



Oversight and Governance

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

Please ask for Hannah Whiting
T 01752 668000
Edemocraticsupport@plymouth.gov.uk

www.plymouth.gov.uk

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AUDIT AND GOVERNANCE COMMITTEE

Tuesday 5 September 2023
3.30 pm
Warspite Room, Council House

Members:

Councillor Allen, Chair

Councillor Finn, Vice Chair

Councillors Dr Mahony, Raynsford and Stevens and Independent Member Mrs Benny.

Members are invited to attend the above meeting to consider the items of business overleaf.

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Tracey Lee

Chief Executive

Audit and Governance Committee

Agenda

1. Apologies

To receive apologies for non-attendance submitted by Committee Members.

2. Declarations of Interest

Members will be asked to make any declarations of interest in respect of items on this Agenda.

3. Minutes

(Pages 1 - 16)

To confirm the minutes of the meeting held on 25 July 2023.

4. Chair's Urgent Business

To receive reports on business which, in the opinion of the Chair, should be brought forward for urgent consideration.

5. Stage One - Constitutional Changes:

(Pages 17 - 62)

Audit and Governance Committee

Tuesday 25 July 2023

PRESENT:

Councillor Allen, in the Chair.
Councillor Finn, Vice Chair.
Councillors Lowry, Dr Mahony and Stevens.

Independent Member: Mrs Annette Benny.

Also in attendance: Paul Dossett (External Auditor), Jon Roberts (Grant Thornton), David Northey (Interim Service Director for Finance), Giles Perritt (Assistant Chief Executive), Brenda Davis (Audit Manager), Ken Johnson (Counter Fraud Services Manager), Carolyn Haynes (Lead Accountancy Manager), Wendy Eldridge ((Lead Accountancy Manager), Ross Jago (Head of Governance, Performance and Risk), Louise Clapton (Senior Auditor) and Helen Rickman (Democratic Advisor).

The meeting started at 12.30 pm and finished at 3.30 pm.

Note: At a future meeting, the committee will consider the accuracy of these draft minutes, so they may be subject to change. Please check the minutes of that meeting to confirm whether these minutes have been amended.

1. To Note the Appointment of Chair and Vice Chair for the Municipal Year 2023/ 2024

The Committee noted the appointment of Councillor Allen as Chair, and Councillor Finn as Vice Chair for the forthcoming municipal year.

2. Declarations of Interest

There were no declarations of interest in accordance with the code of conduct.

3. Minutes

The Committee agreed the minutes of 20 March 2023 as an accurate record of the meeting.

4. Chair's Urgent Business

Under this item the Chair advised Members that the Council delegated to the Audit and Governance Committee, the design and implementation of the Electoral Cycle Consultation and Electoral Review. Before finalising the approach and taking into account advice of officers, it was proposed by the Chair that the consultation was brought back to the Committee following discussions with Southampton City Council who had recently been through the same process.

Ross Jago (Head of Governance, Performance and Risk) advised Members that Southampton City Council had recently undergone a very similar process in respect of electoral review and it was

considered beneficial for officers to engage with Southampton City Council prior to further consultation being undertaken.

In response to a question raised it was reported that there had been a change of the Council's administration since the Audit and Governance Committee last discussed the Electoral Cycle Consultation in March 2023 – it was considered that Southampton was a good example of a Council that had undergone an electoral review with the Boundary Commission. As part of their consultation they focused upon electoral cycles. It was considered that one of the issues that the Boundary Commission would raise with Plymouth was that if a Council was to continue to have elections by thirds then it would have a potential impact on the number of Councillors that were allocated to each of the revised wards (if they were revised) as a result of the electoral review. The idea was that the number of Councillors in each ward should be dividable by 3 if a Council continued to elect by thirds. Three of the Council's wards had 2 Members currently; initial conversations had taken place with Southampton City Council.

It was confirmed that the Council had until June 2024 to confirm arrangements to the Boundary Commission.

The Committee agreed that officers should consult with Southampton City Council regarding the Electoral Cycle Consultation and Electoral Review and that the consultation is submitted to the Audit and Governance Committee prior to submission to Full Council in September 2023.

5. **External Audit Report - Progress Report**

Paul Dossett (External Auditor) presented the External Audit Progress Report and highlighted the following key points:

- (a) for the benefit of new Members to the Audit and Governance Committee a brief overview was provided on the Council's pension transaction: in 2019 the Council undertook a transaction that was designed to reduce the pension deficit and the impact of the contributions to the pension deficit on the general fund. The transaction involved the purchase of shares in a specifically-designed company, which then used that money to reduce the pension fund deficit. From an accounting point of view, Grant Thornton as the Council's Auditors, didn't agree with the Council's approach to the transaction. Grant Thornton did a review in 2021 of the governance upon making decisions around complex and innovative schemes; the results were reported back to the Audit and Governance Committee and the Council put in a process of how to deal with complex accounting matters;
- (b) it was highlighted that the Council had taken advice on the accounting treatment from CIPFA, however Grant Thornton didn't agree with that advice. Both the Council and the External Auditor had taken legal advice as to how the transaction should be accounted for and the legality of various decisions. In 2023 the two legal parties reached an agreed position however it did involve further discussions and complications with the pension fund. The Council have accounted in their 19/20 accounts in a way that spreads the cost of the investment over a 20 year period however Grant Thornton didn't agree that was the correct accounting approach – discussions were still ongoing;

- (c) different solutions to the accounting approach for the pension deficit transaction were contained in the external auditor's report however that was a decision for the Council; officers were keen to close this matter off within the next few weeks so that the subsequent years audits could go through the audit process. The value for money work undertaken as part of the 19/20, 20/21 and 21/22 audits had all been completed;

David Northey (Interim Service Director for Finance) advised Members that the Council had been working to clear the 19/20 accounts. The pension deficit accounting treatment was considered a local accounting issue, however delays with the 2019/20 accounts was also affected by national issues such as the complications with infrastructure issues and assets. Assurance was provided that officers were having direct conversations with the Actuary, as well as Devon County Council (who administered the pension fund). It was evident that there were 3 or 4 different routes that could be taken to progress the issue and that the Council was to make a decision and send to Grant Thornton for their audit opinion.

In response to questions raised it was responded that:

- (d) The conflict between the Council and the External Auditor was one of accounting treatment – Grant Thornton had one view regarding how the payment into the pension fund should be discharged and, with advice, the Council has a different view. The transaction was material to the accounts, therefore the auditor had to pursue their line of thinking. If an audited body (the Council in this instance) chose not to amend the accounts in which the auditor thought were materially wrong then the process was an audit qualification. That was a judgement call for the Council to make in terms of how it would move forward with the auditing of this transaction;
- (e) there were different options available to the Council which included the accounts being qualified, or the Council having a directive with the DLUHC It wasn't unusual for a Council to try and protect their payments when they get a three year evaluation to pay off the three years up front at a discount value in order to get benefit from that. The Council considered that pension deficits normally ran for 20 years so a figure was attributed to that of £72m and the Council found a way of paying that off in one go. The difference of opinion was that the Council considered the money had started as a capital transaction, however Grant Thornton believed that the Council had paid £72m in that year, so the entire £72m needed to be accounted for in that year;
- (f) where accounts were qualified, when you moved into the subsequent years' accounts, the opening balance would be incorrect if the closing balance in the previous accounts was materially wrong from the auditor's point of view; therefore the subsequent year would be qualified accounts. Over a period of time the Council would start to pay down the pension deficit and the payment would reduce the disputed amount between the auditor and the council however it was not known how long this would take. Eventually the accounts would become not material and not a qualification. It was further complicated by the fact that the Local Government Minister had written to all Council's with his proposals for dealing with a backlog of accounts, some of which

would involve qualifying audits that were not completed by a certain date;

- (g) the broader ramifications of having qualified accounts, in a commercial setting, would alarm lenders, it could cause some concern with some commercial partners; also from a governance perspective, there were not many qualified audit opinions in the local government sector; this was also a reputational issue;
- (h) It was expected that a decision on the accounts would be made by the time the September Audit and Governance Committee

Giles Perritt (Assistant Chief Executive) advised Members that the External Auditor had suggested the Council undertook a governance review; this was undertaken and a series of recommendations were formulated. The governance review and subsequent action plan were submitted to the Audit and Governance Committee alongside a series of progress reports detailing the implementation of recommendations. It was highlighted that the value derived from the transaction was having a positive revenue impact each year and a continuing financial saving.

The Committee were introduced to Jon Roberts (Grant Thornton) who would be taking over the responsibility of auditing the Council upon the completion of the 2019/20 accounts.

The Committee agreed:

1. to note the External Audit Report – Progress Report;
2. recommended that the External Auditor set out their vision for the Council's outstanding audits at the September Audit and Governance Committee meeting detailing what work had been undertaken and what work was still left outstanding.

6. **Internal Audit End of Year Report**

Prior to the introduction of this item, David Northey (Interim Service Director for Finance) advised the Committee that Brenda Davis (Audit Manager) was due to retire from the Council after 23 years' service; Brenda was thanked for her dedication, hard work and professionalism.

Brenda Davis (Audit Manager) presented the Internal Audit End of Year Report and highlighted the following key points:

- (a) the Internal Audit End of Year Report provided a summary of the Council's performance against the Internal Audit Plan that was approved by the Audit and Governance Committee in March 2022. It highlighted the key areas of work undertaken and a summary of some of the main findings and an overall assurance opinion which was a 'reasonable' assurance;
- (b) 'Reasonable assurance' was a good standard of assurance – there were 4 assurance opinions – reasonable assurance was the second from the top. To provide the top level of assurance, substantial assurance, was considered unrealistic for any council in the country to achieve;

- (c) officers assessed the key controls that were operating and from that work provided individual reports to managers; there was an assurance opinion for each piece of work. One such piece of work focused upon Delt services – a lack of engagement was recognised and reported upon related to their patch management work. This issue was raised with the Section 151 Officer and CMT – in terms of their processes and software, everything was in place that expected to be however the focus was now upon if anything was different and how those exceptions were managed;
- (d) the chart at the bottom of page 41 in the agenda pack provided a brief breakdown of the assurance opinions provided across the Council on pieces of work throughout the year.

In response to a question raised it was reported that –

- (e) in terms of the hand/arm vibration audit work it was highlighted that internal audit were not health and safety specialists so they were not able to undertake health and safety audits – that was the responsibility of the Health and Safety department and specialists. Internal audit became involved when issues were flagged by the HSC and officers were asked to assess processes in place. Three separate pieces of work had been undertaken regarding the hand/arm vibration work and not any other area of health and safety. Recommendations from work done by Internal Audit was regarding systems and processes specifically.

The Committee agreed to note that based on work performed during 2022/23 and previous years' audit, the Head of Internal Audit's opinion is of "Reasonable Assurance" on the adequacy and effectiveness of the Authority's internal control framework.

7. **Internal Audit Charter and Strategy**

Brenda Davis (Audit Manager) presented the Internal Audit Charter and Strategy and highlighted the following key points:

- (a) the Internal Audit Charter and Strategy was submitted to the Audit and Governance Committee on an annual basis; there was a requirement by the public sector internal audit standards to define the purpose and responsibility of internal audit – that was set out in the Audit Charter. The Audit Strategy set out how the service was delivered in accordance with the Charter and best practice and regulatory requirements;
- (b) this document was last presented to the Audit and Governance Committee in July 2022 where it was agreed; four minor changes have since been made which were identified in the document via tracked changes – these included the change to the year, a change to the tense of some text, the fact that a new partner had joined Devon Audit Partnership team and an update on the qualifications held by Devon Audit Partnership.

There were no questions from Members on this item.

The Committee agreed the Internal Audit Charter & Strategy for the year 2023/24.

