



Oversight and Governance

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AUDIT AND GOVERNANCE COMMITTEE

To Follow

Monday 16 January 2023
2.00 pm
Warspite Room, Council House

Members:

Councillor Luggier, Chair
Councillor Lowry, Vice Chair
Councillors Evans OBE and Tofan.

Independent Members: Mr Shipperley and Mrs Annette Benny.

Please find enclosed additional information for your consideration under agenda item numbers 7 and 8.

Tracey Lee

Chief Executive

Audit and Governance Committee

- 7. Mid-Term Treasury Management Report 2022/23: (Pages 1 - 16)**
- 8. Disclosure and Barring Checks for Councillors - Policy: (Pages 17 - 26)**

Audit and Governance Committee



Date of meeting:	16 January 2023
Title of Report:	Treasury Management Mid Year Report 2022/23
Lead Member:	Councillor Mark Shayer (Deputy Leader)
Lead Strategic Director:	David Northey (Interim Service Director for Finance)
Author:	Wendy Eldridge, Lead Accountancy Manager for Capital and Treasury Management
Contact Email:	Wendy.eldridge@plymouth.gov.uk
Your Reference:	Finance/WE/TMMY 22-23
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of Report

The Local Government Act 2003 requires the Council to set out its Treasury Strategy for borrowing and to prepare an Annual Investment Strategy. The Council's Strategy for 2022/23 was approved by full Council at its budget meeting on 28 February 2022.

This report provides an update on the progress and outcomes against the Treasury Management Strategy for the six month period ended 30 September 2022. It is a requirement of the CIPFA Code of Practice on Treasury Management that a mid- year report, as a minimum, should be presented to Full Council.

Recommendations and Reasons

- I. The Mid-Year Treasury Management Report 2022/23 to be noted by the Audit & Governance committee.

This is to comply with the CIPFA Code of Practice and discharge our statutory requirement.

Alternative options considered and rejected

It is a statutory requirement under the Local Government Act 2003 and supporting regulations to set an annual treasury strategy for borrowing and prepare an annual investment strategy. The Council has adopted the CIPFA Code of Practice for Treasury Management.

Relevance to the Corporate Plan and/or the Plymouth Plan

Effective financial management is fundamental to the delivery of corporate improvement priorities. Treasury Management activity has a significant impact on the Council's activity both in revenue budget terms and capital investment and is a key factor in facilitating the delivery against a number of corporate priorities.

Sign off:

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Originating Senior Leadership Team member: David Northey

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

Date agreed: 06/01/2023

Cabinet Member approval: Cllr Shayer email sent

Date approved: 09/01/2023

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TREASURY MANAGEMENT MID YEAR REPORT 2022/23



1. Introduction

- 1.1 This report is to provide the Audit and Governance Committee and the Council with a mid-year review of the Council's treasury management activities for the first 6 months to 30 September 2022.
- 1.2 The Council has borrowed substantial sums of money and is therefore exposed to financial risks including the loss of invested funds and the revenue effect of changing interest rates. The successful identification, monitoring and control of risk remains central to the Council's treasury management strategy.
- 1.3 The Chartered Institute of Public Finance and Accountancy's Treasury Management Code (CIPFA's TM Code) requires that authorities report on the performance of the treasury management function at least twice yearly (mid-year and at year end).
- 1.4 The 2017 Prudential Code includes a requirement for local authorities to provide a Capital Strategy, a summary document approved by full Council covering capital expenditure and financing, treasury management and non-treasury investments. The Council's Capital Strategy and the Council's Treasury Management Strategy for 2022/23 were approved by full Council on 28 February 2022.
- 1.5 The Council contract with Arlingclose to provide Treasury Management advice which has been incorporated with external contexts below.

2. External Context as at 1st October 2022

- 2.1 **Economic background:** The ongoing conflict in Ukraine has continued to put pressure on global inflation and the economic outlook for UK and world growth remains weak. The UK political situation towards the end of the period following the 'fiscal event' increased uncertainty further. The economic backdrop during the April to September period continued to be characterised by high oil, gas and commodity prices, ongoing high inflation and its impact on consumers' cost of living, no imminent end in sight to the Russia-Ukraine hostilities and its associated impact on the supply chain, and China's zero-Covid policy.
- 2.2 The Bank of England (BoE) increased the official Bank Rate to 2.25% over the period. From 0.75% in March, the Monetary Policy Committee (MPC) pushed through rises of 0.25% in each of the following two MPC meetings, before hiking by 0.50% in August and again in September. August's rise was voted by a majority of 8-1, with one MPC member preferring a more modest rise of 0.25%. the September vote was 5-4, with five votes for an 0.5% increase, three for an 0.75% increase and one for an 0.25% increase. The Committee noted that domestic inflationary

pressures are expected to remain strong and so given ongoing strong rhetoric around tackling inflation further Bank Rate rises should be expected.

