

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.