8. **Counter Fraud Services Annual Report 2022-23**

Ken Johnson (Counter Fraud Services Manager) presented the Counter Fraud Services Annual Report 2022/23 and highlighted the following key points:

- (a) the Counter Fraud Services Annual Report detailed a summary of the work completed over the past 12 months and demonstrated good governance by Plymouth City Council to address counter fraud risks and threats. The report provided assurance to the Council as well as the citizens of Plymouth that the budgets were being protected and funds spent wisely. Fraud was an ever present and ever growing threat however officers were doing their best to protect the Council, its officers and the interests of the public;
- (b) the savings detailed in the report were consistent with the trend of previous years however the way work was approached was slightly different in that a lot of work was going in to checking records and protecting the public purse;
- (c) It was emphasised that a lot of the work undertaken to protect the public purse was based around the fact that the Council had a finite resource to provide public services and that had to be spent on those that required it. Every pound that was saved through the work of the Counter Fraud Services Team was money that could go back into front line services;
- (d) the team went back to assess work that was put in place to apply CIPFA best practice; the report at appendix 1 demonstrated a good response. Internal Audit and the Counter Fraud Team and Devon Audit Partnership worked closely together to provide integrated assurance;
- (e) the National Fraud Initiative was ongoing and statistical information would be provided at the next meeting of the Audit and Governance Committee; there were a few thousand matches to come back which would need to be checked. Some of those matches would be low value and others would be more significant. This bi-annual exercise also increased the resilience to Data Protection Act requirements;
- (f) several fraud investigations were still ongoing and several allegations had been dealt with; as financial pressures were increasing, fraud activity was also increasing.

In response to questions raised it was reported that

- (g) national statistics specified that between 4-6% of budgets were lost through fraud; control through social care budgets and reviews may not happen as regularly as they could due to high demand and high pressure in that area of work and it was likely that this increased the risk of fraudulent activity.
- (h) savings described in the report were either cashable or non-cashable; for example, savings for council tax fraud would be cashable and that would be

immediately billable resulting in someone having to pay. However if fraudulent activity was found with someone subletting a social housing property then the person would be removed from the property and the house would be put back on the social housing register for a new tenant. The Council could then place someone in that property instead of paying for emergency accommodation for example – that money would be non-cashable and a saving.

The Committee agreed to note the Counter Fraud Services Annual Report 2022/23.

9. **Draft Statement of Accounts**

Carolyn Haynes (Lead Accountancy Manager) presented the Draft Statement of Accounts and highlighted the following key points:

- (a) the deadline for producing the draft statement of accounts moved back to 31 May in 2023; in the first year of Covid it was produced at the end of August and then the following two years it was produced at the end of July. The Council was unable to produce the draft accounts by the 31 May 2023 deadline and instead published by 20 June 2023 alongside a lot of other local authorities. It was estimated that approximately only 30% of local authorities produced their draft statement of accounts by the deadline;
- (b) the reasons for the delay in publishing the draft statement of accounts were set out in the report; officers had to rely more on real-time data rather than estimates that would have been used when officers previously published the draft statement of accounts for the May deadline, as auditors were unhappy with estimation techniques and wanted the Council to rely more on actuals. In addition to that, a late issue arose in relation to a valuation that was undertaken in October 2022 – this resulted in changes having to be made to the 2021/22 accounts to be flowed through to the 2022/23 accounts;
- (c) the Council now had 4 financial years of accounts that were not audited; any agreed amendments couldn't yet be brought to Committee. As each year progressed those amendments, if any, would be progressed;
- (d) the report referred to the Council's balance sheet and information upon assets and liabilities. There was currently a positive balance sheet and the majority of that was down to the revaluation of the pension fund which had a positive impact upon the Council's balance sheet.

In response to questions raised it was reported that –

- (e) the report was a retrospective look back to 2022/2023; the impact on the Council's accounts as a result of recent fuel costs would be reported in the 2023/2024 budget report that was likely to be submitted to Council in the first quarter of the financial year;
- (f) a 'material impact' was specified as being £7m or over;

- (g) the statement of accounts was open for public inspection; as of yet it was considered that no-one has requested to view the accounts;
- (h) un-useable reserves could not be used for revenue spending; they reflected things such as movement in property values so there was a revaluation reserve, a capital adjustment account which reflected movements in depreciation. There was also a collection fund adjustment account – they were all used to reflect the international financial reporting standards on outturn position and were not useable for the council’s business. An adjustment had to be put through the accounts so that the Council could be compared to other organisations;
- (i) the working fund balance was not earmarked but useable reserves could be earmarked for a purpose. They could be put aside for voids; previously £20m had to be moved from the collection fund useable reserve to be able to fund the deficit for the following year – they could be used for budget smoothing.

The External Auditor’s offer to provide training was acknowledged and accepted.

The Committee agreed:

1. to approve the Statement of Accounts for 2022/23 attached as Appendix B with the understanding that they will be audited by GTUK. Should any issues be identified during the GTUK audit Members are asked to delegate the approval of the Statement of Accounts to the Service Director for Finance in consultation with the Chairperson of the Audit and Governance Committee.

Reason: Statutory Requirement, the Accounts and Audit Regulations 2015 require the accounts to be:

- i. Considered by committee;*
- ii. Approved by committee resolution;*
- iii. Signed and dated by the person presiding at the committee.*

2. to note the audit status of the Statement of Accounts for 2019/20, 2020/21 and 2021/22 and the delay to the publication of the Statement of Accounts for 2022/23.

Under this item Councillor Lowry, as a Member of the Audit and Governance Committee, queried if he was able to vote in support of items on the agenda as they were signed off by him as the Cabinet Member for Finance. He was under the understanding that he was able to continue to vote as the constitution didn’t specify that he could not, however raised that he potentially had an interest.

Ross Jago (Head of Governance, Performance and Risk) noted Councillor Lowry’s interest and confirmed that he would check as to what the interest was, however agreed that the constitution was quiet on this specific issue.

(Councillor Lowry raised an interest under this item)

10. Annual Report on Treasury Management Activities for 2022/ 23

Wendy Eldridge ((Lead Accountancy Manager) presented the Annual Report on Treasury Management Activities for 2022/23 and highlighted the following key points:

- (a) the report provided an update on treasury management activities for 2022/23 and was presented to comply with the CIPFA code of practice and to discharge the Council's statutory duty;
- (b) key messages from the report included:
 - the treasury management position - the Council's borrowing at the end of March 2023 was £565m;
 - the balance sheet summary as part of table one sets out where the Council's capital financing requirement offsetting where it's got its useable reserves;
 - the Council's net borrowing of £565m was an increase of 11 million from the previous year;
 - action taken to mitigate against interest rate risk where additional borrowing was taken out through the Public Works Loan Board – the counter side of that was reducing short term borrowing. This primarily was to address the interest rate risk;
 - at the start of 2022 the Council could secure short term borrowing (PWLB borrowing) at a lower rate than at the end of the year after numerous Bank of England increases;
 - the average rate presented for short term borrowing reflected the net impact of the transactions that had been put through with the interest rates swap arrangement; if the Council hadn't had the interest rate arrangement then the Council's short term borrowing would have been in excess of 2%;
 - table 3 set out the various investment activities, there was no significant movement between the long term investments. Short term investments with money held in banks and call accounts had reduced partly reflecting the use of treasury management to fund the treasury cash flow;
 - the external context affecting the 2022/23 treasury management activities included global inflation and base rates and the impact of that. The base rates at the start of the year was 0.75% whereas at the end of the financial year it increased to 4.25%;
 - the final part of the report focused upon the prudential indicators; these were set in 2022 and incorporated in the treasury management strategy which was included in the February 2022 suite of documents for budget

setting. The indicators were a control and good practice on how the council planned to undertake its borrowing and investment.

- the first indicator highlighted that the Council hadn't complied with the planned spread of borrowing between fixed rate and variable rate borrowing arrangements. The Council took mitigating action in 2022/23 to secure in more borrowing long term through the Public Works Loan Board than was initially planned.

In response to questions raised it was reported that –

- (c) the way the Council operated its treasury management function was to link borrowing to cash flow; where the Council received grants in advance the Council was able to delay the need to borrow money. The rate swap arrangement was protecting £75m of the Council's short term borrowing to a favourable rate. The ongoing review of the capital programme particularly where a programme was funded by corporate or service borrowing where programmes could be slipped or re-profiled;
- (d) With regards to minimum revenue provision, the Council worked with its treasury management advisors who had created a template/ working paper that the Council could complete – this was available for audit and sets out all borrowing where the Council made a minimum revenue provision against when the asset became operational. Issues some other Council's had experienced is where there had been minimum revenue provision adjustments on the rationale that the actual investment asset would increase; it was considered a risky strategy;
- (e) At the moment the rates for LOBO loans was considered favourable; the Council had had any call-ins. Arling Close had provided a tool whereby the Council could assess the probability of organisations calling in LOBO loans; currently the Council's loans were indicating that there was low probability of them being called in. One was due to finish in seven years which was indicating a higher probability of being called-in. the Council had the option to review and cash in a loan but the Council hadn't exercised that right as of yet.
- (f) The potential risk to the Council affecting its ability to borrow money would be contained partly the fact that the Council could approach borrowing through the Public Works Loan Board to maintain a cash flow for the capital programme. The Council had taken action to borrow in the current financial year to protect the capital programme allowing for slippage.
- (g) In terms of the disparity between the estimates, the numbers were calculated in advance of the 21/22 outturn and based on the Council's capital programme and expected borrowing from that programme. In 2021/22 and 22/23 there was significant slippage due to the impact of the capital programme.

The Committee agreed:

- I. to note the Treasury Management Annual Report 2022/23;

2. to recommend the Treasury Management Annual Report 2022/23 to Full Council for approval (*This is to comply with the CIPFA Code of Practice and discharge our statutory requirement.*)

(The Committee took a 10 minute comfort break at the conclusion of this item)

(Councillor Stevens left the meeting during the presentation of this item and took no further part in this item or the remainder of the meeting)

11. **Report in the Public Interest - Thurrock Report**

David Northey (Interim Service Director for Finance) presented the Report in the Public Interest – Thurrock Report and highlighted the following key points:

- (a) Thurrock Council and Woking Council were two examples in the media whereby Council's had got themselves into financial difficulties. The report attached to the agenda detailed that it was a report of public interest as everyone could learn lessons from it. The link to the 110 page report was contained in the agenda; it was highlighted how things could quickly fall apart with poor governance;
- (b) as discussed earlier in the meeting, Grant Thornton's External Auditor's governance review was undertaken and as a result of several recommendations, the Council had changed its governance proposals to its own transactions;
- (c) the power the Government had when Councils were experiencing trouble was demonstrated in the report. In this instance Commissioners were sent to Thurrock who effectively had taken the role of the Chief Executive and looked at the whole senior management structure.

Giles Perritt (Assistant Chief Executive) also added that the Local Government Association had a sector led regulation improvement feature – a year ago a formalised peer review took place at Plymouth City Council where politicians and senior officers from a range of local authorities undertook a peer review. Preceding that, and due to the financial constraints that Council's had been under for a few years, the council asked the LGA to undertake a finance specific peer review of the way the council was managing its revenue and capital resources. Action was taken as a result of the findings.

Members discussed:

- (d) the benefits that might be achieved by undertaking a peer review with another council in order to assess and seek assurance that the Council's governance and audit functions were working as they should so as to avoid a situation faced by Thurrock Council:
- (e) that the council's governance arrangements and functions would not support a repeat of what happened at Thurrock Council however it was considered that the basis of what they were trying to do was similar to Plymouth. Both councils bought assets to receive a return on the yield from those assets. Plymouth City Council however ensured that any asset bought was in the

Plymouth postcode boundary and therefore a benefit would be achieved not just financially, but also in jobs growth and regeneration opportunities. Plymouth City Council was a lot larger than Thurrock and over a decade had spent £279m in that approach, but those assets were within the city and had an experience asset management team.

The Committee agreed to note the Thurrock Report update.

