscellaneous Provisions

22. Part 8 of the Act contains Section 70 and the power to appoint the Joint Committee and sets out its composition i.e. 5 plus 5 from each authority. It also deals with how disagreements between the Joint Authorities are to be dealt with, as well as issues of vacancies and quorum.

23. The 1998 Act effectively sets out the powers to make the alteration to the bridge including acquisition of land the carrying out of works and so on. Additional provisions of note are that the 1998 Act provides that monies received from tolls may be applied for additional purposes. Such a decision would require a separate resolution by each authority. The money may be used for securing passenger transport in the district (Caradon District Council area as was) or the

~~city and may include a contribution to such a scheme being put in place by Cornwall Council, Devon County Council or Plymouth City Council. The reference to Caradon District Council is no longer applicable but it may be that transport initiatives within the old area would be an acceptable interpretation of this.~~

~~24. The 1998 Act also substitutes a number of clauses from the 1957 Act relating to works, tides, etc.~~

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