- 2.3 On 23rd September the UK government, following a change of leadership, announced a raft of measures in a 'mini budget', loosening fiscal policy with a view to boosting the UK's trend growth rate to 2.5%. With little detail on how government borrowing would be returned to a sustainable path, financial markets reacted negatively. Gilt yields rose dramatically by between 0.7% - 1% for all maturities with the rise most pronounced for shorter dated gilts. The swift rise in gilt yields left pension funds vulnerable, as it led to margin calls on their interest rate swaps and risked triggering large scale redemptions of assets across their portfolios to meet these demands. It became necessary for the Bank of England to intervene to preserve market stability through the purchase of long-dated gilts, albeit as a temporary measure, which has had the desired effect with 50-year gilt yields falling over 100bps in a single day. Bank of England policymakers noted that any resulting inflationary impact of increased demand would be met with monetary tightening, raising the prospect of much higher Bank Rate and consequential negative impacts on the housing market.
- 2.4 With disposable income squeezed and higher energy bills still to come, consumer confidence fell to a record low of -44 in August, down -41 in the previous month. Quarterly GDP fell -0.1% in the April-June quarter driven by a decline in services output, but slightly better than the 0.3% fall expected by the Bank of England.
- 2.5 UK inflation remained extremely high. Annual headline CPI hit 10.1% in July, the highest rate for 40 years, before falling modestly to 9.9% in August. RPI registered 12.3% in both July and August. The energy regulator, Ofgem, increased the energy price cap by 54% in April, while a further increase in the cap from October, which would have seen households with average energy consumption pay over £3,500 per annum, was dampened by the UK government stepping in to provide around £150 billion of support to limit bills to £2,500 annually until 2024.
- 2.6 The labour market remained tight through the period but there was some evidence of easing demand and falling supply. The unemployment rate 3m/year for April fell to 3.8% and declined further to 3.6% in July. Although now back below pre-pandemic levels, the recent decline was driven by an increase in inactivity rather than demand for labour. Pay growth in July was 5.5% for total pay (including bonuses) and 5.2% for regular pay. Once adjusted for inflation, however, growth in total pay was -2.6% and -2.8% for regular pay.

3. Financial markets

- 3.1 Uncertainty remained in control of financial market sentiment and bond yields remained volatile, continuing their general upward trend as concern over higher inflation and higher interest rates continued to dominate. Towards the end of September, volatility in financial markets was significantly exacerbated by the UK government's fiscal plans, leading to an acceleration in the rate of the rise in gilt yields and decline in the value of sterling
- 3.2 Due to pressure on pension funds, the Bank of England announced a direct intervention in the gilt market to increase liquidity and reduce yields. Over the period the 5-year UK benchmark gilt

yield rose from 1.41% to 4.40%, the 10-year gilt yield rose from 1.61% to 4.15%, the 20-year yield from 1.82% to 4.13% and the 50-year yield from 1.56% to 3.25%. The Sterling Overnight Rate (SONIA) averaged 1.22% over the period.

4. Credit review

- 4.1 Having completed its full review of its credit advice on unsecured deposits at UK and non-UK banks, in May Arlingclose extended the maximum duration limit for five UK banks, four Canadian banks and four German banks to six months. The maximum duration for unsecured deposits with other UK and non-UK banks on Arlingclose's recommended list is 100 days. These recommendations were unchanged at the end of the period.
- 4.2 Arlingclose continued to monitor and assess credit default swap levels for signs of credit stress but made no changes to the counterparty list or recommended durations. Nevertheless, increased market volatility is expected to remain a feature, at least in the near term and, as ever, the institutions and durations on the Authority's counterparty list recommended by Arlingclose remains under constant review.

5. Local Context

- 5.1 On 31st March 2022, the Authority had net borrowing of £554m arising from its revenue and capital income and expenditure. The underlying need to borrow for capital purposes is measured by the Capital Financing Requirement (CFR), while usable reserves and working capital are the underlying resources available for investment. These factors are summarised in Table I below.

Table I: Balance Sheet Summary

	31/03/22 Actual £m
General Fund CFR	833
Less: Other debt liabilities *	-113
Borrowing CFR	720
Less: Usable reserves	-124
Less: Working capital	-42
Net borrowing	554

* finance leases, PFI liabilities and transferred debt that form part of the Authority's total debt

- 5.2 At 31 March 2022 the Council's underlying need to borrow for capital purposes as measured by the Capital Financing Requirement (CFR) was £833m, while usable reserves £124m.

