

# Public Document Pack

**BEST ACHIEVING**  
COUNCIL OF THE YEAR



**Barry Keel**  
Chief Executive

Plymouth City Council  
Civic Centre  
Plymouth PL1 2AA

[www.plymouth.gov.uk/democracy](http://www.plymouth.gov.uk/democracy)

10 June 2011

Please ask for: Judith Shore, Democratic and Member Support Manager

T: 01752 304867 E: [judith.shore@plymouth.gov.uk](mailto:judith.shore@plymouth.gov.uk)

## **CITY COUNCIL**

**Date:** Monday 20 June 2011

**Time:** 2.00 pm

**Venue:** COUNCIL HOUSE, PLYMOUTH (next to the Civic Centre)

### **Members:**

Councillor Brookshaw, Chair

Councillor Delbridge, Vice Chair

Councillors Mrs Aspinall, Ball, Mrs Beer, Berrow, Bowie, Bowyer, Mrs Bowyer, Mrs Bragg, Browne, Casey, Churchill, Coker, Davey, Mrs Dolan, Drean, Evans, K Foster, Mrs Foster, Fry, Gordon, Haydon, James, Jordan, Martin Leaves, Michael Leaves, Sam Leaves, Lock, Lowry, Dr. Mahony, McDonald, Monahan, Murphy, Mrs Nelder, Nicholson, Mrs Nicholson, Penberthy, Mrs Pengelly, Rennie, Reynolds, Ricketts, Dr. Salter, Singh, Smith, Smith, Stark, Stevens, Thompson, Tuffin, Tuohy, Vincent, Wheeler, Wiggins, Wildy, Williams and Wright.

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

Members and officers are requested to sign the attendance list at the meeting.

Please note that unless the chair of the meeting agrees, mobile phones should be switched off and speech, video and photographic equipment should not be used in meetings.

**BARRY KEEL**  
CHIEF EXECUTIVE

# CITY COUNCIL

## AGENDA

### PART I – PUBLIC MEETING

#### 1. APOLOGIES

To receive apologies for non attendance submitted by councillors.

#### 2. DECLARATIONS OF INTEREST

Councillors will be asked to make declarations of interest in respect of items on this agenda.

#### 3. MINUTES

(Pages 1 - 20)

To approve and sign as a correct record the minutes of the meeting held on the 11 April and the 20 May 2011.

#### 4. ANNOUNCEMENTS

- (a) To receive announcements from the Lord Mayor or the Chief Executive;
- (b) To receive announcements from the Leader, Cabinet Members or Committee Chairs.

#### 5. QUESTIONS BY THE PUBLIC

To receive questions from and provide answers to the public in relation to matters which, in the opinion of the Lord Mayor, are relevant to the business of the meeting in accordance with paragraph 10 of the Constitution.

Questions, of no longer than 50 words, can be submitted to the Democratic Support Unit, Corporate Support Department, Plymouth City Council, Civic Centre, Plymouth, PL1 2AA, or email to [democraticsupport@plymouth.gov.uk](mailto:democraticsupport@plymouth.gov.uk). Any questions must be received at least five clear working days before the date of the meeting.

#### 6. TO DEAL WITH ANY BUSINESS FROM THE LAST COUNCIL MEETING, IF ANY

**TO DETERMINE RECOMMENDATIONS FROM CABINET, OVERVIEW AND SCRUTINY MANAGEMENT BOARD OR OTHER COMMITTEES**

**7. TRANSFER OF SWRDA PROPERTY ASSETS (Pages 21 - 26)**

To consider the recommendation in Cabinet Minute 6 of 7 June 2011 to amend the capital programme for the transfer of SWRDA assets.

Cabinet Member: The Deputy Leader

CMT Lead Officer: Director for Development and Regeneration

**8. ACQUISITION OF DERRIFORD BUSINESS PARK (Pages 27 - 32)**

To consider the recommendation in Cabinet Minute 7 of the 7 June 2011 to make necessary amendments to the capital programme to allow the acquisition of Derriford Business Park.

Cabinet Member: The Deputy Leader

CMT Lead Officer: Director for Development and Regeneration

**9. MEDIUM TERM FINANCIAL STRATEGY 2011 - 2015 (Pages 33 - 66)**

To consider the recommendation in Cabinet Minute 9 of 7 June 2011 to adopt the updated Medium Term Financial Strategy (MTFS) for the period 2011-15.

Cabinet Member: Councillor Bowyer

CMT Lead Officer: Director for Corporate Support

**10. AMENDMENTS TO THE CAPITAL PROGRAMME (Pages 67 - 70)**

To consider the recommendation in Cabinet Minute 8 of 7 June 2011 to amend the Capital Programme.

Cabinet Member: Councillor Bowyer

CMT Lead Officer: Director for Corporate Support

**11. MOTIONS ON NOTICE**

To consider motions from councillors in accordance with paragraph 13 of the Constitution.

**TO CONSIDER ANY OTHER BUSINESS SPECIFIED IN THE SUMMONS TO THE MEETING, OR MATTERS TAKEN AS A MATTER OF URGENCY**

**12. COUNCIL'S CONSTITUTION (Pages 71 - 268)**

To consider the adoption of the new council constitution as set out in the report of the Monitoring Officer.

CMT Lead Officer: Monitoring Officer

**13. APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES ETC (Pages 269 - 270)**

To consider appointments to committees, outside bodies etc. indicated in the written report and any additional proposals received.

CMT Lead Officer: Assistant Director for Democracy and Governance.

**QUESTIONS BY MEMBERS**

**14. GENERAL QUESTIONS**

Questions to the Leader, Cabinet Members and Committee Chairs covering aspects for their areas of responsibility or concern by councillors in accordance with paragraph 12 of the Constitution;

**15. FORWARD PLAN (Pages 271 - 288)**

The Leader will introduce the Forward Plan.

Councillors may ask questions specific to the Forward Plan of the Leader / Cabinet Members.

**16. EXEMPT BUSINESS**

To consider passing a resolution under Section 100A(4) of the Local Government Act 1972 to exclude the press and public from the meeting for the following item(s) of business on the grounds that it (they) involve(s) the likely disclosure of exempt information as defined in paragraph 3 of Part I of Schedule 12A of the Act, as amended by the Freedom of Information Act 2000.

**PART II (PRIVATE MEETING)**

**AGENDA**

**MEMBERS OF THE PUBLIC TO NOTE**

that under the law, the Council is entitled to consider certain items in private. Members of the public will be asked to leave the meeting when such items are discussed.

**17. TRANSFER OF SWRDA PROPERTY ASSETS (E3)  
(TO FOLLOW)**

CMT Lead Officer: Director for Development and Regeneration

**18. ACQUISITION OF DERRIFORD BUSINESS PARK (E3)  
(TO FOLLOW)**

CMT Lead Officer: Director for Development and Regeneration



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## City Council

Monday 11 April 2011

### PRESENT:

The Lord Mayor, Councillor Mrs Aspinall, in the Chair.  
Deputy Lord Mayor, Councillor Coker, Vice Chair.  
Councillors Ball, Mrs Beer, Berrow, Bowie, Bowyer, Mrs Bowyer, Brookshaw, Browne, Dann, Delbridge, Mrs Dolan, Drean, Evans, K Foster, Mrs Foster, Fox, Fry, Gordon, Haydon, James, Jordan, Martin Leaves, Michael Leaves, Sam Leaves, Lock, Lowry, Dr. Mahony, McDonald, Monahan, Murphy, Mrs Nelder, Nicholson, Mrs Nicholson, Mrs Pengelly, Rennie, Reynolds, Ricketts, Roberts, Dr. Salter, Smith, Stark, Thompson, Tuohy, Vincent, Mrs Watkins, Wheeler, Wiggins, Wildy, Williams and Wright.

Also in attendance: Anthony Payne (Acting Chief Executive) and David Shepperd (Head of Legal Services).

Apologies for absence: Councillors Mrs Bragg, Barry Keel (Chief Executive) and Tim Howes (Assistant Director for Democracy and Governance).

The meeting started at 2.00 pm and finished at 5.45 pm.

*Note: At a future meeting, the Council 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.*

### 110. DECLARATIONS OF INTEREST

In accordance with the Code of Conduct, the following declarations of interest were made in relation to items at this meeting –

Name	Item	Interest	Reason
Councillor Mrs Foster	Minute 124 - Motion on Notice No 20 (10/11): Withdrawal of Bus Services	Personal and prejudicial	Family involved
Councillor Martin Leaves	Minute 124 - Motion on Notice No 20 (10/11): Withdrawal of Bus Services	Personal and prejudicial	Works as a taxi driver
Councillor Sam Leaves	Minute 124 - Motion on Notice No 20 (10/11): Withdrawal of Bus Services	Personal and prejudicial	Husband is a taxi driver

Councillor Vincent	Minute 124 - Motion on Notice No 20 (10/11): Withdrawal of Bus Services	Personal and prejudicial	Employed as a bus driver
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The Lord Mayor advised Councillors Lowry and Smith that there was no need to make declarations as employees of Babcock in relation to minute 125 (Motion on Notice No 21: Final Disposal of Waste: Alternative Treatment).

111. **MINUTES**

Agreed that the minutes of the meeting held on 28 February 2011, are confirmed as a correct record.

**ANNOUNCEMENTS**

112. **The Late Alderman Mrs Carol Brimblecombe**

The Lord Mayor reported the death of Alderman Mrs Carol Anne Brimblecombe on 16 March 2011. Alderman Mrs Brimblecombe served on the City Council from 1973 to 1979 and from 1983 to 1995, as a representative of the Trelawny and Ham Wards. She was made an Alderman in July 1995.

The Council stood in silence as a mark of respect.

113. **Former Councillor Mrs Stephens**

The Lord Mayor reported that Councillor Mrs Stephens had resigned from the City Council on 14 March 2011. She was elected to the Council in May 2008, representing the St Peter and the Waterfront Ward.

On behalf of the City Council, the Lord Mayor thanked her for her service and wished her every success in the future.

114. **Retiring Councillors: Councillors Dann and King**

As this was the last meeting before the local elections, the Lord Mayor thanked those councillors who were not standing for re-election on 5 May 2011.

Councillor Dann was elected to the City Council in May 2003 and currently represented the Moor View Ward as a Labour Party Member. She was a Cabinet Member from May 2004 to 2007 with responsibility for transport, customer focus, human resources and economic development, during that time. More recently, she was a member of the Support Services Overview and Scrutiny Panel and the Supporting Members' Group.

Councillor King was elected to the City Council in May 1997 and currently represented the St Peter and the Waterfront Ward as an Independent Member. As a



Labour Party Member, he was a Cabinet Member from May 2004 to 2007, with responsibility for housing, neighbourhood services and supporting people.

The Lord Mayor thanked them for their service and wished them every success for the future.

Councillor Dann responded and wished everyone well for the future.

Councillor Mrs Pengelly (Leader) also joined in thanking Councillor Dann for her work and wished her and her husband well for the future.

115. **America's Cup**

Councillor Mrs Pengelly (Leader) referred to the recent announcement that Plymouth would be the host city for the America's Cup from 10 to 18 September 2011.

She referred to the benefits to the city to be gained from the event, including revenue generated from having 15 race teams in the city and the attraction of visitors to the event.

She formally thanked all the officers involved, for their work in bringing this event to Plymouth.

116. **British Arts Show**

Councillor Mrs Pengelly (Leader) announced that the British Arts Show would commence on 19 September (immediately following the America's Cup event) and would run until December 2011. Plymouth was one of three locations in the country to host the touring exhibition and could expect a significant boost to the economy.

117. **Plymouth Life Centre**

Councillor Mrs Pengelly (Leader) referred to the recent announcement that Canada's national diving team would be using the Plymouth Life Centre as its pre-Olympic Games training camp.

118. **School Buildings**

Councillor Mrs Watkins (Cabinet Member for Children and Young People) reported that, following a visit to Ministers in relation to the condition of school buildings, officers from the Department for Education had visited Plymouth to look at the difficulties which had been highlighted to them. A response was awaited.

119. **QUESTIONS BY THE PUBLIC**

Two questions were received from the public, in accordance with paragraph 10 of the Constitution. Mr Fox attended the meeting to ask the questions and Councillor Wiggins (Cabinet Member for Transport) responded, as follows -

<b>Question No</b>	<b>Question By</b>	<b>Cabinet Member</b>	<b>Subject</b>
7 (10/11)	Mike Fox	Councillor Wigans	Withdrawal or reduced bus services
<p>How many bus routes and services have been withdrawn or had a reduction in frequency across the City since Conservative Councillors voted to sell Citybus to the private company Go Ahead last year?</p>			
<p><b>Response:</b>  Plymouth Citybus (PCB) became part of the Go Ahead Group on 1<sup>st</sup> December 2009 and operates approximately two thirds of the network within the city.</p> <p>Overall there have been 40 services withdrawn or had a reduction in frequency since that date, of these 21 were made by PCB. (8 additional routes that were withdrawn were subsequently replaced wholly or partly with new or revised services)  The remaining 19 route reductions were made by other operators who service the rest of the network.</p> <p>Plymouth Citybus have endeavoured to minimise the impact of the changes on customers by making a range of positive alterations to the network; to fill gaps and to improve daytime frequencies, particularly on Sundays and Bank Holidays, as well as improving reliability.</p> <p>Changes to the Plymouth Citybus network have seen an overall increase in patronage of more than 5% when comparing April 2009 to January 2010 with April 2010 to January 2011. If the previous year prior to the takeover is also included (April 2008 to January 2009) this also shows an increase of more than 2% over the two year period.</p> <p><b>Citywide Patronage</b>  It is encouraging that irrespective of the service changes stated above, total bus patronage across the city is continuing to grow, with a 0.62% (more than 100,000 journeys) increase recorded between 2009/10 (Apr-Jan) and the same period in 2010/11.</p>			

<b>Question No</b>	<b>Question By</b>	<b>Cabinet Member</b>	<b>Subject</b>
8 (10/11)	Mike Fox	Councillor Wiggins	Numbers 46 and 47 bus services
<p>The removal of the 46 and 47 bus serving the Budshead area has had a devastating effect on school children, workers and the elderly. The Council has the power to subsidise bus services. Will Plymouth City Council subsidise a replacement bus service on 46 and 47 bus route?</p>			
<p><b>Response:</b></p> <p>It is regrettable that Citybus have had to withdraw this service, although in this instance, for 95% of those affected, there are alternative services available. The Public Transport Team, as a result of investigating current provision along this route, identified that whilst some direct links may have been lost, the majority of passengers will be able to use an alternative service/s.</p> <p>The alternative service may require perhaps longer and maybe two bus journeys where previously one would have been the norm and this is again regrettable.</p> <p>The Council will not be looking to support a replacement of the existing service as we consider it does not represent good value for money, particularly as the community does, to a large extent, have alternative provision available.</p>			

## **ITEMS REFERRED FROM CABINET, OVERVIEW AND SCRUTINY MANAGEMENT BOARD AND OTHER COMMITTEES**

### 120. **Lord Mayoralty 2011/12**

Councillor Mrs Pengelly (Leader) proposed, and Councillor Evans seconded, approval of the nomination of Councillor Brookshaw as Lord Mayor for the ensuing year. (Lord Mayor Selection Committee minute 3 referred).

Agreed that Councillor Brookshaw was accepted as the nomination for Lord Mayor during 2011/12, on the recommendation of the Lord Mayor's Selection Committee.

Following the decision, Councillor Brookshaw responded and thanked the Council.

### 121. **Invest to Save Initiatives and Financial Update**

At the commencement of the item, the Head of Legal Services outlined the proposed process for consideration of the proposals on 'invest to save' initiatives and financial update.

The City Council considered -

- (a) the recommendations of Cabinet, contained in Cabinet minute 134 of 29 March 2011, on the proposals;
- (b) the written report of the Corporate Management Team submitted to Cabinet;
- (c) the recommendation of the Overview and Scrutiny Management Board, contained in minute 126 of 6 April 2011, on the proposals;
- (d) an amended report of the Corporate Management Team (in accordance with minute 126 of the Overview and Scrutiny Management Board).

Councillor Bowyer (Cabinet Member for Finance, Property, People and Governance) presented the recommendations in Cabinet minute 134 on 'invest to save' initiatives and financial update, and indicated that –

- (e) the proposals would address, in part, the pressure on the revenue budget;
- (f) 'invest to save' would be a core business tool of the City Council going forward;
- (g) the proposals would be funded subject to a robust business case;
- (h) he was happy to accept the recommendation of the Overview and Scrutiny Management Board and thanked the Board for their work;
- (i) he would provide quarterly monitoring information on the 'invest to save' schemes.

The motion was seconded by Councillor Ball.

Councillor James (Chair of the Overview and Scrutiny Management Board) submitted the recommendation of the Overview and Scrutiny Management Board on the proposals (minute 126 of the Overview and Scrutiny Management Board referred).

The recommendation of the Overview and Scrutiny Management Board was seconded by Councillor Thompson.

Following a debate, the vote was taken and it was Agreed to include the following information in all future 'invest to save' schemes –

- the established criteria for 'invest to save' schemes;
- how the projects are scored;
- details of the running balance and how it was to be funded;

- the benefit/outcome to be achieved.

An amendment was moved by Councillor McDonald to amend the Cabinet recommendations as follows –

‘Add the following (before recommendation (1)) –

Council asks officers to provide information on –

- the established criteria for invest to save schemes;
- how the projects are scored;
- details of the running balance and how it was to be funded;
- the benefit/outcome to be achieved;

and refers this information for the decisions listed below back to the Overview and Scrutiny Management Board for further scrutiny prior to decisions being made.

Delete (10)

Delete (11)’

Following an adjournment, Councillor McDonald presented the amendment which was seconded by Councillor Wildy, and they referred to -

- (j) the need for criteria for the ‘invest to save’ schemes submitted today;
- (k) the need for accountability on the money from the sale of CityBus;
- (l) the lack of information presented on schemes which had been rejected;
- (m) the need to measure benefits and outcomes;
- (n) the inability of the Management Board to form an opinion on the information presented;
- (o) the proposals which could be reconsidered at the provisional meeting of the Management Board on 20 April 2011.

During the debate on the amendment, the following points were raised –

- there was inadequate information on savings and evaluation of the proposals;
- further consideration could be given to the proposals when quarterly monitoring information was presented;
- any delay in the proposals would increase the costs;
- the Executive had brought forward the proposals for scrutiny;

- 23 projects had been reduced to those submitted;
- the savings were identified in the report and that a 10% return was expected.

The Lord Mayor reminded councillors to be courteous when addressing each other.

Following a vote, the Lord Mayor declared that the amendment was lost.

Councillors then debated the Cabinet recommendations and the following points were raised –

- the need for more pre decision scrutiny with Cabinet Members;
- it was essential that savings were evidenced;
- the lack of cross party working for example on children's service;
- Cabinet had set up a reserve for 'invest to save' schemes with limited funding, which was the reason for pay back.

Following a vote, it was Agreed that approval is given to –

- (1) the commencement of the Parent and Child Assessment 'invest to save' project and that this be financed from the Council's revenue 'invest to save' reserve £0.073m in 2011/12 and £0.010m in 2012/13;
- (2) the inclusion of the Autistic Spectrum Disorder 'invest to save' project in the 2011/12 capital programme at an estimated cost of £0.657m to be financed from a mixture of general fund reserves and schools balances;
- (3) the continuation of the Carefirst project and to increase the capital programme for this project by £0.831m in 2010/11, £0.832m in 2011/12, £0.106m in 2012/13, £0.177m in 2013/14 and £0.377m in 2014/15. The revenue costs are estimated to be £1.006m in 2010/11, £0.425m in 2011/12, £0.399m in 2012/13, £0.400m in 2013/14 and £0.400m in 2014/15. Officers have now identified costs being incurred in 2010/11 (mentioned above) which could be treated as capital and would therefore allow the Council more flexibility in its financing options. Funding towards the project has been identified from existing revenue and capital budgets, however there will be temporary shortfalls totalling £0.600m which will need to be met from the revenue invest to save reserve;
- (4) the Accommodation Strategy Phase 2 'invest to save' project and to increase the capital programme for this project by £2.106m in 2011/12, £1.008m in 2012/13 and £0.500m in 2013/14 to be financed from capital receipts and temporary unsupported borrowing;

- (5) an increase in the transport capital and revenue allocation (from 2010/11 levels) towards highway maintenance (which includes 'pot hole' maintenance) of £1.003m. This will be financed from an estimated increase in revenue government grant of £0.433m and a reallocation within the transport capital programme approved at 28 February 2011 Council from the 'integrated transport block' and street lighting maintenance;
- (6) an increase in the development capital programme for 2011/12 of £0.581m towards flood and coastal erosion schemes following the award of external grant funding;
- (7) the amendment of the Minimum Revenue Provision policy for 2010/11 and 2011/12 to reflect option 1 (the regulatory method) for borrowing supported by the government through the revenue support grant mechanism;
- (8) the delaying of changes to fees and charges relating to the adult social care 'fairer charging' policy until July 2011. This is due to the review of all clients not being completed until the end of June 2011;
- (9) making the use of Tinside pool free to all users during the summer of 2011;
- (10) the inclusion of the following information in all future 'invest to save' schemes –
  - the established criteria for 'invest to save' schemes;
  - how the projects are scored;
  - details of the running balance and how it was to be funded;
  - the benefit/outcome to be achieved;
- (11) amend the revenue budget to include the procurement 'invest to save' proposal of £758,100.

122. **Children and Young People's Plan 2011/14**

The Council considered the recommendation of Cabinet, contained in minute 137, on the adoption of the Children and Young People's Plan 2011/14, together with the written report of the Director of Services for Children and Young People which had been submitted to Cabinet.

Councillor Mrs Watkins (Cabinet Member for Children and Young People) presented the Children and Young People's Plan 2011/14 for adoption, subject to an amendment of an error on Guiding Principle No 8 (page 55 refers) so that the sixth bullet point reads ".....Gypsy and Traveller families" (to replace ".....gypsy and traveller families") and highlighted that she had attended all the consultation events (except for one). She had been particularly impressed with the event attended by children, who had been very enthusiastic and had contributed to the plan.

Councillor Mrs Bowyer seconded the proposal and congratulated Services for Children and Young People on their consultation. During the debate, the following points were raised -

- the progress made during the previous plan, had been recognised;
- the plan had high aspirations;
- there was still work in progress and many challenges contained in the plan;
- the contributions from partners had yet to be confirmed;
- detailed monitoring and evaluation of the plan would be necessary.

Agreed that the Children and Young People's Plan 2011/14 is adopted, as amended.

At the conclusion of the item, the Lord Mayor again reminded councillors with regard to the way they refer to each other.

123. **Plymouth's Third Local Transport Plan - adoption**

The Council considered the recommendation of Cabinet, contained in minute 140, on the adoption of Plymouth's Third Local Transport Plan, together with the written report of the Director for Development and Regeneration which had been submitted to Cabinet.

Councillor Wiggins (Cabinet Member for Transport) presented Plymouth's Third Local Transport Plan for adoption and reported that the draft plan had been the subject of a 12 week consultation exercise.

Councillor Lock seconded the proposal.

During the debate, the following points were raised -

- officers were congratulated on the document and the briefing given to them;
- there were concerns about vehicle emissions, the reduction in policing in relation to crime statistics and flood risk assessments;
- the impact of the withdrawal of bus services on the transport objective to link communities together;



- following an undertaking by Councillor Wigen with regard to a review of subsidised buses, officers had indicated that there were no plans to review services;
- the drainage, parking and road markings around the market were of concern and that the bollards would be removed shortly;
- there would be no reduction in the numbers of police community support officers this year and that Chief Superintendent Andy Bickley had been asked to brief all councillors on policing arrangements.

Councillor Wigen undertook to follow up Councillor Vincent's comments on air quality and would provide details to him when the areas of concern were known. He also undertook to follow up Councillor Williams' comments on a review of subsidised bus services. The services were all reviewed at least annually and when individual requests were received.

Agreed that Plymouth's Third Local Transport Plan is adopted.

## **MOTIONS ON NOTICE**

### **124. Motion on Notice No 20: Withdrawal of Bus Services**

Councillor Evans moved the following motion on notice for approval –

#### **WITHDRAWAL OF BUS SERVICES**

The Council notes with regret the effects of the withdrawal from service of the routes 46/7 and route 45.

The route 46/7 provided the only service from and to some bus stops; it also provided essential links between locations in Kings Tamerton, St Budeaux, West Park, Whitleigh and other places. Passengers are now faced with walking longer distances than before; in some cases, people with disabilities have to walk further than they are able to manage.

The route 45 provided essential links between Cattedown, Coxside and the city centre; there is no alternative service.

The Council resolves to request the relevant portfolio holder to work with Citybus and other operators to restore some service to stops which now have no service and to restore links which have been severed, and to consider providing some financial support for whatever service can be restored.

The motion was seconded by Councillor Wheeler.

During the debate, the issues raised, included that –

- bus services were disappearing and creativity and involvement was required, with ward councillors to reintroduce the connections between communities;
- Councillor Wheeler had received a petition from Kings Tamerton community association with regard to the withdrawal of the 46/47 bus service. There was no longer a bus link to Derriford Hospital or St Budeaux square from Kings Tamerton. The petition would be presented to the CityBus Manager by Councillor Wheeler.

Councillor Wiggins (Cabinet Member for Transport) indicated that he would be willing to accept the motion. He also announced that a solution for the Merafield to Cattedown link bus service had been found and that the Council would be supporting a three month trial service, hopefully to be extended to one year.

Councillor Ball moved, and Councillor Monahan seconded, that the vote was taken. Following a vote, the motion was carried.

Councillor Evans summed up, regretting the end of the debate and sought clarity of when the bus service would start and at what times.

The motion was put to the vote and declared carried. It was Agreed that the relevant portfolio holder work with Citybus and other operators to restore some service to stops which now have no service and to restore links which have been severed, and to consider providing some financial support for whatever service can be restored.

(Councillors Mrs Foster, Martin Leaves, Sam Leaves and Vincent having declared interests, withdrew from the meeting during consideration of this item).

125. **Motion on Notice No 21: Final Disposal of Waste: Alternative Treatment**

Councillor Wheeler moved the following motion on notice for approval, the City Council noting a typographical error in the motion circulated as indicated, in bold italics, below -

**FINAL DISPOSAL OF WASTE: ALTERNATIVE TREATMENT**

The Council notes the proposal by AAD (South West) to establish a plant at Lee Moor to process up to 75,000 tons of brown-bin commercial waste. The process involves autoclaving and anaerobic digestion and was the subject of an exhibition at Lee Moor on 1 and **2** ~~(12)~~ April.

It is understood that the gate fee is expected to be less than £80 per ton, the capital cost is some £9 million and the expected time of construction is less than 12 months from grant of planning permission.

This compares with MVV's gate fee which is understood to be in the region of £120 per ton with a capital cost of between £100 million and £200 million and a construction period of between 2 and 3 years from grant of planning permission. Firm figures have not been disclosed.

Apart for the financial benefits, the environmental benefits are very significant. There will be no emissions, either toxic or greenhouse. There will be no ash. Recyclates are recovered cleanly. The product of the digestion will be in demand for many years for land restoration at Lee Moor and it is hoped that the product will soon be suitable for agricultural use.

The Council resolves to request the South West Devon Waste Partnership to think again about its future waste disposal options, given the proposal by AAD (South West) to establish a waste processing plant at Lee Moor.

The motion was seconded by Councillor Evans who indicated that Wakefield Council had taken advantage of this solution.

During the debate, the issues raised, included that –

- the anticipated income for MVV would be reduced;
- the scheme would increase job opportunities in the construction industry, secure the naval base and eventually save the City Council £6m per year;
- in 2008, the three local authorities had signed a legally binding agreement and the outline business case had been agreed by Defra. The authorities would have been in breach of the joint working agreement if the scheme had not been approved and delaying approval would have resulted in the loss of pfi credits;
- if the motion was approved, there would be dire consequences for the business partnership, with the loss of heat and energy resources and potential challenge by MVV;
- residents were unhappy with the incinerator proposals and that the Council were urged to consider the alternative to ensure that all options had been explored;
- the scrutiny arrangements that had taken place;
- concerns could be debated as part of the planning process;
- the proposal by AAD had been looked at and that the plant was not large enough to deal with the waste from the city. There was also no certainty that the plant would proceed;
- the financial risks to the authority and its partners caused by the delay in restarting the process and breaching the contract with MVV;
- Councillor Mrs Pengelly had the responses to the ten most popular questions asked at the consultation events and would provide them to any councillor on request.

Following the debate, a request was received from ten councillors for a recorded vote, and there voted –

*For the motion (16)*

Councillors Bowie, Coker, Dann, Evans, Gordon, Haydon, Lowry, McDonald, Murphy, Mrs Nelder, Tuohy, Vincent, Wheeler, Wildy, Williams and Wright.

*Against the motion (33)*

Councillors Ball, Mrs Beer, Berrow, Bowyer, Mrs Bowyer, Brookshaw, Browne, Delbridge, Mrs Dolan, Drean, Foster, Mrs Foster, Fox, Fry, James, Jordan, Martin Leaves, Michael Leaves, Sam Leaves, Lock, Dr Mahony, Monahan, Nicholson, Mrs Nicholson, Mrs Pengelly, Reynolds, Ricketts, Roberts, Dr Salter, Stark, Thompson, Mrs Watkins and Wogens.

*Abstentions (1)*

The Lord Mayor.

*The following Members were absent (4)*

Councillors Mrs Bragg, King, Rennie and Smith.

The motion was declared lost.

126. **PROGRAMME OF ORDINARY MEETINGS OF THE COUNCIL AND COMMITTEES 2011/12**

Councillor Mrs Pengelly (Leader) presented the programme of ordinary meetings of the Council and committees 2011/12, for approval. Councillor Fry seconded the proposal.

Agreed that the programme of ordinary meetings of the Council and committees 2011/12 is approved.

127. **APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES etc**

The written report of the Assistant Director for Democracy and Governance was submitted.

Agreed that –

(1) the following appointment was approved -

	<b>Organisation</b>	<b>No of Members</b>	<b>Appointments / Nominations</b>
(a)	Plymouth Community Homes	Four representatives: Councillors Dann, Fox, McDonald and Thompson.	Councillor Browne to replace Councillor Fox.

- (2) the following changes of Committee membership were noted, following notification to the Monitoring Officer –

	<b>Committee</b>	<b>Change of Membership</b>
(b)	Children and Young People Overview and Scrutiny Panel	Councillor Browne has replaced former Councillor Mrs Stephens.
(c)	Growth and Prosperity Overview and Scrutiny Panel	Councillor Lock has replaced former Councillor Mrs Stephens.
(d)	Overview and Scrutiny Management Board	Councillor Williams has replaced Councillor Stevens (suspended).  nominated substitute: Councillor Delbridge is substitute for Councillor Ricketts (from the Health and Adult Social Care Overview and Scrutiny Panel).
(e)	Planning Committee	Councillor Fox has replaced former Councillor Mrs Stephens. Councillor Wildy has replaced Councillor Stevens (suspended).
(f)	Standards Committee	Councillor Mrs Bragg has replaced former Councillor Mrs Stephens.

## QUESTIONS BY MEMBERS

### 128. General Questions

In accordance with paragraph 12 of the constitution, the following questions were asked of the Leader, Cabinet Member and Committee Chairs covering aspects of their areas of responsibility –

<b>From</b>	<b>To</b>	<b>Subject</b>
Councillor Wheeler	Councillor Bowyer	Waste Incinerator: how will MVV react to not getting commercial waste and what will the position be when the contractor does not get the feedstock expected?

Councillor Bowyer responded that the question was speculative and that it would be inappropriate for him to speak on behalf of MVV. The company had a proven track record with proven technologies and were operating in this field.

129. **Forward Plan**

The Leader introduced the Forward Plan.

Questions were asked of the Leader and Cabinet Members as follows -

	<b>From</b>	<b>To</b>	<b>Subject</b>
1	Councillor McDonald	Councillor Michael Leaves	Sex Establishment Licensing Policy: as the consultation document states where it would not be appropriate to place sex establishments, all things taken into account, including vulnerability and density of population, would he not put a sex establishment in Union Street?
	Councillor Michael Leaves could not give an assurance as the consultation period had ended on 31 March and officers were working up the results. He would then look at it.		
2	Councillor McDonald	Councillor Michael Leaves	Sex Establishment Licensing Policy: would he agree that he should talk with head teachers, governing bodies and community groups (for example Stonehouse Residents and action groups)?
	Councillor Michael Leaves responded that he had consulted and referred to the list of consultees in the forward plan. He would consider the results of the consultation and could not pre-empt the consultation.		
3	Councillor Stark	Councillor Michael Leaves	Sex Establishment Licensing Policy: have the councillors for the area consulted him?

	Councillor Michael Leaves responded that they were on the list and would have been consulted. No councillors had come to him.		
4	Councillor McDonald	Councillor Michael Leaves	Sex Establishment Licensing Policy: has her written submission been received, which was submitted on 31 March?
	Councillor Michael Leaves responded that it would have gone to the officers.		
	At the conclusion of the item, Councillor Delbridge apologised for his behaviour during this item.		

130. **VOTE OF THANKS**

As this was the last City Council meeting before the Annual General Meeting, the Lord Mayor thanked all councillors and wished Councillor Brookshaw (Lord Mayor Designate) well next year.

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## City Council

Friday 20 May 2011

### PRESENT:

Councillor Mrs Aspinall, in the Chair.

Councillor Coker, Vice Chair.

Councillors Ball, Mrs Beer, Berrow, Bowie, Bowyer, Mrs Bowyer, Mrs Bragg, Brookshaw, Browne, Casey, Churchill, Davey, Delbridge, Mrs Dolan, Drean, K Foster, Mrs Foster, Fry, Gordon, Haydon, James, Jordan, Martin Leaves, Michael Leaves, Sam Leaves, Lock, Lowry, Dr. Mahony, McDonald, Monahan, Murphy, Mrs Nelder, Nicholson, Mrs Nicholson, Penberthy, Mrs Pengelly, Rennie, Ricketts, Dr. Salter, Singh, Smith, Stark, Stevens, Thompson, Tuffin, Tuohy, Vincent, Wheeler, Wiggins, Williams and Wright.

Apologies for absence: Councillors Evans, Reynolds, Smith and Wildy

The meeting started at 10.30 am and finished at 11.30 am.

*Note: At a future meeting, the Council 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 ELECT THE LORD MAYOR AND DEPUTY LORD MAYOR FOR THE PERIOD UP TO THE NEXT ANNUAL MEETING.**

Agreed that Councillor Peter Brookshaw is elected Lord Mayor and Councillor Edward Delbridge is elected Deputy Lord Mayor, for the ensuing year.