12. **Covid Business Grants Assurance**

Carolyn Haynes (Lead Accountancy Manager) presented the Covid Business Grants Assurance and highlighted the following key points:

- (a) the Council had recently received confirmation the Department for Business Energy and Industrial Strategy that they had completed their work on post payment assurance for the Covid 19 Business Grants;
- (b) the Council administered business grants from March 2020 to March 2022 working with eight different grants schemes to develop. The Council developed its assurance process as it went along, similar to most Council's across the country; officers were reassured to receive confirmation that of the checks and balances that they had done, they hadn't identified any grants that were incorrectly granted;
- (c) the Council had paid out just under £96m in grants over the two years; 93% of the funding received was paid out. This figure wasn't 100% as where it was considered discretionary it was paid out the grant in full, however subsidy rules affected other payments;
- (d) during the process there were over 50 officers working on business grants in terms of the application process, through to the assurance verification the Council was internally audited and received a reasonable assurance rating.

The Committee agreed to note the Covid Business Grants Assurance report.

13. **Health, Safety and Wellbeing Annual Report 2022/23**

Ross Jago (Head of Governance, Performance and Risk) presented the Risk Management Monitoring Report and highlighted the following key points:

- (a) the number of strategic risks currently being managed totalled 23; there were 8 red risks (the report detailed 7 and this was incorrect). The red risks referred to council expenditure exceeding resources, a pension fund accounting issue, the demand and complexity of demand in children's services, cyber security, IT supply chain constraints, workforce constraints in adult social care, the SYDS approval body (sustainable drainage system approval body) and a risk of financial instability with CaterEd;
- (b) of the 8 red risks, there was planned scrutiny around the council's budget and resources over the course of the next 6 to 9 months as the budget was prepared for February 2024; the pension fund accounting remained a discussion at the Audit and

Governance Committee; the demand and complexity of children's services was being reviewed by scrutiny specifically with regards to improvements that needed to be made following the recent Ofsted inspection; IT supply constraints and cyber security was listed as an item due to be considered at scrutiny in the near future; social care workforce constraints was under review by the Health and Social Care scrutiny committee; there was currently no scrutiny planned around Suds or CaterEd;

- (c) there was a new risk on the strategic risk register regarding the capacity within the senior leadership team in particular reference to statutory officers; there was an interim Section 151 Officer, an interim Monitoring Officer and several other gaps in management across the council. Mitigation was listed in the report and detailed the recruitment underway. A Chief Officer's Appointment Panel was scheduled earlier in the week and there was due to be another at the end of the week;
- (d) there were 111 risks on the operational risk register, this number had reduced since the last time it was submitted to committee as there were a number of duplicate risks and some that were considered sufficiently mitigated. The operational risks related to children's services, health and safety risks linked to trees, asbestos, data security, recruitment, home working and school transport budget;
- (e) Members were asked to consider if they wished to include any of the risks specified in the report on to the Audit and Governance Committee work programme for future consideration with the understanding that some scrutiny was underway in the scrutiny function of the council's governance structure.

It was acknowledged by Councillor Lowry that there were a lot of significant risks on the strategic risk register and it appeared to be more than usual. As Cabinet Member for Finance, Councillor Lowry was in discussion with David Northey (Interim Service Director for Finance) regarding how a more structured approach was put in place to deal with some of the strategic overspends that existed year upon year at the council. It was highlighted that the risks were equally reported and scrutinised by the Council's scrutiny panels to maintain oversight.

The Committee agreed to note the current position with regard to the Strategic and Operational Risk Registers.

14. **Risk Management Monitoring Report**

Ross Jago (Head of Governance, Performance and Risk) presented the Risk Management Monitoring Report and highlighted the following key points:

- (a) the number of strategic risks currently being managed totalled 23; there were 8 red risks (the report detailed 7 and this was incorrect). The red risks referred to council expenditure exceeding resources, a pension fund accounting issue, the demand and complexity of demand in children's services, cyber security, IT supply chain constraints, workforce constraints in adult social care, the SYDS approval body (sustainable drainage system approval body) and a risk of financial instability with CaterEd;
- (b) of the 8 red risks, there was planned scrutiny around the council's budget and resources over the course of the next 6 to 9 months as the budget was prepared for

February 2024; the pension fund accounting remained a discussion at the Audit and Governance Committee; the demand and complexity of children's services was being reviewed by scrutiny specifically with regards to improvements that needed to be made following the recent Ofsted inspection; IT supply constraints and cyber security was listed as an item due to be considered at scrutiny in the near future; social care workforce constraints was under review by the Health and Social Care scrutiny committee; there was currently no scrutiny planned around Suds or CaterEd;

- (c) there was a new risk on the strategic risk register regarding the capacity within the senior leadership team in particular reference to statutory officers; there was an interim Section 151 Officer, an interim Monitoring Officer and several other gaps in management across the council. Mitigation was listed in the report and detailed the recruitment underway. A Chief Officer's Appointment Panel was scheduled earlier in the week and there was due to be another at the end of the week;
- (d) there were 111 risks on the operational risk register, this number had reduced since the last time it was submitted to committee as there were a number of duplicate risks and some that were considered sufficiently mitigated. The operational risks related to children's services, health and safety risks linked to trees, asbestos, data security, recruitment, home working and school transport budget;
- (e) Members were asked to consider if they wished to include any of the risks specified in the report on to the Audit and Governance Committee work programme for future consideration with the understanding that some scrutiny was underway in the scrutiny function of the council's governance structure.

It was acknowledged by Councillor Lowry that there were a lot of significant risks on the strategic risk register and it appeared to be more than usual. As Cabinet Member for Finance, Councillor Lowry was in discussion with David Northey (Interim Service Director for Finance) regarding how a more structured approach was put in place to deal with some of the strategic overspends that existed year upon year at the council. It was highlighted that the risks were equally reported and scrutinised by the Council's scrutiny panels to maintain oversight.

The Committee agreed to note the current position with regard to the Strategic and Operational Risk Registers.

15. **Annual Governance Statement**

Ross Jago (Head of Governance, Performance and Risk) presented the Annual Governance Statement and highlighted the following key points:

- (a) the Annual Governance Statement (AGS) was part of the annual suite of documents submitted to the Audit and Governance Committee;
- (b) the AGS set out how the Council was ensuring that proper systems of internal control were in place. The first part of the report from pages 407 – 417 described the CIPFA principles of good governance; each principle linked to guiding documents that were being used to maintain the Council's position against the principles and examples of how those had been used over the past year;

- (c) the second part of the document was a summary of the issues that had arisen throughout the year alongside an assurance statement and plans to address issues where appropriate. Page 419 included a response from the external auditor review and the judgement from internal audit of reasonable assurance;
- (d) the corporate peer challenge, as referred to earlier in the meeting, was described in the report; officers had progressed through the action plan and a link was provided in the agenda to the most recent progress report;
- (e) following the Ofsted focus visit to Plymouth 'front door' back in December 2022 an improvement board had been established and would work alongside existing governance controls in that space;
- (f) throughout 2022/23 there were several components of the constitution which were found to be sub optimal which led to misunderstanding by multiple stakeholders; the Audit and Governance Committee were to lead a constitutional review for 2023/24 with the expectation that this would be reported back to Full Council in stages trying to deal with the most pressing matters first and making those changes to the constitution as quickly as possible;
- (g) new arrangements for complaints under the code of conduct had been implemented following the approval of the new code of conduct; a new Standards Committee was now required to be established;
- (h) issues identified by the senior leadership team as part of their work around the AGS included the improvement on the recording of decisions within departments, the centralisation of governance documents in respect to the family of companies including annual reports and articles of association, departmental business plans to be reviewed as a result of the change to the vision and strategic objectives of the Council following the election in May, the reporting and collating of risk within service areas needed to be addressed.

No questions were raised by Members.

The Committee agreed to approve the Annual Governance Statement, alongside the Statement of Accounts, prior to signature by the Leader, Chief Executive and Service Director for Finance (S.151 Officer).

16. **Constitutional Review - Outline Plan**

Ross Jago (Head of Governance, Performance and Risk) presented the Constitutional Review – Outline Plan and highlighted the following key points:

- (a) there had been a number of issues raised over the last year in respect of the constitution with some of those issues requiring action imminently including procedures around Council, the status of the Cabinet when the Leader resigns and petition guidance. It was highlighted that the petition guidance had been in place since 2011 when the duty was first [placed upon local authorities – the duty had since been repealed therefore there was a need to consider how a local based approach could work;

- (b) work was also required to be undertaken with regards to contact standing orders and finance standing orders, and how those worked together, how those were presented both to officers, Members and the general public in a way that was understandable;
- (c) the suggestion contained within the report was to refer this matter to the Civic and Constitutional Review Group established in January 2022 – a draft outline for the review was contained within the report.

In response to questions raised it was reported that:

- (d) it was hoped that some changes to the constitution could be presented to the September 2023 Full Council meeting however some aspects of the review relating to contract and finance standing orders was expected to take more work so would likely be presented to Full Council in January 2024;
- (e) the Council's constitution was in line with several local authority constitutions around the country; in 2012 when it was written in the current format it was based upon Oxford's constitution. As part of the programme of review, and in order to ensure that the constitution was fit for purpose, efforts would be made to liaise with other local authorities. As with the code of conduct review and revision, officers would employ an expert consultant and work with the LGA to create a constitution that was accessible and good quality;
- (f) the terms of reference for the sub group was agreed at the Audit and Governance Committee in 2022; the specific plans for the constitution review were set out in the report contained within the agenda and would be circulated to Members.

The Committee agreed to refer the Constitutional Review to the Constitution and Civic Sub-Committee (established as a sub-committee January 2022) with a view to provide an initial report on prioritised changes to the September Full Council.

17. **Work Programme**

Members discussed the draft work programme and sought clarification as to if an additional meeting of the Audit and Governance Committee was required to be scheduled prior to the September Full Council meeting in order to discuss the constitution review findings; it was confirmed that an additional meeting of the committee would be scheduled.

The Committee agreed to note the draft work programme and for an additional meeting of the committee to be scheduled prior to the September Full Council meeting.

Audit and Governance Committee



Date of meeting: 05 September 2023
 Title of Report: **Stage One - Constitutional Changes**
 Lead Strategic Director: Giles Perritt (Assistant Chief Executive)
 Author: Ross Jago, Head of Governance Performance and Risk
 Contact Email: Ross.jago@plymouth.gov.uk
 Your Reference: ConstI.23/24
 Key Decision: No
 Confidentiality: Part I - Official

1. Purpose of Report

1.1. Following agreement at the June meeting of the Audit and Governance Committee, a small working group has reviewed parts of the constitution, specifically –

- Part A – Articles
- Part B - Council Procedure
- Petition Scheme / Guidance
- Protocol on Member Officer Relations

1.2. These documents were reviewed by officers and Councillors considered revisions at informal sessions held on the 15 and 17 August 2023.