- 5.3 The treasury management position on 30th September 2022 and the change over the six months is shown in Table 2 below.

Table 2: Treasury Management Summary

	31.3.22 Balance £m	Movement £m	30.9.22 Balance £m	30.9.22 Rate %
PWLB – Fixed Rate	231	75	306	2.35
Short-term borrowing	228	-93	135	0.88
LOBO Loans	64	0	64	4.34
Long Term Borrowing	18	0	18	4.37
Total borrowing	541	-18	523	2.28
Short-term Money Market funds	23	11	12	1.39
Other Pooled Funds	61	0	61	2.50
Cash and cash equivalents	17	11	6	
Total investments	101	22	79	1.72
Net borrowing	440	4	444	

- 5.4 The Council has an increasing CFR over the next 5 years due to spending on the capital programme, but will maintain their investments and will therefore require borrowing of up to £70m over the current year based on capital monitoring as at 30 September 2022.

6. Borrowing

- 6.1 CIPFA's 2021 Prudential Code is clear that local authorities must not borrow to invest primarily for financial return and that it is not prudent for local authorities to make any investment or spending decision that will increase the capital financing requirement, and so may lead to new borrowing, unless directly and primarily related to the functions of the Authority
- 6.2 PWLB loans are no longer available to local authorities planning to buy investment assets primarily for yield; the Authority intends to avoid this activity in order to retain its access to PWLB loans.

7. Borrowing Strategy

- 7.1 As outlined in the treasury strategy, the Authority's chief objective when borrowing has been to strike an appropriately low risk balance between securing low interest costs and achieving cost certainty over the period for which funds are required, with flexibility to renegotiate loans should the Authority's long-term plans change being a secondary objective. The Authority's borrowing strategy continues to address the key issue of affordability without compromising the longer-term stability of the debt portfolio.
- 7.2 Over the April-September period short term PWLB rates rose dramatically, particular in late September after the Chancellor's 'mini-budget', included unfunded tax cuts and additional

borrowing to fund consumer energy price subsidies. Exceptional volatility threatened financial stability, requiring Bank of England intervention in the gilt market. Over a twenty-four-hour period some PWLB rates increased to 6%, before the intervention had the desired effect, bringing rates back down by over 1% for certain maturities. This turbulence and volatility led to an unprecedented period in fixed income markets, with a direct impact on PWLB rates.

- 7.3 Interest rates rose by over 2% during the period in both the long and short term. As an indication the 5-year maturity certainty rate rose from 2.30% on 1st April to 5.09% on 30th September; over the same period the 30-year maturity certainty rate rose from 2.63% to 4.68%

8. Borrowing activity to 30 September 2022

- 8.1 At 30 September the Authority held £541m of loans, a decrease of £12m compared to 31st March 2022. Outstanding loans on 30th September are summarised in Table 3A below.

Table 3: Borrowing Position

	31.3.22 Balance £m	Net Movement £m	30.9.22 Balance £m	30.9.22 Weighted Average Rate %
Public Works Loan Board	231	75	306	2.35
Banks (LOBO)	64	0	64	4.34
Banks (fixed-term)	18	0	18	4.37
Local authorities (short-term)	228	-93	135	0.88
Total borrowing	541	-18	523	2.28

- 8.2 The Council's current strategy is to maintain borrowing and investments below their underlying levels, sometimes known as internal borrowing, in order to reduce risk and keep interest costs low.
- 8.3 The Council increased its PWLB borrowing in April by £75m taking long term borrowing to finance repayment of short term borrowing as it matured to reduce risk with increasing interest rates and refinancing risk.
- 8.4 Further collateral was drawn down against hedging arrangement which was used to repay short term borrowing maturing in the same month.
- 8.5 The Authority's borrowing decisions are not predicated on any one outcome for interest rates and a balanced portfolio of short and long-term borrowing was maintained.
- 8.6 LOBO loans: The Authority continues to hold £64m of LOBO (Lender's Option Borrower's Option) loans where the lender has the option to propose an increase in the interest rate as set

dates, following which the Authority has the option to either accept the new rate or to repay the loan at no additional cost. No banks exercised their option during the quarters ending 30 September 2022.

- 8.7 Other Debt Activity: Although not classed as borrowing, the Council also raise capital finance via Private Finance Initiative (PFI) and finance leases etc. As at 30 September 2022, the total debt was £114m including PFI £93m, Tamar Bridge and Torpoint Ferry (PCC's share) £19m and Finance leases £2m. The Council has raised no additional PFI borrowing during the period to 30 September 2022.