2. **TO RECEIVE ANY ANNOUNCEMENTS OR COMMUNICATIONS FROM THE LORD MAYOR.**

There were no announcements by the Lord Mayor.

3. **VOTE OF THANKS TO THE RETIRING LORD MAYOR AND DEPUTY LORD MAYOR.**

Agreed that –

- (1) the Council accords to Councillor Mary Aspinall the sincere thanks of the Citizens of Plymouth for the invaluable services she has rendered to the City as Lord Mayor since May 2010, and for the able manner in which she has presided over the deliberations of the Council during that period;
- (2) the Council expresses its indebtedness to Councillor Mark Coker for his diligent and efficient discharge of the duties of Deputy Lord Mayor, and to Kate Aspinall as the Lady Mayoress, and Ms Sally Bowie as the Deputy Lady Mayoress, who have supported them

during their year of office.

4. **TO ELECT THE LEADER.**

Agreed that Councillor Mrs Pengelly is elected Leader of the City Council.

5. **TO RECEIVE INFORMATION CONCERNING THE MEMBERSHIP OF THE CABINET AND DELEGATION OF RESPONSIBILITY TO CABINET MEMBERS.**

The Council received the report of the Leader which advised that the Cabinet would comprise the following Members with the scheme of delegation as submitted –

<b>Portfolio</b>	<b>Member</b>
Leader	Councillor Mrs Pengelly
Deputy Leader / Planning, Strategic Housing and Economic Development	Councillor Fry
Finance, Property and People	Councillor Bowyer
Community Services (Safer and Stronger Communities and Leisure, Culture and Sport	Councillor Jordan
Customer Services	Councillor Ball
Community Services (Street Scene, Waste and Sustainability)	Councillor Mike Leaves
Transformation, Performance and Governance	Councillor Ricketts
Adult Health and Social Care	Councillor Monahan
Children and Young People	Councillor Sam Leaves
Transport	Councillor Wigens

Agreed that the membership of Cabinet and the delegation of responsibilities to Cabinet Members are noted.

6. **TO APPOINT COUNCILLORS TO OTHER COMMITTEES, JOINT COMMITTEES AND OUTSIDE BODIES.**

Schedules of the nominations to committees, joint committees, panels etc and outside bodies were submitted.

Agreed that approval is given to –

- (1) the appointments to committees, joint committees, panels etc including the Chairs and Vice Chairs for the transaction of the business of the Council for the municipal year and to note the nominated Cabinet appointments as indicated;
- (2) the appointments and nominations of councillors and others as representatives on outside bodies, though membership of the Devonport Community Lands Trust, Estover/Leigham/Mainstone Management Committee, Plymouth Foyer and South West Councils will be deferred to the next meeting of the City Council.

**CITY COUNCIL**

**20 June 2011**

Cabinet minute 6 of 7 June 2011

**TRANSFER OF REGIONAL DEVELOPMENT (RDA) ASSETS**

Councillor Fry (Cabinet Member for Planning, Strategic Housing and Economic Development) introduced the report and stated that the transfer of RDA assets or the “Asset Package” will form part of the Growth Strategy to create new jobs for the city.

Agreed that –

- I. that Cabinet recommend that Council amend the Capital Programme as required.

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**CITY OF PLYMOUTH**

**Subject:** Transfer of SWRDA Property Assets  
**Committee:** Cabinet  
**Date:** 7 June 2011  
**Cabinet Member:** Councillor Fry  
**CMT Member:** Director for Development & Regeneration  
**Author:** David Draffan Assistant Director, Economic Development  
**Contact:** Tel: 01752 304250  
e-mail: david.draffan@plymouth.gov.uk  
**Ref:** Plymouth Asset Transfer  
**Key Decision:** Yes  
**Part:** Part I

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**Executive Summary:**

This paper deals with the transfer of certain RDA owned Plymouth assets to the City Council, in line with national government advice. This transfer can be partly seen as re-stocking the City Council's property portfolio after a number of recent sales. It is however the important regeneration role that Derriford and Royal William Yard will play as a strategic sites (as defined in the Local Economic Strategy and Local Development Framework) in enabling the City Council to deliver against its objectives of creating up to 6000 new jobs in the North of the City and 7000 new jobs in the Tourism sector; along with major infrastructure improvements that this transfer decision needs to be considered

The closure of the South West Regional Development Agency by 31<sup>st</sup> March 2012 has led to a number of its property assets now being offered for sale or transfer to Local Authorities. Those assets that still require new investment are being included in "asset packages" with properties that have a current positive value that balances-out the potential liabilities of the assets that still require work and investment.

The proposed Plymouth Asset Package covers SWRDA-owned properties in Plymouth that still require new investment but that, when completed and fully developed, will make a positive contribution to the creation of new jobs and improvements to the local economy. In that sense this proposal is a major investment in the strategic development framework for the City and its Local Economic Strategy. The SWRDA properties are:

Royal William Yard and Western King (RWY/WK) Stonehouse  
Vacant land at Plymouth International Medical & Technology Park (PIMTP)  
Derriford  
Land at Stonehouse Creek

The Council will also be given full control of the following let properties that are already owned by the Council but whose acquisition was funded by SWRDA:

16/22 George Place & 10/18 East Street, Stonehouse  
1- 4 Bounds Place, Millbay Road, Stonehouse  
Tamar House, 2 Thornbury Road, Estover Industrial Estate

Certain accrued rents retained by the Council from these properties are also to be paid into a proposed ring-fenced account that will contain the rental payments from the Asset Package.

The repayment of SWRDA's previous loan to fund the development of the Link Building at Plymouth Business Park, Stoke, will also be terminated, providing that the Council makes an equivalent annual payment into the proposed ring-fenced account.

The Asset Package will be transferred to the Council for the nominal sum of £1.00 with each side to bear their own fees and costs.

If the Council does not accept the proposed asset transfer, it is likely that a government agency or department will become the owner of SWRDA's assets as its statutory successor.

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## **Corporate Plan 2011-2014**

### **Delivering Growth:**

The Local Economic Strategy and Local Development framework identify Derriford and the Waterfront as priority areas for regeneration and economic growth. Tourism and Marine are also specifically identified as a priority sectors.

This proposal is a pro-active investment in new jobs and directly supports those objectives set out above. It is estimated that in the Derriford area up to 6,000 new jobs could be created and major new infrastructure improvements could be enabled. These assets will play a major part in that growth. At Royal William Yard a further 700 jobs could be created from the repair and conversion of buildings into business space.

Surplus rental from the let properties at Stonehouse and Estover, that is not required to cover property liabilities, could be invested in wider initiatives such as City marketing, or support for small businesses that create new jobs in Plymouth's priority sectors.

---

### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

Property acquisition costs for freehold interest £1.00 plus VAT  
Estimated legal and surveyors fees £30,000 plus VAT  
Total cost of acquisition £30,001 plus VAT

The risks in particular associated with the buildings and structures at RWY/WK have been considered and the Council is satisfied that the arrangements put in place for their management and future regeneration are practical and deliverable.

Property management of all Asset Package properties, liabilities, maintenance, repairs and marketing will be funded from property rentals. Additional economic development initiatives could be funded from surplus property rental.

Further payments may be due to SWRDA or its statutory successor in future, if there are changes of use of the Package properties that would generate a higher land values within 5 years of the date of the transfer.

---

**Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.**

If the Council acquires the Asset Package it will need to manage the let properties and the future development of PIMTP, RWY/WK, and Stonehouse Creek. This will require risk assessments for maintenance contracts and will also require public liability insurance on certain sites.

---

**Recommendations & Reasons for recommended action:**

It is recommended that:

1. Cabinet agree the acquisition of the proposed Plymouth Asset Package from the South West RDA on the terms outlined in this report and subject to:
  - (a) Proper and effective due diligence on the existing and proposed legal agreements, and
  - (b) Conditions that protect the Council's interests and
  - (c) Appropriate amendment to the Capital Programme
2. That Cabinet recommend that Council amend the Capital Programme as required.

---

**Alternative options considered and reasons for recommended action:**

If the Council does not acquire the Asset Package, the constituent assets are likely to be transferred by SWRDA to another government agency or department as its statutory successor.

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**Background papers:**

File in Economic Development Service (access is not available to exempt information)

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**Sign off:**

Fin	MC111 2.003	Leg	11810/ RW	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											



**CITY COUNCIL**

**20 June 2011**

Cabinet minute 7 of 7 June 2011

**ACQUISITION OF DERRIFORD BUSINESS PARK**

Councillor Fry (Cabinet Member for Planning, Strategic Housing and Economic Development) introduced the report and stated that Derriford is a growth area for the city and is good for investment purposes.

Agreed that –

- I. the Cabinet recommend to Council the necessary amendment to the Capital Programme.

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## CITY OF PLYMOUTH

<b>Subject:</b>	Acquisition of Derriford Business Park
<b>Committee:</b>	Cabinet
<b>Date:</b>	7 June 2011
<b>Cabinet Member:</b>	Councillor Fry
<b>CMT Member:</b>	Director for Development & Regeneration
<b>Author:</b>	David Draffan Assistant Director, Economic Development
<b>Contact:</b>	Tel: 01752 304250 e-mail: david.draffan@plymouth.gov.uk
<b>Ref:</b>	Plymouth Asset Transfer
<b>Key Decision:</b>	Yes
<b>Part:</b>	Part I

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### Executive Summary:

This paper deals with the purchase of a new property investment (Derriford Business Park) by Plymouth City Council. This purchase can be partly seen as re-stocking the City Council's property portfolio after a number of recent sales and also as sound long term financial investment with a good yield. It is however the role of Derriford Business Park (DBP) as a strategic site both contributing and enabling Council to deliver against its objectives of creating up to 6000 new jobs in the North of the City along with major infrastructure improvements that this investment needs to be considered

The closure of the South West Regional Development Agency by March 2012 has led to a number of its property assets now being offered for sale. Those that still require new investment are being included in certain asset transfers to Local Authorities, which is the case in Plymouth and covers for example Royal William Yard and Plymouth International Medical & Technology Park – the transfer of this asset package is the subject of a separate Cabinet report.

Property investments that are let, however, are being offered for sale at market value, with a limited opportunity for the Local Authority to agree purchase terms.

DBP is located off Brest Road, Derriford and has a site area of c. 2.5 ha (6.18 acres) and contains 7 buildings, some of which are subdivided into individual letting units, with a total floor area of 4,016 sq m (43,227 sq ft).

This acquisition is not only an investment in commercial property that produces an income, but also in potential new job creation in the Derriford area as clearly stated in the Local Economic Strategy and Local Development Framework. Derriford is a strongly-growing economic hub for the City and a major node of future employment and economic

growth. DBP is also a possible future key site for part of the proposed Derriford District Centre, a major retail-led commercial scheme to create a new heart for northern Plymouth.

The proposed purchase price for the freehold interest of DBP is at current open market value which has been agreed following advice from independent valuers. The Council will also be liable to pay its own legal and professional costs and Stamp Duty Land Tax.

It is recommended that the Council purchases DBP as an investment in enabling future growth and jobs within the City.

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## **Corporate Plan 2011-2014**

### **Value for Communities:**

The acquisition of this property can achieve a higher level of annual return than could be received from investing the purchase price on the money markets, however also at a higher level of risk of future occupation voids, which will require active management.

### **Delivering Growth:**

Any surplus rental not required to cover the cost of financing the acquisition or fund property liabilities, could be invested in economic development initiatives such as City marketing, or support for small businesses that create new jobs in Plymouth's priority sectors. The possible future redevelopment potential of the site for retail-led mixed use development could also provide new enterprise and jobs in a new commercial heart for northern Plymouth, which itself could support the provision of new infrastructure that will enable the area's future economic growth.

---

### **Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land**

The property acquisition will be at open market value with each side to bear their own fees and costs.

---

### **Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.**

If the Council acquires the property it will need to maintain the common areas of the estate and provide public liability insurance, however, these costs can be re-charged to the service charge account that is funded by the property occupiers.

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### **Recommendations & Reasons for recommended action:**

It is recommended that:

1. the Cabinet agree to acquire the freehold interest of Derriford Business Park with each side to bear their own fees and costs, subject to the inclusion of the scheme in the capital Programme.
2. the Cabinet recommend to Council the necessary amendment to the Capital Programme

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**Alternative options considered and reasons for recommended action:**

If the Council does not acquire the property it is understood that SWRDA will offer the freehold interest for sale on the open market.

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**Background papers:**

File in Economic Development Service

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**Sign off:**

Fin	MC11 12.002	Leg	11809 /RW	HR		Corp Prop		IT		Strat Proc	
Originating SMT Member											

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**CITY COUNCIL**

**20 June 2011**

Cabinet minute 9 of 7 June 2011

**MEDIUM TERM FINANCIAL STRATEGY 2011 - 2015**

Councillor Bowyer (Cabinet Member for Finance, Property and People) introduced the report and highlighted that the document sets out how progress is measured and forecasts the resources required for the next 3 – 4 years.

Agreed that the updated Medium Term Financial Strategy (MTFS) for the period 2011 – 15 be recommended to Council for adoption.

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**CITY OF PLYMOUTH**

**Subject:** Medium Term Financial Strategy 2011-2015  
**Committee:** Cabinet  
**Date:** 7 June 2011  
**Cabinet Member:** Councillor Bowyer  
**CMT Member:** Director for Corporate Support  
**Author:** David Northey (Head of Finance)  
**Contact:** Tel: 01752 304566  
e-mail: david.northey@plymouth.gov.uk  
**Ref:** DJN 05/11  
**Key Decision:** No  
**Part:** 1

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**Executive Summary:**

The Council's Medium Term Financial Strategy (MTFS) was updated and presented to Cabinet following the Comprehensive Spending Review announcements of 20 October 2010 and earlier announcements from the Coalition Government. The strategy has now been subject to further review as part of the 2011/12 detailed budget exercise and following the 2010/11 outturn position.

It is important that the document is updated on a rolling basis in order to continuously improve our approach to aligning revenue and capital spend to areas of highest importance for our local communities.

The MTFS is closely linked to, and compliments, all of the Council's core documents as contained within our budgetary framework. Cabinet are therefore requested to recommend the Strategy to full Council for adoption.

The updated MTFS is attached.

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**Corporate Plan 2011-2014:**

The MTFS is a core document that enables the Council to deliver against its priorities as detailed on the Corporate Plan 2011-14.

---

**Implications for Medium Term Financial Plan and Resource Implications:  
Including finance, human, IT and land**

The MTFS identifies the likely costs and pressures that the Council will face and matches these against the anticipated resource allocation over the period 2011-15

**Other Implications: e.g. Section 17 Community Safety, Health and Safety, Risk Management, Equalities Impact Assessment, etc.**

The Strategy outlines the Council's attitude to risk, governance arrangements for effective financial management, opinion regarding financial resources including council tax levels and objectives for retaining adequate reserves.

**Recommendations & Reasons for recommended action:**

The Updated Medium Term Financial Strategy (MTFS) for the period 2011-15 be recommended to Council for adoption.

**Alternative options considered and reasons for recommended action:**

N/A

**Background papers:**

- Plymouth City Council Corporate Plan 2011-14
- 2010/11 Budget Papers
- Plymouth City Council Medium Term Financial Strategy – revised October 2010
- Joint Finance and Performance Report – Position as at 31 March 2011

**Sign off:**

Fin	MC111 2.0004	Leg/ Dem& Gov	TH0016	HR	n/a	Corp Prop	n/a	IT	n/a	Strat Proc	n/a
Originating SMT Member: Malcolm Coe											

# Medium Term Financial Strategy 2011 to 2015



**Plymouth City Council**  
May 2011

## **Medium Term Financial Strategy 2011-15**

### **Contents:**

1. Our Summary Financial Objectives
  2. Introduction
  3. Our Corporate Planning Framework 2011-14
  4. Our General Fund Revenue Position
    - Revenue Resources available
    - Council Tax
    - Budget Pressures and Medium Term Financial Forecast
    - Income collection
    - Revenue spend and income assumptions
    - Significant Reserves and Provisions
  5. Our Capital Position
  6. Our approach to Treasury Management
  7. Efficiencies and Value for Money
  8. Our Financial Governance Arrangements
- Appendix A
- Appendix B

## **1. Our Summary financial objectives:**

- (a) Medium term financial forecasts will be monitored and managed regularly by Corporate Management Team and Cabinet. Future years' revenue funding gaps will be addressed on an on-going basis.
- (b) Council Tax to remain in line with government guidelines for 2011/12 and beyond.
- (c) Retain a revenue working balance of at least 5% of net revenue budget at the end of each financial year;
- (d) Where practical, (depending on grant conditions), to 'pool' grant funding with all other revenue resources and allocate based on corporate priorities as per the council's corporate plan and partnership's Sustainable Community Strategy;
- (e) Spending departments may carry forward up to 50% of end of year revenue underspend, (subject to overall year end position and approval by CMT), as long as such underspend is declared and reported from September monitoring onwards. Use of carry forwards must link directly to priorities;
- (f) Departments may be required to carry forward any end of year overspend, as directed by CMT, and make good this spend over future financial years;
- (g) To formally review the purpose and adequacy of specific reserves and provisions on an annual basis and to regularly monitor and report on key variations against such reserves through finance and performance reports;
- (h) To continue to drive Value for Money (VFM) throughout the council by undertaking robust benchmarking and encouraging departments to set VFM targets based on high spending and/or poorly performing services;
- (i) Maximise opportunities for generating efficiencies through effective commissioning and joined up spending with key partners;
- (j) Financial Regulations and levels of Delegated Authority to be formally reviewed and approved by the Audit Committee annually;
- (k) To maintain or improve income collection rates and to minimise the amount of debt written off by the council.

**How we will measure our progress:**

- (l) Maximise delivery of the Council's budgeted capital programme for 2011/12 and continue to monitor and report on outcomes achieved through capital investment;
- (m) Generate the £23m of capital receipts required to deliver the capital programme by March 2013; and a further £1m for the following two years to March 2015..
- (n) Deliver a year on year net revenue budget outturn within a tolerance of up to 2% underspend and maximum of 1% overspend;
- (o) Aim to achieve the required year end balances for specific reserves and provisions to meet the costs of known future financial commitments;
- (p) Reduce costs whilst maintaining or improving service quality to achieve the departmental targets as set within the 2011/12 revenue budget
- (q) Aim to achieve 2011/12 in year income collection targets of:
  - Council Tax            96.5%
  - NNDR                    97.5%
  - Commercial Rents    96.5%
  - General debtors       95.0%
  - Trade Waste            100.0%
- (r) Work towards the following Treasury Management targets under our revised (February 2011) strategy:
  - Maintain the council's overall investment portfolio at under £188m throughout the financial year;
  - Achieve a return on new investments in the 2011/12 year of 1.0%
  - Maintain an overall level of council borrowing of under £332m throughout the financial year;

## 2. Introduction

This summary Medium Term Financial Strategy, (MTFS), covers the period 2011-15. It identifies the likely costs and pressures that the council will face and matches these against the anticipated resource allocation over the period.

The Comprehensive Spending Review (CSR) was published in October 2010 and national headlines are a real terms reduction of 28% in local authority budgets over the next four years. The fall in grant is more than 7% a year. It is difficult to do a straight comparison of 2011/12 funding from grants with previous years. This is because the Government have included a number of specific grants within the formula grant, and excluded others previously included.

With effect from the 11/12 financial year, the Council adopted a sharper focus on a fewer number of priorities to continue to drive improvement. The evidence based 'Plymouth Report' has led to the adoption of four city and council priorities.

The MTFS is a core document that enables the council to deliver against its four priorities, as detailed in the Corporate Plan 2011-14.

This document should not be read in isolation. It needs to be read in conjunction with the Council's 2011/12 Revenue and Capital Budget reports. This strategy supplements the figures noted in the budget for the current financial year 2011/12 and looks ahead and models the financial resources and spending plans for the next three years 2012/13 – 2014/15.

The Strategy outlines the council's attitude to risk, governance arrangements for effective financial management, opinion regarding council tax levels and objectives for retaining adequate reserves.

Developments and enhancements will be made to this document on a rolling basis in order to continuously improve our approach to aligning revenue and capital spend to areas of highest importance for our local communities.

The MTFS is closely linked to, and complements, all of the council's core documents as contained within our budgetary framework. These documents are available to download from our website ([www.plymouth.gov.uk](http://www.plymouth.gov.uk)).

The future of Local Government funding is still uncertain with more detail required following the October 2010 CSR and December Settlement. Despite the CSR covering four years, the settlement only confirmed our grant funding with certainty for two future years, 2011/12 and 2012/13. We knew there would be significant spending reductions in the coming years; beyond the next two years we still have uncertainty. This MTFS presents a financial context regarding the scale of this challenge. The council is developing a transformational change programme in response to the financial challenges ahead in order to proactively bridge the funding gap whilst maintaining and improving the services that we provide to our customers.

**This Strategy covers:**

**General Fund** – expenditure and income relating to the day to day delivery of our core services and functions. For 2011/12 this equates to £630.0m spend and £421.8m income, leaving a net revenue requirement of £208.2m.

**Housing Revenue Account (HRA)** – The council successfully transferred its Housing Stock to Plymouth Community Homes in November 2009. In 2010 the council received formal approval from the Secretary of State to close the account with effect from 31 March 2011. The residual HRA Working Balance has therefore transferred to the General Fund and we will therefore no longer operate an active HRA.

**Capital** – The council has reviewed and updated its medium term capital programme considering the current economic climate, accounting for future risks around government capital allocations and achievability of capital receipts. We still have an ambitious and significant investment programme in physical assets and local infrastructure. Targeted capital investment will help contribute towards achieving corporate priorities and/or generate on-going revenue savings. Our planned capital spend for the next two years up to the end of March 2013 is £119m.

Beyond this date we have additional commitment at this stage of £13m, and significant plans. At this stage we are awaiting further clarity from government on capital funding before finalising additional plans beyond March 2013. This clarification is anticipated progressively over the next few months and will be finalised via the quarterly monitoring reports.



### 3. The Corporate Planning Framework 2011-14

The Plymouth 2020 local strategic partnership has a shared vision of making Plymouth “One of Europe’s finest, most vibrant waterfront cities, where an outstanding quality of life is enjoyed by everyone” by 2020.

To achieve this shared vision the partners have agreed to focus their priorities around four themed areas aimed at making the city healthy, wealthy, safe and wise. The diagram below shows how the vision for the city is being delivered through theme groups and supported by the partnership.



Partners have their own visions and strategies that ultimately aim to deliver that shared vision for the city. Plymouth City Council’s vision is to deliver excellent local services to Plymouth residents and has set itself the goal of becoming an “excellent” authority by 2012.

#### Our shared priorities for the city

The priorities below were identified for both the council and the partnership following publication of the Plymouth Report, which for the first time brought together needs analyses and capacity data from across the city as a basis for priority setting.

**Deliver growth**

- Promote Plymouth as a thriving growth centre by creating the conditions for investment in quality new homes, jobs and infrastructure

**Raise aspirations**

- Promote Plymouth and encourage people to aim higher and take pride in the city

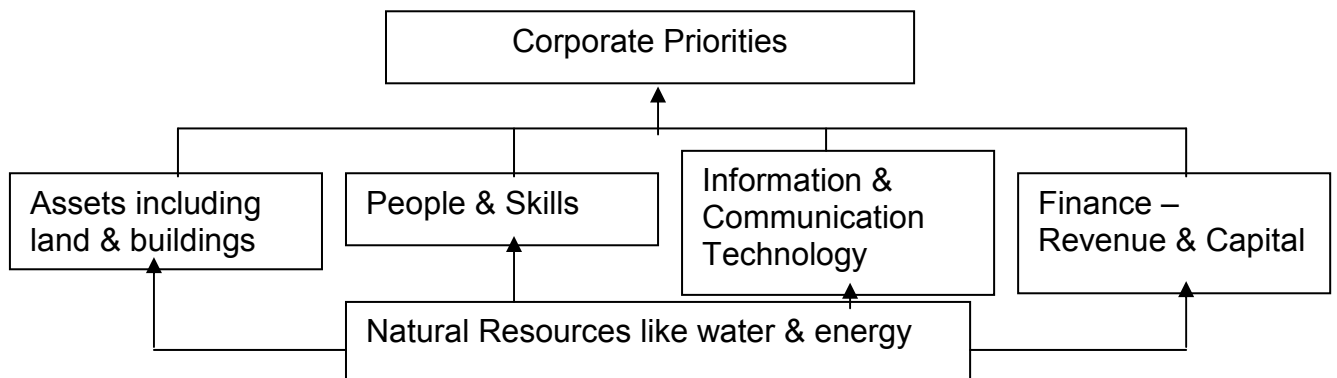
**Reduce inequality**

- Reduce the inequality gap, particularly in health, between communities

**Provide value for communities**

- Work together to maximise resources to benefit customers and make internal efficiencies

**Figure 1: Use of Resources Planning Framework**



Reporting to Corporate Management Team, Cabinet and Scrutiny will continue to combine progress against priorities with key performance indicator information, revenue budget forecasts and capital programme updates.

## 4. Our General Fund Revenue Budget

### Revenue Resources available

The Comprehensive Spending Review (CSR) 2010 allowed the council to plan, with reasonably certainty, the revenue resources available up to, and including, the 2012-13 financial year. However, the revenue resources from 2013/14 onwards remain, at this stage, uncertain. Indications are that, due to the level of national debt, future settlements will be extremely challenging for local government resulting in significantly reduced funding. The CSR review headlines Grant reductions of 7%+ per year.

The assumptions used to model our available resources :-

- 2011/12 and 2012/13 Formula Grant as confirmed
- 2011/12 Council Tax frozen at 2010/11 level

For the periods 2013/14 and 2014/15 there is still no clarity, however for the financial model there is an expectation of a further reduction in funding in 2013/14 and a modest increase in 2014/15.

The impact of such a permutation is as follows:

*Figure 2: Revenue Resources Forecast*

	2011/12 £m	2012/13 £m	2013/14 £m	2014/15 £m
<b>Total Resources available</b>	<b>208.2</b>	<b>201.1</b>	<b>198.2</b>	<b>200.7</b>

This requires the council to actually reduce revenue spend by a further £7.5m between 2011/12 and 2014/15, with no allowance given for growth or known service pressures..

### Treatment of Specific Grant Funding

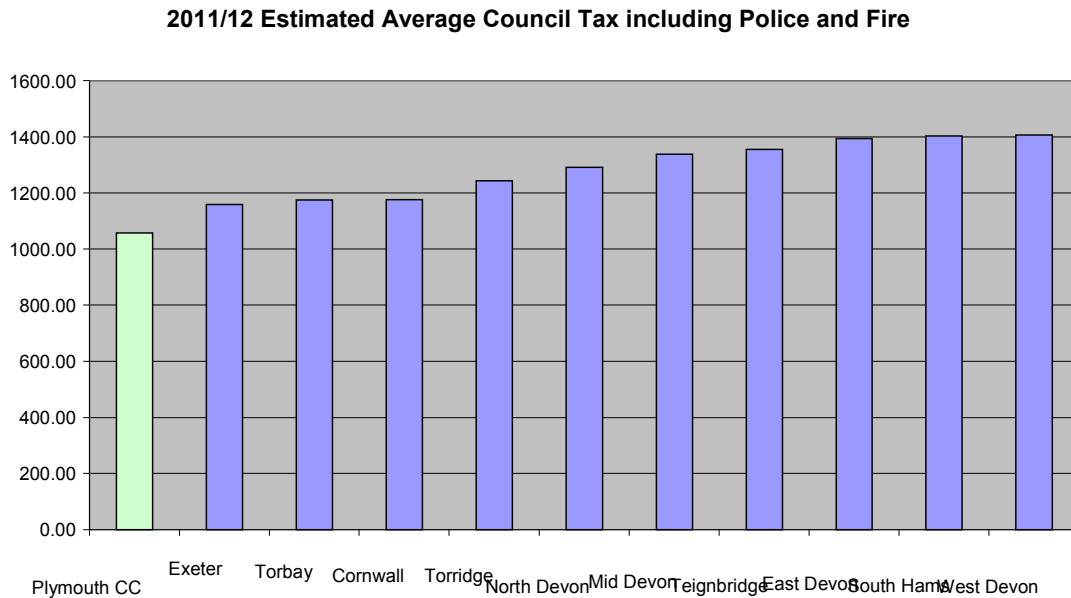
The largest specific grant that the Council receives is the Dedicated Schools Grant (DSG). In excess of £150m, the funding is spent either directly by Schools, (Primary, Secondary and Special), through their formula allocations, or by the authority on their behalf. The Schools Forum, (a representative group of Head Teachers and relevant stakeholders), are consulted on the local authorities formula distribution and the amounts administered centrally. Any over or under spends on the DSG are carried forward to the following financial year with a neutral impact on the council's general fund.

Where practical, (depending on grant conditions), the Council aims to 'pool' all non- ringfenced grant funding received with all other revenue resources. Total resources are allocated based on corporate prioritisation linked to the council's corporate plan and partnership's Sustainable Community Strategy.

## Council Tax

The Council Tax levied by Plymouth City Council for 2011/12 has been frozen at the 2010/11 level. This retains Plymouth City Council as the lowest average council tax across Devon and the wider South West as detailed in the following graph:

**Figure 3: 2011/12 Devon Average Council Tax**



We have frozen the council tax despite a number of specific revenue pressures on our budgets, including increased costs in adult social care regarding the growing number of elderly people in the area, increased costs of waste disposal and the national trend of increasing number of children in care. The economy is also placing pressure on revenue and capital budgets through falling income collection rates and reduced ability to generate capital receipts.

The council's aim, as stated in this strategy, is to strive to maintain Council Tax levels as low as possible.

Not included in our resources figures, but included in our net spending plans, is the newly created Council Tax Grant. This is a specific grant issued by the government to compensate those Local Authorities which implemented a Council tax freeze. The government is yet to announce its intentions around future funding.

## **Budget Pressures and Medium Term Financial Forecast**

The Council set its revenue budget for 2011/12 at the Council meeting on 28 February 2011. Council Directorates have, for some time, identified known and anticipated expenditure pressures on a rolling three year basis. These pressures have been reported within the quarterly performance and finance reports presented to Cabinet and Scrutiny throughout 2010/11.

For the 2011/12 budget, we have allocated revenue funding to match spending requirements.

For future years, we have identified a number of high risk, and high cost, issues that will have a significant impact on future year's revenue budgets:

### **Waste disposal costs**

Waste disposal costs are rising in every council across the country. Significant progress has been made in developing the long term waste solution for the city and a waste to energy plant is being developed through the Devon Waste Partnership, with Torbay and Devon County Councils. The Waste PFI project's procurement phase was successfully concluded in March 2011, with the plant due to come on line in 2013/14. A waste management reserve has been set up to prepare for the future however, the actual cost of waste collection and disposal over the next three years and beyond significantly outweigh existing provision.

### **Reduced income through economic downturn**

We continue to strive to improve our income collection rates in all major areas including council tax, NNDR and sundry debtors. Challenging income targets have been set for 2011/12 however there is a risk that the economic climate could continue to impact on our ability to be able to achieve these targets.

### **Reduced return from council investments**

For 2011/12 we have assumed a rate of 1.0% return on all new investments made. With the Bank of England base rate currently standing at 0.50% (as at March 2011), this target is challenging and represents a risk.

### **Demographic growth in elderly residents**

The impact on adult social care budgets of the increasing number of younger adults with complex personal care needs combined with increasing life expectancy is recognised throughout the country. Plymouth has a higher than average elderly population and, as such, is anticipating significant cost pressures in the medium to long term. Funding has been allocated for this for each of the four years in the MTFs. However, there is a strong risk that this allocation will be insufficient to meet with actual demand.

### **Increasing number of children in care**

Recognising that we have had a higher than average number of children in care, we have actively been reducing the number in care since 2007/08. Our revenue budget is now in line with unitary average council spend. However, high profile media cases have resulted in a national trend of increasing numbers of children in care and there is a risk that actual (financial) demand could exceed the resources available.

## **Pensions**

The council's has just received the outcome of its three year review of its pension fund assets and liabilities. Our actuaries have confirmed that our current employer superannuation contribution rate can remain at 19.4%. There is a strong risk that the next valuation, although three years away, could identify a significant funding gap on the Pension fund and require a higher employer contribution rate. The planned reductions in the workforce mean it is likely extra funding will be required in the coming years. Also, the Coalition Government is still studying the recommendations following a fundamental review of public sector pensions carried out during 2010. At the time of this report we do not know the impact of any possible funding changes.

## **Summary of revenue pressures and future years' budget gap**

Clearly we are not able to fund all of these budget pressures without introducing management action to reduce costs.

The 2011/12 budget setting process saw the introduction of departmental budget delivery plans, together with cross-cutting delivery plans. During 2010/11 the Government introduced in-year grant funding reductions of £2.5m which were translated into £4m of in-year budget challenges across all departments. These reductions were rolled into the 2011/12 base budgets as the "start point" and supplemented by the department budget delivery plans to close the funding gap.

In support of these plans and reduced funding, the Corporate Management Team is working with the Cabinet to develop a transformational change programme that fundamentally challenges the organisation's culture, structure and approach to service delivery. This change programme, which will include proposals for 'invest to save', will continue to progress and be reported on throughout 2011/12.

The Corporate Management team are also working with the Cabinet to challenge all of the underlying assumptions used in the spending plans. To achieve a balanced budget given the reduced funding, we will have to radically change the way we work as a Council.

As a starting point, we have allocated provisional figures to each pressure area to better understand the challenge that is facing the council in future years. This can be seen as **Appendix A**, and summarised as follows:

**Figure 4: Revenue Forecast –resources vs spending plans**

	2011/12 £m	2012/13 £m	2013/14 £m	2014/15 £m
<b>Total Resources available</b>	<b>208.2</b>	<b>201.1</b>	<b>198.2</b>	<b>200.7</b>
<b>Forecast Spending Plans</b>	<b>223.9</b>	<b>225.7</b>	<b>231.1</b>	<b>235.8</b>
<b>Forecasted Funding Shortfall before Budget Delivery Plans</b>	<b>15.7</b>	<b>24.6</b>	<b>32.9</b>	<b>35.1</b>
<b>Off set by:-</b>				
<b>Council Tax Grant</b>	<b>(2.4)</b>	<b>(2.4)</b>	<b>tbc</b>	<b>tbc</b>
<b>Budget Delivery Plans</b>	<b>(13.3)</b>	<b>(15.8)</b>	<b>(26.0)</b>	<b>(26.0)</b>
<b>Revised forecasted Funding Shortfall</b>	<b>0.0</b>	<b>6.4</b>	<b>6.9</b>	<b>9.1</b>

In summary, a possible scenario of reduced revenue resources combined with a revised approach on current spend plans could still result in a revenue funding gap of £6.4m in 2012/13 rising to £9.1m in 2014/15

It must be emphasised that this is very much the “worst case” scenario. The additional delivery plans of £5.0m introduced in response to funding reductions in 2011/12 have not been rolled forward into the financial model for future years. The figures also do not include any anticipated savings as a result of new initiatives, for example Category Management within procurement which is tasked with driving out up to £5m of costs within three years.