1.3. Amended parts of the constitution are appended to the report, and changes are as follows –

2. Part A – Articles

Changes	Why	Paragraph
Article 1 - Changes to clarify the purpose of the constitution	Identifies principles and purpose of the constitution	1.3
Article 2 - Change title of Article to "Councillors"	This article concerns councillors and should not refer to co-opted members	
Article 2 - Co-opted and Independent Members	Move the requirements of Co-optees and Independent members to relevant Terms of Reference	2
Article 2 - Term of Office of the Leader - move to article 6 (Cabinet)	Relevant in Article 6 concerning the Cabinet / Executive	6.4 – 6.8
Article 2 - Term of Office of the Lord Mayor - move to Article 5 (Lord Mayor)	Relevant in Article 5 concerning the Lord Mayor	5.5

Article 2 - Roles and Functions of Councillors - Additions to Councillor Roles	Clarify the extent of the Councillor Role	2.6
Article 2 - Rights and Duties - Remove reference to Co-Opted members, to be included in relevant committees terms of reference	This article concerns the rights and roles of Councillors	To be included in the Terms of Reference to which appointments relate
Article 2 - Rights and Duties - Remove reference to mobile phones	Legal requirement to allow the use of phones / recording devices (unless part II) - covered in the code of conduct for members	Removed
Article 3 - Removed the right to ask the council to respond to a petition	Notwithstanding any scheme published in the constitution, the legal requirement for a petition scheme has been repealed	Removed
Article 4 - Addition of the Annual Budget Meeting	Clarifies Existing process	4.1
Article 4 - Functions of Council - Amended to reflect the relevant legislation	Clarifies legal position with reference functions of Council	4.3-4.4
Article 5 - Removal of process for recommending LM - Move to LM Selection Committee ToR	To clarify process in relevant ToR	To be included in the Terms of Reference
Article 5 - Incapacity of LM - Moved from Article 2	Moved from article 2	5.5
Article 6 - Election of new Leader - Following discussion clarifies how a new leader may be elected.	Members Request	6.5
Article 6 - Leader / Deputy / Cabinet. Clarified the Council Meeting at which the Leader can be appointed following incapacity / resignation	Clarification	6.4-6.6
Article 6 - Deputy Leader - remove reference to suspension	Ability to suspend removed by the localism act	Removed
Article 6 - Cabinet to remain delegated in the event the leader resigns until a new Scheme of Delegation is published	Clarifies Existing process	6.12
Article 6 - Appointment of Acting Leader - Amended following discussion	Member Request	6.13
Article 7 - No change		
Article 8 - No Change		
Article 9 - Joint arrangements - Additions to reflect powers to promote wellbeing (Localism Act)	Reflects the legislation	Para 9
Article 10 - Officers - Makes	Reflects the legislation	10.4

Statutory post holders explicit		
Article 11 - Consider revisions to Key Decision Thresholds	Exclusion of grant funding - Decisions to receive grant funding will not be treated as key decisions, unless the terms of the grant agreement have a significant impact on more than two wards as determined by the Monitoring Officer.	11.6
Article 12	No change	
Article 13	No change	
Article 14	No change	

Part B – Council Procedures

Changes	Why	Paragraph
Addition of Annual Budget meeting	Clarifies Existing Process	9
Annual Budget Meeting to be held in Advance of the Statutory Deadline for Council Tax	Clarifies Existing Process / Member Request	9
Urgent Announcements from LM / Statutory Officer Urgent Announcements Only at Annual Budget Meeting	Members Request	9
Added the word "budget" to recommendations from Cabinet / Scrutiny	Members Request	9
Questions		
Absence of a Motion on Notice Proposer	To confirm process if a proposer is absent.	15.4-15.6
Reports to note	Clarifies existing process that recommendations to note do not require a vote, although one may be called for.	19.5
Process for Developing the Policy / Budget Framework	Removes requirement to "consult" / Cabinet member remains required to canvass views of stakeholders	27.1 – 27.2

3. Petition Scheme / Guidance

- 3.1. A new petition scheme is appended to the report. The group proposed changes to the minimum number of signatories to receive a response from a senior officer from 25 signatures to 250.
- 3.2. There have been no changes to thresholds for petitions to be heard at committee meetings and council.

3.3. The new scheme also requires the use of the Council's e-petition system to ensure that the validity of signatures can be undertaken in line with the requirements of the scheme.

4. Protocol on Member Officer Relations

4.1. Minor changes were identified by the group which concerns the reporting and which can be made by the monitoring officer under existing delegations.

Recommendations and Reasons

That Audit and Governance Committee—

1. Recommends amended Part A, Part B and Petition Scheme Guidance to Full Council for approval.
2. Agrees that no further changes to the Officer / Member Protocol are required.

Reason: Changes to the constitution are recommended by Audit and Governance Committee to Full Council to address immediate changes to improve the efficiency of Council meetings and the clarity of procedure.

Alternative options considered and rejected

None – the review of the constitution is a response to issues identified through the municipal year/ 2022/23.

Relevance to the Corporate Plan and/or the Plymouth Plan

Effective decision and good governance impacts upon all aspects of the Corporate Plan. Proposed changes to the constitution will ensure efficient governance processes in support of the Corporate Plan.

Implications for the Medium Term Financial Plan and Resource Implications:

None as a result of this report.

Financial Risks

None as a result of this report.

Carbon Footprint (Environmental) Implications:

None as a result of 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.*

None as a result of this report.

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	Part A Articles							
B	Park B Council Procedures							
C	New Petition Scheme							

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:

Fin	Click here to enter text.	Leg	LS/000 01075/ AC/25 /8/23	Mon Off	Click here to enter text.	HR	Click here to enter text.	Assets	Click here to enter text.	Strat Proc	Click here to enter text.
Originating Senior Leadership Team member: Giles Perritt											
Please confirm the Strategic Director(s) has agreed the report? Yes											
Date agreed: 22 August 2023											
Cabinet Member approval: [electronic signature (or typed name and statement of 'approved by email/verbally')] N/A											
Date approved: N/A											

PART A: ARTICLES OF THE CONSTITUTION

I. Article I – The Constitution and Rule Book

Powers of the Council

I.1. The Council will exercise all its powers and duties in accordance with the law and this Constitution.

The Constitution

I.2. This Constitution, and all its appendices, is the Constitution and rule book of Plymouth City Council.

Purpose of the Constitution

I.3. The purpose of the Constitution is to:

- provide a framework for the democratic process to allow the Council clear leadership for the city
- enable decisions to be taken efficiently and effectively
- support the active involvement of citizens in the process of local authority decision-making
- ensure that high standards of probity and ethics are evident in decision-making and all activities of the Council
- assist the Council to undertake proper consultation and take professional advice
- create a powerful and effective means of holding decision-makers to public account
- ensure no-one reviews or scrutineses their own decisions
- assist Councilors' to represent their constituents effectively
- provide a means of improving services.

Interpretation and Review of the Constitution

I.4. When the constitution and the law allow the Council to do more than just one thing, the Council will do what is closest to the purposes stated above.

I.5. At Council, the Lord Mayor's interpretation of the constitution will be final. When interpreting the constitution, the Lord Mayor will consider the purpose of the constitution and the advice of the Monitoring Officer.

I.6. If the constitution has no procedures for a meeting, or if there is a gap in the procedures for the meeting, the chair will decide what to do. This must be consistent with the purpose of the constitution.

I.7. The constitution will be reviewed in accordance with Article 13.

2. Article 2 – Councillors

Composition and Eligibility

2.1. The Council has 57 councillors, representing 20 wards. Each ward has three councillors except Drake, Plympton Chaddlewood and Plympton Erle, with two councillors each.

2.2. Anyone who is over 18 and a Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of another Member State of the European Community and is either -

- registered as a local government elector; or
- has occupied land in the city as owner or tenant for the previous 12 months or worked in the city for the previous 12 months or resided in the city for the previous 12 months is eligible to hold the Office of Councillor.

Election and Terms of Office of Councillors

Councillors

2.3. A Council election takes place on the first Thursday in May every year except in years when there are county council elections in the rest of England. A third of the seats are up for election each time, this is known as election by thirds.

2.4. Councillors serve for four years. They become Councillors on the fourth day after being elected. Their term of office ends four years later, on the fourth day after the elections.

2.5. A Councillor may resign their position at any time by giving written notice to the Returning Officer (Chief Executive) or designee. The resignation will take effect when the notice is received.

Roles and functions of all Councillors

2.6. Key Roles all Councillors will undertake:

- Collectively set the policies which are matters for full Councils
- Contribute to the good governance of the area and actively encourage community participation and citizen involvement in decision making
- Provide political leadership
- Take part in decision making
- Take part in member development and training
- Represent people in their wards – this may involve balancing different interests
- Deal with casework for people in their wards
- Attend Council and committee meetings
- Work to improve Council services
- Be available to and to actively represent the Council on other bodies.

Rights and duties

2.7. Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

- 2.8. Councillors will not make public, information which is confidential or exempt without the consent of the Council, relevant committee or authorised Member or officer, or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- 2.9. For the purposes of this Constitution, the terms “confidential” and “exempt” information are as defined in the Access to Information Rules in Part F of this Constitution.

Conduct

- 2.10. Councillors, co-opted and independent members will at all times act in accordance with and observe the “The Members Code of Conduct” and the “Protocol on Member/Officer Relations” as set out in Part G of this Constitution.

Allowances

- 2.11. Councillors and co-opted or independent members will be entitled to receive allowances in accordance with the Members’ Allowance Scheme set out in Appendix One to this Constitution.

3. Article 3 – The Public and the Council

3.1. Members of the public have the rights to information and to participate which are explained in more detail in the Access to Information Rules in Part 4(2) of this Constitution. Members of the Public have the following rights -

3.2. **Voting:** Those registered on the electoral roll have the right to vote at local elections;

3.3. **Participation:** members of the public have the right to:

- attend Council, Cabinet, Overview and Scrutiny and Committee meetings, except when exempt or confidential items are discussed ([see Access to Information Rules Part F](#))
- speak at a Council meeting to ask a question
- ask questions of the Council and Cabinet

3.4. **Information:** members of the public have the right to:

- look at the Forward Plan, which shows what key decisions and private decisions will be taken by the Cabinet in the next 28 days
- look at agendas, reports, minutes and background papers unless they are exempt from publication in accordance with Part F – agendas, reports and minutes are available on the Council's website
- look at the register of members' interests – this is available for inspection on-line, on each councillor's page, at www.plymouth.gov.uk
- inspect the Council's accounts at an advertised time and comment to the external auditor

3.5. **Complaints:** members of the public have the right to:

- complain to the Council, under its complaints procedure which is available to the public
- complain to the Local Government Ombudsman, after using the Council's own complaints scheme
- complain to the Monitoring Officer about a breach by a councillor of the Code of Conduct

The Public's Responsibilities

3.6. Members of the public are expected to conduct themselves in an appropriate and respectful manner.

3.7. Members of the public must not be violent, abusive or threatening to Councillors or officers and must not willfully harm articles owned by the Council, Councillors or officers.

3.8. Citizens' rights of participation are dependent upon:

- refraining from causing damage to property
- respecting the diversity and equality of all sections of the community
- respecting the integrity of the roles that Members and professional officers of the Council are required to undertake

- avoiding language, making statements or behaviours that are racist, derogatory or offensive, such conduct can amount to a criminal offence and may also amount to slander or libel.

4. Article 4 – The Full Council

Full Council Meetings

4.1. There are four types of Council meeting:

- The Annual meeting
- Ordinary meetings
- Extraordinary meetings
- Annual Budget Meeting

4.2. All meetings of Full Council will be conducted in accordance with the Council Procedure Rules in Part B of this Constitution.

Functions, Powers and Responsibilities of the Full Council

4.3. Full Council has a number of specific functions allocated as set out in the [Local Authorities \(Functions and Responsibilities\) \(England\) Regulations 2000](#). Details of the functions that are dealt with by the Council are set out in Part B.

4.4. Some functions are the responsibility of the Council as a whole.. This includes approval of:

- **The Policy Framework:** this is made up of a series of statutory plans and strategies (list found in Appendix One);
- **The Budget:** this includes the allocation of financial resources to the Corporate Priorities, services and projects, proposed contingency funds, the Council Tax base, setting the Council Tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits"

4.5. Other functions may be taken by Full Council or by a committee of sub-committee of : ull Council, such as regulatory work (Planning and Licensing Committees) and legal and governance work, (for example Audit and Governance Committee).