9. Investment Activity

- 9.1 The Council holds significant invested funds, representing income received in advance of expenditure plus balances and reserves held.
- 9.2 The investment position during the half year is shown in the table below.

Investment Activity

Table 4: Investment position

Investments	Balance on 01/04/2022 £m	Movement £m	Balance on 30/09/2022 £m
Short Term Investments			
Banks and call accounts	17	-5	12
Money Market Fund	23	-4	19
Long Term Investments			
CCLA Pooled Funds	31	-4	27
Other Funds	30	-5	25
TOTAL INVESTMENTS	101	-18	83
Increase/ (Decrease) in Investments £m			-18

- 9.3 Both the CIPFA Code and government guidance requires the Council to invest its funds prudently, and to have regard to the security and liquidity of its investments before seeking the highest rate of return, or yield. The Council's objective when investing money is to strike an appropriate balance between risk and return, minimising the risk of incurring losses from defaults and the risk of receiving unsuitably low investment income.
- 9.4 The increases in Bank Rate over the period under review, and with the prospect of more increases to come, short-dated cash rates, which had ranged between 0.7% - 1.5% at the end of March, rose by around 1.5% for overnight/7-day maturities and by nearly 3.5% for 9-12 month maturities.

Externally Managed Pooled Funds

- 9.5 £52m of the Authority's investments is invested in externally managed strategic pooled [bond, equity, multi-asset and property] funds where short-term security and liquidity are lesser considerations, and the objectives instead are regular revenue income and long-term price stability.
- 9.6 The April-September period was a very difficult environment for bonds engendered by global central banks' determination to bring high and persistent inflation under control through increases in policy rates and strong rhetoric. The sell-off in gilts, other sovereign bonds and corporate bonds with a rise in gilt/bond yields (i.e. a fall in price) was reflected in the Authority's bond and multi-asset income funds. The increase in policy rates in the UK, US and Eurozone and the prospect of low to no growth and a recessionary period ahead was also a challenging period for equities, the FTSE All Share index falling from 4187 on 31st March to 3763 on 30th September, whilst the MSCI World Index fell from 3053 to 2378 over the same period. The fall in equity valuations is reflected in the equity and multi-asset income funds.
- 9.7 Significant financial market volatility and uncertainty remain due to stagflation fears, little sight of the war in Ukraine ending soon and ongoing supply chain issues, a lingering problem over the past 30 months, yet to be fully resolved.
- 9.8 Because these funds have no defined maturity date, but are available for withdrawal after a notice period, their performance and continued suitability in meeting the Authority's medium- to long-term investment objectives are regularly reviewed. Strategic fund investments are made in the knowledge that capital values will move both up and down on months, quarters and even years; but with the confidence that over a three- to five-year period total returns will exceed cash interest rates.

10. Budgeted Income and Outturn

- 10.1 The Council's investment income for the year has increased due to increasing Bank of England base rates, however, the fall in the financial markets has increased the cost of borrowing. Budget growth to finance new capital projects. The Council is currently anticipating delivering savings on its Treasury Management budget of over £200k by the year-end due to slippage within the capital programme

Table 5. Treasury Management Forecast 2022/23

	2022/23 Budget	2022/23 Forecast	Variance
	£m	£m	£m
Interest Payable	12.541		
LOBO and other long term loans		3.909	
PWLB (Public Works Loan Board)		7.118	
Temporary loans		2.124	
Other Interest and charges		0.062	
Recharge to Departments for Unsupported Borrowing (in accordance with business cases)	(17.000)	(16.461)	
Total Interest Payable	(4.459)	(3.248)	1.211
Interest Receivable	(2.608)		
Pool Funds		(2.931)	
Money Market Fund		(0.400)	
Other Interest		(0.305)	
Total Interest Receivable	(2.608)	(3.636)	(1.028)
Other Payments	0.130	0.111	
Debt Management	0.500	0.275	
Transfer to Reserves	2.008	2.008	
Amortised Premiums	0.685	0.685	
Total Other Charges	3.323	3.079	(0.244)
Minimum Revenue Provision	17.940	17.790	(0.150)
TOTAL	14.196	13.985	(0.211)

11. Non-Treasury Investments

- 11.1 The definition of investments in CIPFA's revised Treasury Management Code now covers all the financial assets of the Council as well as other non-financial assets which the Council holds primarily for financial return. This is replicated in the Governments Investment Guidance, in which the definition of investments is further broadened to also include all such assets held partially for financial return.
- 11.2 The Council also holds £200m+ of investments in directly owned property as part of the Property Regeneration Fund as at 30th September 2022.
- 11.3 The non-treasury investments in the Asset Investment Fund are forecast to generate £3.203m of investment income for the Council after taking account of direct costs and service borrowing, representing a rate of return of 1.1%.