However, the underlying message is there is a funding gap on the horizon; and even in 2011/12 we have to achieve over £13m of delivery plans to balance the budget.

Full details of the departmental Delivery Plans were published as part of the Budget & Corporate Plan and proposed Council Tax Levels report dated 28 February 2011.

## Income Collection

In-year collection targets have been set for Council Tax, Business Rates, Commercial Rent, and Sundry Debt Income, which includes our Trade Waste Income. The Council's major sources of income will continue to be monitored and reported on a regular basis, and will continue to be included in our quarterly Joint Performance and Finance Reports.

In 2011/12 we have continued to increase our collection rates in all of our core income streams other than NNDR. However, due to the difficult economic conditions, we have fallen slightly short of the ambitious targets that we set.

For future years, we continue to set year on year improvement targets to generate as much 'in year' income as possible. Robust action plans are being delivered to ensure that future year targets are achieved.

**Figure 5: Income Collection Targets**

Type of debt	Actual % 10/11	Target % 11/12	Target % 12/13	Target % 13/14	Target % 14/15
Council Tax	96.1%	97.0%	98.0%	98.5%	98.5%
NNDR	97.3%	97.5%	97.5%	97.5%	97.5%
Commercial Rents	93.0%	96.5%	96.5%	96.5%	96.5%
Sundry Debt	92.5%	95.0%	95.5%	96.0%	96.5%
Trade Waste	95.6%	100.0%	100.0%	100.0%	100.0%

### Council Tax and Non-Domestic Rates

Collection targets for the medium term period are based on achieving top quartile performance, based on current quartile projections for our family group. For Council Tax, we have continued to make significant progress, improving from collecting 92.5% in year for 2007/08, raising to 95.20% for 2009/10 and a further increase to 96.1% for 2010/11. We will continue to explore further options to maximise the level of income collected and are confident we can achieve our new target of 96.5%

### Commercial Rents

We have separated out the collection of Commercial Rents income from 'Sundry Debtors' in order to target specific improvement activity on collecting this income. From the relatively low baseline of 85% as identified in 2009/10 we achieved 93% in 2010/11 and have set a target of 96.5% each future year.

### Sundry Debt

Despite the current difficult economic climate, we did manage to achieve our 10/11 target of 92.5%, by focusing our efforts on risk, materiality and our key



customers. Our new 3 year targets, at 95%, will enable us to compare favourably with the Unitary average.

### Trade Waste

We had a successful year in 2010/11, managing to achieve a collection rate of 95.6%. The targets for 2011/12 and future years have been set at 100% as this reflects our new initiative of charging customers in advance of collections. If they default on payment, then the service is not provided.

## Revenue Spend and Income Assumptions

In forecasting our future year expenditure commitments, a number of assumptions are made on increased costs such as inflation, income levels, grants, superannuation etc. The key assumptions made within our medium term forecast are as follows:

**Figure 6: Key spending / inflation assumptions**

Description	2011/12	2012/13	2013/14	2014/45	Sensitivity
Pay (excluding lower paid)	0.0%	0.0%	2.0%	2.0%	+/- 0.50% = £0.500m
Superannuation increased employer contribution	0.0%	3.0%	3.0%	4.0%	+/- 1.0% = £0.162m
Utility inflation– increases off set by accommodation changes until 2014/15	0.0%	0.0%	0.0%	3.5%	+/- 5.0% = £0.149m
Income – fees and charges	Determined by individual departments				+/- 0.50% = £0.182m
Return on council investments	1.0%	2.50%	2.50%	2.50%	+/- 0.50% = £0.181m
<b>Specific Departmental Assumptions</b>					
Social Care Commissioning	0.0%	0.0%	2.0%	2.0%	+/- 0.50% = £0.349m
Supporting people	0.0%	0.0%	2.0%	2.0%	+/- 0.50% = £0.041m
Children's services placements	0.0%	0.0%	2.0%	2.0%	+/- 0.50% = £0.032m
<b>Total Sensitivity / Risk re: changes to the above Expenditure assumptions:</b>				<b>+/- £1.596m</b>	
<b>Resources</b>					
					<b>Sensitivity</b>
Total resources	(4.59)%	(3.4)%	(1.44)%	1.3%	+/- 0.50% = £0.500m
<b>Total Sensitivity / Risk re: changes to the above Resource assumptions:</b>				<b>+/- £1.105m</b>	

CMT and Cabinet will continue to monitor, review and challenge the above assumptions to ensure any increases are kept to an absolute minimum.

## Revenue Delivery Plans

As part of the 2011/12 budget setting, Directors, Assistant Directors and Cabinet have signed up to Revenue Delivery Plans, resulting from eleven cross cutting budget delivery items. These plans detail the key actions that will have to be put in place in order to deliver a balanced budget.

### Governance

1. Department budgets will remain with ultimate responsibility and accountability resting with Directors and their DMTs, with overview provided by CMT.
2. Thematic Groups for the cross cutting plans will continue to meet and develop clear plans as to how to achieve the three year spending reduction targets that they have been set. Progress from these groups has to be fed back into Departmental Management Teams (and/or Departmental Improvement Boards)
3. Departmental Management Teams (and/or Improvement Boards) will maintain an overview of progress against their 3 year departmental budgets using the existing, risk rated 'Delivery Plan' process.

Delivery Plans will promote accountability and ownership of the budget whilst focussing senior manager and member attention on the key strategic issues and risks. They will be monitored throughout 2011/12 as part of standard performance and finance reporting.

## Significant Reserves and Provisions

The council has created a number of specific reserves and provisions in order to plan in advance for known and anticipated future revenue costs. We will regularly review the appropriateness and use of these reserves throughout each financial year. Where relevant, recommendations for changes will be reported to Cabinet on an on-going basis. As a minimum, **all** specific reserves will be reviewed on an annual basis as part of the end of year accounting closedown arrangements.

A brief description of the purpose of each of our significant specific reserves and provisions is as follows:

### Waste Management Reserve

The cost of disposing the City's waste is due to rise sharply over the coming years. Since closing our landfill site, Chelson Meadow, (due to it being full), we have entered into a contractual arrangement to dispose our waste in Cornwall for the immediate future. Longer term, we are entering into a Private Finance Initiative, (PFI), with Devon County and Torbay Councils to build a new 'waste into energy' plant. We are putting aside regular contributions to meet the anticipated increased cost of waste disposal.

### **Invest to Save**

Following a full review by CMT, funds not used from earmarked reserves were transferred to a new Invest to Save reserve scheme. These reserves will be allocated to projects which will generate future savings. Departments will be able to “bid” for funding from this reserve by providing a robust financial model showing a return on their investment.

### **Redundancy Costs**

To achieve a balanced revenue budget for 2011/12, and beyond, a number of revenue budget delivery plans will result in reduced staffing. The council will continue to work towards minimising redundancies where possible and practical to do so. However, bearing in mind the likely future local government finance settlements, it is prudent to establish a redundancy reserve.

### **Capital Financing Reserve**

A capital financing reserve has been established to fund risks around future achievement of our five year capital programme. Since the economic downturn, pressure has intensified on capital budgets through not being able to generate the required level of capital receipts. The primary purpose of this reserve is to meet the revenue costs associated with having to take out short term borrowing to match the cashflow gap of when capital spend is required linked to when actual receipts are anticipated.

### **Accommodation Reserve - preparing for new Civic Centre**

The council’s existing Civic Centre is not ‘fit for purpose’. It is expensive to maintain and, in the long term requires significant investment. Funding has been set aside to progress with alternative office accommodation whilst meeting the costs of essential maintenance of the Civic Centre. This is detailed within our accommodation strategy and forms part of the council’s strategic asset management plan.

### **Insurance Fund Reserve**

A provision that has been set up to meet the cost of anticipated future insurance claims based on existing known liabilities and estimated future liabilities. It enables the council to reduce its payments to external insurance providers by transferring some of the risks of small claims to the authority.

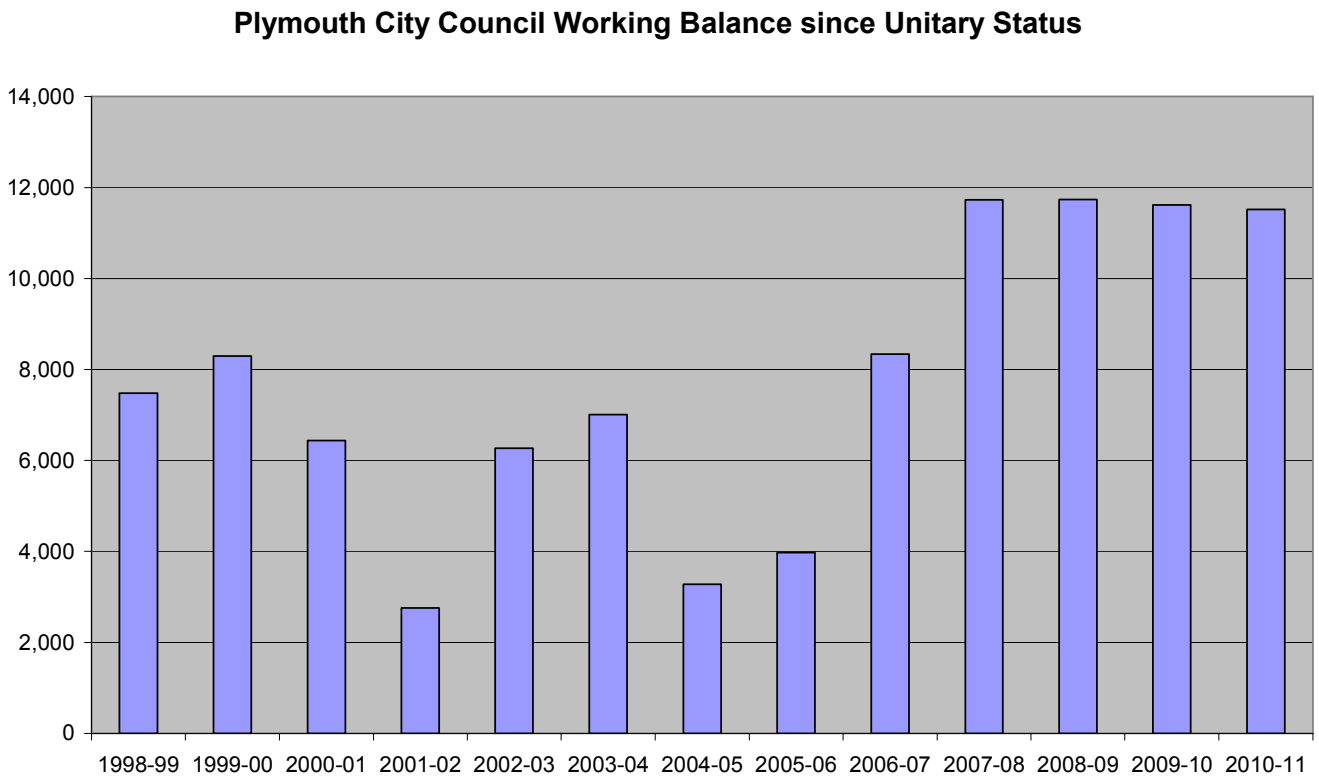
Figure 7 represents what we are planning will be in these reserves and provisions at the end of each of the next four financial years:

**Figure 7: Targeted significant reserves and provisions**

	Actual for 31 Mar '11 £m	Target for 31 Mar '12 £m	Target for 31 Mar '13 £m	Target for 31 Mar '14 £m	Target for 31 Mar '15 £m
Waste Management Reserve	2.4	2.4	2.4	2.4	0.0
Redundancy Costs	2.6	1.5	0.7	0.3	0.0
Capital Financing Reserve	0.9	0.7	0.5	0.0	0.0
Accommodation provision - Civic Centre	1.8	1.5	1.2	1.0	0.0
Insurance – General Fund Reserve	1.0	1.0	1.0	1.0	1.0
Invest to Save	2.3	1.1	0.5	0.5	0.5

### Working Balance

The Council's 'Working Balance' is the revenue reserve that is put aside to cover any significant business risks that might arise outside of the set budget. This reserve has significantly improved over recent years and, as at March 2011, stands at £11.4 million. This equates to approximately 5.5% of net revenue budget for the year which is in line with the average for Unitary Councils. We continue with our policy of maintaining adequate reserves giving consideration to the significant constraints that will be placed on public sector spending for the foreseeable future.

**Figure 8: Working Balance Levels**

The council's reserves should be adequate to cover potential risks. Plymouth has significantly improved the approach to risk management over recent years. Our strategic and operational risk registers are comprehensive and are regularly reported to, discussed and challenged by senior officers and members.

## **5. Our Capital Position**

Our financial strategy for capital has been to fully utilise the supported capital borrowing allocation available to us in tandem with maximising the availability of grant and third party payments.

We maintain the principle that capital schemes are only approved into the programme where specific funding has been clearly identified and supported by business cases. Thereby, the capital investment programme, at any set point in time, will evidence 100% funding allocation against approved schemes. Capital investment is prioritised to ensure that outcomes are maximised against the council's Priorities.

The council continues to challenge the affordability of its five year capital programme for the period 2010/11 to 2014/15. There remains significant volatility around future capital grant funding and income generation through

capital receipts. Criteria that the council applies in prioritising the programme is detailed in **Appendix B**.

The revised programme for the period 2010/11 to 2014/15 can be sub-divided into two periods; 2011/12 and 2012/13; then 2013/14 and 2014/15.

Due to the current economic climate, the council continues to challenge the affordability of its capital programme for the period 2011/12 to 2014/15. There remains significant volatility around future capital grant funding and income generation through capital receipts. Although the funding is known for both periods, it is important to note that for the 2013/14 and 2014/15 programme we are still awaiting further confirmation of available funding. As more information is received, the programme will be adjusted to reflect the changes.

**Figure 9: Departmental Capital Programme**

	Planned Programme			Commitments at this stage			Total £000s
	2011/12 £m	2012/13 £m	Sub total £m	2013/14 £m	2014/15 £m	Sub total £m	
Children's Services	37	10	47	1	0	1	48
Community & Neighbourhood	27	2	29	0	0	0	29
Development & Regeneration	10	2	12	1	0	1	13
Corporate Support/items	23	8	31	6	6	12	43
	<b>97</b>	<b>22</b>	<b>119</b>	<b>8</b>	<b>6</b>	<b>14</b>	<b>133</b>

This spend will be funded by:

	2011-13	2013-15
	£m	£m
* Capital Grants/Contributions	59	12
* Unsupported Borrowing	22	0
* Capital Receipts	23	1
* Contributions, Revenue & Funds	5	0
* Section 106 / Revenue / Funds	10	1

We remain committed to a significant capital investment programme despite the current economic climate. The Council, engaging with partners in major regeneration of the City, will not only contribute towards delivering improvement priorities, but will also help to sustain much needed work opportunities in the local area (for example, the construction industry).

Significant schemes that will be delivered by 2014 include:

- £38.8m State of the art new college at Estover;
- £15.1m Improving Schools in the Southern Way Federation;
- £20.8m East End Transport Improvement Scheme

- £4.6m Bringing Devonport People's Park "back to life".
- £46.5m on the Plymouth Life Centre

### **Capital Receipts**

We will regularly review the assets that we own to ensure that they are fit for purpose and optimise the use of capital receipts, where deemed beneficial, in order to support our overall capital investment programme. However, our ability to generate capital receipts has been severely impacted in recent months due to rapidly falling land and property prices.

In reviewing the capital programme we have continued to significantly reduce our reliance on capital receipt funding over the period. This funding is based on a schedule of specific assets, with current estimated valuations and proposed timing for disposals. Our view is that we will only dispose of very few assets over the next three years, with disposals increasing towards the end of the 2014/15 period, working on the assumption that market conditions will improve.

The council has built in the requirement for additional temporary borrowing to cover the shortfall in capital receipt income for the 2011/12 and 2012/13 financial years. It is planned that this borrowing will be repaid in future years to coincide with our forecasted capital receipt income. Capital receipt generation will be kept under constant review by the Capital Delivery Board as part of regular monitoring. Any variations to the forecasted position will be reported to Corporate Management Team and Cabinet at the earliest possible opportunity.

### **Invest to save (I2S)**

A vital element of effective financial management for future years is our ability to commission, and deliver, invest to save projects that improve services provided to our customers and efficiencies in the way in which we work. As part of 2010/11 budget setting, we were open with our intent to develop relevant schemes, through capital funding, that will drive transformational change and generate revenue savings. The first of these to progress is the accommodation strategy which is rationalising the number of office premises to release revenue savings.

Council has subsequently approved the following I2S projects

- Developing the Care First system to improve our management of client information
- Launching a new website for our customers, allowing 24/7 access and much greater functionality enabling us to increase the level of more efficient electronic transactions with the council
- A Children and Young People's scheme to help reduce the cost of expensive out of city residential placements
- A scheme where we can work with partner agencies to reduce the overall trend of increased numbers of children entering the formal care system

## 6. Our Approach to Treasury Management

The council's approach to Treasury Management has been significantly revised since the collapse of the Icelandic banking institutions in October '08. Inevitably, our approach to Treasury Management activity is now much more risk adverse and entails only investing with a very small number of financial institutions with the highest possible credit rating backed by added security.

The council's published Treasury Management Strategy details our borrowing limits and specifies approved institutes for investment, (with maximum limits), based on credit ratings and other pertinent factors. We maintain regular engagement with our Treasury Management advisors, ArlingClose, and constantly seek their advice on our strategic direction and key operational decisions.

With significantly lower interest rates from investments, we have adopted an approach of proactively reducing our overall borrowing and investment portfolio and associated revenue costs.

### Borrowing Limits

The Council is required to set out its annual Borrowing and Investment Strategy recognising its implications on the Council's revenue budget.

It is a statutory duty under the Local Government Act 2003 for the council to determine and keep under review how much it can afford to borrow. The Council must have regard to the Prudential Code when setting its Authorised Borrowing Limit, which essentially requires it to ensure that total capital investment remains within sustainable limits and, in particular, that the impact upon its future Council Tax and Council rent levels is 'acceptable'.

The Council approved its revised Treasury Management and Investment Strategy in February 2011. In this Strategy with have approved the following borrowing limits:

The Authorised Borrowing limits

- 2011/12 = £379m,
- 2012/13 = £376m
- 2013/14 = £373m;

The Operational Boundary limit

- 2011/12 = £343m
- 2012/13 = £332m
- 2013/14 = £313m;



## Devon Debt Rescheduling

At the start of 2010/11, the council still had a proportion of its debt managed by Devon County Council. This debt relates to the dis-aggregation of assets and liabilities upon the formation of Plymouth City Council at the last Local Government Re-organisation in 1997.

The value of this debt was approximately £34m. The associated revenue costs that we paid Devon for managing this debt was based on an average percentage rate of the County Council's entire borrowing portfolio. In 2009/10, PCC paid a rate of 5.4% on the £34m debt.

Over the last two years, borrowing costs, nationally, have significantly reduced. In June 2010 we took the opportunity to 'buy back' the £34m debt from Devon County Council and rescheduled this debt at a reduced percentage rate in order to generate revenue savings.

The revenue savings generated by this buy-back have been included in our budget assumptions.

## Treasury Management Targets

Our Treasury Management Board maintains weekly meetings making strategic decisions on managing risk whilst optimising our investment rate of return and minimising our borrowing costs.

In terms of our strategy moving forward, we will aim to maintain a modest investment and borrowing portfolio throughout this period of financial uncertainty. As a guide, we will aim to keep our overall investments below £188m and our borrowing below £332m.

Despite low interest rates, the council will still require to undertake a number of investments in each financial year which is linked to the timing of core income being received and payments being made. The Treasury Management Board has set itself clear targets for financial returns for new investments which have been built into the MTF. Targets have also been set for, not only reducing our financial level of borrowing, but also the average rate of interest that we pay for our remaining borrowing portfolio.

**Figure 10: Targets for Investment & borrowing Percentage Rates**

Financial year	Rate of return for new investments	Average borrowing as @ 31 March
2011/12	1.0%	3.5%
2012/13	2.0%	4.5%
2013/14	3.0%	4.5%
2014/15	3.0%	4.5%

### **Minimum Revenue Provision (MRP) Policy**

The Council is required to make a revenue charge each year to provide for the repayment of loans taken out to finance capitalised expenditure.

Government's Capital Financing Regulations places the duty for an authority each year to make an amount of Minimum Revenue Provision which it considers to be "prudent". The prudent provision is to ensure that debt is repaid over a period reasonably in line with that over which the capital expenditure provides benefits.

Under the regulations, the authority is required before the start of each financial year to prepare a statement of its policy on making MRP and submit it to the full Council. The approved policy for 2011/12 is as follows:

#### **Supported Borrowing**

For borrowing supported by Revenue Support Grant the Council will continue to use the current method of 4% of the adjusted Non-HRA capital financing requirement.

#### **Unsupported Borrowing**

For new borrowing under the prudential system for which no Government support is being given and is therefore self-financed, MRP will be made in equal annual installments over the life of the asset.

#### **Capitalisation Directions**

For capitalisation directions on expenditure incurred since 1 April 2008 MRP will be made in equal annual installments over 20 years in line with DCLG guidance.

In all cases MRP will commence in the financial year following the one in which the expenditure is incurred.

## 7. Efficiencies and Value for Money

The 2007 Comprehensive Spending Review required councils to generate 'cashable' efficiency savings of 4% per year for each of the three financial years up to and including 2010-2011, a cumulative figure of £27m.

The Value for Money reviews that the council has undertaken to date provide evidence that we have reduced costs whilst either maintaining, or improving, service quality in areas such as planning, waste collection, learning disabilities and children's social care.

With effect from 18 October 2010 Councils are no longer required to report efficiencies to Central Government through NI 179 and the overall requirement for central data reporting is currently being reviewed by DCLG.

Nonetheless, the internal reporting of efficiencies has continued to improve substantially across the Council through development of a monitored VFM programme which is focused on Benefit delivery through the Budget Delivery Plans for each Directorate (all cashable efficiency savings are being reported against plans to achieve budget targets as well as general efficiencies to improve services to customers). The programme has ensured that governance of the VFM monitoring process has been enhanced and ensures that gains are challenged before inclusion, thus ensuring compliance with good practice.

In addition to formal VFM reviews and targets, the council will continue to progress with a number of initiatives that will improve efficiencies such as cascading out the 'lean systems' approach (following a successful pilot in Housing Benefits) and developing further partnership working such as the Waste Management PFI

The Council will continue to improve the alignment between Value for Money reviews and required efficiency returns through developing a council-wide VFM delivery plan.

Achieving Value for Money remains a key issue for the council. Our improvement activity in this area will focus on achieving outcomes under the following headings:

- Driving value for money through more effective support services;
- Driving value for money from our core services to customers;
- Ensuring that our key resources of finance, capital, ICT, assets and people are better aligned to our priorities;
- Developing a consistent approach, with our partners in tackling climate change issues.

We will also continue to develop our approach to driving VFM from capital investment, ensuring that 'invest to save' projects are carefully considered and evaluated to deliver tangible outcomes and maximum return from our investment.

## 8. Our Financial Governance Arrangements

The council has been working on improving its financial and governance arrangements for a number of years. Financial Management has improved, performance management has improved, scrutiny has developed and an independent audit committee is operating well.

Finance managers are an integral part of Department Management Teams and also Management Boards. They offer financial advice and challenge to Senior Management as part of the process.

The council's medium term strategy focuses on joining up the individual elements to ensure effective, integrated monitoring and management of:

- Corporate Plan and Priorities;
- Benchmarking spend and key performance indicator information;
- Revenue budget and spending linked to priorities;
- Delivery against revenue delivery plans, including Value for Money analysis;
- Delivery of the capital programme linked to corporate priorities
- Budget Delivery Plans

We will continue to build upon the existing reporting template which joins up these core elements. In 2010/11 we introduced quarterly integrated reports (supplemented by monthly scorecards) which will continue to be presented and challenged by:

- Corporate Management Team;
- Cabinet;
- Scrutiny Management Board

The **audit committee** will continue to provide an essential role in ensuring that we provide effective governance. In particular, their quarterly meetings will challenge progress made against the annual governance statement, internal and external audit plan, reports and recommendations. In addition, the audit committee has now assumed the lead member role in challenging and placing assurance on the council's Treasury Management arrangements. The committee has received relevant training and has had significant input in revising our Treasury Management Strategy for 2011/12.

Our internal audit service continues to be provided through the Devon Audit Partnership, a shared service arrangement with Devon County and Torbay Councils. The core objective of this arrangement is to improve the quality and efficiency of audit services.

To ensure that our financial procedures and practices are reviewed, up to date and reflect the operational business requirements and risks that the council faces, Financial Regulations and levels of Delegated Authority will be submitted to, and approved by our audit committee on an annual basis.

## **Consultation**

The Council continues to keep its partners and the community fully informed of its financial position and plans through the Local Strategic Partnership, meetings with the Chamber of Commerce, promoting summarised statement of accounts and specific meetings held with partners and community groups. A special two day Scrutiny Panel robustly challenges the council's alignment of resources to corporate priorities as part of the annual budget setting process. Consultation continues to evolve and improve and plans for 2011/12 budget include a web site 'You Choose' tool for direct engagement with the public and interested parties. This on-line tool will be further developed and refined for the 2012/13 budget setting process.

## **Measuring our progress**

Quarterly reporting of progress made against specific corporate plan measures and targets will continue to be presented to senior officers and members. The key targets as detailed in this medium term financial strategy will be incorporated within the finance and performance reports with any key changes recommended to, and approved through, Cabinet.

These reports will continue to be supplemented by monthly internal DMT reports and challenges, plus monthly scorecards for CMT to monitor departmental positions.

## **External Assessment**

Prior to the proposed abolition of the Audit Commission its annual Use of Resources assessment was the main measure that demonstrated progress regarding improving our financial monitoring and management.

Following the proposed abolition, there is still uncertainty about the long term future of external assessments, if any. In the meantime the Council is still subject to numerous assessment regimes with the financial challenge provided by Grant Thornton, our independently appointed external auditors. Their conclusions are reported via the Council's Audit Committee.

## Appendix A

## Notional 3 Year Revenue Forecast vs Spend Commitments

	2011/12 £m	2012/13 £m	2013/14 £m	2014/15 £m
<b>Total Revenue Resources available</b>	<b>208.2</b>	<b>201.1</b>	<b>198.2</b>	<b>200.7</b>
<b>Budgeted Spending plans for 2010/11</b>	<b>223.9</b>	<b>223.9</b>	<b>223.9</b>	<b>223.9</b>
Pay (excluding lower paid) 2% from 2013/14		0.4	2.0	4.0
Pension - increased contribution based @ 3% / 3% / 3.5%		1.0	1.0	1.5
Utilities increases absorbed by accommodation changes until 14/15		-	-	0.5
Adult Social Care -Inflation (2% per annum from 13/14)		-	1.4	2.8
Children's Services placements inflation (2.5% per annum)		-	0.2	0.4
Children in Care - increase in number looked after		-	2.2	2.3
Carbon Reduction Commitment		0.4	0.4	0.4
<b>Known Spending Plans</b>	<b>223.9</b>	<b>225.7</b>	<b>231.1</b>	<b>235.8</b>
<b>Funding Shortfall</b>	<b>15.7</b>	<b>24.6</b>	<b>32.9</b>	<b>35.1</b>

## Off set by:

<b>Council Tax Grant</b>	<b>(2.4)</b>	<b>(2.4)</b>	<b>-</b>	<b>-</b>
<b>Budget Delivery Plans</b>	<b>(13.3)</b>	<b>(15.8)</b>	<b>(26.0)</b>	<b>(26.0)</b>
<b>Revised Funding Shortfall</b>	<b>0.0</b>	<b>6.4</b>	<b>6.9</b>	<b>9.1</b>

## Criteria applied to the Council's Capital Programme

The following criteria are applied to the revision of the council's five year capital programme as part of the 2011/12 budget setting process:

- We will retain the principle of a fully funded capital programme. No schemes will be placed in the programme without clarity on how the specific scheme will be funded;
- Capital schemes must contribute towards delivering the council's priorities;
- Added priority will be given to schemes that contribute towards cross-cutting issues i.e. deliver improvements against more than one priority;
- All significant capital schemes will be challenged by the Capital Delivery Board in a consistent and fair manner;
- We will continue to maximise the amount of external grant that the council is able to attract in support of the capital programme;
- New schemes requiring funding will need to deliver against invest to save principles whereby revenue savings will be required as a result of the capital investment;
- Approval of capital schemes will consider the context of the credit crunch and likely timing of related future developments (in particular housing)
- We will actively manage areas of high financial risk through ensuring that a maximum threshold is set for the reliance on unsupported borrowing and capital receipt generation (based on known disposals);
- The council's overall borrowing portfolio, compared to other unitary councils, will be considered in setting thresholds for any additional borrowing requirements;
- Any revenue costs associated with additional borrowing will be factored into the council's revenue budget for 2011/12 and three year Medium Term Financial Forecast;
- Political priorities need to be considered in finalising the revised five year capital programme.

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**CITY COUNCIL****20 June 2011**

Cabinet minute 8 of 7 June 2011

**JOINT FINANCE AND PERFORMANCE REPORT**

The Corporate Management Team submitted a written report outlining the performance and monitoring position of the City Council as at the end of the fourth quarter.

Councillor Bowyer (Cabinet Member for Finance, Property and People) presented the report in so far as finance was concerned and reported on the current position.

Councillor Ricketts (Cabinet Member for Transformation, Performance and Governance) presented the report in so far as performance monitoring was concerned and reported on the current position within each department.

The Chair thanked all the finance officers, budget holders and Directors for their work on keeping the budget on track. She also thanked all the Cabinet Members for their work.

Agreed that –

- I. Cabinet approve variations, virements and reprofiling between years of the MTFF, and seek approval from Council for the 5 year capital programme amended for new approvals, shown below:

	2011/12	2012/13	2013/14	2014/15	Total
	£000	£000	£000	£000	£000
<b>Capital Budget Approved at Full Council Feb 2011</b>	<b>85,201</b>	<b>18,488</b>	<b>5,660</b>	<b>5,829</b>	<b>115,178</b>
Additional Schemes Approved at Full Council April 2011	4,174	1,114	677	337	6,302
<b>Capital Budget Approved at Full Council April 2011</b>	<b>89,375</b>	<b>19,602</b>	<b>6,337</b>	<b>6,166</b>	<b>121,480</b>
	0	0	0	0	
Impact of Closedown 2010/11 – Year End Reprofiling	8,841	0	0	0	8,841
Changes to Variations, Virements and Reprofiling (see appendix G)	(2502)	2,345	448	0	291
New Approvals (see below)	1,597	0	1,021	0	2,618
	0	0	0	0	
<b>Revised Capital MTFF to be Approved</b>	<b>97,311</b>	<b>21,947</b>	<b>7,806</b>	<b>6,166</b>	<b>133,230</b>

**Subject:** Extract from Joint Finance and Performance Report – Position as at 31 March 2011

**Committee:** Cabinet

**Date:** 7 June 2011

**Cabinet Member:** Councillor Bowyer and Councillor Ricketts

**CMT Member:** CMT

**Author:** Sandra Wilson (Corporate Finance and Accountancy Manager) and Patrick Hartop (Performance Officer)

**Contact:** Tel: (01752) (30)4942  
e-mail: sandra.wilson@plymouth.gov.uk

**Ref:** Acct/SW

**Key Decision:** Yes

**Part:** I

---

**Extract:**

6.1 The schemes that need approval, included in the table, are as follows:

<b>Scheme</b>	<b>£000</b>
<u>Public Transport initiative 1</u> - Local Road Network, Park and Ride & Parking asset management. This project will be financed from the enforcement of the chattels Mortgage from the original Dft grant conditions (relating to the purchase of 6 buses for the George Junction Park and Ride), which required First to pay this sum if retaining the buses	200
<u>Public Transport initiative 2</u> - Management of the interface between Plymouth's local and strategic road network. This project will be financed from the enforcement of the chattels Mortgage from the original Dft grant conditions (relating to the purchase of 6 buses for the George Junction Park and Ride), which required First Bus Company to repay this sum if retaining the buses	461
<u>Horsham &amp; Staddiscombe Sports Improvements</u> - Fully S106 funded. PCC Land. Works involve improving playing pitches and extending car parks	130
<u>Transport Minor Infrastructure Works</u> – These projects will be funded from S106 monies.	88
<u>Children's Basic Need</u> – Additional S106 funding	535
<u>Children's Basic Need</u> – Phase 1 year 3 projects	1,021
<u>Stoke Damerel</u> - Changing Rooms & Car Park	91
<u>Ford Primary</u> – Works to classrooms & hall	32

Stuart Road – Fire Escape Works

60

**Total New Schemes for Approval**

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**2,618**

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**CITY OF PLYMOUTH**

**Subject:** Revised Constitution  
**Committee:** Council  
**Date:** 20 June 2011  
**CMT Member:** Monitoring Officer  
**Author:** Timothy Howes  
**Contact:** Tel. 01752 305403  
e-mail: tim.howes@plymouth.gov.uk  
**Ref:** Review of the Constitution  
**Key Decision:** No  
**Part:** I

---

**Executive Summary:**

The Council is requested to adopt a new constitution following a thorough review which included simplifying the documents within the constitution, standardising and streamlining processes and ensuring compliance with current legislative requirements. In addition Council is recommended to designate officers as the Council's scrutiny officer and proper officer under the Registration Act 1953. Council is also requested to note the scheme of delegation for executive functions for 2011/12.

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**Corporate Plan 2011 – 2014:**

There are no direct implications in relation to the corporate plan. However it is vital to ensure that effective governance arrangements are in place to deliver the corporate plan

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**Implications for Medium Term Financial Plan and Resource Implications:  
Including finance, human, IT and land**

There are no direct implications in relation to the Medium Term Financial Plan and Resources.

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**Other Implications: e.g. Section 17 Community Safety, Health and Safety,  
Risk Management, Equalities Impact Assessment, etc.**

There are no direct implications.