4.6. Details of how the Council has delegated its remaining functions to Committees or allocated them to Officers are set out in Part E – Other Statutory Functions, Committees, Joint Committees and Committee Procedures"

5. Article 5 – Lord Mayor and Chair of the Council

Appointment of the Lord Mayor

5.1. The Lord Mayor and the Deputy Lord Mayor will be elected by the Council annually.

Role and functions of the Lord Mayor

5.2. The Lord Mayor, and in their absence the Deputy Lord Mayor, represents the Council at civic and ceremonial events.

5.3. The Lord Mayor, and in their absence the Deputy Lord Mayor, chairs Council meetings. In chairing Council a Yh[g the Lord Mayor will:

- Uphold and promote the purpose of the Constitution
- Where required at a meeting of Council, interpret the Constitution
- Conduct business efficiently but pay attention to the rights of all Councillors and the interests of local people and communities "

5.4. The Lord Mayor does not usually vote and as far as possible should remain impartial and apolitical, as well as chair the meeting effectively, efficiently and with respect. In the event of a tied vote the Lord Mayor may exercise a casting vote.

Resignation or Incapacity

5.5. If the Lord Mayor resigns or dies the Deputy Lord Mayor will act as Lord Mayor until the Lord Mayor returns or until the next Ordinary Meeting of the Council where a new Lord Mayor will be elected by the Council.

6. Article 6 – The Leader, Deputy Leader and Cabinet

Role and Responsibility

- 6.1. Some of the Council's functions are the responsibility of the Leader set down in law.
- 6.2. The responsibilities of the Leader must either be dealt with by them or delegated to the Cabinet, a committee of Cabinet, an individual Cabinet member or an officer, subject to any restrictions in law on delegations.
- 6.3. Full details of how the Leader has decided to allocate these responsibilities are set out in the Leader's scheme of delegation.
<https://www.plymouth.gov.uk/aboutcouncil/councilconstitution>

Leader

- 6.4. The Leader is a Councillor who is elected by the Full Council, usually at its Annual meeting. The Leader will hold office until:
- ~~They~~ resign from the office; or
 - they are incapacitated or through death; or
 - ~~They~~ are no longer a Councillor; or
 - ~~They~~ are removed from office by resolution of the Council; or
 - the Council appoints a new Leader.
- 6.5. If the Leader stops being the Leader as a result of any of the above, the Deputy Leader will act as Leader until the next meeting of the Council, which has been called in line with statutory requirements, where an agenda item to elect a new Leader will be included. The Leader may not be elected at the Annual Budget Meeting or an Extraordinary Meeting called for any other purpose.
- 6.6. The Leader has responsibility for
- appointing members of the Cabinet
 - delegating executive responsibilities to the Cabinet
 - delegating executive functions to committees carrying out executive functions
 - delegating executive responsibilities to individual Cabinet members
 - delegating and allocating executive responsibilities to officers
 - allocates executive responsibilities when no-one has responsibility for them.

Deputy Leader

- 6.7. The Deputy Leader is nominated by the Leader of the Council. The Deputy Leader will hold office until:
- ~~They~~ resign from the office; or
 - ~~They~~ are incapacitated or through death;
 - ~~They~~ are no longer a Councillor; or
 - ~~They~~ are removed from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two working days

after receipt of the notice by the Monitoring Officer.

6.8. In addition to any delegations in the Leaders Scheme of Delegation the Deputy Leader shall deputise for the Leader as appropriate.

The Cabinet

Form and Composition

6.9. The Cabinet will consist of the Leader, and Deputy Leader (who may also hold a portfolio), together with Cabinet members. Cabinet members will be appointed by the Leader and notified to the Council. In accordance with the Local Government Act 2000 (Part II Sec. 11 Para. 8) the Cabinet may not consist of more than 10 members (including the Leader).

6.10. No member of Cabinet will serve on Overview and Scrutiny Committees.

6.11. No member of cabinet will serve as the Lord Mayor or Deputy Lord Mayor"

6.12. In the event that the Leader resigns, is removed by Council or otherwise incapacitated to the extent they can no longer perform the role of Leader, the delegations to the Cabinet and Cabinet Members remain in place until the publication of an amended scheme of delegation.

6.13. In the event of the resignation or death of both the Leader and Deputy Leader, the Monitoring Officer will request that the remaining Cabinet members appoint an Acting Leader from the Cabinet who shall serve until the next Ordinary Meeting of the Council where a new Leader is elected. This process will be conducted electronically.

Proceedings of the Cabinet

6.14. Proceedings of the Cabinet shall take place in accordance with the Cabinet Procedure Rules set out in Part C of this Constitution.

Assistant Cabinet Members

6.15. An Assistant Cabinet Member may be appointed by the Leader through inclusion in their scheme of delegation. An Assistant Cabinet member may support a Cabinet Member or Cabinet Members by assisting them with any function, except decision-making.

7. Article 7 – Overview and Scrutiny Committees

Appointment of the Overview and Scrutiny Committees

7.1. The Council will appoint a number of Overview and Scrutiny Committees to discharge the functions conferred by Section 21 of the Local Government Act 2000, Health and Social Care Act 2012, National Health Service Act 2006, the Police and Justice Act 2006 and any subsequent regulations.

Proceedings of the Overview and Scrutiny Committees

7.2. The Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedures in Part D of the Constitution.

8. Article 8 – Other Committees and Quasi-Judicial Committees

Other Committees and Quasi-Judicial Committees

8.1. The Council will appoint a number of standing committees the roles and responsibilities of which are set out in Part E.

9. Article 9 – Joint Arrangements

Powers to promote wellbeing

9.1. In order to take the reasonable action needed in order to promote the economic, social or environmental wellbeing of the area the Council and the Leader, as appropriate, may:

- Enter into arrangements, agreements or partnerships with any person or body
- Co-operate with, facilitate or co-ordinate the activities of any person or body
- Exercise on behalf of that person or body any functions of that person or body.

Joint Arrangements

9.2. The Council may establish joint arrangements with one or more local authorities to exercise functions of Full Council of any of the participating authorities, or to advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.

9.3. The Leader may establish joint arrangements with one or more local authorities to exercise the executive functions in any of the participating authorities, or to advise the leader. A non-executive member of the Council may be appointed to such body where that body is providing an advisory function only. The above arrangements may involve the appointment of a joint committee with one or more local authorities.

9.4. Appointment of members to the joint arrangement shall be made by the Council or the Leader, as appropriate.

9.5. Details of any joint arrangements including any delegations to joint committees are set out in Part E of this Constitution.

Delegation to and from other Local Authorities

9.6. Full Council may delegate or accept the delegation of non-executive functions to or from another Local Authority.

9.7. The Leader (or such person as they delegate to) may delegate or accept the delegation of Cabinet (executive) functions to or from another Local Authority.

Contracting out

9.8. The : ull Council and the Cabinet may contract out some of their functions to other organisations under the Deregulation and Contracting Out Act 1994 or under an agency agreement provided there is no delegation of the Council's discretionary decision making powers.

Access to information

9.9. The Access to Information Rules in Part F of this Constitution apply to any joint or partnership arrangements.

10. Article 10 – Officers

Structure

- 10.1. The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- 10.2. The Head of Paid Service will determine, publicise and maintain a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

Statutory Posts and Chief Officers

- 10.3. All Chief Officers (as defined in legislation) shall be members of the Council’s Senior Management Team
- 10.4. Statutory posts of the Council are designated as follows:

Post	Legislation	Designation
Head of Paid Service	Local Government and Housing Act 1989 – Section 4	Chief Executive
Monitoring Officer	Local Government and Housing Act 1989 – Section 5	Head of Legal Services
Chief Financial Officer (Responsible Finance Officer)	Local Government and Housing Act 1989 -	Service Director for Finance (Section 151 officer)
Director of Adult Social Services	Local Authority Social Services Act 1970 (amended by the Children Act 2004)	Strategic Director for People
Director of Children’s Services	Children Act 2004 – Section 18	Strategic Director of Children’s Services
Director of Public Health	Health and Social Care Act 2012 – Section	Strategic Director of Public Health
Statutory Scrutiny Officer	Local Government Act 2000 – Section 9FB	Head of Governance, Performance and Risk
Data Protection Officer	General Data Protection Regulations (regulations 37 to 39) and Data Protection Act sections 69 to 71	Senior Information Risk Owner

Functions of the Head of Paid Service

- 10.5. To report on the discharge of functions by the Council. The Head of Paid Service (Chief Executive), where appropriate to do so will report to Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- 10.6. Proper officer for access to information. The Proper Officer (Chief Executive or

designee) will make sure that committee' decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available.

- 10.7. Restrictions on functions. The Head of Paid Service may not be the Monitoring Officer or the Responsible Finance Officer.

Functions in case of emergency

- 10.8. In cases of urgency or emergency the Head of Paid Service will take any action necessary to protect the Council's interests and assets where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.
- 10.9. The Head of Paid Service, in so acting, will consult the Leader or, in their absence, their designee and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.

Functions of the Monitoring Officer

- 10.10. To maintain the Constitution. The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to Members, staff and the public. The Monitoring Officer will review the operation of the Constitution.
- 10.11. To ensure lawfulness and fairness of decision-making. After consulting with the Head of Paid Service and Responsible Finance Officer, the Monitoring Officer will report to Council if they consider that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- 10.12. To contribute to Corporate Management. The Monitoring Officer will contribute to the Corporate Management of the Council, in particular through the provision of professional legal advice and democratic support.
- 10.13. To support standards. The Monitoring Officer or designee will contribute to the promotion and maintenance of high standards of conduct.
- 10.14. To conduct investigations. The Monitoring Officer or designee will conduct investigations into matters referred to them and make reports or recommendations based on the investigation.
- 10.15. To advise whether committee decisions are within the budget and policy framework. The Monitoring Officer will advise, as required, whether decisions of the Cabinet, committees or officers are in accordance with the budget and policy framework.
- 10.16. To provide advice. The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- 10.17. Restrictions on posts. The Monitoring Officer cannot be the Responsible Finance Officer or the Head of Paid Service.

Functions of the Responsible Finance Officer (Service Director for Finance: Section 151 Officer)

- 10.18. To make sure decisions are lawful and financially prudent. After consulting with the Head of Paid Service and the Monitoring Officer, the Responsible Finance Officer will report to the Full Council and the Council's external auditor if they consider that any proposal, decision or course of action would incur unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- 10.19. To administer financial affairs. The Responsible Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- 10.20. To contribute to corporate management. The Responsible Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 10.21. To providing advice. The Responsible Finance Officer or designee will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- 10.22. Providing financial information. The Responsible Finance Officer or designee will provide financial information to the media, members of the public and the community.
- 10.23. Restrictions on Post. The Responsible Finance Officer cannot be the Monitoring Officer. The Head of Paid Service and the Responsible Finance Officer can be the same person but the Responsible Finance Officer must be a qualified accountant.

Duty to provide sufficient resources to the Monitoring Officer and Responsible Finance Officer

- 10.24. The Council will provide the Monitoring Officer and Responsible Finance Officer with such officers, accommodation and other resources sufficient to allow their duties to be performed.

Conduct of Officers Generally

- 10.25. All officers will comply with the Officers Code of Conduct and the Member/Officer Protocol.
- 10.26. All officers must alert the Monitoring Officer and Responsible Finance Officer to issues of concern as soon as they come up. These will include legal, probity, vires and constitutional issues"

Employment

- 10.27. The recruitment, selection and dismissal of officers will comply with the Employment Standing Orders in Part H of this Constitution.

11. Article 11 – Decision Making and Delegation of Functions

Responsibility for decision-making

- 11.1. The Council will issue and keep up to date a record of the responsibility of the Council, the Leader, the Cabinet, Committees, Cabinet members and individual officers for particular types of decisions or decisions relating to particular areas or functions at [www.plymouth.gov.uk/scheme of delegation](http://www.plymouth.gov.uk/scheme%20of%20delegation)

Principles of decision making

- 11.2. All decisions of the Council will be made in accordance with the following principles:
- Proportionality (i.e. the action must be proportionate to the desired outcome)
 - Consultation and due consideration of professional advice from officers
 - Respect for human rights
 - A presumption in favour of openness
 - Clarity of aims and desired outcomes and
 - Explaining what options are available and giving reasons for the decisions taken.