12. Compliance with Prudential Indicators

12.1 Prudential Indicators 2022/23

The Local Government Act 2003 requires the Council to have regard to CIPFA's Prudential Code for Capital Finance in Local Authorities (the Prudential Code) when determining how much money it can afford to borrow. The objectives of the Prudential Code are to ensure, within a clear framework, that the capital investment plans of local authorities are affordable, prudent and sustainable, and that treasury management decisions are taken in accordance with good professional practice.

12.2 To demonstrate that the Council has fulfilled these objectives, the Prudential Code sets out the following indicators that must be set and monitored each year.

Investment Limits

	30.9.22 Actual	2022/23 Limit	Complied
Any group of funds under the same management	£25m	£25m	✓
Investments held in a broker's nominee account	£0	£25m	✓
Foreign countries	0	£0m	✓
Registered Providers	£0	£10m	✓
Unsecured investments with Building Societies	£0m	£10m	✓
Loans to unrated corporates	£0m	£20m	✓
Money Market Funds (maximum held)	£19m	unlimited	✓

13. Debt Limits

13.1 The Operational Boundary for external debt is based on the Council's estimate of most likely, i.e. prudent, but not worst case scenario for external debt.

Compliance with the authorised limit and operational boundary for external debt is demonstrated in the table below.

Operational Boundary	30.09.22 Actual £m	2022/23 Limit £m	Complied
Borrowing	523	900	✓
Other long-term liabilities	124	235	✓
Total Debt	647	1135	✓

The Council confirms that during 2022/23 the Operational Boundary has not been breached.

- 13.2 The Authorised Limit for external debt is the affordable borrowing limit determined in compliance with the Local Government Act 2003. It is the maximum amount of debt that the Council can legally owe. The authorised limit provides headroom over and above the operational boundary for unusual cash movements.

Authorised Limit	30/09/22 Actual £m	2022/23 Limit £m	Complied
Borrowing	523	935	✓
Other long-term liabilities	124	245	✓
Total Debt	647	1180	✓

Total debt as at 30/9/2022 was £647m. The Council confirms that during 2022/23 the Authorised Limit was not breached at any time.

14. Treasury Management Indicators

The Council measures and manages its exposures to treasury management risks using the following indicators.

14.1 Security:

The Council has adopted a voluntary measure of its exposure to credit risk by monitoring the value-weighted average credit rating of its investment portfolio.

	30.09.22 Actual	2022/23 Target	Complied
Portfolio average credit rating	A	A	✓

14.2 Liquidity

The Council has adopted a voluntary measure of its exposure to liquidity risk by monitoring the amount of cash available to meet unexpected payments.

During 2021/22 and 2022/23 through securing additional PWLB borrowing to replace short term borrowing as it matured the council held higher than normal amounts of cash in advance of repayment dates.

14.3 Interest Rate Exposures:

This indicator is set to control the Council's exposure to interest rate risk. The upper limits on fixed and variable rate interest rate exposures, expressed as the proportion of net principal borrowed was:

	30.09.22 Actual	2022/23 Target	Complied
Upper limit on fixed interest rate exposure	100%	60%	x
Upper limit on variable interest rate exposure	0%	80%	✓

The Council took the decision to reduce its exposure to interest rate risk during 2021/22 and 2022/23 by continuing to use fixed rate borrowing arrangements through PWLB and other local authorities.

14.4 Maturity Structure of Borrowing: This indicator is set to control the Council's exposure to refinancing risk. The upper and lower limits on the maturity structure of fixed rate borrowing were:

	30.09.22 Actual	Upper Limit	Lower Limit	Complied
Under 12 months	26%	50%	20%	✓
12 months and within 24 months	0%	25%	0%	✓
24 months and within 5 years	0%	25%	0%	✓
5 years and within 10 years	1%	25%	0%	✓
10 years and above	73%	80%	5%	✓

Time periods start on the first day of each financial year. The maturity date of borrowing is the earliest date on which the lender can demand repayment.