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**Recommendations & Reasons for recommended action:**

It is recommended that the Council:

- (1) Adopts the Constitution and its associated documents as attached.
- (2) Designates the following:
  - (a) The Head of Policy, Performance and Partnerships as the Council's Scrutiny Officer
  - (b) The Assistant Director for Democracy and Governance as the Council's proper officer for the registration service
- (3) Consider the current prescription regarding the chairs and vice-chairs of scrutiny panels, whether these should be amended, and resolve accordingly.
- (4) Notes the Leader's scheme of delegation for executive functions 2011/12.

The reasons for recommendation (1) are that the present Constitution needs updating following legislative changes. There is also an opportunity to review and overhaul the document as a whole.

The reason for recommendation (2) is that the Council is required to designate officers to these roles.

The reason for (3) is to enable Council to review the prescription regarding the chairs and vice-chairs of the scrutiny panels.

The reason for recommendation (4) is to bring to the attention of Council how the leader wishes to delegate executive functions.

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**Alternative options considered and reasons for recommended action:**

The present model of the Constitution does not reflect the new 'strong leader' model adopted by the Council. The current constitution could simply be amended as it stands, but this would not address the need for greater clarity in the layout and text.

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**Background papers:**

None.

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**Sign off:** comment must be sought from those whose area of responsibility may be affected by the decision, as follows (insert initials of Finance and Legal reps, and of HR, Corporate Property, IT and Strat. Proc. as appropriate):

Fin		Leg		HR		Corp Prop		IT		Strat Proc	
Originating SMT Member TH											

**1.0 Introduction**

A local authority that is operating executive arrangements must prepare and keep up to date a written constitution that contains such information as the Secretary of State may direct, which includes a copy of the authority's standing orders for the time being, a copy of the authority's code of conduct and such other information as the authority considers appropriate.

The purpose of the constitution is to set out everything anyone who has dealings with the local authority would need to know about how it conducts its business, who takes which decisions and how to work with it.

To comply with this legislative requirement, attached is a revised Council Constitution, the objective of the review of the constitution is to provide:

1. A constitution written in an easy to understand format
2. Concise and clear information on the council and executive responsibilities
3. Reduced duplication
4. A common approach to finance, contract and property rules etc
5. Consolidates changes in legislation

**2.0 Main Changes**

The main changes to the present constitution are set out as bullet points below:

- Clear and concise information about the delegation of executive responsibility and an explanation of which decisions are the responsibility of cabinet and which are the responsibility of cabinet members. It defines the roles of cabinet (Section 4) and cabinet members (Section 6), with Council responsibilities set out in Section 5.
- Officer executive delegation is now set out under broad definitions; powers not delegated elsewhere are delegated to officers by default. (Section 4.4)
- The forward plan is no longer reported to Council; this is because the forward plan is a document from the Leader (and an executive function) and is already published elsewhere.
- The rules on motions on notice and the procedure to be followed have been reviewed to make them easier to understand.

- Changes arising from the new executive arrangements and the adoption of the strong leader model have been incorporated.
- The Council Tax setting meeting is now primarily limited to recommendations from cabinet relating to the budget and corporate plan.
- Clear and specific grounds have been included for the 'call-in' to the planning committee of those planning decisions which are otherwise delegated to officers (Section 5.3.2)
- Where the press and public are not excluded any member of the public and any city councillor can speak on any agenda item for up to 5 minutes if the chair agrees.
- The Chief Executive can call a Council meeting and present a report, in line with the similar powers of the Monitoring Officer and Chief Finance Officer.
- Clerical amendments can more readily be made, to make the Constitution follow or clarify the law or to comply with full Council decisions to amend the Constitution. (Section 2.5.)
- Section 4 (who carries out executive responsibilities) and Section 6 (roles of Cabinet members), can be readily amended to reflect the wishes of the Leader.
- The times of Special Meetings (but not Ordinary or Annual meetings) are now determined by the Monitoring Officer.
- The power to reject questions from members of the public or Councillors is now limited to specific grounds. (Sections 11.11.9 and 11.11.13). The same limitation applies to the acceptance of Motions on Notice (Section 11.15.5).
- There are some additional changes in some Proper Officer provisions e.g. Scrutiny Officer and Registration Service Proper Officer.
- In addition to the general standing orders, the Constitution includes:
  - a. Finance Rules (formerly the financial regulations)
  - b. The Member's ICT code
  - c. Employment rules
  - d. Legal rules
  - e. Contract rules
  - f. Property disposal rules
  - g. Member code of conduct
  - h. Appendices
    - i. Councillor Call for Action guidance
    - ii. Petitions guidance (section 28)
    - iii. Policy Framework (Section 29)
    - iv. Member Allowances
    - v. Senior management structure
    - vi. Glossary

### **3.0 Finance Rules**

The revised Finance Rules (Section 24) were considered by Audit Committee in January. At the meeting of the 21 January 2011 it was agreed that:



- (1) The proposal to incorporate the Financial Rules within the overall Constitution be noted;
- (2) The proposed changes to the virement delegation limits be recommended to Council;
- (3) The new Finance Rules be recommended for discussion at Council; the same to be attached to the constitution as an appendix;
- (4) The Capital Governance Document outlining the detailed arrangements for managing and monitoring the capital programme be approved and added to the Finance Rules Index, subject to new schemes costing up to £100,000 being approved by the relevant Cabinet Member;
- (5) No project manager should be appointed to any project (revenue or capital) prior to having undertaken relevant project management training.

Items (1) to (3) above are met through this report coming to Council. The delegation tables are slightly different from those which initially went to the Audit Committee; they have now been simplified and been made consistent and easier to understand. This follows the request from the Audit Committee that the rules are simplified. With respect to item (4) the attached Finance Rules have the cabinet member and appropriate Director as consultees. With respect to item (5), the Council ensures that those appointments to project management roles have the necessary skills and capabilities and this would be tested as part of any recruitment process.

## **4.0 Consultation**

This revised Constitution has been the subject of consultation with Councillors and Officers over the last 6 months. These consultation processes have included:

- Presentations to the political groups and individual members from those groups
- Workshops and drop-in sessions with Members and Senior Officers
- Report to the Audit Committee on the Finance Rules
- Presentations to CMT in full
- Discussions with individual officers with specific interests in parts of the Constitution

During those processes amendments have been made to hone the revised Constitution to reflect the particular needs of Plymouth City Council. The consultation with Councillors has been particularly robust and challenging and therefore enormously helpful. The consultation with members raised some specific issues, which are set out below.

### **Referral of planning applications to the Planning Committee**

It was a generally held view, that the right to refer matters to planning committee was an extremely important part of the democratic process. The proposed changes are therefore limited to the need for Councillors to clarify the reasons for referral, under one of the following three broad criteria:

- There are finely balanced policy or precedent issues, or
- There are probity issues or public interest reasons for the matter to be decided by the Planning Committee, or
- The matter is an unusual response to a particular set of issues that warrants debate by the planning Committee

In the initial draft of the Constitution it had been envisaged that in addition, the Chairman and an officer would also need to agree the inclusion of the matter on the agenda. However, it was felt by some members that this additional requirement was unreasonable and unnecessary. Consequently, that additional requirement has not been included in the new constitution.

### **Consideration of planning applications from council employees**

An initial proposal was that only employees of the planning service or those holding politically restricted posts should have their applications automatically referred to the planning committee.

There was a strongly held concern amongst some members that officers were unnecessarily being treated differently to members (where all member applications go to Committee). It was felt that this sends out a mixed message and that as a matter of probity, all officer applications should also go to committee too. Whilst it was accepted that there is a 'cost' involved in taking all applications to committee, it was felt that this is outweighed by the 'benefits' to the council in terms of equality and probity.

Consequently, the proposed constitution remains with the present position where applications by Councillors and Council employees will be referred to the Planning Committee.

### **Consideration of the forward plan by Council**

The Forward Plan is a document published by the Leader every month. It is an 'executive' rather than a Council document and it is therefore not appropriate to bring the Forward Plan to Council.

The Forward Plan will continue to be published electronically and members are still able to ask questions about matters included in the plan:

- Informally by raising the matter with the Leader or a cabinet member, or by
- Raising formal questions, or by
- Raising matters at scrutiny panels or by
- Asking questions at Council during the general question time.

### **Prescription of scrutiny panel chairs and vice-chairs**

Generally, the current constitution does not prescribe to which political group a chair or vice-chair of a committee must belong. With respect to scrutiny panels however, in four of the panels it is stated that the panel 'will be chaired by a member of the majority political group with the vice-chair from the opposition political group'. In respect of one panel however, it says it 'will be chaired by a member of the opposition political group with the vice-chair from the majority political group'.

Council has an opportunity to consider whether they wish to continue with these arrangements, or put in place some alternative. The alternative options could include:

- (a) Remove any prescription relating to the political group of a chair or vice-chair for all the panels
- (b) Have the same prescription on chair and vice-chair for all five panels
- (c) Review and determine the prescription for each individual panel
- (d) Leave the prescription as at present

There will undoubtedly be other options or variations on the above.

Any changes will have no impact on the current chairs and vice-chairs, but would impact on future appointments.

## **5.0 Proper officer changes**

### **Scrutiny officer**

The Local Government Act 2000 requires the Council to designate one of our officers to discharge the following functions:

- (a) To promote the role of the authority's overview and scrutiny committee or committees;
- (b) To provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;
- (c) To provide support and guidance to—
  - (i) Members of the authority,
  - (ii) Members of the executive of the authority, and
  - (iii) Officers of the authority,

in relation to the functions of the authority's overview and scrutiny committee or committees.

It is recommended that the Head of Policy, Performance and Partnerships be designated as the council's scrutiny officer.

### **Registration service proper officer**

The Registration Service Act 1953 requires the Council to designate a “proper officer” to be responsible for the administration of services in relation to the registration of births, marriages and deaths.

In general terms the council has the responsibility for administering the funding of the service, together with the provision of “support” staff, accommodation and any other requirements for the efficient delivery of the service. The relationship between the local authority and the service is “managed” by the proper officer.

Currently, the Director for Corporate Support is the ‘proper officer’ however it makes sense to align the function with the line management of the service. Consequently it is recommended that the Assistant Director for Democracy and Governance be designated as the Council’s proper officer.

## CITY OF PLYMOUTH

### Scheme of Delegation for Executive Functions 2011/12

#### 1. Background

- 1.1. On 6<sup>th</sup> December 2010, the Council adopted a new style of executive arrangements with effect from the Annual Meeting on the 20<sup>th</sup> May 2011, choosing to have a Leader and Cabinet model. Under this arrangement all executive functions are vested in the Leader who can then delegate functions as seen fit. This document sets out the delegation of those functions.
- 1.2. The Leader is responsible for:
- appointing members of the cabinet;
  - delegating executive responsibilities to the cabinet;
  - delegating executive responsibilities to committees carrying out executive functions;
  - delegating executive responsibilities to individual cabinet members;
  - allocating executive responsibilities to officers;
  - allocating executive responsibilities when no-one has responsibility for them.
- 1.3. The Leader can at any time take back responsibilities delegated to committees of the cabinet, an individual cabinet member or officer, or decide to delegate them on certain conditions.
- 1.4. The Leader can also decide to delegate further responsibilities to committees of the cabinet, individual cabinet members or to an officer.
- 1.5. Executive responsibilities are carried out on behalf of the council and in the council's name.

#### The Leader's Delegations to Cabinet and Individual Cabinet Members

#### 2. Delegations to Cabinet

- 2.1. The Leader's delegations to cabinet and cabinet members exclude the responsibilities set out in sections 5 (Devon Audit Partnership), 6 (Mount Edgcombe Joint Committee), 7 (South West Devon Waste Partnership), 8 (Regulation of consumer credit or hire businesses) and 9 (delegation by Cabinet).
- 2.2. The Leader has decided that some executive decisions must be agreed by the cabinet (set out in section 2.3). These decisions will be taken collectively by all cabinet members, unless the cabinet takes a specific decision to delegate that decision to a cabinet member, committee or officer.
- 2.3. The decisions that must be agreed by the cabinet are:

##### **Key decisions**

- decisions that would result in the council spending or saving or raising/reducing annual income by more than £500,000 (or more than £2,000,000 if that is the total cost of a contract award);
- decisions that would have a significant impact on two or more wards.

### ***Policy decisions and strategy***

- recommending the policy framework and budget to council;
- appointing representatives to outside organisations whose work relates to executive functions;
- agreeing policies and strategies that will have a significant impact on two or more wards.

### ***Finance and contract decisions***

- recommending the budget to council;
- recommending any changes to the net revenue budget to council;
- recommending the Treasury Management Strategy to council;
- setting the Council Tax base;
- recommending the Prudential and Treasury indicators to council;
- recommending the medium term financial strategy to council;
- recommending to council transfers between revenue cost centres;
- recommending the Corporate Asset Management Plan to council;
- recommending the Capital Programme to council;
- decisions in accordance with the capital and revenue delegation tables (appendix 2)
- approving the evaluation criteria for tenders with an estimated value of £2,000,000 or more;
- giving authorisation to tender for contracts with an estimated value of £2,000,000 or more;
- awarding contracts with a total cost of £2,000,000 or more.

### ***Property decisions***

- acquiring freeholds or leaseholds with a consideration or premium over £500,000;
- acquiring or disposing of leases for a term of more than 125 years – unless they are leases at Mount Edgcombe country park and house;
- acquiring or disposing of leases at Mount Edgcombe Country Park for a term of more than 10 years;
- disposing of property or leases for less than best consideration;
- making compulsory purchase orders.

### ***Decisions about services***

- changing eligibility for services if this will have a significant impact on two or more wards;
- designating conservation areas;
- agreeing local plans about civil contingencies;
- setting up external partnerships, shared service arrangements and transferring services to third parties;
- choosing preferred routes or options for principal routes and major transportation proposals following public consultation;
- approval of the draft school organisation plan;
- changes to admissions arrangements;
- decisions to consult on or pursue the amalgamation or closure of schools or to open new schools;
- the cabinets of Plymouth City Council and Cornwall Council have joint responsibility under Sections 6, 7, 8 and 9 of the Countryside Act 1968 and Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 for the strategic management and control of the Mount Edgcombe house and country park including the power to acquire and sell land.

### **3. Areas of responsibility of individual cabinet members**

- 3.1 The Leader has decided that some decisions must be agreed by the individual cabinet member who has responsibility for that function unless the cabinet member takes a specific decision to delegate that decision to a committee or officer.
- 3.2 The individual members of cabinet will have responsibility for the functions that are set out below.

#### **Leader of the Council**

- 3.3 The Leader will act as chair of Cabinet meetings and may act on behalf of, or instead of, any other cabinet members. Is responsible for and may take decisions about:
- an overview of the Council and its resources
  - Corporate plan
  - Plymouth 2020 Board
  - Plymouth Life Centre
  - City Centre Company
  - Destination Plymouth

#### **Deputy Leader of the Council and Cabinet Member for Planning, Strategic Housing and Economic Development**

- 3.4 The Deputy Leader will deputise for the Leader as appropriate in the absence of the Leader and may nominate any cabinet member to deputise for the Leader in the absence of the Leader and Deputy Leader. The Deputy Leader is responsible for and may take decisions about:
- Regional and local economic strategy
  - Economic development
  - Inward investment
  - Business support
  - Commercial development
  - Planning Policies and Strategies
  - Planning
  - Local development framework
  - Strategic housing
  - Homelessness
  - Private sector housing, grants and improvements
  - Housing enabling role with respect to registered social landlords
  - Tourism development, services and marketing
  - Plymouth Waterfront Partnership

Is the corporate project lead and may take decisions about:

- West End regeneration (joint with Cabinet member for transport)
- Millbay regeneration
- Derriford
- Sutton Harbour
- Plymouth 2020 - Growth Board

### **Cabinet Member for Adult Health and Social Care**

3.5 The cabinet member with responsibility for adult health and social care is responsible for and may take decisions about:

- Public Health
- Adult health and social care
- Older people services
- Supporting people programme
- Mental health services
- Physical disability services
- Drug and alcohol services
- Learning disability services
- Overall healthcare issues

Is the corporate project lead and may take decisions about:

- Plymouth 2020 – Healthy Theme Group and Shadow Health and Well Being Board

### **Cabinet Member for Finance, Property and People**

3.6 The cabinet member with responsibility for finance, property and people is responsible for and may take decisions about:

- Human Resources
- Revenue budget
- Capital programme
- Strategic procurement
- Housing benefit and revenues
- Corporate property and facilities management
- Lord Mayor's Role and Events

### **Cabinet Member for Children and Young People**

3.7 The cabinet member with responsibility for children and young people is responsible for and may take decisions about:

- Children's services
- Adoption and fostering
- Corporate parenting
- Schools and colleges, including governing issues
- Early years development
- Education grants
- School capital programme
- Youth services

Is the corporate project lead and may take decisions about -

- Plymouth 2020 - Wise Theme Group
- Plymouth 2020 – Children's Trust



### **Cabinet Member for Customer Services**

3.8 The cabinet member with responsibility for customer services is responsible for and may take decisions about:

- Customer services
- Business continuity
- ICT
- Media, public relations and communications

Is the corporate project lead and may take decisions about:

- Developing effective and efficient customers' services for the Council ensuring a high standard and improving customer satisfaction across all Council services
- Communications (internal and external)

### **Cabinet Member for Transformation, Performance and Governance**

3.9 The cabinet member with responsibility for performance and transformation is responsible for and may take decisions about:

- Performance management
- Transformation / change management
- Corporate policy development
- Corporate planning
- Civil contingencies
- Democracy and Governance
- Member Development

Is the corporate project lead and may make decisions about:

- Overall transformation and change management strategy.

### **Cabinet Member for Community Services (Safer and Stronger Communities, Sport and Leisure)**

3.10 The cabinet member with responsibility for community services (safer and stronger communities, sport and leisure) is responsible for and may take decisions about:

- Anti-social behaviour
- Community safety
- Community cohesion and equalities
- Leisure / sports facilities
- Events
- Cultural activities
- Heritage, museums and libraries
- Mount Edgumbe country house and park
- Licensing - hackney carriages

Is the corporate project lead and may take decisions about:

- Benefit take up campaigns
- Localities working

- Plymouth 2020 – Safe and Strong Theme Group
- Plymouth 2020 – Culture Board

### **Cabinet Member for Community Services (Street Scene, Waste and Sustainability)**

3.11 The cabinet member with responsibility for community services (street scene, waste and sustainability) safer and stronger communities is responsible for and may take decisions about:

- Waste management
- Cleansing, waste disposal and recycling
- Fleet management
- Parks including playgrounds
- Public open space
- Climate change and sustainability
- Public protection service (covering environmental protection and monitoring and neighbourhood and environmental quality, trading standards, food safety and standards, safety, health and licensing (excluding hackney carriages)

Is the corporate project lead and may take decisions about:

- South West Devon Strategic Waste Project

### **Cabinet Member for Transport**

3.12 The cabinet member with responsibility for transport is responsible for and may take decisions about:

- Transport policies and strategies
- Highways
- Car parks
- Tamar Bridge and Torpoint Ferry

Is the corporate project lead and may take decisions about:

- West End regeneration (joint with Cabinet Member for Planning, Strategic Housing and Economic Development)
- Eastern corridor scheme

## **4. Cabinet member decisions**

### ***Policy decisions and strategy***

- setting or changing policy that does not have a significant impact on two or more wards.

### ***Finance and contract decisions***

- decisions in accordance with the capital and revenue delegation tables (appendix 2)
- decisions that will result in the council spending or saving or raising/reducing annual income by more than £100,000 but not more than £500,000 unless the decision is to award a contract;
- giving authorisation to tender for contracts with an estimated value of £500,000 or more but less than £2,000,000;

- approving the evaluation criteria for tenders with an estimated value of £500,000 or more but less than £2,000,000;
- award of contracts with an estimated value of £500,000 or more but less than £2,000,000;
- award of contracts for personal social services with an estimated value in excess of £250,000 per annum;
- setting or changing rents, fees, charges and concessions that would result in the council spending or saving or raising/reducing annual income up to £500,000 (or up to £2,000,000 if a contract award);
- the cabinet member for finance agrees a draft budget for consultation;
- deciding applications for mandatory rate relief and discretionary non-domestic rate relief outside the approved scheme;
- agreeing significant variations to the scheme for financing schools;
- the cabinet member with responsibility for the Mount Edgumbe Country Park will decide whether to recommend that cabinet approves variations to the business plan for the country park that require extra spending and propose the means of meeting any additional costs to council;
- the cabinet member with responsibility for Mount Edgumbe Country Park will decide whether to agree variations to the business plan that do not require extra spending;
- the cabinet member with responsibility for the Tamar Bridge and Torpoint Ferry will decide whether to recommend that council approves variations to the business plan for the bridge and ferry that require extra spending and propose the means of meeting any additional costs to council;
- the cabinet member with responsibility for the Tamar Bridge and Torpoint Ferry will decide whether to agree variations to the business plan that do not require extra spending.

### ***Property decisions***

- acquiring freeholds or leaseholds with a consideration or premium of more than £100,000 but less than £500,000;
- acquiring leaseholds for more than three years but less than 10 years;
- no tender, other than the highest tender, will be accepted by the cabinet member unless a written report has been considered.

### ***Decisions about services***

- changing the designation of schools;
- setting school term dates;
- designating dispersal orders;
- service reductions and developments including closure, relocations or change of name which have a significant impact locally;
- naming or renaming roads and streets on principal routes or in the city centre;
- renumbering properties when less than two thirds of the residents agree;
- changing eligibility criteria for services unless it will have a significant impact on two or more wards.

### **Delegations to Joint Committees or Other Authorities**

#### **5. Responsibilities of the Devon Audit Partnership Joint Committee**

- 5.1 The Devon Audit Partnership Joint Committee is a joint committee of 3 constituent councils (Plymouth City Council, Devon County Council and Torbay Council. The Joint Committee will carry out the following responsibilities on behalf of Plymouth City Council:

- Receive and consider reports from the management board, the head of the internal audit partnership, external audit and the host council;
- Approve the annual accounts of the partnership;
- Approve the budget in respect of the audit partnership functions;
- Approve the annual work programme in respect of the audit partnership functions;
- Approve the appointment and dismissal or removal of the head of the internal audit partnership;
- Approve changes to the partnership client base, trading agreements, charging policies and other necessary matters pertaining to the future operations of the partnership;
- Resolving any disputes that are still unresolved after reference to the management board.

## **6. Responsibilities of the Mount Edgumbe Joint Committee.**

6.1 The Mount Edgumbe Joint Committee is a joint committee of Plymouth City Council and Cornwall Council. It has delegated authority from each of the constituent councils (Plymouth City Council and Cornwall Council) to:

- propose an annual business plan to both cabinets;
- monitor performance of the undertaking against the business plan and recommend variations to the business plan to the cabinet members;
- monitor performance of the undertaking to ensure value for money is achieved;
- ensure the management of the country park and estate accords with proper financial and legal practice appropriate to local authorities;
- ensure proper audit and risk management procedures are in place
- carry out an appropriate inspection of the house and country park on an annual basis;
- undertake appropriate consultation with key stakeholders.

Following consultation with the Director for Environment, Planning and Economy of Cornwall Council, the Director for Community Services in Plymouth has delegated authority to carry out all other responsibilities in relation to Mount Edgumbe.

## **7. Responsibilities for the South West Devon Waste Partnership.**

The South West Devon Waste Partnership comprises Plymouth City Council, Devon County Council and Torbay Council. It has formed a joint committee that is responsible for all executive functions and powers of each authority as may be necessary, calculated to facilitate, incidental or conducive to the discharge of the joint procurement of, and the subsequent operation and management of, facilities for the treatment and disposal of residual waste in pursuance of the waste disposal functions of the three authorities arising under Section 51 of the Environmental Protection Act 1990.

The South West Devon Waste Partnership has delegated authority from each of the partners to:

- take any decision where the Lead Officer of any of the appointing authorities has notified the Chair to the Waste Project Executive in writing of that authority's formal objection to the proposed decision of the Chair of the Waste Private Finance Initiative (PFI) project executive in accordance with clause 8.2.7 of Schedule C of the Joint Working Agreement;
- agree all evaluation criteria relating to the project;
- select the preferred bidder.

The Chief Executive of Plymouth City Council in his capacity as chair of the Waste PFI project executive deals with all other executive functions relating to the partnership.

## **8 Delegation to the executive of Birmingham City Council**

- 8.1 The Leader has delegated the following responsibilities to Birmingham City Council:
- 8.1.2 power to discharge the functions of enforcement of part 3 of the Consumer Credit Act 1974 and
- 8.1.3 power to prosecute any matters associated with or discovered during an investigation by that council's illegal money lending team;  
such delegation to be exercised in accordance with a protocol to be agreed by both executives.
- 8.2 The Public Protection Services Manager of Plymouth City Council is given delegated authority to negotiate the terms of any such protocol and execute it on behalf of Plymouth City Council.

## **9. Delegation by cabinet.**

Cabinet can authorise a cabinet member, committee or an officer to carry out its delegated responsibilities on its behalf.

## **10 Delegation by cabinet members.**

A cabinet member can authorise a committee or an officer to carry out his or her delegated responsibilities on his or her behalf.

## **11 Delegation by committees.**

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

## **12. Delegation to officers.**

12.1 All executive responsibilities except the ones in sections 2, 3, 4, 5, 6, 7 and 8 are delegated to the officers in the **senior management structure** ([see appendix 1](#)). Note the capital and revenue delegation tables (appendix 2).

An officer can only carry out a responsibility if:

- they (or an officer who reports to them) have budgetary or management responsibility for it and
- the constitution or the law does not require it to be carried out by someone else.

### **Officers' use of delegated powers**

- 12.2 Officers do not have to use their delegated powers: they can ask the person or body that delegated the power to them to make a decision, or refer the matter to the relevant committee.

Officers who have had something delegated to them can authorise officers they line manage to do it on their behalf (unless it was delegated on condition that they do it themselves).

### **13. Interpreting the rules on delegation**

- 13.1 When the Leader has delegated a responsibility in this scheme of delegation, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).
- 13.2 Examples of this are the authority to sign all necessary documents, determine applications, authorise payments, authorise prosecutions, implement national agreements, issue and serve statutory and other notices, authorise entry to land in pursuance of statutory powers, and take default action under relevant legislation if:
- a) the constitution or the law does not require the action to be taken by someone else; and
  - b) the decision maker has had regard to any advice from the Chief Finance Officer and the Monitoring Officer.

### **14. Appointment of proper officers.**

All members of the senior management structure may appoint officers to act as proper officers for the purposes of any Act of Parliament or Statutory Instrument if:

- (a) The member of the corporate management team or senior management team or one of their staff has budgetary or management responsibility for that function; and
- (b) the officer appointed is qualified to carry out the functions of a proper officer; and
- (c) the constitution or the law does not require it to be carried out by someone else.

### **15. Legal action.**

- 15.1 The Monitoring Officer and Head of Legal Services can take any legal action necessary to carry out the council's decisions or protect its interests e.g. starting defending, withdrawing, or setting any claims or legal proceedings.
- 15.2 All officers in the senior management structure (see appendix I) may start, defend or withdraw any claims or legal proceedings or authorise officers to appear on behalf of the council in court and take default action under relevant legislation if:
- the action taken is about a function that they or an officer who reports to them has budgetary or management responsibility for; and
  - the constitution or the law does not require the action to be taken by someone else; and
  - they have had regard to any advice from the Head of Legal Services.

### **Signing of documents**

- 15.3 The Monitoring Officer and Head of Legal Services can sign any document necessary to carry out the council's decisions or protect its interests including certificates given under the Local Government (Contracts) Act 1997.

- 15.4 All officers in the senior management structure (see appendix 1) may sign documents on behalf of the council or authorise officers that they manage to sign documents on behalf of the council if:
- the document is about a function that they or an officer who reports to them has budgetary or management responsibility for; and
  - the constitution or the law does not require the document to be signed out by someone else; and
  - they have had regard to any advice from the Chief Finance Officer and Monitoring Officer.

**Common seal of the council**

- 15.5 The common seal of the council will be kept by the Head of Legal Services. It will be attested by the Monitoring Officer, Head of Legal Services or an officer nominated by them.

The council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal.

**16. Responsibilities not covered by this scheme.**

If an executive responsibility does not have to be carried out by the cabinet, an individual cabinet member or a committee and no one has budgetary and management responsibility for it, the Leader will arrange for it to be carried out by the cabinet, a committee or an officer.

**Appendix One**  
**Senior Management Structure**

Chief Executive

Assistant Chief Executive

Head of Policy, Performance and Partnerships

Head of Communications

Director of Services for Children and Young People

Assistant Director, Learner and Family Support

Assistant Director for Lifelong Learning

Assistant Director for Children's Social Care

Director for Community Services

Assistant Director for Culture, Sport and Leisure

Assistant Director for Environmental Services

Assistant Director for Safer Communities

Assistant Director for Adult Health and Social Care

Director for Development and Regeneration

Assistant Director for Planning Services

Assistant Director for Transport

Assistant Director for Strategic Housing

Assistant Director for Economic Development

Director for Corporate Support

Assistant Director for Customer Services and Business

Assistant Director for Finance, Assets and Efficiencies

Assistant Director for Information and Communication Technology (ICT)

Assistant Director for Human Resources and Organisational Development

Assistant Director for Democracy and Governance

Director of Public Health



## Appendix Two

## Capital Finance Delegation Tables

**New Capital Schemes** – In year, new capital schemes should be approved in accordance with the following conditions:

Value of new scheme	Who can approve it?
Up to £100,000	Chief Finance Officer in consultation with the Director and relevant Cabinet Member(s)
Between £100,000 and £500,000	Cabinet
Above £500,000	Council

**Capital Programme Transfers (Virement)** – These should be approved in accordance with the following conditions:

Transfer description and value	Who can approve it?
<b>Within a Directorate</b>	
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet
<b>Between Directorates</b>	
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet

**Capital Scheme Variations** – Where there are variations in contract costs on existing schemes compared with the provision in the Capital Programme and the relevant Director is not able to identify a virement, additional costs will be approved in accordance with the following conditions:

Existing scheme additional costs	Who can approve it?
£100,000 or 10% of original contract sum (whichever is lowest)	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
£500,000 or 25% of original contract sum (whichever is lowest)	Cabinet
More than 25% of original sum or £500,000	Council

Where there are proposed increases to existing approved schemes in the Capital Programme which can be funded from additional identified funding then scheme increases will be approved in accordance with the following conditions:

Existing scheme additional costs	Who can approve it?
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
£100,000 to £500,000	Cabinet
Above £500,000	Council

**Note. All changes to the capital programme will be reported to Members through the quarterly budget and performance report.**

### Revenue Finance Delegation Tables

The rules for moving money between revenue cost centres (virement) are:

Amount to be moved	Who can approve it?
Up to £10,000	Service Head (Team Plymouth)
Up to £25,000	Assistant Director
Up to £100,000	Director in consultation with the relevant Cabinet Member(s)(with notification to Chief Finance Officer)
Between £100,000 and £500,000	Cabinet Member
Over £500,000	Cabinet

**Writing off debt** – the rules for writing off debt are set out below:

Value of Debt	Who can approve it?
Up to £20	Nominated recovery officers
Up to £100	Nominated recovery officers (Grade E and above)
Up to £500	Nominated Officers (Grade H and above)
Up to £5,000	Heads of Service and other nominated officers of Director of Corporate Support
Up to £5,000	Schools debt - school principal and/or governors
Up to £50,000	Chief Finance Officer
Between £50,000 and £100,000	Cabinet Member
All debt over £100,000 unless covered by below exception	Cabinet
Unlimited in the case of bankruptcy or liquidation/CVA/death/no assets/no trace	Chief Finance Officer or other senior finance officer nominated by him.

# **Plymouth City Council**

## **Constitution**

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# INTRODUCTION

## I Citizens' rights and other basic rules

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### 1.1 Summary of citizens' rights

Citizens have the right to:

- vote at local elections and get in touch with their local councillors
- attend council, cabinet, the overview and scrutiny management board, scrutiny panels and committee meetings, except when exempt or confidential items are discussed ([see section 16](#))
- speak at a council meeting to ask a question ([see section 11.11](#))
- ask questions of the cabinet and council ([see sections 11.11](#) and [12.7](#))
- ask the council to respond to petitions ([see section 28](#))
- look at the Forward Plan, which shows what key decisions will be taken and when ([see section 16.15](#))
- look at agendas, reports, minutes and background papers ([see section 16](#)) – agendas, reports and minutes are available on the council's website and at the first stop desk in the Civic Centre
- look at the register of member's interests ([see section 19.19](#)) – this is available for inspection in the Democratic Support Office at the Civic Centre (Tel: 01752 307990 Email: [democratic.support@plymouth.gov.uk](mailto:democratic.support@plymouth.gov.uk))
- give a compliment, make a complaint or suggestion to the council
- complain to the ombudsman after using the council's complaints scheme
- complain to the Standards Committee that a councillor has broken the Councillors Code of Conduct ([see sections 7](#) and [19](#))
- inspect the council's accounts at an advertised time and comment to the external auditor

The council does not allow the electronic recording of speech or the making of photographic/video images (including by mobile phones) other than by the council during all formal meetings. Any device that is capable of transmitting and receiving voice and text messages must be turned off during the meeting, though it may be set to 'silent' for family, health or business reasons.

## **1.2 Councillors**

### **1.2.1 Elections and terms of office**

- (a) There are 57 councillors, who represent 20 wards. Each ward has three councillors except Drake, Plympton Chaddlewood and Plympton Erle which have two councillors each.
- (b) The councillors are elected for a four year term; an election takes place 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.

### **1.2.2 Role of councillors**

Councillors:

- set the council's overall policies
- provide political leadership
- represent people in their wards – this may involve balancing different interests
- deal with casework for people in their wards
- go to council and committee meetings
- work to improve council services
- represent the council on other bodies

### **1.2.3 Rights and duties of councillors**

- (a) the council will give councillors the information and resources they need to do their jobs, as far as the law allows
- (b) councillors must obey the law and follow the Members' Code of Conduct (see section 19). They are guided by the General Principles of Public Life (see section 19 – Annexe), the code on councillor-officer relations (see section 20), the planning code of practice and the code on councillors' use of ICT equipment (see section 21)
- (c) the electronic recording of speech or the making of photographic/video images (including by mobile phones) is not allowed at formal meeting. Any device that is capable of transmitting and receiving voice and text messages must be turned off during the meeting, though it may be set to 'silent' for family, health or business reasons with the permission of the chair.