Types of decision

- 11.3. The law divides a council's work into three categories:
- **Council responsibilities** – these are the responsibility of Council and are set out in section B or delegated to a Committees or a sub committee or an officer
 - **Executive responsibilities** – these are the responsibility of the Leader and are set out in the Leader's scheme of delegation at www.plymouth.gov.uk/Website/11cb
 - **Local choice responsibilities** – Council has decided that these will be the responsibility of the Leader.

Full Council and Key Decisions

Full Council decisions:

- 11.4. Decisions relating to the Council Functions listed in Part B section I will be made by the Full Council and not delegated.

Key decisions:

- 11.5. Some decisions taken by the Cabinet, the Leader or Officers (through delegation) may be defined as a "key decision". A decision will be a "key decision" if it is an executive decision –
- Which is likely to result in the local authority incurring expenditure which is, or the making of savings which are, significant: -
 - in the case of capital projects and contract awards, when the decision involves a new commitment to spend and/or save in excess of £3million in total; or
 - in the case of revenue projects when the decision involves entering into new

commitments and/or making new savings in excess of £1 million.

- OR which is significant in terms of its effect on communities living or working in an area comprising two or more wards in the area of the local authority. ("Significant Impact" in this respect is determined by the Monitoring Officer)"

11.6. Decisions to receive grant funding will not be treated as key decisions, unless the terms of the grant agreement have a significant impact on more wards as determined by the Council.

11.7. A decision maker may only make a key decision in accordance with the requirements of the Council Procedure Rules set out in Part B of this Constitution.

Delegation of responsibilities

11.8. Council delegates some of its responsibilities to a Committee or an officer. The Leader can delegate some of his or her responsibilities to the Cabinet, an individual Cabinet member or an officer in accordance with the Leader's scheme of delegation. Council and the Leader cannot delegate to each other.

How Delegation Works

11.9. Council and the Leader can at any time take back responsibilities they have delegated or decide to delegate them on certain conditions.

11.10. Council and the Leader can also decide to delegate further responsibilities that the Leader has not already delegated can be delegated to the Cabinet a committee of the Cabinet, or to an officer. Responsibilities that Council has not already delegated can be delegated to or a committee of Council or to an officer.

Interpreting the rules on delegation

11.11. When a responsibility is delegated in this Constitution, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated). Executive and Council responsibilities are carried out on behalf of the Council and in the Council's name.

Decision making by the Full Council

11.12. Unless otherwise stipulated, the Council meeting will follow the Council Procedure Rules in Part B when considering any matter.

Decision making by the Leader and Cabinet

11.13. Unless otherwise stipulated, the Cabinet will follow the Cabinet Procedure Rules in Part C when considering any matter.

Decision making by the Overview and Scrutiny Committees

11.14. The Overview and Scrutiny Committees and sub-committees will follow the Overview and Scrutiny Procedure Rules in Part D when considering any matter.

Decision making by other committees and sub-committees established by the Council

11.15. Other Council committees and sub committees shall follow the Committee Procedure Rules when considering any matter.

Decision making by Council bodies acting as tribunals

11.16. The Council, a Councillor or an officer when acting as a tribunal or in a quasi-judicial manner and determining or considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the Human Rights Act 1998.

12. Article 12 – Finance, Contracts and Legal Matters

Financial Management

12.1. The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations.

Contracts

12.2. Contracts made by or on behalf of the Council will comply with the Contract Standing Orders.

Legal Proceedings

12.3. The management of the Council's legal affairs will be conducted in accordance with the Legal Standing Orders.

13. Article 13 – Review and Revision of the Constitution

Duty to monitor and review the Constitution

13.1. The Council and Monitoring Officer will monitor and review the operation of the Constitution during the year in which ordinary elections to the Council are not held, to ensure that the aims and principles of the Constitution are given full effect.

Protocol for monitoring and review of Constitution by H&Y Monitoring Officer

13.2. A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations on ways the Constitution can be amended to better achieve its purpose.

13.3. In undertaking this task the Monitoring Officer or designee may:

- Observe meetings of different parts of the Member and officer structure
- Undertake an audit trail of a sample of decisions
- Record and analyse issues raised with them by Members, officers, the public and other relevant stakeholders and
- Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

Changes to the Constitution

13.4. The Audit and Governance Committee can change the following parts of the Constitution:

- Part F – Access to Information Procedure Rules
- Part G – Codes and Protocols apart from the Councillor's Code of Conduct
- Part H – Standing Orders and Regulations.

13.5. The Audit and Governance Committee can also make changes to the Council Procedures, the Budget and Policy Procedure Rules, the Call In Procedure Rules, the Cabinet Procedure Rules, the Overview and Scrutiny Procedure Rules and the General Rules applying to Committees.

13.6. The Audit and Governance Committee can refer any proposed changes to the Constitution to Council where considered appropriate.

13.7. The Monitoring Officer can change the Constitution, in consultation with the appropriate Cabinet member and the Chief Executive, if it is to put right clerical mistakes, to make it follow or clarify the law, or to comply with Council or Audit and Governance Committee decisions to amend the constitution.

13.8. The Monitoring Officer can also change the Leader's Scheme Part C Responsibility for executive functions to reflect the wishes of the Leader.

13.9. Any other changes must be agreed by Council after considering a report from the Audit and Governance Committee or the Monitoring Officer.

14. Article 14 – Suspension, Interpretation and Publication of the Constitution

Suspension of the Constitution

14.1. Limit to suspension. The Articles of this Constitution may not be suspended.

Procedure to suspend the rules of procedure.

14.2. A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution.

Interpretation

14.3. The ruling of the Lord Mayor or Chair of a meeting as to the Rules of Debate or any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purpose of this Constitution.

Publication

14.4. The Monitoring Officer will ensure that up-to-date copies of the Constitution are made available to Members, Officers and the public on request.

PLYMOUTH CITY COUNCIL CONSTITUTION

**PART B: RESPONSIBILITY
FOR COUNCIL
FUNCTIONS, THE
COUNCIL AND COUNCIL
PROCEDURES**

I. RESPONSIBILITY FOR COUNCIL FUNCTIONS

- 1.1. The Government has for the most part prescribed which functions the Council is to be responsible for. Where functions are not prescribed as the responsibility of the Council they will be determined by the Leader.
- 1.2. The Council delegates some of its responsibilities to a Committee, a joint committee, or an officer. The Council can take back responsibilities it has delegated to a Committee, a Joint Committee or an Officer, or decide to delegate them on certain conditions.

2. DELEGATION BY COMMITTEES

- 2.1. Committees can authorise a sub-committee or an officer to carry out their delegated responsibilities on their behalf.

3. COUNCIL FUNCTIONS

FUNCTIONS THAT MAY ONLY BE EXERCISED BY THE COUNCIL

Procedural Functions

- To adopt and uphold the Constitution of the Council
- To agree the roles and responsibilities of all non-executive committees and keep them under review and to delegate non-executive functions to officers
- To elect the Leader of the Council
- To elect the Lord Mayor and Deputy Lord Mayor of the Council
- To agree the composition and membership of all non-executive committees unless the function has been delegated by the Council
- To adopt Standing Orders and Financial Regulations for the Council and to keep them under review
- To adopt a Code of Conduct for Members and any Member/Officer Protocols
- To appoint any individual to any outside bodies not within the remit of the Cabinet and suspend and/or revoke any such appointment
- To consider any report from the non-executive committees
- To consider any matters referred to the Council for decision.

Functions relating to the Budget, Policy, the Council and the City

- To agree the Council's revenue and capital budgets
- To set the Council Tax levels
- To approve Prudential Indicators for Capital
- To take decisions about proposals which do not comply with the Policy Framework or Budget, unless they are urgent. The procedure for dealing with Urgent decisions that are outside the Policy Framework and Budget is in Part B
- To agree the Council's Policy Framework and Budget (Appendix I(2))
- To keep under review ward boundaries and to decide the Council's response to any proposals by the Local Government Boundary Commission affecting the authority's electoral boundaries
- Any other matter by law required to be considered or determined by the Council
- To promote or oppose local, personal or other Bills of Parliament
- To determine the Council's Scheme for Members' Allowances in Appendix I (1) after

- having regard to the Independent Remuneration Panel's report
- To approve any application to the Secretary of State in respect of any Housing Land Transfer
- To appoint the Head of Paid Service (Chief Executive)
- To receive any report by the Responsible Finance Officer
- To receive any report by the Monitoring Officer (Head of Legal Services)
- To receive any report by the Chief Executive
- To make, amend, revoke or re-enact any byelaws to apply within the unitary boundaries
- To receive any report of the Council's Committees as appropriate.

Functions Relating to Elections and the Name and Status of Areas and Individuals

- To change the name of the city under Section 74 of the Local Government Act 1972
- To confer the title of Freedom of the City, Honorary Alderman, Honorary Recorder
- To appoint any electoral registration officer under Section 8(2) of the Representation of the People Act 1983 (c.2)(c)
- To assign officers in relation to requisitions of the registration officer under Section 52(4) of the Representation of the People Act 1983
- To appoint a returning officer for Local Government elections under Section 35 of the Representation of the People Act 1983
- To provide assistance at European Parliamentary elections under Paragraph 4(3) and (4) of Schedule 1 to the European Parliamentary Elections Act 1978 (c.10)(d)
- To divide constituencies into polling districts under Section 18 of the Representation of the People Act 1983
- To divide wards and parliamentary constituencies into polling districts at local government elections under Section 31 of the Representation of the People Act 1983
- To exercise all powers in respect of holding of elections under Section 39(4) of the Representation of the People Act 1983
- To pay expenses properly incurred by electoral registration officers under Section 54 of the Representation of the People Act 1983
- To fill vacancies in the event of insufficient nominations under Section 21 of the Representation of the People Act 1985
- To declare vacancy in office in certain cases under Section 86 of the Local Government Act 1972
- To give public notice of a casual vacancy
- To determine fees and conditions for supply of copies of, or extracts from, elections documents under Rules 48(3) of the Local Elections (Principal Areas) Rules 1986 (S I 1986 (S I 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S I 1986/2215)
- To submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000 under Section 10 of the Representation of the People Act 2000 (c.2).

4. COUNCIL PROCEDURE RULES

- 4.1. All Meetings of the Full Council will follow standard Rules of Debate for the conduct of its business in order to facilitate debate in an open but orderly manner.

5. NOTICE OF AND SUMMONS TO MEETINGS

- 5.1. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. "At least five clear working days¹ before a meeting, the Monitoring Officer will send a summons (an agenda) to every member of the Council. "The agenda will give the date, time and place of each meeting, specify the business to be transacted and will be accompanied by such reports as are available. Where appropriate, Councillors will, in addition/instead, be notified of the summons by email.

6. TIME AND PLACE OF COUNCIL MEETINGS

- 6.1. Ordinary meetings and the Annual Budget meeting usually start at 2pm. "The times of extraordinary meetings are decided by the Monitoring Officer. "Meetings are usually held in the Council Chamber in the Council House.
- 6.2. The 5nnual meeting will usually start at 10:30 am at Plymouth Guildhall and will take place within 21 days of the retirement of the outgoing Councillors.

7. ORDER OF BUSINESS AT ANNUAL MEETING OF COUNCIL

- 7.1. The order of business will be to:
- a) elect the Lord Mayor and the Deputy Lord Mayor
 - b) elect the Leader (or agree the Leader if the Leader has previously been elected for a four-year term)
 - c) note the membership of the Cabinet
 - d) agree committees and their members and appoint Chairs and Vice Chairs
 - e) agree how Council responsibilities will be carried out
 - f) note how Executive responsibilities will be carried out
 - g) nominate or appoint representatives to outside bodies
 - h) adopt the 7 onstitution, if required
 - i) deal with any other business on the agenda"

8. ORDER OF BUSINESS AT ORDINARY MEETING OF COUNCIL

- 8.1. At C rdinary meetings the order of business will be to:
- a) elect the chair (if the Lord Mayor and Deputy are absent)
 - b) receive apologies for absence from Councillors
 - c) approve minutes of the last meeting as a correct record
 - d) receive declarations of interest from Councillors
 - e) make appointments to committees and outside bodies (unless the outside body's function relates to an executive function)
 - f) reply to questions by the public ([see Part B](#))

¹ A clear working day is defined as a complete period of 24 hours (excluding weekends and Bank Holidays) not including the day of publication of the agenda or the day/s on which the meeting takes place.