14.5 Principal Sums Invested for Periods Longer than 365 days: The purpose of this indicator is to control the Council's exposure to the risk of incurring losses by seeking early repayment of its investments. The limits on the total principal sum invested to final maturities beyond the period end will be:

	30.09.22 Actual	Maximum Target	Complied
Limit on principal invested beyond year end	£0m	£10m	✓

The Council does, however, has £27m invested in the CCLA Pooled Funds £25m in other pooled investment funds which the Council is holding the investment for the long term. However, these investments are classified as a short term investment because it can be called upon at any point.

15. Investment Training

15.1 Through staff changes during 2021/22 and 2022/23 training has been limited to the following:

- Arlingclose Meetings – The Council’s joint party Treasury Management Board Meetings with members and officers
- Arlingclose weekly Treasury Management webinars

16. Arlingclose’s Economic Outlook for the remainder of 2022/23 as at 26 September 2022

	Current	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25
Official Bank Rate													
Upside risk	0.00	0.50	0.75	0.75	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
Arlingclose Central Case	2.25	4.25	5.00	5.00	5.00	5.00	5.00	5.00	5.00	4.75	4.25	3.75	3.25
Downside risk	0.00	-1.00	-1.00	-0.75	-0.50	-0.50	-0.50	-0.75	-1.25	-1.50	-1.75	-1.75	-1.75

16.1 Arlingclose expects Bank Rate to rise further during 2022/23 to reach 5% by the end of the year.

16.2 The MPC is particularly concerned about the demand implications of fiscal loosening, the tight labour market, sterling weakness and the willingness of firms to raise prices and wages.

The MPC may therefore raise Bank Rate more quickly and to a higher level to dampen aggregate demand and reduce the risk of sustained higher inflation. Arlingclose now expects Bank Rate to peak at 5.0%, with 200bps of increases this calendar year. This action by the MPC will slow the economy, necessitating cuts in Bank Rate later in 2024.

16.3 Gilt yields will face further upward pressure in the short term due to lower confidence in UK fiscal policy, higher inflation expectations and asset sales by the BoE. Given the recent sharp rises in gilt yields, the risks are now broadly balanced to either side. Over the longer term, gilt yields are forecast to fall slightly over the forecast period.

Recommendations

- I. To note the Treasury Management Mid-Year Report 2022/23.

Audit and Governance Committee



Date of meeting:	16 January 2023
Title of Report:	Disclosure and Barring Service Checks for Councillors
Lead Member:	Councillor Mark Shayer (Deputy Leader and Cabinet Member for Finance and Economy)
Lead Strategic Director:	Giles Perritt (Assistant Chief Executive)
Author:	Ross Jago
Contact Email:	Ross.Jago@plymouth.gov.uk
Your Reference:	AG/DBS/2023
Key Decision:	No
Confidentiality:	Part I - Official

Purpose of Report

The attached policy (Appendix A) follows discussion of Disclosure and Barring Service (DBS) checks which took place at the meeting of October 2021 and July 2022.

In addition to the discussions held at the Audit and Governance Committee an all councillor briefing was delivered on the 16 November 2023. The briefing provided information on the levels of DBS checks and the specific criteria for eligibility. The recording of that session [remains available for councillors at this link](#).

The policy meets the statutory requirements for DBS checks and provides that some, but not all, councillors receive a DBS check.

Recommendations and Reasons

The Audit and Governance Committee is recommended to approve the policy.

Reason: The policy provides clarity as to which councillor roles have DBS checks as a requirement.

Alternative options considered and rejected

- **Not creating a policy:** The Council is not under a statutory obligation to agree a policy in relation to DBS checks for councillors. This option was rejected as clarity of what checks are required has been requested by Councillors.
- **Requiring DBS checks for all Councillors:** There is no requirement in the law to provide DBS checks for all councillors and the Council is unable to compel all Councillors to undergo such checks.

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: 11/01/2023

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POLICY CONCERNING DISCLOSURE AND BARRING SERVICES FOR COUNCILLORS



1. Introduction

- 1.1. The effective date of commencement for this policy is 17 January 2023.
- 1.2. This policy complies with the Rehabilitation of Offenders Act 1974 and the associated Exceptions Order 1975, and with the Disclosure and Barring Service (DBS) Code of Practice.
- 1.3. This policy replaces all previous policies, decisions and/or precedents relating to criminal records checks for Plymouth City Council Councillors.
- 1.4. In light of the fact that Council and its relevant Committees and Boards discharge both education and social services functions, this Policy sets out the requirement of Councillors and co-opted members to undergo a DBS Check, as defined in section 6 of this Policy.