### **1.2.4 Councillors' allowances**

Councillors can claim allowances (see section 30)

## **1.3 Council**

### **1.3.1 Role of council**

Meetings of the full council are attended by all 57 councillors. Some things can only be done by council. These include:

- agreeing the council's overall budget and policies (which are known as the budget and policy framework)
- changing the constitution (see section 2.5)

- appointing the Leader (who will appoint the cabinet)
- appoint the Lord Mayor and the Deputy Lord Mayor
- appointing committees of council and their members (and confirm changes to appointments previously notified to the Monitoring Officer)
- appointing representatives to outside bodies
- confirming who will be Chief Executive, Chief Finance Officer and Monitoring Officer
- agree a members' allowance scheme
- confer the title of Freedom of the City, Honorary Alderman and Honorary Recorder
- agree the programme of council and committee meeting dates for the year
- everything else which, by law, must be dealt with by council.

Proposals that go against the budget or policy framework must normally be agreed by council. But there is a procedure for urgent decisions outside the budget and policy framework (see section 29).

### **1.3.2 Council meetings**

There are three types of council meeting: annual meetings, ordinary meetings and special meetings (known as extraordinary meetings).

These follow the council procedures in [section 11](#).

## **1.4 The Leader and the cabinet**

### **1.4.1 Role of the Leader**

The Leader is responsible for:

- appointing members of the cabinet
- delegating executive responsibilities to the cabinet ([section 4.7](#))
- delegating executive functions to committees carrying out executive functions ([section 4.9](#))
- delegating executive responsibilities to individual cabinet members ([section 6](#))
- allocating executive responsibilities to officers ([section 4.4](#))
- allocating executive responsibilities when no-one has responsibility for them ([section 4.10](#))

### **1.4.2 Members of the cabinet**

The cabinet is made up of the Leader, the Deputy Leader, and up to eight other councillors. Members of the cabinet cannot be Lord Mayor, Deputy Lord Mayor or a member of an overview and scrutiny panel or the management board.

### **1.4.3 Term of office of the Leader**

The Leader holds office up to the day of the first annual meeting after the Leader's normal day of retirement as a councillor or until:

- s/he resigns or

- s/he stops being a councillor or
- s/he is suspended from being a councillor – and can then resume as Leader when the suspension ends.

#### **1.4.4 Cabinet meetings**

Cabinet meetings follow the cabinet procedures - [see section 12](#).

#### **1.4.5 Cabinet decisions**

The cabinet takes decisions collectively at meetings or delegates them to cabinet members or officers.

Cabinet decisions must be consistent with the overall policies of council (the policy framework). They must also be within the budget set by the council.

#### **1.4.6 Key decisions**

Some decisions that the cabinet takes are key decisions ([see section 16.13](#)). When the cabinet is going to take a key decision, it should be shown in the Forward Plan ([see section 16.15](#)).

#### **1.5 Standards Committee**

The law requires the council to have a Standards Committee. This is made up of:

Two councillors from the majority political group and one councillor from the largest minority political group of the council (but no more than one member of the cabinet who must not be the Leader)

Six independent members who are not councillors or officers

For more details [see section 7](#).

#### **1.6 Other committees that take decisions**

Other committees that take decisions include a planning committee, licensing committees, standards committee, joint committees and committees to deal with audit and staffing issues.

#### **1.7 Scrutiny**

##### **1.7.1 Scrutiny panels**

The council has five scrutiny panels which are overseen by the overview and scrutiny management board.

The council also appoints members to a joint health overview and scrutiny committee.

##### **1.7.2 Role of scrutiny panels**

Scrutiny panels scrutinise the council's decisions and work ([see section 8](#)).



### **1.7.3 Procedure at scrutiny committees**

The scrutiny panels follow the procedures in [section 14](#).

## **1.8 Lord Mayor and Deputy Lord Mayor**

### **1.8.1 Election of Lord Mayor and Deputy Lord Mayor**

The Lord Mayor and Deputy Lord Mayor are elected by council each year at the annual general meeting.

### **1.8.2 Ceremonial role**

The Lord Mayor, and in his/her absence the Deputy Lord Mayor, represents the council at civic and ceremonial events.

### **1.8.3 Chairing Council**

The Lord Mayor, and in his/her absence the Deputy Lord Mayor, chairs council. (In the absence of both, council will elect a person to chair the meeting). In chairing council, the Lord Mayor will:

- promote the purpose of the constitution
- interpret the constitution
- get the business done efficiently but pay attention to the rights of all councillors and the interests of local people
- make council a place for discussing the concerns of local people
- encourage the public to take part in the council's activities

## **1.9 Co-opted and independent members**

### **1.9.1 Co-opted members**

- (a) The council or any of its committees, sub-committees or working groups may co-opt suitable people as co-opted members
- (b) Unless otherwise stated, co-opted members will be appointed for four years, subject to annual review. Co-opted members will have their role and voting rights (if any) stipulated on appointment
- (c) A co-opted member may resign at any time by giving notice in writing to the Monitoring Officer and the resignation will be effective upon receipt.
- (d) The overview and scrutiny panel that deals with education matters will appoint four (statutory) co-opted members (two parent governor representatives and two church representatives) who will have voting rights in relation to education matters that are the responsibility of the cabinet. [See section 14.3](#).

### **1.9.2 Independent members**

- (a) Independent members are appointed to specific committees, such as the standards and audit committees, due to their qualifications or experience in a specialised or professional field.

- (b) The six independent members of the Standards Committee are appointed by council upon the recommendation of the Standards Committee.
- (c) The audit committee appoints three independent members.
- (d) Members of the Independent Remuneration Panel are appointed by council
- (e) Unless otherwise stated, independent members will be appointed for four years, subject to annual review. Independent members will have their role and voting rights (if any) stipulated on appointment.
- (f) An independent member may resign at any time by giving notice to the Monitoring Officer and the resignation will be effective upon receipt.

### **1.10 Council employees**

Council employees are called council officers. Officers give advice, act on the council's decisions and run the council's services. Some officers have a special duty to make sure the council follows the law or uses its resources wisely (see section 9).

When employing and dismissing officers, the council follows the employment rules (see section 22).

## 2 About the Constitution

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### 2.1 Status of this constitution

The council will follow this constitution unless it conflicts with the law.

### 2.2 Interpreting the constitution

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 purpose of the constitution ([see section 2.3](#)).

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 ([see section 2.3](#)) and the advice of the Monitoring Officer.

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 ([see section 2.3](#)).

### 2.3 Purpose of the constitution

The constitution exists so that the council can take its decisions and do its work effectively. It will help councillors to represent their wards and help the council to:

- provide clear leadership for the city
- carry out proper consultation and take professional advice
- act openly except when there are strong reasons not to
- hold decision takers to account and make sure no-one reviews their own decisions
- respect human rights
- act proportionately (European law defines this as doing no more than necessary in a democratic society to achieve a legitimate aim)

### 2.4 Monitoring and reviewing the constitution

The Monitoring Officer will monitor and review the constitution and may recommend changes.

### 2.5 Changing the constitution

The Monitoring Officer can change the constitution, in consultation with the cabinet member for finance, property, people and governance and the Chief Executive, if it is to put right clerical mistakes, to make it follow or clarify the law or to comply with full council decisions to amend the

constitution. The Monitoring Officer can also change section 4 (Who carries out executive responsibilities?) and section 6 (Roles of cabinet members) to reflect the wishes of the Leader.

Any other changes must be agreed by council after considering a report from the Monitoring Officer.

## **2.6 Suspending the constitution**

The constitution can only be suspended where it says so (see section 11.22).

## **2.7 The constitution**

The Monitoring Officer will keep an up-to-date version of the constitution and publish it on the internet.

## WHO DOES WHAT?

### 3 Council responsibilities and executive responsibilities

In this section:

3.1	Council responsibilities and executive responsibilities	11
3.2	Summary of council responsibilities and executive responsibilities	11
3.3	Delegation of responsibilities	11
3.4	How delegation works	12
3.5	Interpreting the rules on delegation	12
3.6	Responsibilities that are carried out on behalf of the council	12

Related sections

4	Who carries out executive responsibilities?	13
5	Who carries out council responsibilities?	19

#### 3.1 Council responsibilities and executive responsibilities

The law divides a council's work into three categories:

- council responsibilities – these must be the responsibility of the council
- executive responsibilities – these must be the responsibility of the Leader
- local choice responsibilities – it is up to the council whether these are the responsibility of the council or the Leader

Council responsibilities are listed in [section 5](#). Any responsibilities not listed in section 5, including any local choice responsibilities that are not listed in section 5, will be cabinet responsibilities.

#### 3.2 Summary of council responsibilities and executive responsibilities

##### Council responsibilities

- the policy framework and the budget
- regulatory work, for example planning and licensing
- legal and governance work, for example standards and audit

##### Executive responsibilities

- everything else

#### 3.3 Delegation of responsibilities

Council and the Leader delegate some of their responsibilities to committees and officers. Details of this are in [sections 4 and 5](#).

Council and the Leader cannot delegate to each other.

### **3.4 How delegation works**

#### **3.4.1 Delegation by council and the Leader**

Council can at any time take back responsibilities it has delegated to committees or an officer or decide to delegate them on certain conditions.

Council can also decide to delegate further responsibilities that council has not already delegated to a committee of council or an officer.

The Leader can at any time take back responsibilities she or he has delegated to committees of the cabinet, an individual cabinet member or officer, or decide to delegate them on certain conditions.

The Leader can also decide to delegate further responsibilities to committees of the cabinet, individual cabinet members or to an officer.

#### **3.4.2 Delegation by committees**

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

#### **3.4.3 Officers' use of delegated powers**

Officers do not have to use their delegated powers: they can ask the person or body that delegated to them to decide or refer the matter to a committee.

Officers who have had something delegated to them can authorise officers they line manage to do it on their behalf (unless it was delegated on condition that they do it themselves).

### **3.5 Interpreting the rules on delegation**

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).

Examples of this are the authority to sign all necessary documents, determine applications, authorise payments, authorise prosecutions, implement national agreements, issue and serve statutory and other notices, authorise entry to land in pursuance of statutory powers, and take default action under relevant legislation if:

- a) the constitution or the law does not require the action to be taken by someone else and
- b) the decision maker has had regard to any advice from the Chief Finance Officer and the Monitoring Officer.

### **3.6 Responsibilities that are carried out on behalf of the council**

Executive and council responsibilities are carried out on behalf of the council and in the council's name.

## 4 Who carries out executive responsibilities?

### In this section:

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4.2	Gaps in the policy framework	13
4.3	Need to follow the constitution	13
4.4	Delegation to officers	13
4.5	Delegation by the Leader	13
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4.7	Decisions that must be agreed by the cabinet	14
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4.9	Decisions that must be made by joint committees	16
4.10	Responsibilities not covered by these rules	18

### Related sections

3	Council responsibilities and executive responsibilities	11
6	Roles of cabinet members	30
12	Cabinet procedures	62
29	Policy Framework	170

#### 4.1 Need to act within the policy framework and budget

Executive responsibilities must be carried out within the policy framework and budget.

#### 4.2 Gaps in the policy framework

In areas where the law does not require there to be a plan or a strategy, the cabinet (or any committee or cabinet member or officer it has delegated the responsibility to) can do what it wants within the law.

#### 4.3 Need to follow the constitution

Executive responsibilities must be carried out in a way that follows the constitution. Special attention should be paid to the finance rules and contract rules ([see sections 24 and 25](#)).

#### 4.4 Delegation to officers

All executive responsibilities except the ones in sections 4.7, 4.8, 4.9.1, 4.9.2, 4.9.3 and 4.9.4, are delegated to the officers in the senior management structure ([see section 9](#)). An officer can only carry out a responsibility if:

- they (or an officer who reports to them) have budgetary or management responsibility for it and
- the constitution or the law does not require it to be carried out by someone else.

#### 4.5 Delegation by the Leader

At the annual meeting of the council, the Leader will present to the council a written record of delegations made by him/her for inclusion in the council's scheme of delegation. The document presented by the Leader will contain the following information about executive functions:

- the names of the people appointed to the cabinet by the Leader
- the extent of any authority delegated to cabinet members individually, including details of the limitation on their authority

#### **4.6 Changing the Leader's delegation**

The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the cabinet as a whole. The Monitoring Officer will present a report to next ordinary meeting of the council setting out the changes made by the Leader.

Where the Leader seeks to withdraw delegation from a committee, notice will be given to the committee's chair.

#### **4.7 Decisions that must be agreed by the cabinet**

Cabinet can authorise a cabinet member to, committee or officer to carry out its delegated responsibilities on its behalf.

##### *Key decisions*

- decisions that would result in the council spending or saving or raising/reducing annual income by more than £500,000 (or more than £2,000,000 if that is the total cost of a contract award)
- decisions that would have a significant impact on two or more wards

##### *Policy decisions and strategy*

- recommending the policy framework and budget to council
- appointing representatives to outside organisations whose work relates to executive functions
- agreeing policies and strategies that will have a significant impact on two or more wards

##### *Finance and contract decisions*

- recommending the budget to council
- recommending any changes to the net revenue budget to council
- recommending the Treasury Management Strategy to council
- setting the Council Tax base
- recommending the Prudential and Treasury indicators to council
- recommending the medium term financial strategy to council
- recommending to council transfers between revenue cost centres
- recommending the Corporate Asset Management Plan to council
- recommending the Capital Programme to council
- decisions in accordance with the capital and revenue delegation tables in [section 24](#)
- approving the evaluation criteria for tenders with an estimated value of £2,000,000 or more
- giving authorisation to tender for contracts with an estimated value of £2,000,000 or more
- awarding contracts with a total cost of £2,000,000 or more



*Property decisions*

- acquiring freeholds or leaseholds with a consideration or premium over £500,000
- acquiring or disposing of leases for a term of more than 125 years – unless they are leases at Mount Edgcombe country park and house
- acquiring or disposing of leases at Mount Edgcombe Country Park for a term of more than 10 years
- disposing of property or leases for less than best consideration
- making compulsory purchase orders

*Decisions about services*

- changing eligibility for services if this will have a significant impact on two or more wards
- designating conservation areas
- agreeing local plans about civil contingencies
- setting up external partnerships, shared service arrangements and transferring services to third parties
- choosing preferred routes or options for principal routes and major transportation proposals following public consultation
- approval of the draft school organisation plan
- changes to schools admissions arrangements
- decisions to consult on or pursue the amalgamation or closure of schools or to open new schools
- the cabinets of Plymouth City Council and Cornwall Council have joint responsibility under Sections 6, 7, 8 and 9 of the Countryside Act 1968 and Section 19 of the Local Government (Miscellaneous Provisions) Act 1976 for the strategic management and control of the Mount Edgcombe house and country park including the power to acquire and sell land

**4.8 Decisions that must be agreed by cabinet members**

A cabinet member can authorise a committee or an officer to carry out his or her delegated responsibilities on his or her behalf.

*Policy decisions and strategy*

- setting or changing policy that does not have a significant impact on two or more wards

*Finance and contract decisions*

- decisions in accordance with the capital and revenue delegation tables in section 24
- decisions that will result in the council spending or saving or raising/reducing annual income by more than £100,000 but not more than £500,000 unless the decision is to award a contract
- giving authorisation to tender for contracts with an estimated value of £500,000 or more but less than £2,000,000
- approving the evaluation criteria for tenders with an estimated value of £500,000 or more but less than £2,000,000
- award of contracts with an estimated value of £500,000 or more but less than £2,000,000
- award of contracts for personal social services with an estimated value in excess of £250,000 per annum
- setting or changing rents, fees, charges and concessions that would result in the council spending or saving or raising/reducing annual income up to £500,000 (or up to £2,000,000 if a contract award)
- the cabinet member for finance agrees a draft budget for consultation

- deciding applications for mandatory rate relief and discretionary non-domestic rate relief outside the approved scheme
- agreeing significant variations to the scheme for financing schools
- the cabinet member with responsibility for the Mount Edgcumbe Country Park will decide whether to recommend that cabinet approves variations to the business plan for the country park that require extra spending and propose the means of meeting any additional costs to council
- the cabinet member with responsibility for Mount Edgcumbe Country Park will decide whether to agree variations to the business plan that do not require extra spending
- the cabinet member with responsibility for the Tamar Bridge and Torpoint Ferry will decide whether to recommend that council approves variations to the business plan for the bridge and ferry that require extra spending and propose the means of meeting any additional costs to council
- the cabinet member with responsibility for the Tamar Bridge and Torpoint Ferry will decide whether to agree variations to the business plan that do not require extra spending

#### *Property decisions*

- acquiring freeholds or leaseholds with a consideration or premium of more than £100,000 but less than £500,000
- acquiring leaseholds for more than three years but less than 10 years
- accept a tender which offers the best consideration

#### *Decisions about services*

- changing the designation of schools
- setting school term dates
- designating dispersal orders
- service reductions and developments including closure, relocations or change of name which have a significant impact locally
- naming or renaming roads and streets on principal routes or in the city centre
- renumbering properties when less than two thirds of the residents agree
- changing eligibility criteria for services unless it will have a significant impact on two or more wards

### **4.9 Decisions that must be made by joint committees**

#### **4.9.1 Responsibilities of the Mount Edgcumbe House and Country Park**

The joint committee has delegated authority from each of the constituent councils (Plymouth City Council and Cornwall Council) to:

- propose an annual business plan to both cabinets
- monitor performance of the undertaking against the business plan and recommend variations to the business plan to the cabinet members
- monitor performance of the undertaking to ensure value for money is achieved
- ensure the management of the country park and estate accords with proper financial and legal practice appropriate to local authorities
- ensure proper audit and risk management procedures are in place
- carry out an appropriate inspection of the house and country park on an annual basis
- undertake appropriate consultation with key stakeholders

Following consultation with the Director for Environment, Planning and Economy of Cornwall Council, the Director for Community Services in Plymouth has delegated authority to do everything else in relation to Mount Edgumbe.

#### **4.9.2 Responsibilities of the South West Devon Waste Partnership**

The South West Devon Waste Partnership comprises Plymouth City Council, Devon County Council and Torbay Council. It has formed a joint committee that is responsible for all executive functions and powers of each authority as may be necessary, calculated to facilitate, incidental or conducive to the discharge of the joint procurement of, and the subsequent operation and management of, facilities for the treatment and disposal of residual waste in pursuance of the waste disposal functions of the three authorities arising under Section 51 of the Environmental Protection Act 1990.

The South West Devon Waste Partnership has delegated authority from each of the partners to:

- take any decision where the Lead Officer of any of the appointing authorities has notified the Chair to the Waste Project Executive in writing of that authority's formal objection to the proposed decision of the Chair of the Waste Private Finance Initiative (PFI) project executive in accordance with clause 8.2.7 of Schedule C of the Joint Working Agreement
- agree all evaluation criteria relating to the project
- select the preferred bidder

The Chief Executive of Plymouth City Council in his capacity as chair of the Waste PFI project executive deals with all other executive functions relating to the partnership.

#### **4.9.3 Responsibilities of the Devon Audit Partnership Joint Committee**

The Devon Audit Partnership Joint Committee is a joint committee of 3 constituent councils (Plymouth City Council, Devon County Council and Torbay Council). The Joint Committee will carry out the following responsibilities on behalf of Plymouth City Council:

- Receive and consider reports from the management board, the head of the internal audit partnership, external audit and the host council
- Approve the annual accounts of the partnership
- Approve the budget in respect of the audit partnership functions
- Approve the annual work programme in respect of the audit partnership functions
- Approve the appointment and dismissal or removal of the head of the internal audit partnership
- Approve changes to the partnership client base, trading agreements, charging policies and other necessary matters pertaining to the future operations of the partnership
- Resolve any disputes that are still unresolved after reference to the Partnership's management board.

#### **4.9.4 Delegation to the executive of Birmingham City Council**

The Leader has delegated the following responsibilities to Birmingham City Council:

- power to discharge the functions of enforcement of part 3 of the Consumer Credit Act 1974 and
- power to prosecute any matters associated with or discovered during an investigation by that council's illegal money lending team

such delegation to be exercised in accordance with a protocol to be agreed by both executives.

The Public Protection Services Manager of Plymouth City Council is given delegated authority to negotiate the terms of any such protocol and execute it on behalf of Plymouth City Council.

**4.10 Responsibilities not covered by these rules**

If a responsibility does not have to be carried out by the cabinet or a committee and no one has budgetary and management responsibility for it, the Leader will arrange for it to be carried out by the cabinet, a committee or an officer.

## 5 Who carries out council responsibilities?

### In this section:

<b>5.1</b>	<b>Council responsibilities</b>	<b>19</b>
<b>5.2</b>	<b>Policy framework and budget</b>	<b>19</b>
<b>5.3</b>	<b>Planning</b>	<b>20</b>
<b>5.4</b>	<b>Licensing of alcohol, entertainment, late night refreshment and general licensing</b>	<b>21</b>
<b>5.5</b>	<b>Taxi and private hire and other vehicle licensing</b>	<b>24</b>
<b>5.6</b>	<b>Responsibilities for the Tamar Bridge and Torpoint Ferry</b>	<b>25</b>
<b>5.7</b>	<b>South West Devon Waste Partnership non-executive responsibilities</b>	<b>25</b>
<b>5.8</b>	<b>Health and safety at work</b>	<b>25</b>
<b>5.9</b>	<b>Name and status of areas and individuals</b>	<b>26</b>
<b>5.10</b>	<b>Functions relating to community governance</b>	<b>26</b>
<b>5.11</b>	<b>Byelaws</b>	<b>26</b>
<b>5.12</b>	<b>Bills</b>	<b>26</b>
<b>5.13</b>	<b>Pensions</b>	<b>27</b>
<b>5.14</b>	<b>Ban on smoking in public places</b>	<b>27</b>
<b>5.15</b>	<b>Other council responsibilities</b>	<b>27</b>

### Related sections

<b>3</b>	<b>Council responsibilities and executive responsibilities</b>	<b>11</b>
<b>7</b>	<b>Roles of decision taking committees</b>	<b>35</b>
<b>10</b>	<b>Proper officers</b>	<b>46</b>

### 5.1 Council responsibilities

Council responsibilities are listed in this section, which also shows who carries them out. Anything not listed in this section is an executive responsibility.

Legislation referred to in this section includes any amendments, re-enactments or subordinate legislation.

### 5.2 Policy framework and budget

#### 5.2.1 Description of responsibility

- (a) The budget, including decisions to allocate money to services and projects, set up contingency funds, set the Council Tax, control the council's borrowing requirement, control capital spending, set a limit on the amount that can be transferred between cost centres, agree the treasury management strategy and the corporate asset management plan.
- (b) The policy framework, which is made up of a series of plans and strategies that the council is required to include by law plus a series of plans and strategies that the council has chosen to include (see section 29).
- © Outside body appointments: appointing representatives to outside organisations whose work relates to non-executive functions.

6 Anything else that by law is required to be dealt with by council

### **6.1.1 Who carries out the responsibility?**

Council.

## **6.2 Planning**

### **6.2.1 Description of responsibility**

- (a) All the responsibilities relating to town and country planning and development control in Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
  - (b) All the responsibilities to deal with common land, town and village greens or unclaimed common land or unlawful works on common land and to register the variation of rights of common in Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
  - © All the responsibilities relating to the regulation and use of highways and public rights of way as set out in Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
  - (d) All the responsibilities relating to complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003.
- 7 The power to preserve trees under Sections 197 to 214D of the Town and Country Planning Act 1990, and the Trees Regulations 1999 and to protect important hedgerows under the Hedgerows Regulations 1997.

### **7.1.1 Who carries out the responsibility?**

The Planning Committee advises the Cabinet on the proposed implementation of the development plan, local development framework and other planning policies and strategies.

Within council policies the Planning Committee:

- (a) decides applications relating to town and country planning, commons registration, village greens and the confirmation of Tree Preservation Orders where there are objections that cannot be resolved
  - (b) takes decisions about the use or regulation of highways that would have a significant impact on two or more wards of the council
- 8 ©decides individual applications for planning permission and any other application under planning legislation where:
- it is an application for 10 or more dwellings or non-residential floor space of 1000sq m or more and over 5 written representations raising valid planning considerations have been received during the statutory consultation period
  - in the opinion of the Assistant Director for Development and Regeneration (Planning Services) the application is substantively contrary to a local development framework proposal and the officer recommendation is to approve
  - the application is by an employee who is employed in a politically restricted post
  - the application is by a councillor
  - the application is by employees of the planning services team

- a councillor has made a referral to the Planning Committee, within three weeks of being sent notification of a planning application, setting out reasons why the matter should be decided by the Planning Committee under one of the following criteria:
    - there are finely balanced policy or precedent issues, or
    - there are probity issues or public interest reasons for the matter to be decided by the Planning Committee, or
    - the matter is an unusual response to a particular set of issues that warrants debate by the Planning Committee
  - the matter is referred to the Planning Committee by the Assistant Director for Development and Regeneration (Planning Services) under one of the following criteria:
    - there are finely balanced policy or precedent issues, or
    - there are probity issues or public interest reasons for the matter to be decided by the Planning Committee, or
    - the matter is an unusual response to a particular set of issues that warrants debate by the Planning Committee
- (d) decides whether to approve the principal terms of major planning agreements; or any substantive changes to the terms of major planning agreements that have been specifically agreed by the Planning Committee on a previous occasion
- (e) decides whether to confirm orders to create, divert or stop up footpaths or bridleways
- 9 decides applications to modify the definitive map
- (g) decides applications that are referred by Assistant Director for Development and Regeneration (Transport)
- (h) deals with anything else that by law requires a hearing or that cannot be delegated to officers

The Assistant Director for Development and Regeneration (Planning Services) does everything else in relation to town and country planning, spatial planning, development management, environmental stewardship, building control, tree preservation orders, planning compliance, high hedges and trees in conservation areas.

The Assistant Director for Development and Regeneration (Transport) does everything else in relation to highway and public rights of way.

## **9.1 Licensing of alcohol, entertainment, late night refreshment and general licensing**

### **9.1.1 Description of responsibility**

- (a) All the responsibilities set out in Part B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to licensing, registration and gambling apart from those relating to taxis, private hire vehicles, other vehicles and operators; common land and village greens; highways, new roads, and street works.
- (b) The responsibilities set out in Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making a closure order with respect to take away food shop (see Section 4 of the Local Government (Miscellaneous Provisions) Act 1982).

- © The responsibilities set out in Part I of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making an order identifying a place as a designated public place in connection with police powers about alcohol consumption (see Section 13(2) of the Criminal Justice and Police Act 2001).
- 10 The responsibilities set out in Part I of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making or revoking an order designating a locality as an alcohol disorder zone (see Section 16 of the Violent Crime Reduction Act 2006).

### **10.1.1 Who carries out the responsibility?**

Council sets policies on licensing and gambling on the recommendation of Cabinet. Council makes resolutions not to issue casino premises licence under section 154(2) (a) of the Gambling Act.

The General Licensing Committee:

- makes orders identifying a place as a designated public place in connection with police powers about alcohol consumption
- makes or revokes orders designating a locality as an alcohol disorder zone
- sets the terms and conditions of licences, permits or registrations payable under the Licensing Act 2003
- sets the terms and conditions of licences, permits or registrations in connection with sex shops and sex cinemas
- sets fees for licences and permits issued under the Gambling Act 2005
- sets fees payable in connection with Street Trading
- deals with any matters that are referred to it by the assistant director for democracy and governance, the assistant director for economic development, the assistant director for environmental services, the assistant director for human resources and organisational development, the assistant director for planning, the assistant director for strategic housing or the assistant director for transport.

The General Licensing Committee appoints a sub-committee (the Licensing sub-committee) to:

- decide applications made under the Licensing Act 2003 and Gambling Act 2005 where relevant representations are received within the timescale set out in the Act. When doing this the sub-committee follows the regulations and procedures under the Licensing Act 2003 or the Gambling Act 2005
- decide whether to grant any other type of registration licence or permit when there are objections
- deal with all matters set out in section 10 of the Licensing Act 2003
- deal with all matters set out in section 154(4)(a) of the Gambling Act 2005
- deal with applications for club gaming or club machine permits and cancellation of such permits when there are objections
- deal with applications for prize gaming permits when there are police objections or officers would want to refuse them
- deal with ice cream consents
- set the terms and conditions of licences, permits or registrations and any fees or charges in connection with any of its responsibilities if they are referred to the sub-committee by the assistant director for democracy and governance, the assistant director for economic development, the assistant director for environmental services, the assistant director for human resources and organisational development, the assistant director for planning, the assistant director for strategic housing or the assistant director for transport



- deal with anything else that needs a hearing or that cannot legally be delegated to officers

The Assistant Director for Development and Regeneration (Planning Services) deals with all other responsibilities in section 5.4.1 in relation to Safety Certificates for sports grounds and regulated stands.

The Assistant Director for Economic Regeneration deals with all other responsibilities in section 5.4.1 in relation to street trading and market licensing.

The Assistant Director for Democracy and Governance deals with all other responsibilities in relation to premises for the solemnisation of marriage.

The Director for Children's Services deals with all other responsibilities in section 5.4.1 in relation to the employment of children.

The Assistant Director for Strategic Housing deals with all other responsibilities in section 5.4.1 in relation to houses in multiple occupation.

The Assistant Director for Environmental Services deals with all other responsibilities in section 5.4.1 in relation to:

- Acupuncture, ear piercing, electrolysis and tattooing
- Agencies that supply nurses
- Amusements with prizes
- Animal trainers and exhibitors
- Auction and wholesale markets
- Caravan sites
- Cinemas and cinema clubs
- Dangerous wild animals
- Dairies
- Dog breeders
- Door staff
- Egg production establishments
- Fish products premises and dispatch and purification centres
- Fish vessels and fishery products establishments
- Factory vessels and fishery products establishments
- Food business premises
- Gambling Act 2005
- Game dealers
- Game keepers
- Game to kill
- House to house collections
- Hypnotism
- Knackers yards
- Licensing Act 2003
- Loudspeakers in streets
- Markets and street trading
- Massage or special treatments
- Meat product premises and premises used for the production of minced meat or meat preparations

- Movement of cattle
- Milk dealers
- Movement of moveable dwellings and camping sites
- Offensive trades
- Pet shops
- Persons entitled to sell non-medicinal poisons
- Pigs; movement, sale or collecting centres
- Pleasure boats and pleasure vessels
- Retail butcher shops carrying out commercial operations in relation to unwrapped meat and selling or supplying both raw meat and ready to eat foods
- Riding establishments
- Scrap yards and scrap metal dealers
- Storage of celluloid
- Night cafes and take away food shops
- Theatres
- Zoos

The Assistant Director for Environmental Services also deals with all other responsibilities in [section 5.4](#).

## **10.2 Taxi and private hire and other vehicle licensing**

### **10.2.1 Description of responsibility**

All the taxi and private hire and other vehicle licensing responsibilities in Paragraph B of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 and in the Plymouth City Council Act 1975.

### **10.2.2 Who carries out the responsibility?**

Council sets policies on taxi and private hire and other vehicle licensing on the recommendation of the Cabinet.

The Taxi Licensing Committee:

- sets and reviews licence fees and terms and conditions of licences for taxis, private hire vehicles and other vehicles and operators
- decides applications for taxi and private hire and other vehicle, driver and operator licences, when it has received any objections to the licence, permit or registration
- decides applications for taxi and private hire and other vehicle, driver and operator licences when the applicant has a conviction and the Assistant Director for Environmental Services has concerns about the nature of the offence; or the applicant or vehicle may be unsuitable for some other reason
- decides whether to withdraw or suspend licences for taxis and private hire and other vehicles and their drivers and operators

The Assistant Director for Environmental Services does everything else.

### **10.3 Responsibilities for the Tamar Bridge and Torpoint Ferry**

#### **10.3.1 Description of responsibility**

All the responsibilities for the Tamar Bridge and Torpoint Ferry as set out in the Tamar Bridge Acts 1957, 1979, 1998 which are carried out jointly with Cornwall Council.

#### **10.3.2 Who carries out the responsibility?**

Plymouth City Council and Cornwall Council undertake the functions that are required by law to be carried out by the two authorities.

The Tamar Bridge and Torpoint Ferry Joint Committee:

- proposes an annual business plan to cabinet
- monitors performance of the undertaking against the business plan
- monitors performance of the undertaking to ensure value for money is achieved
- makes sure the management of the Bridge and Ferry accords with proper financial and legal practice appropriate to local authorities
- makes sure proper audit and risk management procedures are in place
- makes sure an appropriate inspection of the Bridge and Ferry takes place on an annual basis
- undertakes appropriate consultation with key stakeholders
- the Director for Development and Regeneration in Plymouth and the Director for Environment, Planning and Economy in Cornwall have responsibility to do everything else

### **10.4 South West Devon Waste Partnership non-executive responsibilities**

#### **10.4.1 Description of responsibilities**

The South West Devon Waste Partnership comprises Plymouth City Council, Devon County Council and Torbay Council.

#### **10.4.2 Who carries out the responsibility?**

The three councils deal with:

- any decision about any of the responsibilities of the partnership that is contrary to the budget approved by each appointing authority for the Joint Committee or is contrary to an approved policy of strategy of any of the appointing authorities
- any decision where the lead officer as is defined in the Joint Working Agreement of any of the appointing authorities has notified the Secretary to the Joint Committee in writing of the authority's formal objection to the proposed decision of the Joint Committee
- approval of the outline business case and final business case
- approval or amendment of any Joint Working Agreement between the appointing authorities in respect of the discharge of the appointing authorities' residual waste disposal functions

### **10.5 Health and safety at work**

#### **10.5.1 Description of responsibility**

All the responsibilities in Paragraph C of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

**10.5.2 Who carries out the responsibility?**

The Assistant Director for Environmental Services.

**10.6 Name and status of areas and individuals**

**10.6.1 Description of responsibility**

All the responsibilities in Paragraph E of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

**10.6.2 Who carries out the responsibility?**

Council.

**10.7 Functions relating to community governance**

**10.7.1 Description of responsibility**

All the responsibilities in Paragraph EB of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

**10.7.2 Who carries out the responsibility?**

Council.

**10.8 Byelaws**

**10.8.1 Description of responsibility**

All the responsibilities in Paragraph F of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

**10.8.2 Who carries out the responsibility?**

Council.

**10.9 Bills**

**10.9.1 Description of responsibility**

All the responsibilities in Paragraph G of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

**10.9.2 Who carries out the responsibility?**

Council.

**10.10 Pensions**

**10.10.1 Description of responsibility**

All the responsibilities in Paragraph H of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

**10.10.2 Who carries out the responsibility?**

The Chief Finance Officer.

**10.11 Ban on smoking in public places****10.11.1 Description of responsibility**

All the responsibilities in the Health Act 2006.

**10.11.2 Who carries out the responsibility?**

The Assistant Director for Environmental Services.