- g) receive announcements from the Lord Mayor, Head of Paid Service, Responsible Finance Officer and Monitoring Officer
- h) receive announcements from the Leader, Cabinet members, committee chairs (not to exceed 30 minutes in total)
- i) receive presentations of and responses to Council Petitions ([see Part G](#))
- j) deal with any unfinished business from the last meeting
- k) respond to recommendations from the Cabinet
- l) respond to recommendations and reports from Overview and Scrutiny Committees/sub-committees
- m) respond to recommendations from other Committees requiring Council approval
- n) respond to reports from the Chief Executive, Responsible Finance Officer or Monitoring Officer
- o) deal with motions on notice
- p) deal with any other agenda items
- q) deal with questions by Councillors to the Leader, Cabinet members and committee chairs about their areas of responsibility (not to exceed 45 minutes in total).

9. ANNUAL BUDGET MEETING

- 9.1. The Annual Budget meeting is called each year in February, in advance of statutory deadlines in relation to Council Tax, to consider approval of the Annual Budget for the following year. The only items to be included on the agenda are in relation to the budget which ensures that the full council is able to undertake its functions as described in Article Four.
- 9.2. At the Annual Budget meeting, the order of business will be:
 - a) elect the chair (if the Lord Mayor and Deputy are absent)
 - b) receive apologies for absence from Councillors
 - c) approve minutes of the last meeting as a correct record
 - d) receive declarations of interest from Councillors
 - e) receive urgent announcements from the Lord Mayor, Head of Paid Service, Responsible Finance Officer and Monitoring Officer
 - f) respond to budget recommendations from the Cabinet
 - g) respond to budget recommendations and reports from Overview and Scrutiny Committees/sub-committees
- 9.3. The Lord Mayor or the person presiding at the Council meeting may, with the agreement of the Council, vary the order in which business is considered at the meeting.

10. EXTRAORDINARY MEETINGS OF COUNCIL

- 10.1. The following may call an Extraordinary Council Meeting (specifying the issues/terms to be covered at the meeting):
 - the Council by resolution
 - the Leader in consultation with the Leader of the majority opposition party
 - any ten Councillors who have signed a requisition and presented it to the Monitoring Officer
 - the Lord Mayor
 - two Cabinet members in accordance with the Call in Procedures in Part C section
 - the Chief Executive

10.2. Extraordinary meetings will only deal with the business they have been called for.

11. CHANGING THE ORDER OF BUSINESS

11.1. The Monitoring Officer, in consultation with the Lord Mayor, can ask the Council to agree to change the order of business, except for the first item at the 5nnual meeting. Council must give its consent.

12. CHAIR OF MEETING

12.1. The person presiding at a meeting of the Council will exercise any power or duty of the Chair. If there is a gap in these procedures, the Lord Mayor, or the person presiding at the meeting, will decide what to do.

13. QUORUM

13.1. The quorum is the minimum number of Councillors needed to conduct business at a meeting. For Council meetings this will be a quarter of the total number of Councillors.

13.2. If a quorum is not present at the start of a meeting, the meeting will be put back by 15 minutes. If there is still no quorum the business will be deferred until a quorate meeting. If a quorate meeting can be arranged.

14. DURATION OF MEETING

14.1. The Council meeting will end at 7.30pm and the remaining business will be deferred to 6pm on the next day unless the Council decides otherwise.

15. QUESTIONS BY THE PUBLIC

Asking questions at Council

15.1. The public can ask questions at Ordinary meetings of the Council. These can be addressed to the Leader, other Cabinet members or Chairs of committees. Questions must be about something the Council is responsible for or something that directly affects people in the city. The public cannot ask questions at the Annual General Meeting or the Annual Budget Meeting.

Giving notice of questions

15.2. The wording of questions must be given to the Monitoring Officer at least five complete working days before the meeting. Each question must include the name and address of the person or organisation asking it and the name or position of the Councillor being asked it.

Number of questions

2 A clear working day is defined as a complete period of 24 hours (excluding weekends and Bank Holidays) not including the day of publication of the agenda or the day/s on which the meeting takes place.

- 15.3. Members of the public cannot ask more than one question per meeting. Supplementary questions are not allowed.

Asking the question

- 15.4. If the questioner is unable to be present another person may nominate another person to ask their question. Such a nomination should be provided to the Monitoring Officer at least three days in advance of the meeting.
- 15.5. If the person asking the question is not present and has not nominated another person to ask their question then the question will not be heard.
- 15.6. All questions and responses will be included in the order of proceedings (handed out at the Council meeting) and published on the website after the meeting. The Monitoring Officer will have a reply sent to the questioner within 10 working days.

Length of questions

- 15.7. Questions will be no more than 50 words.

Total length of questions

- 15.8. Council will spend no longer than 10 minutes taking questions. If it cannot take all the questions, it will take them in the order that notice was given of them (except that those members of the public who have not already asked a question at previous Council meetings will be heard first) until there is no time left.

Written answers

- 15.9. Written questions and answers will be included in the minutes of the meeting. (If a question is not taken, the Monitoring Officer will have a reply sent, within 10 working days, to the member of the public who would have asked the question.)

Discussion

- 15.10. Councillors can only discuss the public questions or answers in Councillors' question time.

Suitability of questions

- 15.11. The Monitoring Officer can reject a question if:

- it is not about something that the Council is responsible for or which affects the area
- it is defamatory, frivolous, trivial or offensive
- it requires the Council to make public exempt or confidential information"

- 15.12. The Monitoring Officer will endeavour to assist members of the public to frame questions to comply with these rules; however, the Monitoring Officer's decision is final. If a question is rejected, reasons must be given.

16. QUESTIONS BY COUNCILLORS

Questions without notice

- 16.1. A Councillor can ask a question without notice (under the appropriate agenda item) to the Leader or Cabinet members, or committee chairs on any aspect of their area of responsibility.

Timing

- 16.2. Timing of questions will be one minute for a question, two minutes for a response and the same for supplementary questions. The overall time limit for all questions will be 45 minutes.

Response and supplementary questions

- 16.3. An answer may take the form of a direct oral answer; a reference to a publication where the desired information is located; or a written answer circulated later to Councillors, within 10 working days where the reply cannot conveniently be given orally. All written answers will be published at the end of each month.
- 16.4. One supplementary question can be asked without notice. This must be addressed to the same Councillor as the first question and must arise directly from the first question or the reply. No further supplementary questions are allowed.

Rejecting questions

- 16.5. The Lord Mayor can reject a question if:
- it is not about something that the Council is responsible for or which affects the area
 - it is defamatory, frivolous, trivial or offensive
 - it requires the Council to make public exempt or confidential information ([see Access to Information Rules](#))"
- 16.6. The Lord Mayor's decision is final.

17. PRESENTATION OF MINUTES

- 17.1. Council Minutes will be published by Democratic Support as per their publishing protocols.
- 17.2. Items from Cabinet, Overview and Scrutiny Committees/sub-committees and other committees which require approval or confirmation from the Council will be placed on the Council's agenda.

18. MOTIONS ON NOTICE

Giving notice of motions

- 18.1. Some motions may be moved without notice. For all other motions, the full wording must be received by the Monitoring Officer by 1pm on the fifth working day before the date of the meeting, with electronic confirmation from the Councillor moving the motion and the Councillor seconding the motion. These motions will be reproduced on the agenda for the meeting.

Withdrawing a motion or moving it at a later meeting

18.2. If, before a Council meeting, a Councillor proposing a motion wants to withdraw a motion or move it at a later meeting, they must write to (or email) the Monitoring Officer before the meeting begins.

Absence of the Proposer

18.3. In the event that a proposer is not available to move the motion the seconder of the motion may move the motion and seek a seconder from the floor.

18.4. In the event that both the proposer and seconder are not available the Lord Mayor will invite the relevant political group to nominate another councillor to move the motion.

Listing motions on the agenda

18.5. Motions will appear on the agenda in the order they were given to the Monitoring Officer. The Lord Mayor or the person presiding at the Council meeting may, with the agreement of the Council, vary the order in which motions are considered at the meeting.

Topic of motions

18.6. Motions must be about things that the Council is responsible for or which affect the City (and are not found on the meeting agenda).

Rejecting motions

18.7. The Monitoring Officer can reject a motion if:

- it is not about something for which the Council is responsible or which affects the City
- it is potentially defamatory, frivolous, trivial or offensive
- it requires the Council to make public exempt or confidential information ([see Part F Access to Information Rules](#))

18.8. The Monitoring Officer's decision is final.

Motions without notice

18.9. There is no need to give notice of motions to:

- a. appoint a Chair of the meeting
- b. agree or correct the minutes
- c. change the order of business
- d. refer something somewhere else
- e. agree or amend recommendations of the Cabinet and Council Committees or officers
- f. to appoint members to a Committee or office created at the meeting
- g. amend a motion
- h. go to next business
- i. move to a vote
- j. continue the meeting beyond 7:30pm

- k. suspend a Council procedure
- l. hold a discussion in private (when allowed under the Access to Information Procedures
- m. [ive Council's agreement when it is required by the Constitution.

19. VOTING

Majority vote

- 19.1. Unless the Constitution says otherwise, votes will be decided by a simple majority of Councillors in their seats and voting.

Lord Mayor's second or casting vote

- 19.2. If there is the same number of votes for and against, the Lord Mayor will have a second or casting vote.

Method of voting

- 19.3. Votes will be recorded through use of an electronic voting system, if the electronic voting system fails the Lord Mayor will ask for a show of hands.

Voting on appointments

- 19.4. If there are three or more candidates for a position and none has more than half of the votes, the candidate with the fewest votes will be eliminated and a new vote taken. This will continue until one candidate has more than half the votes.

Reports to note

- 19.5. Reports which contain only recommendations "to note" do not require a vote, unless a vote is called for by Councillors.

20. MINUTES

Signing the minutes

- 20.1. At the first Ordinary meeting when the minutes are available, the Lord Mayor will move that the minutes are correct and sign them. Council will not discuss anything arising from the minutes.

No minutes at Annual or Extraordinary meetings

- 20.2. Minutes are not signed at Annual meetings or special meetings. They are signed at the next Ordinary meeting instead.

21. RECORD OF ATTENDANCE

- 21.1. A record of attendance at Council meetings is noted on the minutes of the meeting. A record of attendance for all meetings is kept and accessible on the Council's website.
- 21.2. Members will be expected to remain in the meeting for its duration (exceptions being

short personal breaks or leaving pursuant to a declaration of interest).

22. EXCLUSION OF PUBLIC

- 22.1. Members of the public and press may only be excluded either in accordance with the Access to Information Rules of this Constitution ([see Part F](#)) or if they are disrupting the meeting.

23. COUNCILLORS' CONDUCT

Standing to speak

- 23.1. When they speak at Council, Councillors must (unless they cannot) stand and address the Lord Mayor. If more than one Councillor stands, the Lord Mayor will ask one of them to speak and the others must sit down. While a Councillor is speaking, other Councillors must sit unless they are making a point of order or personal explanation or point of clarification.

Forms of Address

- 23.2. Councillors will refer to each other during the transaction of business by their respective titles of 'Lord Mayor', 'chair' or 'Councillor' as the case may be.

Chair standing

- 23.3. If the Lord Mayor stands during a debate, any Councillor who is speaking must stop speaking and sit down. The meeting must be silent.