2. Requirement to undergo a Standard or Enhanced DBS Check

- 2.1. The following will be required to undergo a check, to be carried out in accordance with this Policy:
 - 2.1.1. All Councillors or co-opted members appointed to a Committee or Board which has decision making responsibility for the discharge of any education and/or social care function;
 - 2.1.2. Any Councillor appointed to a position with the Cabinet with responsibility for the discharge of any education and/or social care function;all of which will be, for the purposes of this Policy a “Relevant Position”.
- 2.2. An Enhanced DBS Check will be undertaken for those relevant positions where the Councillor has, by virtue of that position, responsibility for functions which mean it is eligible for an Enhanced DBS Check.
- 2.3. Unless 2.5 applies, within no more than two months of the appointment of a Councillor or any co-opted Member to a relevant position they shall be required to undergo the relevant check under this policy.
- 2.4. Where a Councillor or co-opted member has had a check undertaken as a result of them holding a relevant position previously, and the resulting certificate is less than 4 years old, they will not be required to undergo a further check unless the requirement is for an enhanced DBS check and the previous check was a standard DBS check.
- 2.5. Any Councillor or co-opted member who hold a relevant position and whose last check was more than 4 years ago will be required to undergo a further check.
- 2.6. It is acknowledged that some Councillors and co-opted members hold other positions outside of the Council that require them to have a check. It is the responsibility of the relevant organisation to undertake that check. Where a councillor or co-opted member

wishes to port a check certificate undertaken in relation to a non-council related role, it will be the decision of the Monitoring Officer as to whether this will be accepted.

3. The Process

- 3.1. Checks will be processed by the Council's Human Resources team using the online service following a request by either the Monitoring Officer, the Chief Executive or the Head of Governance, Performance and Risk.
- 3.2. A councillor will not be prevented from undertaking the responsibilities of their role pending the outcome of the check unless it is considered by the Chief Executive in consultation with the Monitoring Officer that to do so would pose a risk to children, young people and/or vulnerable persons.
- 3.3. In such cases the Chief Executive may, on the advice of the Monitoring Officer and in consultation with the relevant Group Whip, require the relevant Councillor or co-opted member to undertake their duties with any safeguards they consider reasonable in the circumstances to mitigate the risk identified.
- 3.4. The relevant Councillor or co-opted member will be provided with a copy of the check certificate issued by the Disclosure & Barring Service subsequent to any check undertaken.
- 3.5. The Chief Executive, Monitoring Officer and Head of Governance, Performance and Risk will be notified of the results of any check undertaken as a result of this policy.

4. DBS Certificates that are not clear

- 4.1. Where a certificate following a check is not clear, for instance, it contains details of an offence, the Councillor or co-opted member will be required to provide a full copy of the check certificate to the Monitoring Officer within 7 days of the date they themselves receive it.
- 4.2. In the event that the check certificate raises issues of concern, the Chief Executive, in consultation with the Monitoring Officer, the relevant responsible Director for the area concerned and the relevant Group Leader, will discuss with the individual Councillor and the implementation of any restrictions considered necessary, to safeguard children, young people and adults, in relation to the positions held by that Councillor.
- 4.3. If the Councillor or co-opted member raises a dispute with the Disclosure and Barring Service concerning any certificate issued following a check, they must notify the Monitoring Officer within 7 days of the dispute being submitted. Within 7 days of notification to the Councillor or co-opted member of the outcome of that dispute, inform the Monitoring Officer of the outcome.
- 4.4. The existence of a criminal record or other information revealed as a result of a check will not debar a Councillor from holding office unless it is one which meets the requirements in section 80 of the Local Government Act 1972, i.e. that it shows an criminal conviction for which a sentence (suspended or not) was given with a term of not less than three months, given no more than 5 years prior to or subsequent to their election to office.

5. Sharing and Management of DBS information

- 5.1. In accordance with Section 124 of the Police Act 1997 all disclosure information obtained by the Council in response to a check will only be passed to those people who are authorised to receive it in the course of their duties, including those officers identified in this policy.
- 5.2. The Monitoring Officer and Head of Governance, Performance and Risk will maintain a record of
- 5.2.1. the date a check was requested;
 - 5.2.2. what type of check was requested;
 - 5.2.3. the date a response was received; and
 - 5.2.4. a 'list' of all those to whom the disclosure or disclosure information has been revealed together with other relevant information.
- 5.3. All information provided by the Disclosure and Barring Service in relation to any check will be kept securely and destroyed a date not later than six months of its date of issue, in line with the DBS Code of Practice and the Data Protection Act, unless 5.4 applies.
- 5.4. If, in very exceptional circumstances, it is considered necessary to keep certificate information for longer than six months, we will consult the Disclosure and Barring Service about this and will give full consideration to the Data Protection and Human Rights of the individual before doing so. Throughout this time, the usual conditions regarding the safe storage and strictly controlled access will prevail.