**10.12 Other council responsibilities**

<b>Responsibility</b>	<b>Legislation</b>	<b>Carried out by</b>
Power to make standing orders	Local Government Act 1972, Section 106 and paragraph 42 of Schedule 12	Council
Power to appoint staff and to set their terms and conditions (including procedures for dismissing them)	Local Government Act 1972, Section 112	<ul style="list-style-type: none"> <li>The appointments panel appoints Directors and Assistant Directors and recommends the appointment of Chief Executive and designation of Head of Paid Service, Chief Finance Officer and Monitoring Officer to council.</li> <li>Assistant Directors appoint everyone else. The Chief Executive sets collective terms and conditions other than for posts under the JNC for chief officers which are set by council.</li> </ul>
Power to make contract rules	Local Government Act 1972, Section 135	Council
Duty to arrange proper financial administration	Local Government Act 1972, Section 151	Chief Finance Officer
Power to appoint proper officers for the purposes of the Local Government Act 1972	Local Government Act 1972, Section 270(3)	Monitoring Officer (or any other officer specifically appointed in the constitution)
Duty to designate Head of Paid Service and provide resources	Local Government and Housing Act 1989, Section 4(1)	Council (but appointments committee makes a recommendation)
Duty to designate Monitoring Officer and provide resources	Local Government and Housing Act 1989, Section 5(1)	Council

<b>Responsibility</b>	<b>Legislation</b>	<b>Carried out by</b>
Duty to provide resources to a person named by the Monitoring Officer	Local Government Act 2000, Sections 82A(4) and (5)	Council
Powers relating to scrutiny committees (voting rights of council-opted members)	Local Government Act 2000, paragraphs 12 and 14 of Schedule 1	Council
Power to provide compensation when there has been maladministration	Local Government Act 2000, Section 92	Standards Committee unless the compensation is less than £5000 when the power is delegated to officers in the senior management structure
Duty to appoint an electoral registration officer	Representation of the People Act 1983, Section 8(2)	The Chief Executive is the electoral registration officer
Power to provide the officers the electoral registration officer needs	Representation of the People Act 1983, Section 52(4)	Electoral registration officer
Duty to appoint returning officer for local government elections	Representation of the People Act 1983, Section 35	The Chief Executive is the returning officer
Duty to help in European parliamentary elections	European Parliamentary Elections Act 1978, paragraph 4(3) and 4(4) of Schedule 1	Returning officer
Duty to divide constituency into polling districts	Representation of the People Act 1983, Section 18	Council
Power to divide electoral divisions into polling districts at local government elections	Representation of the People Act 1983, Section 31	Council
Powers to do with holding elections	Representation of the People Act 1983, Section 39(4)	Returning officer
Power to pay electoral registration officer's expenses	Representation of the People Act 1983, Section 54	Returning officer
Duty to declare vacancy in office	Local Government Act 1972, Section 86	Returning officer
Duty to give notice of a casual vacancy	Local Government Act 1972, Section 87	Returning officer
Power to make proposals for pilot schemes for local elections	Representation of the People Act 2000, Section 10	Council
Duty to consult on change of scheme for elections	Local Government and Public Involvement in Health Act 2007, Sections 33(2), 38(2) and 40(2)	Council
Duties relating to publicity	Local Government and Public Involvement in Health Act 2007, Sections 35, 41 and 52	Council

<b>Responsibility</b>	<b>Legislation</b>	<b>Carried out by</b>
Duties relating to notice to Electoral Commission	Local Government and Public Involvement in Health Act 2007, Section 53	Council
Functions relating to change of name of an electoral area	Local Government and Public Involvement in Health Act 2007, Section 59	Council
Powers to appoint the Lord Mayor and the Deputy Lord Mayor		Council on the recommendation of the Lord Mayor's Selection Committee

## Roles of cabinet members

### In this section:

<b>6.1</b>	<b>Role of all cabinet members</b>	<b>30</b>
<b>6.2</b>	<b>Principal areas of responsibility of individual cabinet members</b>	<b>30</b>
<b>6.3</b>	<b>Other areas of responsibility</b>	<b>34</b>
<b>6.4</b>	<b>Role of individual cabinet members</b>	<b>34</b>

### Related sections

<b>4</b>	<b>Who carries out executive responsibilities?</b>	<b>13</b>
<b>12</b>	<b>Cabinet procedures</b>	<b>62</b>

#### 10.12.1 Role of all cabinet members

Some decisions must be agreed by the cabinet under this constitution ([see section 4.7](#)). These will be taken collectively by all cabinet members.

#### 10.13 Principal areas of responsibility of individual cabinet members

Individual areas of responsibility are decided by the Leader and may be changed by the Leader. At the moment they are:

### 11 Leader of the Council

The Leader will act as chair of Cabinet meetings and may act on behalf of or instead of cabinet members. S/he is responsible for and may take decisions about:

- an overview of the Council and its resources
- Corporate plan
- Plymouth 2020 Board
- Plymouth Life Centre
- City Centre Company
- Destination Plymouth

### 12 Deputy Leader of the Council and Cabinet Member for Planning, Strategic Housing and Economic Development

The Deputy Leader will deputise for the Leader as appropriate in the absence of the Leader and may nominate any cabinet member to deputise for the Leader in the absence of the Leader and Deputy Leader. The Deputy is responsible for and may take decisions about:

- Regional and local economic strategy
- Economic development
- Inward investment
- Business support
- Commercial development
- Planning Policies and Strategies
- Planning
- Local development framework
- Strategic housing
- Homelessness



- Private sector housing, grants and improvements
- Housing enabling role with respect to registered social landlords
- Tourism development, services and marketing
- Plymouth Waterfront Partnership

Is the corporate project lead and may take decisions about:

- West End regeneration (jointly with the cabinet member for transport)
- Millbay regeneration
- Derriford
- Sutton Harbour
- Plymouth 2020 – Growth Board

### **13 Adult Health and Social Care**

The cabinet member with responsibility for adult health and social care is responsible for and may take decisions about:

- Public Health
- Adult health and social care
- Older people services
- Supporting people programme
- Mental health services
- Physical disability services
- Drug and alcohol services
- Learning disability services
- Overall healthcare issues

Is the corporate project lead and may take decisions about:

- Plymouth 2020 – Healthy Theme Group and Shadow Health and Well Being Board

### **14 Finance, Property and People**

The cabinet member with responsibility for finance, property and people is responsible for and may take decisions about:

- Human Resources
- Revenue budget
- Capital programme
- Strategic procurement
- Housing benefit and revenues
- Corporate property and facilities management
- Lord Mayor's Role and Events

### **15 Children and Young People**

The cabinet member with responsibility for children and young people is responsible for and may take decisions about:

- Children's services
- Adoption and fostering
- Corporate parenting
- Schools and colleges, including governing issues
- Early years development
- Education grants
- School capital programme
- Youth services

Is the corporate project lead and may take decisions about –

- Plymouth 2020 – Wise Theme Group
- Plymouth 2020 – Children's Trust

## 16 **Customer Services**

The cabinet member with responsibility for customer services is responsible for and may take decisions about:

- Customer services
- Business continuity
- ICT
- Media, public relations and communications

Is the corporate project lead and may take decisions about:

- Developing effective and efficient customers' services for the Council ensuring a high standard and improving customer satisfaction across all Council services
- Communications (internal and external)

## 17 **Transformation, Performance and Governance**

The cabinet member with responsibility for transformation, performance and governance is responsible for and may take decisions about:

- Performance management
- Transformation / change management
- Corporate policy development
- Corporate planning
- Civil contingencies
- Democracy and Governance
- Member Development

Is the corporate project lead and may make decisions about:

- Overall transformation and change management strategy.

**18 Community Services (Safer and Stronger Communities, Sports and Leisure)**

The cabinet member with responsibility for community services (safer and stronger communities, sports and leisure) is responsible for and may take decisions about:

- Anti-social behaviour
- Community safety
- Community cohesion and equalities
- Leisure / sports facilities
- Events
- Cultural activities
- Heritage, museums and libraries
- Mount Edgcumbe country house and park
- Licensing – private hire and other vehicles

Is the corporate project lead and may take decisions about:

- Benefit take up campaigns
- Localities working
- Plymouth 2020 – Safe and Strong Theme Group
- Plymouth 2020 – Culture Board

**19 Community Services (Street Scene, Waste and Sustainability)**

The cabinet member with responsibility for community services (street scene, waste and sustainability) is responsible for and may take decisions about:

- Waste management
- Cleansing, waste disposal and recycling
- Fleet management
- Parks including playgrounds
- Public open space
- Climate change and sustainability
- Public protection service (covering environmental protection and monitoring and neighbourhood and environmental quality, trading standards, food safety and standards, safety, health and licensing (excluding private hire and other vehicles))

Is the corporate project lead and may take decisions about:

- South West Devon Waste Partnership in accordance with the partnership agreement

**20 Transport**

The cabinet member with responsibility for transport is responsible for and may take decisions about:

- Transport policies and strategies
- Highways
- Car parks
- Tamar Bridge and Torpoint Ferry

Is the corporate project lead and may take decisions about:

- West End regeneration (joint with Cabinet Member for Planning, Strategic Housing and Economic Development)
- Eastern corridor scheme

### **20.1.1 Other areas of responsibility**

Areas of responsibility that are not allocated to a cabinet member in section 6.2 may be allocated to a cabinet member by the Leader.

### **20.1.2 Role of individual cabinet members**

For their areas of responsibility, individual cabinet members will:

- (a) provide strong and fair leadership and clear political guidance to members and officers – this will include representing the council on outside organisations
- (b) develop and oversee the council’s work – this will include:
  - advising the cabinet and officers on priorities
  - individually and effectively, ensure the implementation of corporate priorities as agreed by council
  - having a clear understanding of the portfolio, the scope and range of services for which they are responsible and council policies in respect of those services
  - ensuring the delivery of best practice and continuous improvement in services and implementation of best practice in their authority
  - ensuring an appropriate consultation programme is developed for their area of responsibility, to involve local people and communities in the decisions of the council as fully as possible
  - responding within an agreed timescale to the recommendations of relevant scrutiny panel(s) and the overview and scrutiny management board, setting out what action is proposed, if any, and giving full reasons for decisions taken
  - meeting with chairs of relevant scrutiny panel(s) on a regular basis to discuss progress in their area of responsibility, responses to concerns raised by the scrutiny panel(s) and future programmes of work
  - advising project or programme boards
  - ensuring that members are briefed at the appropriate time on significant issues i.e. those that may:
    - result in a change to established policy
    - have major resource implications
    - be contentious or politically sensitive
- (c) take the decisions set out in section 4.8

## 7 Roles of decision taking committees

### In this section:

7.1	<b>Planning Committee</b>	<b>35</b>
7.2	<b>General Licensing Committee</b>	<b>35</b>
7.3	<b>Taxi Licensing Committee</b>	<b>35</b>
7.4	<b>Audit Committee</b>	<b>35</b>
7.5	<b>Chief Officers' Investigating Panel</b>	<b>36</b>
7.6	<b>Employment Appeals Panel</b>	<b>36</b>
7.7	<b>Independent Remuneration Panel</b>	<b>36</b>
7.8	<b>Appointments Panel</b>	<b>37</b>
7.9	<b>Standards Committee</b>	<b>37</b>
7.10	<b>Tamar Bridge and Torpoint Ferry Joint Committee</b>	<b>38</b>
7.11	<b>Role of Mount Edgcumbe Joint Committee</b>	<b>38</b>
7.12	<b>Role of the South West Devon Waste Partnership</b>	<b>38</b>
7.13	<b>Role of the Devon Audit Partnership Joint Committee</b>	<b>38</b>

### Related sections

4	<b>Who carries out executive responsibilities?</b>	<b>13</b>
5	<b>Who carries out council responsibilities?</b>	<b>19</b>
14	<b>Other committee procedures</b>	<b>75</b>
22	<b>Employment rules</b>	<b>117</b>

### 7.1 Planning Committee

The Planning Committee carries out the responsibilities delegated to it in [section 5.3](#) and delegates some responsibilities to officers.

### 7.2 General Licensing Committee

The General Licensing Committee carries out the responsibilities delegated to it in [section 5.4](#) and delegates some responsibilities to officers. It delegates some responsibilities to the General Licensing Sub Committee.

### 7.3 Taxi Licensing Committee

The Taxi Licensing Committee carries out the responsibilities delegated to it in [section 5.5](#) and delegates some responsibilities to officers.

### 7.4 Audit Committee

The Audit Committee is responsible for the following:

#### 7.4.1 External audit functions of Audit Committee

- to consider the appointment of the council's external auditor
- to consider reports from external auditors (including the external auditor's annual management letter) and agree action plans in response
- to discuss with the external auditor the nature and scope of audit coverage, including Value for Money (VFM) and to agree level of fees chargeable
- to review external audit reports and the annual audit letter, together with the management response and make recommendations to the cabinet

- to respond to any other concerns of the external auditors

#### **7.4.2 Internal audit functions of the Audit Committee**

- to monitor the progress and performance of internal audit
- to review and approve the internal audit annual programme
- to consider significant findings of internal audit reviews and investigations together with management responses and monitor implementation of agreed recommendations
- to advise council on the internal audit function, resourcing and standing within the authority
- to ensure co-ordinations between internal and external auditors
- to consider the Chief Auditor's annual report, and comment annually on the adequacy and effectiveness of internal control systems within the council
- to approve the annual statement of accounts

#### **7.4.3 Risk management functions of the Audit Committee**

- to approve, support and monitor the implementation and ongoing processes for identifying and managing key risks of the authority
- to review and advise the council's compliance with its own published standards and controls and recommend any necessary changes to Financial Regulations and Standing Orders Contracts
- to keep the anti-fraud strategy under review

#### **7.4.4 Corporate governance**

- to advise council on the promotion, maintenance and review of the council's Code of Corporate Governance.

#### **7.5 Chief Officers' Investigating Panel**

The role of the Panel is to decide disciplinary hearings about the Chief Executive and posts under the JNC Scheme of conditions of service for chief officers and make a recommendation to council. See section 22.3.

#### **7.6 Employment Appeals Panel**

The role of the Panel is to decide appeals from the Chief Executive and posts under the JNC Scheme of conditions of service for chief officers relating to their dismissal under their conditions of service relating to discipline capability and redundancy and make a recommendation to council. See section 22.3.

#### **7.7 Independent Remuneration Panel**

The role of the Panel is to make recommendations to council about the level of allowances to be paid to councillors, including special responsibility allowances, pension rights of councillors and allowances payable to co-opted and independent members of council. The panel makes recommendations about all of the allowances described in the Local Authorities (Members' Allowances) regulations.

## 7.8 Appointments Panel

The Appointments Panel:

- Recommends to the council who to appoint as Chief Executive
- Recommends to the council who to designate as Head of Paid Service, Chief Finance Officer and Monitoring Officer
- Appoints first and second tier officers

See [sections 22.1 and 22.2](#).

## 7.9 Standards Committee

The Standards Committee is responsible for:

- (a) Promoting high standards of conduct in the council
- (b) Advising council on adopting or revising the Councillors' Code of Conduct ([see section 19](#)) and monitoring how it is working
- (c) Advising on training for councillors and co-opted committee members on all aspects of the Councillors' Code of Conduct and other ethics and probity issues
- (d) Considering recommendations made by case tribunals held under Section 80 of the Local Government Act 2000
- (e) Considering reports by the Monitoring Officer or anything referred by an ethical standards officer of Standards for England or a sub-committee of the Standards Committee
- (f) Establishing sub-committees to carry out initial assessments, reviews and hearings into allegations of breaches of the Councillors' Code of Conduct
- (g) Appointing members to any sub-committee of the Standards Committee provided that they have completed the council's prescribed training on assessment of standards complaints
- (h) Giving special permission called a dispensation to councillors and co-opted committee members to speak and vote on things they have an interest in
- (i) Considering any complaints of breaches of councillor officer protocol, standing order, written council convention or council resolution
- (j) Monitoring the register of members' interests ([see section 19](#))
- (k) Overseeing the code on councillor-officer relations ([see section 20](#))
- (l) Overseeing the code on councillors' use of IT equipment ([see section 21](#))
- (m) Advising council on adopting or revising any other codes of practice or guidance for councillors
- (n) Advising council on revisions to the whistleblowing policy
- (o) Considering requests for dispensation for politically restricted posts

- (p) Monitoring the findings of the ombudsman in respect of allegations of maladministration and considering whether to agree recommendations that the council should pay compensation if this is more than £5,000

**7.10 Tamar Bridge and Torpoint Ferry Joint Committee**

The Tamar Bridge and Torpoint Ferry Joint Committee carries out the responsibilities delegated to it in section 5.6.

**7.11 Role of Mount Edgumbe Joint Committee**

The Mount Edgumbe Joint Committee carries out the responsibilities delegated to it in section 4.9.1.

**7.12 Role of the South West Devon Waste Partnership**

The South West Devon Waste Partnership carries out the responsibilities delegated to it in section 4.9.2.

**7.13 Role of the Devon Audit Partnership Joint Committee**

The Devon Audit Partnership Joint Committee carries out the responsibilities delegated to it in section 4.9.3.



## 8 Roles of overview and scrutiny panels and board

### In this section:

8.1	<b>Areas of work of overview and scrutiny panels and board</b>	<b>39</b>
8.2	<b>What powers do overview and scrutiny panels have?</b>	<b>41</b>
8.3	<b>Roles of overview and scrutiny panels and board</b>	<b>41</b>

### Related sections

13	<b>Overview and scrutiny procedures</b>	<b>68</b>
18	<b>Call in procedures</b>	<b>88</b>

## 8.1 Areas of work of overview and scrutiny panels and board

The council has appointed an Overview and Scrutiny Management Board and five scrutiny panels.

### 8.1.1 The work of the Overview and Scrutiny Management Board is:

- overseeing workloads including approving work programmes, allocating work (based on request from panels and the Forward Plan), approving task and finish groups and monitoring the performance of panels and chairs
- managing relationships between panels, cabinet members, theme groups/chairs and partners and producing relevant protocols
- monitoring performance against inspection action plans (including access to services and equality standards) and monitoring performance of partner organisations
- considering call ins ([see section 18](#))
- monitoring councillor calls for action and petitions and allocating work accordingly
- receiving bi-monthly finance and performance reports, including corporate improvement priority monitoring and carrying out the annual budget scrutiny
- agreeing recommendations to cabinet, council, local strategic partnership board and other organisations and monitoring progress including presenting a quarterly report to cabinet
- agreeing appointments of co-optees to panels and approving an annual scrutiny training programme

### 8.1.2 The work of the scrutiny panels is:

#### Overview and Scrutiny Panel

#### Areas of work

##### Children and Young People

- Children's Services
- Lifelong learning
- Learning and family support
- Social Care
- Child healthcare
- Corporate priorities

##### Customers and Communities

- Customer services
- Environmental Services
- Safer communities
- Leisure, culture and sport
- Environmental regulation
- Crime and disorder
- Corporate priorities

##### Growth and Prosperity

- Planning
- Transport
- Strategic housing
- Economic development
- Sustainability and climate change
- Corporate priorities

##### Health and Adult Social Care

- Adult social care
- Public health
- Independent living
- Reducing inequalities
- Undertaking the statutory functions in relation to the reviewing and scrutinising of local health service matters
- Corporate priorities

##### Support Services

- Business transformation
- Finance
- ICT
- Human resources and organisational development
- Democracy and governance
- Assistant Chief Executive
- Policy and performance
- Communications
- Corporate priorities

##### Joint health overview and scrutiny panels

- Health scrutiny matters

## **8.2 What powers do overview and scrutiny panels have?**

Scrutiny panels can:

- review new and existing policies and consider how they may be improved and developed
- consider equality impact assessments against new and existing policies
- investigate local issues to find out how the council and its partners can improve to meet the needs of local people
- hold public inquiries
- invite people to their meetings and gather evidence from them
- make reports and recommendations about service delivery to the Cabinet (via the management board)
- set up ad hoc working groups as and when required
- produce quarterly progress reports to go to the management board
- request senior officers ([see section 9.1](#)) and cabinet members to attend their meetings and answer questions ([see section 13](#))

## **8.3 Roles of overview and scrutiny panels and board**

### **8.3.1 Developing and reviewing policy**

The scrutiny panels can:

- help council and the cabinet to develop policy by studying issues in detail
- carry out research and consultation on policy
- review policies within the policy framework
- consider and introduce schemes to involve the public in developing policy
- work with national, regional and local organisations to promote the interest of local people

### **8.3.2 Holding the cabinet to account**

The scrutiny panels can:

- monitor the budget and performance of the cabinet members, department and partners to make sure that the priorities for the area are delivered (but not decisions on individual planning or licensing applications)
- monitor performance against the relevant corporate priorities

### **8.3.3 Holding others to account**

Scrutiny panels can review and scrutinise the performance of partner organisations.

### **8.3.4 Budget scrutiny**

The management board can respond to the budget consultation process.

## 9 Roles of officers

### In this section:

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9.3	Role of Head of Paid Service	42
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9.10	Director of Adult Social Services, Director of Children's Services, Director of Public Health and Chief Education Officer	45

### Related sections

10	Proper officers	46
20	Code on councillor-officer relations	106

### 9.1 Senior management structure

The council has a Chief Executive and four directors. Their responsibilities and those of all senior managers are shown in the senior management structure (appendix 31).

### 9.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

This table shows who carries out these roles:

Role	Post
Head of Paid Service	Chief Executive
Chief Finance Officer	Director for Corporate Support
Monitoring Officer	Assistant Director for Democracy and Governance

### 9.3 Role of Head of Paid Service

- (a) The Head of Paid Service will report to council on how officers are organised and how the council is co-ordinating its work.
- (b) 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.

The Head of Paid Service, in so acting, will consult the Leader or, in her or his absence, her or his 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.

## **9.4 Role of Monitoring Officer**

### **9.4.1 Making sure council decisions are lawful and fair**

If a proposal or decision would result in unlawful action or maladministration, the Monitoring Officer will consult the Head of Paid Service and Chief Finance Officer and report to council (or the cabinet for an executive responsibility)

The proposal or decision will not be acted upon until the report has been considered.

If another body is also investigating a proposal or decision that could result in unlawful action or maladministration, the Monitoring Officer can delay reporting to council or the cabinet until that body has investigated.

### **9.4.2 Supporting the Standards Committee**

The Monitoring Officer will support the Standards Committee. This will include advising the Standards Committee on the need for training for councillors on ethical issues.

The Monitoring Officer will meet regularly with the Head of Paid Service and the Chief Finance Officer to consider issues of governance and probity and will facilitate periodic meetings between the chair of the Standards Committee, the Leader and the Head of Paid Service.

### **9.4.3 Reviewing the constitution**

The Monitoring Officer will maintain an up to date version of the constitution and will make sure it is widely available to councillors, staff and the public. The Monitoring Officer will review the operation of the constitution.

### **9.4.4 Carrying out investigations**

The Monitoring Officer may investigate anything referred by the Standards Committee or ethical standards officers and make reports or recommendations based on the investigation.

### **9.4.5 Being proper officer for access to information**

The Monitoring Officer will be the proper officer for access to information. This will include making sure that the council publishes council, cabinet and committee decisions as soon as possible, along with reasons for the decisions and the officer reports.

### **9.4.6 Giving advice**

The Monitoring Officer will advise on the council's powers to take decisions, maladministration, financial impropriety, probity, ethics and whether decisions of the cabinet committees or officers are within the policy framework and budget.

### **9.4.7 Contributing to corporate governance**

The Monitoring Officer will:

- contribute to the corporate management of the council in particular through the provision of professional legal services and democratic support
- keep close links with the Lord Mayor, the Leader, the chair of the Standards Committee, the Head of Paid Service and the Chief Finance Officer
- appoint a deputy and keep them briefed
- work closely with Standards for England, the council's auditors and the ombudsman and may give them relevant information even if it is confidential

## **9.5 Role of Chief Finance Officer**

### **9.5.1 Making sure financial decisions are lawful**

If a proposal or decision would result in unlawful spending or a loss to the council, or if the council is about to enter an unlawful item of account, the Chief Finance Officer will consult the Head of Paid Service and the Monitoring Officer and report to the council's auditors and to council (or the cabinet if it is an executive responsibility).

### **9.5.2 Managing the council's finances**

The Chief Finance Officer will manage the council's finances.

### **9.5.3 Contributing to the management of the council as a whole**

The Chief Finance Officer will contribute to the management of the council as a whole, especially by giving financial advice. The Chief Finance Officer will be a member of all management teams and has the right to see all reports to councillors.

### **9.5.4 Giving advice**

The Chief Finance Officer will advise on the scope of powers and authority to take decisions, maladministration, probity, financial impropriety and the policy framework and budget to all councillors and officers in their respective roles.

### **9.5.5 Giving financial information**

The Chief Finance Officer will make information about the council's finances available to the media and the public.

## **9.6 Duty to give Monitoring Officer and Chief Finance Officer the resources they need**

The council will give the Monitoring Officer and Chief Finance Officer the accommodation, officers and resources necessary to do their jobs. The Monitoring Officer and Chief Finance Officer will report to council when necessary on the staff, officers and resources they need.

## **9.7 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues**

Directors and heads of service must alert the Monitoring Officer and Chief Finance Officer to issues of concern as soon as they come up. These will include legality, probity, vires and constitutional issues.

If the finance or contract rules have been broken, or if decisions have been taken by people who are not allowed to take them, the Monitoring and Chief Finance Officers must be told in writing.

## **9.8 Monitoring Officer's right to information**

### **9.8.1 Information for investigations**

In any investigation the Monitoring Officer will have unqualified access to information from the council and its officers.

### **9.8.2 Reports to councillors**

The Monitoring Officer has the right to see all reports to councillors.

### **9.8.3 Barristers' opinions**

The Monitoring Officer will have an adequate budget for getting barristers' or expert legal opinions necessary to carry out the Monitoring Officer's role.

### **9.8.4 Contributing to the management of the council as a whole**

The Monitoring Officer will contribute to the management of the council as a whole, especially by giving legal advice. The Monitoring Officer will be a member of all management teams and has the right to see all reports to councillors.

## **9.9 Restrictions on holding other posts**

The Monitoring Officer cannot be the same person as the Chief Finance Officer or Head of Paid Service.

The Head of Paid Service and the Chief Finance Officer can be the same person but the Chief Finance Officer must be a qualified accountant.

## **9.10 Director of Adult Social Services, Director of Children's Services, Director of Public Health and Chief Education Officer**

This table shows who carries out the statutory responsibilities allocated to these roles by the legislation shown in the table:

Director of Adult Social Services	Local Authority Social Services Act 1970 (amended by the Children Act 2004)	Director for Community Services
Director of Children's Services	Children Act 2004	Director of Services for Children & Young People
Director of Public Health (Joint appointment with NHS)		Director of Public Health
Chief Education Officer	Education Act 1996	Director of Services for Children & Young People

**Proper officers****In this section:**

<b>10.1</b>	<b>Appointment of proper officers</b>	<b>46</b>
<b>10.2</b>	<b>Responsibilities and proper officers</b>	<b>46</b>

**Related sections**

<b>9</b>	<b>Roles of officers</b>	<b>42</b>
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**10.1 Appointment of proper officers**

All members of the senior management structure may appoint officers to act as proper officers for the purposes of any Act of Parliament or Statutory Instrument if:

- (a) the member of the corporate management team or senior management structure or one of their staff has budgetary or management responsibility for that function; and
- (b) the officer appointed is qualified to carry out the functions of a proper officer; and
- (c) the constitution or the law does not require it to be carried out by someone else.

**10.2 Responsibilities and proper officers**

<b>Legislation</b>		<b>Responsibility</b>	<b>Proper officer</b>
Local Government Act 1972	Section 83(1) to (4)	Witnessing and receiving declarations of acceptance of office	Monitoring Officer
	Section 84(1)	Receiving a councillor's resignation	Monitoring Officer
	Section 88 (2)	Calling a council meeting to elect a chair if there is a casual vacancy	Monitoring Officer
	Section 89(1)	Giving notice of a casual vacancy	Monitoring Officer
	Section 100 except 100(d)	Opening meetings to the public	Monitoring Officer
	Section 100(d)	Listing background papers for reports and making copies available for the public to look at	All Assistant Directors
	Section 115(2)	Receiving money due from officers	Chief Finance Officer
	Section 146(1)(a) and (b)	Making declarations and certificates about transferring securities	Chief Finance Officer
	Section 191	Receiving applications under Section 1 of the Ordnance Survey Act	Head of Legal Services



<b>Legislation</b>		<b>Responsibility</b>	<b>Proper officer</b>
Local Government Act 1972	Section 225	Depositing documents	Head of Legal Services
	Section 228(3)	Making accounts available for councillors to look at	Chief Finance Officer
	Section 229(5)	Certifying photocopies of documents	Head of Legal Services
	Section 234	Authenticating documents	Head of Legal Services and all Assistant Directors
	Section 238	Certifying byelaws	Head of Legal Services
	Section 248	Keeping a list of freemen of the city	Monitoring Officer
	Schedule 12, paragraph 4(2)(b)	Signing the summons to council	Chief Executive
	Schedule 12, paragraph 4(3)	Being told where to send summonses to council meetings	Monitoring Officer
Local Government Act 1974	Section 30(5)	Giving notice that copies of an ombudsman's report are available	Director for Corporate Support
Local Government (Miscellaneous Provisions) Act 1976	Section 41(1)	Certifying copies of resolutions and minutes	Monitoring Officer
Local Authorities Cemeteries Order 1977	Regulation 10 and schedule 2	Signing exclusive burial rights	Assistant Director for Environmental Services
Local Elections (Principal Area) Rules 1986	Rule 46	Keeping documents after an election and making them available for the public to look at	Electoral Registration Officer
Local Government and Housing Act 1989	Section 2(4)	Keeping the list of politically restricted posts	Assistant Director for Human Resources and Organisational Development
Local Government (Committees and Political Groups) Regulations 1990		Dealing with political balance on committees	Monitoring Officer

<b>Legislation</b>		<b>Responsibility</b>	<b>Proper officer</b>
Local Authorities (Standing Orders) (England) regulations 2001		Giving notice of appointments and dismissals of officers in accordance with the regulations	Assistant Director for Human Resources and Organisational Development
Local Government Act 2000		Acting as proper officer for all the responsibilities in the Local Government Act 2000 and subordinate legislation	Monitoring Officer
Public Health Act 1936	Section 84	Cleansing of filthy and verminous articles	Assistant Director for Environmental Services
Public Health Act 1936	Section 85(2)	Serving a notice requiring action to deal with verminous people or things	Assistant Director for Environmental Services
Public Health Act 1961	Section 37	Controlling verminous things	Assistant Director for Environmental Services
Public Health (Aircraft) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Assistant Director for Environmental Services
Public Health (Ships) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Assistant Director for Environmental Services
Health Protection (Local Authority Powers) Regulations 2010	Regulations 8 (1) and 8 (2)		Assistant Director for Environmental Services
Health Protection (Notification Regulations) 2010	Regulations 2,3, and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Assistant Director for Environmental Services
Health Protection (Part 2A Orders) regulations 2010		Preparation of application for Part 2A Order	Assistant Director for Environmental Services
National Assistance Act 1948	Section 47	Taking people in need of care and attention to a suitable place	Assistant Director for Adult Health and Social Care
National Assistance (Amendment) Act 1951	Section 1	Certifying the need for immediate action	Assistant Director for Adult Health and Social Care
Money Laundering Regulations 2003	Regulation 7	Being told about suspected money laundering	Chief Finance Officer
Local government data handling guidelines under the Data Protection Act		Manage information risk within the council's risk management framework	Chief Finance Officer

Legislation		Responsibility	Proper officer
Local Democracy, Economic Development and Construction Act 2009	Sections 31 and 32	Promote the role of and provide support to the overview and scrutiny panels and management board; provide support and guidance to members and officers in relation to the scrutiny function.	Head of Policy, Performance and Partnerships
Registration Services Act		Proper officer for registration of births, marriages and deaths	Assistant Director Democracy and Givernance

Legislation in these tables includes any amendments, re-enactments and subordinate legislation.

# Meeting Procedures

## 11 Council Procedures

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### 11.1 Order of business at annual meeting of council

The order of business will be:

- (a) elect the Lord Mayor and the Deputy Lord Mayor
- (b) elect the Leader
- (c) note the membership of the cabinet
- (d) agree committees and their members
- (e) agree how council responsibilities will be carried out
- (f) note how executive responsibilities will be carried out (see section 4)
- (g) nominate or appoint representatives to outside bodies
- (h) adopt the constitution, if required (see sections 1.3 and 2.5)
- (i) deal with any other business on the agenda

## 11.2 Order of business at ordinary meeting of council

At ordinary meetings (except for Council Tax setting meetings) the order of business will be:

- (a) election of the chair (if the Lord Mayor and Deputy are absent)
- (b) receive apologies for absence from councillors
- (c) approval of minutes of the last meeting as a correct record
- (d) declarations of interest from councillors
- (e) appointments to committees and outside bodies (unless the outside body's function relates to an executive function)
- (f) announcements from the Lord Mayor, Head of Paid Service, Chief Finance Officer and Monitoring Officer
- (g) announcements from the Leader, cabinet members, committee chairs
- (h) presentations of and response to council petitions (see section 28)
- (i) questions by the public (see section 11.11)
- (j) any unfinished business from the last meeting
- (k) recommendations from the cabinet
- (l) recommendations and reports from the Overview and Scrutiny Management Board
- (m) recommendations from other committees requiring council approval
- (n) reports from the Chief Executive, Chief Finance Officer or Monitoring Officer
- (o) motions on notice (see section 11.15)
- (p) any other agenda items
- (q) questions by councillors to the Leader, cabinet members and committee chairs about their areas of responsibility (see section 11.12)

At Council Tax setting meetings, the order of business will be (a) to (d), (f), (g), (k) and (l) above.

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.

## 11.3 Special meetings of council

The following may call a special council meeting (specifying the issues/terms to be covered at the meeting):

- (a) the council by resolution
- (b) the Leader in consultation with the Leader of the majority opposition party
- (c) any ten councillors who have signed a requisition and presented it to the Monitoring Officer
- (d) the Lord Mayor

- (e) two cabinet members in accordance with the call in procedure in [section 18.6](#)
- (f) the Chief Executive

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

#### **11.4 Time and place of council meetings**

Ordinary meetings usually start at 2pm. The times of special meetings are decided by the Monitoring Officer. Meetings are usually held in the council chamber in the Council House.

The annual 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.