Councillor not to be heard further

- 23.4. If a Councillor keeps on disrupting the meeting by behaving improperly, or offensively and deliberately obstructs business, the Lord Mayor may decide that the Councillor is not heard further"

Councillor to leave the meeting

- 23.5. If the Councillor continues to disrupt the meeting, the Lord Mayor may decide that the Councillor leaves the meeting or that the meeting is adjourned.

General disturbance

- 23.6. If there is general disturbance making it impossible for Council to do its business, the Lord Mayor may adjourn the meeting for as long as necessary.

Removal of member of the public

- 23.7. If a member of the public is disrupting the meeting, the Lord Mayor may warn them. If they carry on disrupting the meeting, the Lord Mayor may have them removed and can halt the meeting until they leave.

Clearance of part of meeting room

- 23.8. If there is a general disturbance in a part of the meeting room open to the public, the Lord Mayor may call for that part of the room to be cleared.

24. SUSPENSION OF COUNCIL PROCEDURE RULES

- 24.1. All the Council Procedures in this section can be suspended except those referring to:

- Right to have individual vote recorded
- No minutes at 5nnual or special meetings
- Councillors conduct and
- General disturbance

- 24.2. Council Rules of Procedure may be suspended by motion on notice or without notice if at least one half of the whole number of members of the Council are present. Suspension can only be for the duration of the meeting.

25. CHANGES TO THESE PROCEDURES

- 25.1. Any motion to change the procedures in this section must be proposed and seconded. After this, it will not be discussed until the next Ordinary meeting of Council.

26. The Framework for Cabinet Decisions

- 26.1. Council sets the policy framework and budget.

- 26.2. The Leader, Cabinet Committees and officers must act within it.

27. PROCESS FOR DEVELOPING THE BUDGET AND POLICY FRAMEWORK

- 27.1. A timetable for any proposals affecting the policy framework and budget will be drafted, and will say what consultation there will be. At the end of the consultation, the Cabinet member will submit a report on the draft proposals to Cabinet.

- 27.2. The relevant Cabinet member will draft the initial proposals with the advice of officers and will canvass the views of interested local stakeholders including the Overview and Scrutiny Committee.

- 27.3. The Cabinet member will submit a report on the draft proposals to Cabinet.

- 27.4. Any reports to the Cabinet must say what consultation there has been and what the results were. The Cabinet will consider the response to the consultation and draw up firm proposals. The report to Council will reflect any comments made during the consultation and the Cabinet's response.

- 27.5. The Cabinet's proposals will go to Council as soon as possible.

- 27.6. The Council may:

- Adopt the report and the proposals contained in it
- Amend the proposals and adopt them
- Refer the proposals back to the Cabinet for further consideration or

- Substitute its own proposals for those of the Cabinet.
- 27.7. If Council accepts the Cabinet's proposals without any changes, the decision will come into force immediately.
- 27.8. If Council changes the Cabinet's proposals, it will be an in principle decision only. The Leader will be given a copy of an in principle decision. The in principle decision will come into force unless the Leader objects in writing to the Head of Legal Services within five clear working days, giving reasons.
- 27.9. If the Leader objects to an in principle decision, Council will meet again within 15 further days of the receipt of the Leader's objection. At the meeting, Council can accept the Cabinet's proposals or change them, in the light of the Leader's objection which will be circulated in writing to the Council.
- 27.10. The Council's decision will come into force immediately"
- 27.11. The Council must agree and set the level of Council Tax by the statutory deadline.
- 27.12. The decision shall be made public in accordance with the Access to Information Procedure Rules, and shall be implemented immediately.
- 27.13. In approving the Budget and Policy Framework, the Council will also specify the extent of variation within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with variation and in-year adjustments. Any other changes to the Budget and Policy Framework are reserved to the Council"

28. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 28.1. The Cabinet, committees of Cabinet, individual members of Cabinet, committees and joint committees and any officers carrying out executive responsibilities can only take decisions if they are-
- in line with the policy framework and budget, or
 - urgent decisions allowed under paragraph 4, or
 - allowed under financial procedure rules, or necessary to obey the law or ministerial directions or government guidance.
- 28.2. Any other decisions which are not in accordance with the policy framework and budget must be recommended to Council.
- 28.3. The Cabinet and any officers carrying out executive responsibilities will seek the Monitoring Officer or Responsible Finance Officer's advice if it is unclear whether proposals are in line with the policy framework or budget"

29. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 29.1. The Cabinet, committees of Cabinet, individual members of Cabinet, committees and joint committees or officers carrying out executive responsibilities can take a decision that is outside the policy framework or budget if:
- it is urgent

- it is not practicable to arrange a Council meeting
- the Chair of the relevant Overview and Scrutiny Committee and the Monitoring Officer (or designee) agrees that the decision is reasonable and that it is not in the interests of the Council or the public to delay it.

29.2. If the Chair of the relevant Overview and Scrutiny Committee is absent, the Lord Mayor can agree that the decision is urgent and, if both are absent, the Deputy Lord Mayor can give their agreement.

30. Recording Urgent decisions

30.1. The record of the decision must say:

- why it was not practicable to arrange a meeting of Council
- that the Chair of the relevant Overview and Scrutiny Committee (or Lord Mayor or Deputy Lord Mayor) and the Monitoring Officer (or designee) agreed that the decision was urgent
- why the decision was considered to be urgent.

31. In-year changes to the Budget and Policy : framework

31.1. The responsibility for agreeing the Budget and Policy Framework lies with the Council, and decisions by the Cabinet, a committee of the Cabinet, an individual member of the Cabinet or officers, committees or joint arrangements discharging executive functions must conform to it.

31.2. No changes to any policy or strategy which make up the policy framework may be made by those bodies or individuals except those changes:

- Which will result in the closure or discontinuance of a service or part of service to meet a budgetary constraint
- Which are necessary to ensure compliance with the law, ministerial direction or government guidance
- Which are necessary because the existing policy document is silent on the matter under consideration
- Which relate to policy affecting schools, where the majority of school governing bodies agree with the proposed change.

31.3. The Call in Procedures deal with Call in of decisions outside the policy framework or budget ([see Part C](#)).

PLYMOUTH CITY COUNCIL

PETITION SCHEME

1. SUBMITTING A PETITION TO THE COUNCIL

- 1.1. Plymouth City Council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.
- 1.2. Paper petitions are those prepared in the traditional way: a petition organiser creates a paper document that includes a proposed action. Residents physically write their name, address and signature on this document to show their support of the proposed action.
- 1.3. To help you organise paper petition, the Council has prepared a which is available on our website.
- 1.4. Paper petitions can be sent to the Democratic Services Team.
- 1.5. e-Petitions are created, signed, and submitted entirely online. **E-petitions created or submitted through third party websites will not be accepted.** If you wish to start an e-petition, please use the Council e-petition system {LINK}

2. GUIDELINES FOR SUBMITTING A PETITION

2.1. Petitions submitted to the Council must include:

- A clear and concise statement covering the subject of the petition. This should state what action the petitioners wish the Council to take.
- The names and signatures of each person supporting the petition, together with the full addresses (including postcode) at which they live, work or study in Plymouth.
- Contact details, including an address, for the petition organiser. This is the person we will contact to explain how we will respond to the petition. The contact details of the petition organiser will not be published.
- If the petition does not identify a petition organiser, we will contact the first listed signatory to the petition to agree who should act as the petition organiser.

3. Scope of Petition

3.1. The Monitoring Officer may reject a petition if it:

- is not about a matter for which the local authority has a responsibility or which affects the City
- is defamatory, frivolous; offensive; vexatious, abusive or otherwise inappropriate
- is substantially the same as a petition which has been put at a meeting of the Council in the past 6 months
- requires the disclosure of confidential or exempt information or
- seeks to pursue or further a complaint against the Council, where other channels already exist for the determination of complaints.

3.2. In addition, there are some circumstances where petitions will not be dealt with under this Scheme. These include any matters relating to planning or licensing applications; where a separate consultation process is active; or other circumstances which, in the

opinion of the Monitoring Officer would mean the petitions would better be dealt with using a different Council procedure.

- 3.3. The Council may seek to verify the authenticity of each entry on a petition by reference to existing information such as (where appropriate) the current electoral register or other relevant records. Entries which cannot be verified may not be counted for the purposes of determining whether a petition has exceeded a threshold set out in this scheme.
- 3.4. In the period immediately before an election or referendum, when certain legal restrictions apply, we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.
- 3.5. If a petition does not follow the guidelines set out above, the Council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.

4. ACTION BY THE COUNCIL ON RECEIPT OF A PETITION

- 4.1. An acknowledgement will be sent to the petition organiser within 10 working days of us receiving the petition. This will let them know what we plan to do with the petition and when they can expect to receive a formal response to it. If the petition needs more investigation, we will tell the petition organiser the steps we plan to take.
- 4.2. If we can do what the petition asks for, the acknowledgement may confirm that we have taken the action requested and the petition will be closed.
- 4.3. Petitions will receive a formal response from the relevant Director within 28 days of receipt. This will usually be the quickest way of addressing the issue.
- 4.4. If however, the petition meets the requirements to be debated at a meeting of Councillors under the provisions of this scheme, the petition will receive a formal response within 28 days from the meeting. If you request this option, the relevant Director may still write to you. You may choose not to proceed with presentation at a meeting if you feel their response resolves the matter.
- 4.5. The acknowledgment will confirm when and how your response will be sent and tell you when and where the meeting will take place (if applicable and if known at that stage).
- 4.6. To ensure that people know what we are doing in response to the petitions we receive, the details of all petitions submitted to the Council will be published on our website, except in cases where this would be inappropriate. Whenever possible we will also publish all correspondence relating to the petition (all personal details will be removed).

5. DEBATE BY ELECTED COUNCILLORS

- 5.1. Subject to your petition containing sufficient signatures as set out below, you may request to present the petition to a meeting of Councillors. There are several ways in which this can be done.

Debate at a Council Meeting

- 5.2. If your petition includes the names, addresses and signatures of 5000 persons who live, work or study in Plymouth, you may request that a debate be held about the petition at a full Council meeting.

Officer evidence to the Overview and Scrutiny Committee

- 5.3. If your petition includes the names, addresses and signatures of at least 2500 persons who live, work or study in Plymouth, you may request that a relevant senior officer give evidence at a public meeting of one of the Council's Overview and Scrutiny Committee.
- 5.4. For example, you may request that a senior officer explain progress on an issue, or the advice given to councillors to enable them to make a particular decision. The senior officers who may be called to give evidence under this procedure include the Head of the Paid Service (Chief Executive) and any of the Council's statutory or non-statutory Chief Officers (Directors).
- 5.5. You should be aware that the Overview and Scrutiny Committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The Committee will also call the relevant Cabinet Member(s) to attend the meeting. Committee members will ask the questions at this meeting.

General guidance on requesting your petition be debated

- 5.6. When determining whether a petition has met or exceeded a threshold set out in this scheme, the Council will only count signatories for which a local connection (i.e. that the signatory either lives, works or studies in Plymouth) can be evidenced from the information supplied. There is a risk that petitions created and/or submitted via third party e-petition websites may not satisfy this criterion so it is strongly recommended that e-petitions are created via the Council's own e-petition facility [\[link\]](#)
- 5.7. Similar petitions: In the event that 2 or more petitions which are substantially the same are received from different petition organisers, the Monitoring Officer may aggregate the number of valid signatures in each petition for the purpose of determining whether the threshold to trigger a Council debate of the matters raised has been reached if that is the wish of the petition organisers.

6. PETITIONS ON NON-COUNCIL FUNCTIONS

- 6.1. If your petition is about something over which the Council has no direct control (for example the local railway or hospital) it is unlikely you will be able to present it to a Council meeting, but we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible may liaise with these partners to respond to your petition. If we are not able to do this for any reason (for example if what the petition calls for conflicts with Council policy), then we will set out the reasons for this to you.
- 6.2. If your petition is about something that a different authority is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other authority, but could involve other steps. In any event we will notify you of the action we have taken.

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