6. Eligibility Requirements and Definitions

- 6.1. In this Policy the following terms have the stated meanings:

Basic check £18	The basic check can be used for any position or purpose, there is no eligibility criteria. A basic certificate will contain details of convictions and cautions from the Police National Computer (PNC) that are considered to be unspent under the terms of the Rehabilitation of Offenders Act (ROA) 1974
Standard check - £18	The standard check is available for duties, positions and licences included in the Rehabilitation of Offenders Act (ROA) 1974 (Exceptions) Order 1975. A standard level certificate contains details of all spent and unspent convictions, cautions, reprimands and final warnings from the Police National Computer (PNC) which have not been filtered in line with legislation.
Enhanced check (without barred list)- £38	The enhanced check is available for specific duties, positions and licences included in both the Rehabilitation of Offenders Act 1974 (Exceptions Order 1975) and the Police Act 1997 (Criminal Records) regulations, specified activities with adults in receipt of health care or social care services and applicants for gaming and lottery licences. An enhanced level certificate contains the same PNC information as the standard level certificate but also includes a check of local information held by the Police.
Enhanced with a barred list check - £38	The enhanced check with barred list check(s) is only available for those individuals who are carrying out regulated activity and a small number of positions listed in Police Act 1997 (Criminal

	Records) regulations, for example, prospective adoptive parents and taxi and Private Hire Vehicle (PHV) licences. An enhanced level certificate with barred list check(s) contains the same PNC information and check of information held by the Police, as an enhanced level check, but in addition will check against the children's and/or adult's barred lists
Committee	means a committee of the Council and/or a committee of the Cabinet and shall include, where relevant, a joint committee of the Council
Board	means a board of the Council and/or of Cabinet, including advisory boards

Functions relating to Children and Young People

6.2. A Councillor is only eligible for an enhanced DBS certificate without DBS barred list checks if they meet the specific legislative criteria from the [Safeguarding Vulnerable Groups Act 2006](#) set out below:

6.2.1. A person is a member of a relevant local government body if –

- i. they are a member of a local authority and discharge any education functions, or social services functions, of a local authority;
- ii. they are member of an executive of a local authority which discharges any such functions;
- iii. they are a member of a committee of an executive of a local authority which discharges such functions;
- iv. they are a member of an area committee, or any other committee, of a local authority which discharges such functions. This includes a reference to any sub-committee which discharges any such functions.

6.3. If the above conditions above are met, then a Councillor can be eligible for an enhanced DBS certificate without a check of the children's barred list. This is because the individual is carrying out a specific function included in the definition of work with children.

Functions relating to adults:

6.4. Where the Relevant Position relates to works with adults, a Councillor is only eligible for an enhanced DBS certificate without DBS barred list checks if they meet the specific legislative criteria from the [Police Act 1997 \(Criminal Records\) \(Amendment No.2\) Regulations 2013](#) as follows:

6.4.1. The exercise of a function of a person who is;

- i. a member of a local authority and discharge any social services functions of a local authority which relate wholly or mainly to adults who receive a health or social care service, as specified in the legislation;
- ii. a member of an executive of a local authority which discharges any such functions;
- iii. a member of a committee of an executive of a local authority which discharges any such functions; or
- iv. a member of an area committee, or any other committee, of a local authority which discharges any such functions;

- 6.5. If any of the conditions are met, then a Councillor can be eligible for an enhanced DBS certificate without a check of the adults' barred list. This is because the individual is carrying out a specific function included in the definition of work with adults.

7. Councillors not holding a Relevant Position

- 7.1. Councillors who do not hold a Relevant Position, and therefore do carry out any of the specific educational and/or social service functions will not be subject to a DBS check.
- 7.2. Though Councillors may carry out other responsibilities in the community, such as being School Governors, Trustees, or volunteer with organisations which bring them into contact with vulnerable groups, it is the responsibility of the organisation the councillor represents to perform this check.
- 7.3. There are no eligibility requirements for a basic check. Any Councillor would be able to make an application online subject to the payment of the fee. Officers will assist any Councillors who wish to update their Councillor profile with information concerning their DBS checks.
- 7.4. The local authority has no way to compel any member not undertaking regulated activity to undertake a basic check, though political groups may mandate such checks through their own rules.

8. Positions (2023) Subject to DBS check as a result of this policy –

Position	Check
Cabinet Members	Enhanced DBS Check
Corporate Parenting Group Member	Enhanced DBS Check

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