#### **11.5 Notice of and summons to meetings**

The Democratic and Member Support Manager will give notice to the public of the time and place of any meeting in accordance with the access to information rules ([see section 16](#)). At least five clear working days before a meeting, the Democratic and Member Support Manager 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, be notified of the summons by email.

#### **11.6 Chair of the meeting**

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.

#### **11.7 Quorum for council**

The quorum (minimum number of councillors needed for the meeting to proceed) will be a quarter of all councillors.

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 can be arranged. If a meeting becomes inquorate part of the way through, business will stop for five minutes. If there is still no quorum, the business will be deferred until a quorate meeting can be arranged.

#### **11.8 Adjournment of council**

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.

#### **11.9 Changing the order of business**

The Monitoring Officer, in consultation with the Lord Mayor, can ask the council to agree to change the order of business ([see sections 11.1 and 11.2](#)), except for the first item at the annual meeting. Council must give its consent.

## **11.10 Minutes**

### **11.10.1 Signing the minutes**

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.

### **11.10.2 No minutes at annual or special meetings**

Minutes are not signed at annual meetings or special meetings. They are signed at the next ordinary meeting instead.

## **11.11 Questions by the public**

### **11.11.1 Asking questions at council**

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 an annual or special meeting.

### **11.11.2 Giving notice of questions**

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.

### **11.11.3 Number of questions**

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

### **11.11.4 Asking the question**

The Lord Mayor will ask the questioner to ask their question. If the questioner is not present or an answer cannot be given on the day of the meeting, the question and response 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.

### **11.11.5 Length of questions**

Questions will be no more than 50 words.

### **11.11.6 Total length of questions**

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.

### **11.11.7 Written answers**

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.)

### **11.11.8 Discussion**

Councillors can only discuss the questions or answers in councillors' question time.

### **11.11.9 Suitability of questions**

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 (see section 16)

If a question is rejected, reasons must be given.

## **11.12 Questions by councillors**

### **11.12.1 Questions without notice**

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 or concern.

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 30 minutes.

### **11.12.2 Response and supplementary questions**

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.

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.

## **11.13 Rejecting questions**

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 (see section 16)

The Monitoring Officer's decision is final.



### **11.14 Reports to council**

- (a) Reports and recommendations from the cabinet will be moved by the Leader or one of the cabinet members. Reports and recommendations from committees will be moved by the chair (or another member of the committee they have nominated).
- (b) The person moving a report can withdraw all or part of it, correct mistakes or make minor changes.
- (c) After any questions and amendments to recommendations to council have been dealt with, a vote will be taken.
- (d) Reports from the Chief Executive, Chief Finance Officer or Monitoring Officer will be presented by those officers.

### **11.15 Motions on notice (see section 11.17)**

#### **11.15.1 Giving notice of motions**

Some motions may be moved without notice. These are listed in [section 11.16](#). 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, signed by the councillor moving the motion and the councillor seconding the motion. These motions will be reproduced on the agenda for the meeting. Alternatively, motions may be e-mailed to [democraticsupport@plymouth.gov.uk](mailto:democraticsupport@plymouth.gov.uk) (separate emails must be received from both the proposer and the seconder).

#### **11.15.2 Withdrawing a motion or moving it at a later meeting**

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.

#### **11.15.3 Listing motions on the agenda**

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.

#### **11.15.4 Topic of motions**

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

#### **11.15.5 Rejecting motions**

The Monitoring Officer can reject a motion 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 section 16](#))

The Monitoring Officer's decision is final.

### **11.16 Motions without notice**

There is no need to give notice of motions to:

- appoint a chair of the meeting
- agree or correct the minutes
- change the order of business
- refer something somewhere else
- agree or amend recommendations of the cabinet and council committees or officers
- to appoint members to a committee or office created at the meeting
- withdraw or change a motion
- go to next business
- move to a vote
- continue the meeting beyond 7:30pm
- suspend a council procedure
- hold a discussion in private (when allowed under the access to information and key decision procedures – see section 16)
- give council's agreement when it is required by the constitution

### **11.17 Rules of debate**

#### ***What is a motion?***

A motion is a proposal at a meeting that certain action is taken or certain views about a subject are expressed by the council.

The purpose of a motion is to introduce new business. A motion should be in positive language (i.e. that the council does something, not that the council refrains from doing something) to avoid confusion when voting. Motions require a majority vote.

A motion cannot be proposed when another motion is being dealt with.

Any motion requires a seconder, can be debated and can be amended.

#### **11.17.1 No speeches until motion or amendment moved and seconded**

No other speeches can be made on a motion/amendment until it has been moved, the mover has explained the purpose of the motion/amendment and it has been seconded. A councillor may have up to five minutes to move a motion/amendment and explain its purpose. No other speeches may be made until the motion/amendment has been seconded.

### **11.17.2 Secunder's speech**

A councillor who seconds a motion or amendment can speak at that time or later in the debate.

### **11.17.3 Content and length of speeches**

Speeches [except for points of clarification ([section 11.17.12](#)), personal explanations ([section 11.17.13](#)) and points of order ([section 11.17.11](#))] must be about the item being discussed.

Councillors' speeches cannot be longer than five minutes, except that the mover of a motion may, with the consent of the council, have one extension of a further period of five minutes.

### **11.17.4 When a councillor can speak again**

A councillor who has already spoken in a debate cannot speak again except to:

- exercise their right of reply – see [section 11.17.8](#)
- make a point of order – see [section 11.17.11](#)
- make a point of clarification – see [section 11.17.12](#)
- make a point of personal explanation – see [section 11.17.13](#)
- speak on an amendment - see [section 11.17.1](#)
- move a further amendment - see [section 11.17.5](#)

### **11.17.5 Amendments to motions**

Unless notice of the amendment is given, the chair may require it to be written down and handed to him/her before it is discussed. This is to ensure clarity of what is being proposed.

An amendment must be relevant to the motion and must be a proposal:

- to refer a motion elsewhere
- to add, replace or leave out words

Amendments to add, replace or leave out words must not negate the motion

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until that amendment has been disposed of

After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote

### **11.17.6 Debate on amendments**

If an amendment is carried, the amended motion replaces the original motion. Any further amendments will be to the amended motion.

If an amendment is not carried, any further amendments will be made to the original motion.

### **11.17.7 Withdrawing a motion**

A councillor who moved a motion at the meeting can withdraw a motion which he/she has moved at any time before the vote is taken.

No one can speak on a motion that has been withdrawn.

### **11.17.8 Right of reply**

A councillor who moves a motion has a right of reply (and may take up to five minutes) at the end of the debate, immediately before the vote.

If an amendment is moved, the councillor who moved the amendment has the right to reply at the end of the debate but may not otherwise speak on the amendment.

### **11.17.9 Motions that can be moved during debate**

When a motion is being debated, no other motions can be moved except for the following procedural motions:

- to withdraw or amend a motion
- to move to a vote
- to adjourn the meeting or debate
- to hold a meeting in private (when allowed by the access to information and key decision procedures – [see section 16](#))
- to limit or extend the debate (i.e. that the meeting continues beyond 7:30pm)

### **11.17.10 Motions to end or postpone the debate**

After a speaker has finished speaking, any councillor can propose to move to a vote or adjourn the debate or meeting. They must do this without comment.

If a motion to move to a vote is seconded, council will vote on whether to take the vote on the motion/amendment under discussion. If council decides to move to the vote, the mover of the original motion/amendment will have the right to reply. Then council will vote on the motion/amendment without further debate.

If a motion to adjourn the debate or meeting is seconded, council will vote on whether to adjourn. The mover of the motion/amendment will not have the right of reply before this vote.

### **11.17.11 Points of order**

A councillor can make a point of order at any time. The Lord Mayor will hear a point of order immediately. A point of order must be about the law or council procedures or rules being broken. The councillor must say which law or procedures or rules are being broken and how. The Lord Mayor will consider the Monitoring Officer's advice when deciding on a point of order and the Lord Mayor's decision will be final.

Any member making a point of order may not speak on the matter under discussion during the point of order.

#### **11.17.12 Points of clarification**

A member may ask a brief question in relation to the speaker's statement if the speaker agrees. No other members shall be allowed to speak. The question, if accepted, is not part of the speaker's time. The answer is part of the speaker's time. No supplementary questions are allowed.

#### **11.17.13 Points of personal explanation**

A councillor can give a personal explanation at any time. This must be about something they have said in the past that they feel is now being misunderstood or misrepresented. The Lord Mayor will have the final say over what counts as a personal explanation.

#### **11.17.14 Motion to overturn a previous decision**

A motion or amendment to overturn a decision made at a meeting of the council within the past six months cannot be moved unless the motion on notice is signed by at least ten members.

#### **11.17.15 Motion similar to one previously rejected**

A motion or amendment similar to one that has been rejected at a meeting of the council in the past six months cannot be moved unless the motion on notice or amendment is signed by at least ten members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

### **11.18 Voting**

#### **11.18.1 Majority**

Unless the constitution says otherwise, votes will be decided by a simple majority of councillors in their seats and voting.

#### **11.18.2 Lord Mayor's second or casting vote**

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

#### **11.18.3 Method of voting**

Votes can be:

- by show of hands, or
- recorded – see section 11.18.4

#### **11.18.4 Recorded votes**

Any ten councillors present at the meeting can ask for a recorded vote and for the minutes to name who voted for, who voted against and who abstained on a vote.

#### **11.18.5 Right to have individual vote recorded**

Any councillor can ask for the minutes to record whether they voted for or against or abstained on a vote. The request must be made immediately after the vote.

### **11.18.6 Voting on appointments**

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.

### **11.19 Excluding the public**

The public can only be excluded under the access to information rules ([see section 16](#)) or if they are disrupting the meeting ([section 11.21](#)).

### **11.20 Councillors' behaviour**

#### **11.20.1 Standing to speak**

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.

#### **11.20.2 Use of titles**

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.

#### **11.20.3 Lord Mayor standing**

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

#### **11.20.4 Councillor not to be heard further**

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.

#### **11.20.5 Councillor to leave the meeting**

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.

#### **11.20.6 General disturbance**

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

#### **11.20.7 Councillors' code of conduct**

Councillors must abide by the councillors' code of conduct ([see section 19](#)).

## **11.21 Disruption by the public**

### **11.21.1 Disruption by an individual**

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.

### **11.21.2 Clearing part of the meeting room**

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.

## **11.22 Suspending and changing the procedures in this section**

### **11.22.1 Suspending the procedures in this section**

All the council procedures in this section can be suspended except:

- 11.10.2 (No minutes at annual or special meetings)
- 11.18.5 (Right to have individual vote recorded)
- 11.20 (Councillors' behaviour) and
- 11.20 (General disturbance)

A procedure can be suspended if at least half of all councillors are present and there is a simple majority in favour. No notice is needed for a motion to suspend a procedure. Procedures can only be suspended until the end of the meeting.

### **11.22.2 Motions to change the council procedures in this section**

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.

## 12 Cabinet procedures

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### 12.1 Who carries out executive responsibilities within the council?

Executive responsibilities are carried out by the Leader, collectively by the cabinet or delegated to:

- a committee of cabinet
- a cabinet member
- an officer
- joint arrangements

Section 4 shows who is responsible for executive responsibilities.

The cabinet meets on dates agreed by the Leader. Meetings are at the Council House or another place agreed by the Leader.

### 12.2 Quorum

The quorum for a meeting of cabinet is three. Substitutes are not allowed.

### 12.3 Vacancies on the cabinet

A councillor can resign from the cabinet by writing to the Leader and sending a copy to the Monitoring Officer. If a cabinet member resigns from the cabinet or stops being a councillor, a replacement will be appointed by the Leader and reported to the next council meeting.



#### **12.4 How are decisions taken at cabinet meetings?**

Decisions are taken by a majority of members present and voting. If there is the same number of votes for and against, the chair can use a second or casting vote. Voting is by show of hands.

Any councillor can ask for the minutes to record whether they voted for, voted against or abstained on a vote. The request must be made immediately after the vote.

#### **12.5 Who chairs cabinet meetings?**

The Leader will chair cabinet meetings or if the Leader or the Deputy Leader is absent, the cabinet can appoint another councillor to act as chair. If the Leader or the person they have appointed arrives part of the way through a meeting, the acting chair will finish the item they are on and hand over the chair.

#### **12.6 Order of business**

The order of business will be:

- declarations of interest
- minutes of the last meeting
- questions from the public for up to 15 minutes
- chair's urgent business
- scrutiny reports
- agenda items, indicating which are key decisions
- review of the Forward Plan, if required

The Monitoring Officer can reject a question from the public if:

- it is not received at least five complete working days before the meeting
- 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 cabinet to make public exempt or confidential information ([see section 16](#))

The Monitoring Officer's decision is final.

#### **12.7 Who can put items on the cabinet agenda?**

The Leader and cabinet members can put items on the agenda.

The Chief Executive, Monitoring Officer or Chief Finance Officer can put an item on the agenda. If the item is urgent, they can require a special meeting to consider it.

No one else can put items on the agenda.

## **12.8 Councillors attending and speaking at meetings**

Any member of the council and members of the public may attend a public meeting of the cabinet. Non-cabinet members may only address the cabinet with the permission of the Leader or, in the Leader's absence, the Deputy Leader.

## **12.9 Recording and publication of cabinet decisions**

All cabinet decisions are subject to call in ([see section 18](#)) and will be recorded and published on the Friday following the decision. (Unless the decision is urgent – see section 12.11).

## **12.10 Implementation of cabinet decisions**

A cabinet decision will come into force if it is not called in by 4:30pm on the fifth working day after the publication date.

## **12.11 Urgent decisions**

Urgent decisions can be implemented immediately (and the call in procedure does not apply).

A decision is urgent where the interests of the council or the public require immediate action. Where the cabinet regards the decision as urgent then the agreement of the chair of the Overview and Scrutiny Management Board is required (or in his/her absence the vice-chair of the management board or any other member of the management board) that the decision is urgent prior to the implementation of the decision.

Where an urgent decision is taken and agreed by the chair of the Overview and Scrutiny Management Board or designee it shall be immediately implemented and the call in procedure set out below will not apply.

The urgent decision must still be recorded, published and reported to the next meeting of council.

## **12.13 Exempt information**

In those exceptional circumstances where it is necessary, on grounds of confidentiality, to deal with business in part II (in private) the decision sheet will record all part II items (separately if it must be confidential).

Any separate part II business sheet will be subject to the same rules of recording, publication and call in as set out above, but will in addition contain the following caveat:

“PLEASE NOTE: The following matters relate to business which relates to either exempt or confidential matters. Any breach of confidentiality could prejudice the council and the person concerned and might amount to a breach of the councillors’ and employees’ codes of conduct.”

## **12.12 Gaps in these procedures**

If there is a gap in these procedures, the Leader will decide what to do.



## **13 Cabinet member decision making procedures**

### **In this section:**

<b>13.1</b>	<b>A cabinet member exercising delegated power</b>	<b>66</b>
<b>13.2</b>	<b>Before making a decision</b>	<b>66</b>
<b>13.3</b>	<b>Recording and publication of delegated decisions</b>	<b>66</b>
<b>13.4</b>	<b>Implementation of delegated cabinet member decisions</b>	<b>67</b>
<b>13.5</b>	<b>Urgent decisions</b>	<b>67</b>

### **13.1 A cabinet member exercising delegated power**

A cabinet member exercising delegated power shall have the discretion not to exercise his/her delegated powers to make a decision.

### **13.2 Before making a decision**

The lead officer will provide a report for the cabinet member listing all background information and setting out the options available and the corporate, financial, legal, personnel and property implications of the decision. The Monitoring Officer will ensure that the report has been approved by the necessary officers and any key decisions have been referred to the cabinet. The cabinet member will hold a meeting with the lead officer and any other appropriate officer and the decision will be published (see section 4).

### **13.3 Recording and publication of delegated decisions**

- (a) All cabinet members' decisions are subject to call in (see section 18) and will be recorded and published on the Friday following the decision. (Unless the decision is urgent – see section 13.5).
- (b) Decisions will be recorded in writing and contain the following information:
- the decision
  - the name of the cabinet member making the decision
  - a summary of the issues
  - the reasons for the decision
  - the alternative options considered and rejected
  - who was consulted before the decision was made
  - the date of the decision
  - whether the decision and relevant report should be exempt from publication under the council's access to information rules and the reasons why exemption has been agreed
  - where the decision is urgent, the reasons for the urgency and the signature (or emailed approval) of the chair of the Overview and Scrutiny Management Board or in his/her absence the vice-chair of the management board or another member of the management board
  - any corporate, financial, personnel, legal and corporate property implications
  - background papers

### **13.4 Implementation of delegated cabinet member decisions**

A cabinet member decision will come into force if it is not called in by 4:30pm on the fifth working day after the publication date.

### **13.5 Urgent decisions**

Urgent decisions can be implemented immediately (and the call in procedure does not apply).

A decision is urgent where the interests of the council or the public require immediate action. Where the decision maker regards the decision as urgent then the agreement of the chair of the Overview and Scrutiny Management Board is required (or in his/her absence the vice-chair of the management board or any other member of the management board) that the decision is urgent prior to the implementation of the decision.

Where an urgent decision is taken and agreed by the chair of the Overview and Scrutiny Management Board or designee it shall be immediately implemented and the call in procedure set out below will not apply.

The urgent decision must still be recorded, published and reported to the Overview and Scrutiny Management Board.

## Overview and scrutiny procedures

### In this section:

<b>14.1</b>	<b>Number of overview and scrutiny panels</b>	<b>68</b>
<b>14.2</b>	<b>Membership of overview and scrutiny panels</b>	<b>68</b>
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<b>14.16</b>	<b>Whipping</b>	<b>73</b>
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<b>14.18</b>	<b>Witnesses at overview and scrutiny meetings</b>	<b>74</b>
<b>14.19</b>	<b>Items affecting more than one overview and scrutiny panel</b>	<b>74</b>
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### Related sections

<b>8</b>	<b>Roles of overview and scrutiny panels and board</b>	<b>39</b>
<b>11</b>	<b>Council Procedures</b>	<b>50</b>
<b>16</b>	<b>Access to information and key decision procedures</b>	<b>79</b>
<b>18</b>	<b>Call in procedures</b>	<b>88</b>

### **14.1 Number of overview and scrutiny panels**

Council has appointed the overview and scrutiny management board and five overview and scrutiny panels in [section 8](#).

### **14.2 Membership of overview and scrutiny panels**

#### **14.2.1 Members of overview and scrutiny panels**

Each overview and scrutiny panel has twelve members. The number of members from each political group will be in proportion to its size.

Members of the overview and scrutiny panels and their substitutes must be councillors. But they cannot be cabinet members.

#### **14.2.2 Members of the management board**

The management board has twelve members: the chair of each of the overview and scrutiny panels (the chair of the children and young people's overview and scrutiny panel must be a member of the largest opposition group), three members from the majority political group and four members

from the largest opposition group. (The non-chair members will be drawn from the five scrutiny panels.)

#### **14.2.3 Conflicts of interest**

Unless they have special permission from the Standards Committee, members of the overview and scrutiny panels and management board cannot scrutinise decisions they were involved in taking and must leave the room when these decisions are scrutinised. But before they leave they can make representations and answer questions or give evidence if other members of the public would also have this right.

#### **14.2.4 Procedure when a councillor resigns from a panel**

A councillor can resign from a panel by writing to the Monitoring Officer. A replacement member will be confirmed at the next full council meeting.

#### **14.2.5 Procedure when a panel member stops being a councillor**

If a panel member stops being a councillor, a replacement member will be confirmed at the next full council meeting.

#### **14.3 Co-opted members of overview and scrutiny panels**

Non-voting co-opted members can serve on an overview and scrutiny panel/task and finish group/the management board or for a specific policy review. The overview and scrutiny management board agrees the appointment of co-opted members to panels/task and finish groups.

Co-opted members cannot vote unless they have the legal right to do so.

The overview and scrutiny panel that deals with education matters will appoint four (statutory) co-opted members (two parent governor representatives and two church representatives) who will have voting rights in relation to education matters that are the responsibility of the cabinet.

The statutory co-opted members assist the management board with its response to the annual budget consultation process and may vote on education matters that are the responsibility of the cabinet.

#### **14.4 Overview and scrutiny panel meetings**

The overview and scrutiny panels meet on dates set by full council. If they need to have extra meetings, they set the dates themselves.

The Monitoring Officer or the overview and scrutiny panel chair can decide to call a special meeting.

If a panel has nothing to do at one of its fixed meetings, the Monitoring Officer can cancel it after consulting the chair.

## 14.5 Substitutes, quorum and training

Members of the panels/management board can send other councillors (who must belong to the same political group) as substitutes. Substitutes have the powers of an ordinary member of the committee.

Substitutions must be for a whole meeting. A member cannot take over from their substitute or hand over to them part of the way through.

If a member wants to send a substitute, they must tell the Monitoring Officer before the meeting.

Substitutes cannot appoint substitutes of their own.

If a councillor is a member of a task and finish group, once the group has stated its work, no substitution is allowed.

The quorum is the minimum number of members required for the meeting to take place.

Committee	Quorum	Substitutes	Relevant training required?
Overview and Scrutiny Management Board	Three	Named substitutes allowed	✓
Overview and scrutiny panels	Three	Any member	

## 14.6 Chairs and vice-chairs of overview and scrutiny panels

### 14.6.1 Election of chair and vice-chair

Each overview and scrutiny panel will elect a chair and vice-chair from among its voting members at the first meeting after the annual meeting of council if the chairs and vice-chairs are not appointed at the annual meeting of council.

### 14.6.2 Non-political role

Scrutiny chairs should not accept other roles in their political group which could conflict with carrying out the role of the chair in a non-party political way.

### 14.6.3 Resignation of chair or vice-chair

If a councillor wants to resign as chair or vice-chair, they must write to the Monitoring Officer. A new chair or vice-chair will be elected at the panel's next ordinary meeting.

## 14.7 Programme of work

The overview and scrutiny panels suggest their own programmes of work but the work programmes must be confirmed by the overview and scrutiny management board. The panels must review anything they are asked to review by full council – see 14.9.3.

## 14.8 Call in



Items called in will be heard at a meeting of the overview and scrutiny management board (within 10 working days of the end of the call in period relating to that item).

## **14.9 Agenda**

### **14.9.1 Putting items on the agenda**

Any member of a scrutiny panel or the management board may place an item which is relevant to the functions of the panel or board on the agenda of a meeting. The panel/management board will decide what course of action, if any, to take.

Any councillor may place any local government matter (other than excluded matters – see below) which is relevant to the functions of the panel or board on the agenda of a meeting. The councillor will be invited to attend the meeting at which the item is to be considered, to explain the reasons for the request.

When considering a local government matter referred by a councillor, the panel or board will decide whether to:

- (a) review or scrutinise a decision taken by the cabinet or cabinet member
- (b) make a report or recommendation to the council or cabinet on how cabinet carries out its functions
- (c) review or scrutinise a decision taken by a council body other than the cabinet or a cabinet member
- (d) make a report or recommendation to the council or the cabinet on how a council body other than the cabinet carries out its functions
- (e) make a report or recommendation to the council or the cabinet on matters which affect the city or the inhabitants of the city
- (f) take no action

The panel or board will then report back to the councillor who raised the local government matter about the decision and the reasons for the decision.

Excluded matters:

- any matter relating to a planning decision
- any matter relating to a licensing decision
- any matter relating to an individual or body if s/he/they have, by law, a right to a review or right of appeal
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a panel or management board meeting

(Local crime and disorder matters must be considered by the panel with the crime and disorder remit.)

The Monitoring Officer in consultation with the Scrutiny Officer ([see section 10.1](#)) and chair (or vice-chair in the chair's absence) of the board or panel will determine whether a matter is an excluded matter.

#### **14.9.2 Speaking on agenda items**

Any member of the public and any councillor who is not a member of the panel can speak on an agenda item if the chair agrees. The chair will decide how long they can speak for.

#### **14.9.3 Requests for reviews from full council**

The overview and scrutiny panels must review anything full council asks them to review as soon as they can make space in their programme of work.

#### **14.9.4 Requests for reviews from the cabinet**

The overview and scrutiny panels can (but do not have to) review items the cabinet or a cabinet member asks them to review.

#### **14.10 Policy review and development**

The overview and scrutiny panels' and the board's role in developing the policy framework and budget is set out in 8.3.

In areas that are not covered by the policy framework and budget, the scrutiny panels can suggest policies for the cabinet or a cabinet member to develop.

The overview and scrutiny panels can hold inquiries and consider future policy. This may involve appointing advisors, inviting witnesses, making site visits, holding public meetings, commissioning research or doing anything else that is necessary.

#### **14.11 Task and finish groups**

The overview and scrutiny management board may appoint task and finish groups to undertake pieces of scrutiny work as required and will be time specific. The chair of the task and finish group will normally be the chair of the appropriate overview and scrutiny panel.

#### **14.12 Reports on overview and scrutiny reviews**

##### **14.12.1 Panel/task and finish group report**

At the end of each policy review, the overview and scrutiny panel/task and finish group will send a report to the overview and scrutiny management board who will decide whether or not to send the report to the cabinet or a cabinet member (if it is about executive responsibilities) or to council (if it is about council responsibilities) or to another organisation, as appropriate.

##### **14.12.2 Minority report**

For each policy review, there can be a minority report giving any dissenting views. The cabinet, cabinet member or full council will consider the minority report at the same time as the panel/management board/task and finish group report.

##### **14.12.3 Which report is the panel report and which is the minority one?**

Each panel/task and finish group member can vote for one report but no more than one. The report with the most votes will be the panel/task and finish group report.

#### **14.12.4 Timing**

If the overview and scrutiny management board decides to send a report to the cabinet, a cabinet member or council:

- the cabinet must, where practicable, consider it at its next ordinary meeting if it is about executive responsibilities
- full council must, where practicable, consider it at its next ordinary meeting if it is about council responsibilities

#### **14.13 Arrangements for cabinet to comment on reports to full council**

When the overview and scrutiny management board sends a report to full council, the Monitoring Officer will send a copy to the cabinet/cabinet member. Council must consider the cabinet or cabinet member's comments on anything that affects the policy framework and budget.

#### **14.14 Overview and scrutiny members' rights to see documents**

Overview and scrutiny members' rights to see documents are set out in [section 16.11](#).

#### **14.15 Duty of cabinet members and officers to attend overview and scrutiny meetings**

##### **14.15.1 Duty to attend**

Overview and scrutiny meetings can require members of the cabinet and senior officers to attend and answer questions about:

- their performance
- decisions they were involved in
- the extent to which they have followed the policy framework and budget

##### **14.15.2 Procedure for attending**

The Monitoring Officer will tell the councillor or officer that they are required to attend, what it is about and whether they need to produce a report or provide papers.

The councillor or officer must be given reasonable time to compile information.

#### **14.16 Whipping**

Political groups should not pressure their members over how they speak or vote at overview and scrutiny meetings.

#### **14.17 Order of business at overview and scrutiny panels and board**

The overview and scrutiny panel will consider:

- declarations of interest
- anything that has been called in (overview and scrutiny management board only)
- any cabinet/cabinet member's responses to the panel's reports
- anything else on the agenda
- minutes

This procedure can be suspended if at least half of all the voting members are present and there is a simple majority in favour. It can only be suspended until the end of a meeting.

#### **14.18 Witnesses at overview and scrutiny meetings**

Witnesses should be treated with politeness and respect.

#### **14.19 Items affecting more than one overview and scrutiny panel**

If an item affects more than one overview and scrutiny panel, the chair of the overview and scrutiny management board will decide which panel to send it to (after liaising with the appropriate panel chairs).

#### **14.20 Minutes**

At the first meeting when the minutes are available, the chair will move that the minutes are correct and sign them. The management board/panel will not discuss anything arising from the minutes.

#### **14.21 Gaps in these procedures**

If there is a gap in these procedures, the chair will decide what to do.

**15 Other committee procedures****In this section:**

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<b>15.2</b>	<b>Appointment of committees</b>	<b>75</b>
<b>15.3</b>	<b>Quorums and substitutes</b>	<b>76</b>
<b>15.4</b>	<b>Joint committees</b>	<b>77</b>
<b>15.5</b>	<b>Vacancies on committees</b>	<b>77</b>
<b>15.6</b>	<b>Chair and vice-chair</b>	<b>77</b>
<b>15.7</b>	<b>Meeting of committees</b>	<b>78</b>
<b>15.8</b>	<b>Speaking on agenda items</b>	<b>78</b>
<b>15.9</b>	<b>Minutes</b>	<b>78</b>
<b>15.10</b>	<b>Standards committee</b>	<b>78</b>
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**Related sections**

<b>5</b>	<b>Who carries out council responsibilities?</b>	<b>19</b>
<b>7</b>	<b>Roles of decision taking committees</b>	<b>35</b>
<b>11</b>	<b>Council Procedures</b>	<b>50</b>
<b>16</b>	<b>Access to information and key decision procedures</b>	<b>79</b>
<b>18</b>	<b>Call in procedures</b>	<b>88</b>

**15.1 Which committees do these procedures apply to?**

These procedures apply to the:

- appointments panel
- employment appeals panel
- audit committee
- chief officers investigating panel
- general licensing committee
- licensing sub-committee
- taxi licensing sub-committee
- standards committee
- planning committee
- scrutiny panels and the overview and scrutiny management board

**15.2 Appointment of committees**

Council is responsible for appointing and dissolving committees and for agreeing their membership and roles, unless the law says otherwise.

There must always be at least one scrutiny panel, a standards committee, an independent remuneration panel and a committee that carries out responsibilities under the Licensing Act 2003 and the Gambling Act 2005.

The committees appoint their own sub-committees and working groups.

### 15.3 Quorums and substitutes

Members of the committees can send other councillors (who must belong to the same political group) to the meeting as substitutes, unless the law doesn't allow it. Substitutes have the powers of an ordinary member of the committee.

Substitutions must be for a whole meeting. A member cannot take over from their substitute or hand over to them part of the way through.

If a member wants to send a substitute, they must tell the Monitoring Officer before the meeting.

Substitutes cannot send substitutes of their own.

Committee	Quorum	Substitutes	Relevant training required?
Appointments panel	Three, including at least one cabinet member/appropriate committee chair	Any member	✓
Audit committee	Three, including at least one independent member	Any member	
Chief officers investigating panel	Three	Any member	✓
Employment appeals panel	Three	Any member	✓
General licensing committee	Five	None	✓
Licensing sub-committee	Three	Any member of the general licensing committee	✓
Taxi licensing committee	Three	Any member	✓
Planning committee	Three	Any member	✓
Standards committee	Three, including at least one independent member (in the chair) and at least one councillor	Any member (though not the Leader)	✓

Standards sub-committees

Three, including at least one independent member

Any member (though not the Leader)



## 15.4 Joint committees

Committee	Quorum	Substitutes	Relevant training required?
Mount Edgcombe Joint Committee	Four (two from each authority)	Named substitutes allowed	
South West Devon Waste Partnership	Three (one from each authority)	Any cabinet member	
Tamar Bridge and Torpoint Ferry Joint Committee	2 (from each authority)	Named substitutes allowed	

## 15.5 Vacancies on committees

### 15.5.1 Procedure when a councillor resigns from a committee

A councillor can resign from a committee by writing to the Monitoring Officer. The political groups can nominate a replacement who will take up their position immediately. Their replacement will be confirmed at the next council meeting.

### 15.5.2 Procedure when someone stops being a councillor

If someone stops being a councillor, the political groups can nominate a replacement who will take up their position immediately. The replacement committee member(s) will be confirmed at the next council meeting.

## 15.6 Chair and vice-chair

### 15.6.1 Election of chair and vice-chair

Chairs and vice-chairs of all committees (except the standards committee which has an independent chair) must be councillors.

Each committee will elect a chair and a vice-chair from among its voting members at the first meeting after annual council.

### 15.6.2 If the chair and vice-chair are absent

If the chair and vice-chair are absent, a committee can elect another councillor to chair the meeting. If the chair or vice-chair arrives part of the way through the meeting, the acting chair will finish the agenda item they are on and hand over the chair (the chair of the standards committee must be an independent member).

### **15.6.3 Resigning as chair or vice-chair**

If a councillor wants to resign as chair or vice-chair, they must write to the Monitoring Officer. A new chair or vice-chair will be elected at the committee's next ordinary meeting.

## **15.7 Meeting of committees**

### **15.7.1 Cancelling a meeting**

If a committee has nothing to do at one of its fixed meetings, the Monitoring Officer can cancel it after consulting the chair.

### **15.7.2 Special meetings**

The Monitoring Officer can arrange a special meeting after consulting the chair. Special meetings will only deal with the business they have been called to deal with.

## **15.8 Speaking on agenda items**

Where the press and the public are not excluded, any member of the public and any city councillor can speak on any agenda item for up to five minutes if the chair agrees (unless the law, this constitution, the planning code of practice or the licensing procedure do not allow it).

## **15.9 Minutes**

At the first meeting when the minutes are available, the chair will move that the minutes are correct and sign them. The committee will not discuss anything arising from the minutes.

## **15.10 Standards committee**

- (a) All members of the committee can vote (including independent members)
- (b) The chair must be an independent member

## **15.11 Planning committee**

The planning committee has adopted a code of practice.

## **15.12 General licensing committee and liensing sub-committee**

Follow the procedures in the Licensing Act 2003 and the Gambling Act 2005, as amended.

## **15.13 Gaps in these procedures**

If there is a gap in these procedures, the chair will decide what to do.



**16 Access to information and key decision procedures****In this section:**

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<b>16.2</b>	<b>Other rights to information</b>	<b>79</b>
<b>16.3</b>	<b>Public's right to attend meetings</b>	<b>79</b>
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<b>16.17</b>	<b>Reports to council on decisions that were not in the Forward Plan</b>	<b>84</b>

**16.1 Meetings affected by these procedures**

These rules apply to all meetings of council, the cabinet and its committees including the overview and scrutiny management board and the scrutiny panels, the standards and audit committees and the regulatory committees (together called meetings).

**16.2 Other rights to information**

These procedures do not affect any other rights to information under the law or this constitution.

**16.3 Public's right to attend meetings**

The public can attend meetings, except when confidential or exempt information is being discussed, unless the law says otherwise - [see section 16.4](#).

**16.4 Exceptions to public's right to attend meetings****16.4.1 Confidential information – council must meet in private**

The council and committees must meet in private when confidential information is likely to be discussed.

Confidential information is information that is prevented from being made public by a court order or a government department that has provided the information.

**16.4.2 Exempt information – council can meet in private**

The council and committees can meet in private when exempt information is likely to be discussed.

Information is exempt if it would not be in the public interest to publish it and it falls into one or more of the categories set out below identified in the Local Government Act 1972 (as amended).

- **Information about individuals**

Information relating to any individual

Information which is likely to reveal the identity of an individual

- **Information about someone's finances or business**

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

- **Labour relations information**

Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the crown and employees of, or office holders under, the authority

- **Information that could be considered legally privileged**

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

- **Information about legal action**

Information which reveals that the authority proposes:

- to give under any enactment a notice under or by virtue of which requirements are imposed on a person
- to make an order or direction under any enactment
- information about action to deal with a crime
- information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

#### **16.4.3 Standards committee and sub-committee – extra categories of exempt information**

At standards committee and sub committee meetings, there are extra categories of information that can be heard in private.

#### **16.4.4 General licensing and licensing sub-committees – extra categories of exempt information**

At general licensing and licensing sub committee meetings, there are extra categories of information that can be heard in private.

#### **16.5 Reports that are expected to be considered in private**

If the Monitoring Officer expects that a report will be considered in private under [section 16.4](#), it will not be made available to the public. It will be marked “not for publication” and will say what category of information is involved.

#### **16.6 Notice of meetings**

At least five clear working days before each meeting, the council will post details of the meeting at the Civic Centre. Information will also be displayed on the council's website.

## **16.7 Background papers**

Each report will include a list of background papers. Background papers are papers that have been relied on when writing the report. They do not include published works or documents that contain exempt or confidential information (see section 16.4).

## **16.8 Access to meeting papers before a meeting**

The agenda and reports will be available at the Civic Centre or on the council's website at least five clear working days before a meeting. If an item or report is added later, it will be made available as soon as it is added.

Copies of the agenda, reports and background papers will be made available for public inspection. The agenda and reports will also be available on the council's website.

Councillors will normally receive the papers in advance for any committee of which they are members.

## **16.9 Access to meeting papers after a meeting**

For six years after a meeting, the council will make available:

- the agenda, reports and background papers
- the minutes (except for items that were considered in private because they were exempt or confidential) – these will be made available within 10 working days of the meeting and for executive decisions they will record the reasons for the decision, any alternatives considered and any interests declared
- a summary of any business that was not open to the public if the minutes available to the public do not give a reasonable record

## **16.10 Rights of access to information for councillors**

Any councillor can see any documents seen or controlled by the cabinet that are relevant to previous decisions that have been taken by the cabinet.

But this does not apply to:

- exempt and confidential information -see section 16.4
- any document in draft form (except for documents sent out for consultation)

This right is additional to any other rights the councillor has.

## **16.11 Extra rights of access to documents by members of scrutiny panels**

Members of scrutiny panels have a right to copies of any documents seen or controlled by the cabinet or cabinet member that are relevant to decisions taken by the cabinet except for:

- exempt or confidential information (unless it is relevant to something being scrutinised)
- any document about a key decision that is in draft form (except for documents sent out for consultation)

## **16.12 Councillor's duty not to pass on confidential or exempt information**

Councillors must not pass on exempt information that has not been made public or confidential information ([see section 16.4](#)). If they do this, they may be breaking the law and that Members' Code of Conduct ([see section 19](#)).

## **16.13 Key decisions**

A key decision is an executive decision likely to:

- result in the council spending or saving or raising/reducing annual income by more than £500,000 (or more than £2,000,000 if a contract award) or
- have a significant impact on two or more wards within the city

## **16.14 Procedure before taking key decisions**

When a key decision is taken, it must have been published in the Forward Plan ([see section 16.15](#)), unless it is urgent ([see section 16.16](#)).

If a key decision is taken by the cabinet, the report must say that it is a key decision.

## **16.15 The Forward Plan**

### **16.15.1 Period of Forward Plan**

The Leader will prepare a Forward Plan each month. Each plan will start with the first day of the next month and cover four months.

### **16.15.2 What is in the Forward Plan?**

The Forward Plan will list any key decisions that are going to be taken. For each decision, it will say:

- what the decision is about
- who will take the decision
- when the decision will be taken
- who will be consulted and how
- how to comment and when by
- which documents the decision takers have been given to consider

### **16.15.3 Publishing the Forward Plan**

The Forward Plan must be published at least 14 days before the start of the period it covers.

At least once a year, the Monitoring Officer will publish a notice in at least one local newspaper saying that:

- the council takes key decisions
- a Forward Plan will be prepared each month with information about the key decisions
- each Forward Plan will cover the next four months
- the public can come to the council offices and look at the Forward Plan – this will not cost them anything and they will be able to do it during office opening hours. The Forward Plan is also available on the website.
- each plan will list the documents given to decision takers to consider (the notice will give the address where the public can see any documents that are not confidential or exempt – see section 16.14)
- other documents may be given to decision takers (the notice will describe how members of the public can ask for details of these as they become available)

### **16.15.4 Exempt and confidential information**

Exempt information need not be included in the Forward Plan. Confidential information cannot be included.

### **16.16 Urgent key decisions**

#### **16.16.1 Procedure for taking urgent key decisions**

If a key decision has not been included in the Forward Plan, it can still be taken if it is not practicable to put it in the next plan and wait until the start of the first month in that plan.

Before taking a key decision that has not been included in the Forward Plan, the Monitoring Officer must write to the chair of the relevant scrutiny panel or, in her/his absence, every member of the panel. A copy of the letter will be made available to the public at the council's offices.

The decision cannot normally be taken until five clear working days after the chair is told.

But the decision can be taken before that if the chair of the overview and scrutiny management board (or in his/her absence, the vice-chair or, in both their absences, any other member of the management board) agrees that it is not reasonable to defer it.

#### **16.16.2 Three-monthly reports to council on urgent key decisions**

The Leader will report to council every three months on any urgent key decisions that have been taken.

**16.17 Reports to council on decisions that were not in the Forward Plan**

**16.17.1 When can a scrutiny panel require a report?**

The relevant scrutiny panel, the overview and scrutiny management board or its chair or any five members of the relevant scrutiny panel can require the cabinet to report to council if a key decision has been taken that was not in the Forward Plan (unless it was an urgent decision under [section 16.16](#)). Before making this decision, the advice of the Monitoring Officer must be considered.

**16.17.2 Cabinet to report to council**

Normally the cabinet will report to the next ordinary council meeting. But if the next meeting is within seven days of the request for cabinet to report to council, the cabinet will report to the next ordinary council meeting after that. The report will say what the decision was and who took it.

**17 Policy framework and budget procedures****In this section:**

<b>17.1</b>	<b>Responsibilities for the policy framework and budget</b>	<b>85</b>
<b>17.2</b>	<b>Developing the policy framework and budget</b>	<b>85</b>
<b>17.3</b>	<b>Decisions outside the policy framework or budget</b>	<b>86</b>
<b>17.4</b>	<b>Urgent decisions outside the policy framework or budget</b>	<b>86</b>

**Related sections**

<b>3</b>	<b>Council responsibilities and executive responsibilities</b>	<b>11</b>
<b>18</b>	<b>Call in procedures</b>	<b>88</b>
<b>24</b>	<b>Finance rules</b>	<b>121</b>

**17.1 Responsibilities for the policy framework and budget**

Council sets the policy framework and budget ([see section 5.2](#)). It will be the responsibility of council to implement it. The cabinet and officers must act within it.

**17.2 Developing the policy framework and budget**

- (a) The Forward Plan will include a timetable for any proposals affecting the policy framework and budget, and will say what consultation there will be. The relevant cabinet member will draft the initial proposals with the advice of officers and will publish the proposals for consultation.

In the consultation process, the cabinet member will canvass the views of interested local stakeholders including the overview and scrutiny management board in accordance with protocol for consultation.

At the end of the consultation, the cabinet member will submit a report on the draft proposals to cabinet.

- (b) 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.
- (c) The cabinet's proposals will go to council as soon as possible.
- (d) Council can:
- accept the cabinet's proposals
  - refer the proposals back to the cabinet or
  - change the proposals, for example by adopting proposals of its own
- (e) If council accepts the cabinet's proposals without any changes, the decision will come into force immediately.
- (f) If council changes the cabinet's proposals, it will be an in principle decision only.

- (g) 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 Assistant Director for Democracy and Governance within five clear working days, giving reasons.
- (h) 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.
- (i) The council's decision will come into force immediately.

The council must agree and set the level of Council Tax by the statutory deadline.

- (j) In approving the policy framework and budget, the council will also specify the extent of virement within the budget and degree of in year changes to the policy framework and budget which may be undertaken by the cabinet, in accordance with virement and in year adjustments. Any other changes to the policy framework and budget must be made by council.

### **17.3 Decisions outside the policy framework or budget**

- (a) 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
  - allowed under section 17.4 (urgent decisions), or
  - allowed under financial procedure rules or necessary to obey the law or ministerial directions or government guidance

Any other decisions must be recommended to council - see section 17.2.

- (b) The cabinet and any officers carrying out executive responsibilities will seek the Monitoring Officer or Chief Finance Officer's advice if it is unclear whether proposals are in line with the policy framework or budget.

### **17.4 Urgent decisions outside the policy framework or budget**

- (a) 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 overview and scrutiny management board and the Monitoring Officer (or designee) agrees that the decision is urgent. If the chair of the overview and scrutiny management board is absent, the vice-chair can agree that the decision is urgent and, if both are absent, any other member of the management board.
- (b) The record of the decision must say:



- why it was not practicable to arrange a meeting of councillors
- that the chair of the overview and scrutiny management board (or vice-chair or any other member of the management board) and the Monitoring Officer (or designee) agreed that the decision was urgent
- why the decision was considered to be urgent

**18 Call in procedures****In this section:**

<b>18.1</b>	<b>What decisions can be called in?</b>	<b>88</b>
<b>18.2</b>	<b>Publishing decisions that can be called in</b>	<b>88</b>
<b>18.3</b>	<b>Who can call in decisions and when do they have to be called in by?</b>	<b>88</b>
<b>18.4</b>	<b>How are decisions called in?</b>	<b>88</b>
<b>18.5</b>	<b>Where are decisions called in to?</b>	<b>89</b>
<b>18.6</b>	<b>What happens when a decision is called in?</b>	<b>89</b>
<b>18.7</b>	<b>Exceptions to the call in procedure</b>	<b>90</b>
<b>18.8</b>	<b>Decisions believed to be outside the budget or policy framework</b>	<b>90</b>
<b>18.9</b>	<b>Urgent decisions outside the budget and policy framework</b>	<b>91</b>

**Related sections**

<b>8</b>	<b>Roles of overview and scrutiny panels and board</b>	<b>39</b>
<b>29</b>	<b>Policy Framework</b>	<b>171</b>

**18.1 What decisions can be called in?**

The following executive decisions can be called in:

- cabinet decisions
- cabinet member decisions
- executive decisions under joint arrangements

(Call in is a process where the overview and scrutiny management board can recommend that an executive decision that has not yet been carried out, is reconsidered by the decision maker)

**18.2 Publishing decisions that can be called in**

On the Friday after a decision that could be called in is taken, the democratic support section will email information about the decision to all councillors.

The information will be marked with the date it was published, will say what the decision was and how it can be called in.

The information will say that the decision will come into force if it is not called in by 4:30pm on the fifth working day after the publication date.

**18.3 Who can call in decisions and when do they have to be called in by?**

Any three councillors can call in a decision by 4:30pm on the fifth working day after the decision was published.

Co-opted committee/panel members cannot call in decisions.

**18.4 How are decisions called in?**

Decisions are called in by sending a call in form to the Monitoring Officer or emailing it to [democratic.suppirt@plymouth.gov.uk](mailto:democratic.suppirt@plymouth.gov.uk)

Reasons for the call in must be given. If an executive decision is being called in because it is believed to be outside the policy framework and budget, the call in must say so.

There are four other reasons to call in a decision:

- the process was deficient in some way (e.g. the decision maker did not consult people who should have been consulted)
- the decision maker did not consider alternative courses of action
- the decision taker did not take into account relevant factors
- the decision was wrong in law or fact. The caller in must state why it was wrong in law or fact

When a decision is called in, the Monitoring Officer will tell the relevant officer, the chair of the body that took the decision and the cabinet member.

## **18.5 Where are decisions called in to?**

The overview and scrutiny management board will consider all decisions that are called in.

## **18.6 What happens when a decision is called in?**

The overview and scrutiny management board can decide to either:

- support the decision, which can then be acted on immediately
- send the decision back with its comments to the decision maker who will then take a final decision - see section 18.6.1 below
- refer the decision to council to consider the call in - see section 18.6.2 below
- send comments to full council on any decision that recommends changing the policy framework and budget

### **18.6.1 Sending the decision back with its comments to the decision maker**

The decision maker will reconsider the decision, taking the management board's views into account. The decision maker can then either:

- (a) implement the decision (which cannot be called in again)
- (b) not implement the decision
- (c) alter the decision (which can be called in)

The decision maker will report the outcome of the above to the next overview and scrutiny management board meeting.

### **18.6.2 Referring the decision to council to consider the call in**

The decision will be considered at the next ordinary council meeting or, if two cabinet members require action earlier, at an extraordinary council meeting – see section 11.3. Council can decide to either:

- support the decision, which can then be acted on immediately
- send the decision back with its comments to the decision maker who will then take a final decision (see below)

If the decision is sent back to the decision maker they will reconsider the decision and the procedure outlined in (a) to (c) above will be followed, taking the council's views into account.

### **18.7 Exceptions to the call in procedure**

Call in will not apply to the following decisions:

- non-executive decisions
- executive decisions made by appeals panels
- decisions already called in once (a decision modified becomes a new decision and may be subject to call in)
- non-key decisions made by officers with delegated authority
- urgent decisions

### **18.8 Decisions believed to be outside the budget or policy framework**

- (a) The Monitoring Officer or Director for Corporate Support will say whether the decision is outside the policy framework and budget.
- (b) If the decision is not outside the policy framework and budget, the overview and scrutiny management board can decide to:
  - support the decision, which can then be acted on immediately, or
  - send the decision back with its comments to the cabinet or cabinet member, who will then take a final decision
- (c) If the decision is outside the policy framework and budget, it will go as a recommendation to the next ordinary meeting of council, along with any comments from the overview and scrutiny management board (if two cabinet members want earlier action, an extraordinary meeting of the full council can be held – see section 11.3).
- (d) Council can then:
  - ask the cabinet to reconsider, or
  - change the policy framework and budget so that the decision is within it – the decision can then be acted on immediately

## **18.9 Urgent decisions outside the budget and policy framework**

A decision cannot be called in if the chair of the overview and scrutiny management board agrees that:

- the decision is reasonable and
- the delay would not be in the interests of the council or the public

If the chair of the overview and scrutiny management board is not available, the vice-chair (or in her/his absence any member of the overview and scrutiny management board) must agree that the decision is urgent and reasonable.

Urgent decisions must be identified on the published information.

Urgent decisions must be reported to the next ordinary full council meeting with the reason why they were urgent.

## CODES

### 19 Councillors' Code of Conduct

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#### Related sections

20	Code on councillor-officer relations	106
21	Code on councillors use of ICT equipment	114
	Planning code of practice	

#### 19.1 The Model Code of Conduct

The council has adopted the Model Code of Conduct in the schedule to the Local Authorities (Model Code of Conduct) Order 2007. It has also included a local requirement that all councillors undertake a Criminal Record Bureau check. See [section 19.22](#).

#### 19.2 Who does the code apply to?

The code applies to councillors and voting co-opted members of committees and all members of the Standards Committee.

#### 19.3 When does the code apply?

The code applies to behaviour that is linked to being a councillor. It applies to behaviour after a councillor is elected and to any behaviour before a councillor is elected that leads to a criminal conviction after they are elected.

#### **19.4 Does the code apply when councillors represent the council on another body?**

When councillors are representing the council on another body, they must follow the code unless it conflicts with a legal duty of the other body.

#### **19.5 Respect and equality**

The code says councillors must treat other people with respect and must not bully anyone. They must not do anything that could lead the council to break equality laws.

#### **19.6 Intimidation**

The code says councillors must not intimidate or try to intimidate anyone who is likely to:

- complain about the code being broken or
- act as a witness or
- be involved in dealing with a complaint

#### **19.7 Impartiality of council officers**

The code says councillors must not do anything that would be likely to prevent officers or contractors from being impartial.

#### **19.8 Information**

The code says councillors must not stop anyone getting information they have a legal right to.

Councillors must not pass on information given to them in confidence or information they should know is confidential unless:

- they are required to by law or
- they have the consent of someone authorised to give it or
- it is to get professional advice and the person given the information agrees not to pass it on to anyone else or
- passing on the information is reasonable and in the public interest and the councillor is acting in good faith and has asked the Monitoring Officer for his/her view

#### **19.9 Disrepute**

The code says councillors must not do anything that could be seen to bring the council or the role of councillor into disrepute.

#### **19.10 Misuse of position**

The code says councillors must not try to use their position improperly to gain an advantage or disadvantage for themselves or others.

### 19.11 Use of council resources

The code says that when councillors use the council's resources or let other people use them, they must follow any reasonable rules set by the council and make sure that resources are not used improperly for political purposes.

### 19.12 Publicity

The code requires councillors to take into account the Code of Recommended Practice on Local Authority Publicity.

### 19.13 Advice of Monitoring Officer and Chief Finance Officer

The code says councillors must consider any advice given by the Monitoring Officer or Chief Finance Officer when taking decisions.

### 19.14 Giving reasons for decisions

The code says councillors must give reasons when required to by the law or by any council procedures.

### 19.15 Personal interests at meetings

The code lists personal interests that must normally be declared at meetings of council and the cabinet and their committees and sub-committees.

- (a) Councillors or independent or co-opted members of a council committee have a personal interest **in the issue being discussed in the meeting** if it affects their well-being or their finances or the finances of their family or their close associates more than most other people who live in the ward affected by the issue
- (b) or if it relates to an interest they **must register** (see section 19.22)

### 19.16 What if a councillor has a personal interest?

If a councillor has a personal interest in an item, they must declare it at the start of the item (or when they realise they have an interest if that is later). This involves saying they have an interest and what the interest is. There are two exceptions to this:

- a councillor is not required to declare an interest that they do not know about and could not be expected to know about
- if describing an interest would involve revealing sensitive information (see section 19.20), a councillor need only say that they have an interest – they need not say what the interest is

Once a councillor has declared a personal interest, they can stay in the meeting and speak and vote, unless the personal interest is also a prejudicial interest (see section 19.17).



### **19.17 When is a personal interest also a prejudicial interest?**

The code says that a personal interest is a prejudicial interest if:

- the councillor has a personal interest in a council decision about a regulatory matter such as a planning application or licensing application, or in an issue that affects their finances
- the councillor's friends or close associates have an interest in a council decision about a regulatory matter such as a planning application or licensing application, or in an issue that affects their finances
- a member of the public who knew all the facts could reasonably consider this likely to affect the councillor's judgement of the public interest

There are some exceptions; an interest is not a prejudicial interest if it is an interest in:

- councillor's allowances, expenses or insurance
- ceremonial honours given to councillors
- Council Tax setting
- school meals or school transport and travelling expenses if the councillor is the parent or guardian of a child in full time education unless it relates particularly to the school their child attends
- school meals or school transport and travelling expenses if the councillor is a parent governor unless it relates particularly to the school of which they are a governor

There is another way that a councillor can have a prejudicial interest: if an overview and scrutiny panel/board is looking at a decision of the cabinet or a council committee or sub-committee, a councillor will have a prejudicial interest if they were involved in taking the original decision.

### **19.18 What if a councillor has a prejudicial interest?**

A councillor with a prejudicial interest in an item must not try to influence decisions on the item improperly.

Unless the Standards Committee has given them special permission to stay, the councillor must leave the meeting while the item is dealt with. But before they leave they can make their case and answer questions if other members of the public would also have this right (for example, a councillor would be able to speak at a planning committee if they followed the planning committee procedures about members of the public speaking at the committee).

### **19.19 Registering interests**

The code requires councillors to register certain interests by writing to the Monitoring Officer within 28 days of the code starting to apply to them or 28 days of finding out that their interests have changed. There is an exception when sensitive information is involved ([see section 19.20](#)). The interests that must be registered are:

- any outside body the council has put the councillor on
- any organisation the councillor is a member of or involved in managing or directing that does public work or has charitable goals or whose main purposes include influencing public opinion or policy
- any employment or business the councillor has
- anyone who employs the councillor or has appointed the councillor to work for them
- anyone who has contributed to the councillor's election expenses
- anyone (except the council) who has contributed to the councillor's expenses as a councillor
- anyone who gives the councillor a gift or hospitality worth £25 or more – this only applies to gifts or hospitality that are linked to being a councillor
- any land in Plymouth the councillor has a beneficial interest in or permission to occupy for 28 days or longer
- any organisation which has land or a place of business in Plymouth and in which the councillor has a beneficial interest in securities with a nominal value over £25,000 or more than 1 per cent of the total shares issued to shareholders
- any contract for goods, works or services between the council and any of the following; the councillor, a firm where the councillor is a partner, a company where the councillor is a paid director, or an organisation which has land or a place of business in Plymouth and in which the councillor has a beneficial interest in securities with a nominal value over £25,000 or more than one per cent of the total shares issued to shareholders
- any land that the council leases to any of the following: the councillor, a firm where the councillor is a partner, a company where the councillor is a paid director or an organisation which has land or a place of business in Plymouth and in which the councillor has a beneficial interest in securities with a nominal value over £25,000 or more than one per cent of the total shares issued to shareholders

(A 'beneficial interest' is an interest that can be benefited from. A person would have a beneficial interest in something that belonged to them or that was being held for them in a trust. 'Securities' are stocks, shares, bonds or anything else that pays interest or dividends. The 'nominal value' of a share is the value shown on the share certificate).

## **19.20 Sensitive information**

Information about a councillor's interests is sensitive if making it public would be likely to create a serious risk of violence or intimidation to the councillor or someone they live with. Councillors do not have to include information in the register of interests if the Monitoring Officer agrees that it is sensitive. If a councillor finds out that the information has stopped being sensitive, they must tell the Monitoring Officer within 28 days and ask for it to be included in the register.

## 19.21 General principles of public life

The code of conduct should be read together with the general principles of public life in the Relevant Authorities (General Principles) Order 2001. These are:

- selflessness: councillors should serve the public interest; they should not advantage or disadvantage anyone improperly
- honesty and integrity: councillors should avoid situations where their honesty may be questioned
- objectivity: councillors should make decisions on merit, including when they make appointments, award contracts or recommend people for awards or benefits
- accountability: councillors should be accountable to the public for their actions and for how they carry out their responsibilities; they should co-operate fully with any appropriate scrutiny
- openness: councillors should be as open as possible about their own and the council's actions; they should be prepared to give reasons for actions
- personal judgements: councillors may take account of other people's views, including the views of their political group, but they should make up their own minds when deciding how to act
- respect for others: councillors should not discriminate unfairly; they should allow council officers to act with honesty and without bias
- duty to uphold the law: councillors should follow the law and remember that they are trusted by the public
- stewardship: councillors should try to ensure council resources are used legally and wisely
- leadership: councillors should promote these principles by leadership and example; they should act in a way that achieves public confidence

## 19.22 Model Code of Conduct

### Local Authorities (Model Code of Conduct) Order 2007 No. 1159 THE MODEL CODE OF CONDUCT

#### Part I

#### General provisions

#### Introduction and interpretation

##### I

This Code applies to you as a member of an authority.

- (1) You should read this Code together with the general principles prescribed by the Secretary of State (see Annex to this Code)
- (2) It is your responsibility to comply with the provisions of this Code.
- (3) In this Code:

'meeting' means any meeting of:

- (a) the authority
- (b) the executive of the authority
- (c) any of the authority's or its executive's committees, sub-committees, joint committees or joint sub-committees or area committees

'member' includes a co-opted member and appointed member.

- (4) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under Section 55(12) of the Local Government Act 2000.

#### Scope

##### 2

- (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
  - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed), or
  - (b) act, claim to act or give the impression you are acting as a representative of your authorityand references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including

an offence you committed before the date you took office, but for which you are convicted after that date).

- (5) Where you act as a representative of your authority:
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
  - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

### **General obligations**

#### **3**

You must treat others with respect.

- (1) You must not:
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006)
  - (b) bully any person
  - (c) intimidate or attempt to intimidate any person who is or is likely to be:
    - (i) a complainant,
    - (ii) a witness, or
    - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
  - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (2) In relation to police authorities and the Metropolitan Police Authority, for the purposes of subparagraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

#### **4**

You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (i) you have the consent of a person authorised to give it
  - (ii) you are required by law to do so
  - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
  - (iv) the disclosure is:
    - (aa) reasonable and in the public interest; and
    - (bb) made in good faith and in compliance with the reasonable requirements of the authority
- (b) prevent another person from gaining access to information to which that person is entitled by law.

#### **5**

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

**6**

You:

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority:
  - (i) act in accordance with your authority's reasonable requirements;
  - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

**7**

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
  - (a) your authority's chief finance officer; or
  - (b) your authority's monitoring officer,where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

**Part 2**

Interests

**Personal interests**

**8**

- (1) You have a personal interest in any business of your authority where either:
  - (a) it relates to or is likely to affect:
    - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
    - (ii) any body:
      - (aa) exercising functions of a public nature;
      - (bb) directed to charitable purposes; or
      - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
      - (dd) of which you are a member or in a position of general control or management;
    - (iii) any employment or business carried on by you;
    - (iv) any person or body who employs or has appointed you;
    - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
    - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
    - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a

- remunerated Director, or a person or body of the description specified in paragraph (vi);
- (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
- (ix) any land in your authority's area in which you have a beneficial interest;
- (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated Director, or a person or body of the description specified in paragraph (vi) is, the tenant;
- (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:
  - (i) (in the case of authorities with electoral divisions or wards) other Council Tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
  - (ii) (in the case of the Greater London Authority) other Council Tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
  - (iii) (in all other cases) other Council Tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is:
  - (a) a member of your family or any person with whom you have a close association; or
  - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are Directors;
  - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
  - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

## Disclosure of personal interests

### 9

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

**10**

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:
  - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
  - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
- (c) relates to the functions of your authority in respect of
  - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
  - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
  - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
  - (iv) an allowance, payment or indemnity given to members;
  - (v) any ceremonial honour given to members; and
  - (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

**Prejudicial interests arising in relation to overview and scrutiny committees**

**11**

You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority’s executive or another of your authority’s committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

**Effect of prejudicial interests on participation**

**12**

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
  - (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
    - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;



- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;

unless you have obtained a dispensation from your authority's standards committee;

- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

### **Part 3**

#### **Registration of Members' Interests**

#### **13**

(1) Subject to paragraph 14, you must, within 28 days of:

- (a) this Code being adopted by or applied to your authority; or
- (b) your election or appointment to office (where that is later),

register in your authority's register of members' interests (maintained under Section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.

(2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

#### **Sensitive Information**

#### **14**

(1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.

(2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.

(3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

#### **Additional local provision**

#### **Criminal Record Bureau checks**

#### **15**

(1) All councillors will be subject to Enhanced Disclosures from the Criminal Records Bureau with effect from 15 January 2007. Having received such an Enhanced Disclosure, all councillors, co-opted and independent members are required to disclose to the Monitoring Officer any new convictions subsequent to the CRB check within 14 days of the new conviction(s).

- (2) Any failure to comply with this requirement will be a breach of the Code that will be referred by the Monitoring Officer to the relevant Standards Sub-Committee for appropriate action.

### **Annexe - The Ten General Principles**

The general principles governing your conduct under the Relevant Authorities (General Principles) Order 2001 are set out below:

#### *Selflessness*

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

#### *Honesty and Integrity*

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

#### *Objectivity*

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

#### *Accountability*

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

#### *Openness*

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

#### *Personal Judgement*

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

#### *Respect for Others*

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

#### *Duty to Uphold the Law*

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

#### *Stewardship*

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

*Leadership*

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

*(This Code of Conduct was adopted by Plymouth City Council on 6 August 2007)*

**20 Code on councillor-officer relations****In this section:**

<b>20.1</b>	<b>Status of this code</b>	<b>106</b>
<b>20.2</b>	<b>Roles of councillors and officers</b>	<b>106</b>
<b>20.3</b>	<b>Politeness and respect</b>	<b>106</b>
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<b>20.17</b>	<b>Responsibility for this code</b>	<b>113</b>

**Related sections**

<b>9</b>	<b>Roles of officers</b>	<b>42</b>
<b>11.14</b>	<b>Reports to council</b>	<b>55</b>
<b>16</b>	<b>Access to information and key decision procedures</b>	<b>79</b>
<b>19</b>	<b>Councillors' Code of Conduct</b>	<b>92</b>
<b>22</b>	<b>Employment rules</b>	<b>117</b>
	<b>Planning code of practice</b>	

**20.1 Status of this code**

Councillors, co-opted and independent members and officers agree to observe this code and be guided by it in the interest of fair treatment and good government.

**20.2 Roles of councillors and officers**

Officers and councillors both serve the public but they have different roles: officers answer to the whole council and should provide objective advice; councillors are democratically accountable, have political affiliations and answer to the electorate.

Together they must balance a complex range of obligations and competing interests. For this to be effective councillors and officers must have mutual trust and respect for each others' requirements and duties. Different points of view between officers should be resolved or presented in a balanced way that helps councillors choose between them.

**20.3 Politeness and respect**

Councillors and officers should show each other mutual politeness and respect. Councillor/officer relationships should be conducted in a positive and constructive way. It is important that any dealing between councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors have the right to challenge officers' reports or actions, but they should:

- avoid personal and/or public attacks
- ensure their comments are fair and constructive
- try to improve things for the future

## **20.4 Unfair pressure**

When they deal with each other, councillors and officers should try not to take advantage of their position.

Councillors should generally restrict their discussions to more senior officers, for example heads of service or team leaders.

Councillors should also be aware that officers are unable to respond to criticism in public. They should also be aware that officers (especially junior officers) may feel unable to answer back. Councillors, especially senior councillors, should be particularly aware of this.

Councillors should not pressure officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work.

Councillors should normally make appointments before visiting officers and should try to avoid frequent unscheduled interruptions.

Officers should try not to persuade individual councillors to make a decision in their personal favour or raise things to do with their employment with individual councillors. Nor should they approach councillors with allegations about other officers or the internal management of a team, service or department. They should use the council's internal management procedures instead.

## **20.5 Councillors' enquiries**

Officers should answer councillors' enquiries within three working days. If that is not possible, they should send a holding reply and as part of it let the councillor know when they will receive a full response. This should normally be within ten working days.

If it isn't possible to provide a full response within this time, for example if it is very complex issue, the councillor should be told when they will get an answer.

The deadline for a full response should be 20 working days at the very latest.

If an officer passes an enquiry to another person to respond, the councillor must be told who will be providing the response.

If a councillor raises a concern about a constituent and an officer responds directly to that constituent, the officer should make sure that the councillor either receives a copy of the response (if it was by letter or email) or, if the constituent was contacted by phone, the officer should let the councillor know that they have done so.

## **20.6 Close personal relationships**

Close personal relationships between individual councillors and officers should be avoided.

Inappropriate relationships can be inferred from language/style. So, councillors and officers should always seek to address each other with courtesy.

## **20.7 Complaints about councillors or officers**

If a councillor feels he/she has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, the councillor should raise the matter with the relevant Assistant Director.

The Assistant Director will then look into the facts and report back to the councillor.

If the councillor continues to feel concern, then he/she should report the facts to the Director who is responsible for the Directorate concerned. If after doing so, the councillor is still dissatisfied, the councillor should raise the issue with the Chief Executive who will look into the matter afresh.

Any action taken against an officer in response to a complaint will be in accordance with the provisions of the council's employment procedures.

Where an officer feels that he/she has not been properly treated with respect and courtesy by a councillor, she/he should raise the matter with his/her Assistant Director or Director, especially if they do not feel able to discuss it directly with the councillor concerned. In these circumstances, Assistant Director or Director will take appropriate action either by approaching the individual councillor and/or political group leader. The Director will inform the Chief Executive if the political group leader does become involved, or as the Director feels appropriate. If the matter cannot be resolved to the satisfaction of the employee concerned and their Director the matter will be treated as a grievance and dealt with under the council's formal grievance and harassment procedures.

## **20.8 Information and advice**

### **20.8.1 General information and advice**

Councillors can ask the Chief Executive, a Director or an Assistant Director for information or advice that relates to their work as a councillor. As long as it does not involve giving the councillor confidential or exempt information, officers will provide the best information and advice they can with the resources available (see access to information rules).

Councillors should be reasonable in their requests for information and advice.

If it is possible that a councillor will use the information at a meeting, the cabinet member will be told what information has been asked for and given.

### **20.8.2 Advice for councillors with special responsibilities**

The Lord Mayor, cabinet members and committee chairs can ask the Chief Executive, Directors and Assistant Directors for extra background information and advice on different courses of action.

The leaders of minority political groups can ask the Chief Executive, Directors and Assistant Directors for background information or more details about items coming to the next meeting of a committee or the cabinet. The appropriate chair or cabinet member will be told about any information given.

Political group leaders can ask for advice on presenting their budget in a correct form. This will be given in confidence.

### **20.8.3 Work for cabinet**

It is clearly important that there should be a close working relationship between cabinet members and the officers who support and/or interact with them.

However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other councillors and other political groups.

Cabinet members will routinely be consulted as part of the process of drawing up proposals for consideration on an agenda for a forthcoming meeting, but it must be recognised that in some situations an officer will be under a professional duty to submit a report.

Similarly, a Director or senior officer will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made.

Any issues arising between a cabinet member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the council.

Cabinet members must respect the political neutrality of officers. Officers must ensure that even when they are predominately supporting cabinet members or the cabinet that their critical neutrality is not compromised.

In organising support for cabinet and its councillors, there is a potential for tension between chief officers and cabinet members. All councillors and officers need to be constantly aware of the possibility of such tensions and existing or potential conflicts.

### **20.8.4 Help with casework**

When data protection laws allow, councillors will be given the information they need to do their casework as long as this is not exempt or confidential information. This will be done in confidence.

## **20.9 Political activity**

### **20.9.1 Restrictions on officers' political activities**

Most senior officers and some other officers are politically restricted. These officers cannot be councillors or MPs and cannot say, publish or do anything in their private capacity that seems intended to affect public support for a political party.

The Assistant Director for Human Resources and Organisational Development keeps a list of politically restricted posts.

Any council officer in their official capacity must not publish things that seem intended to affect support for a political group on the council.

No one can be both an officer and a councillor on the same council.

## **20.9.2 Lines of reporting**

Employees answer to the Chief Executive, not to individual councillors, whatever office they hold. But there should be good communication between senior officers and councillors with special responsibility for their area of work.

## **20.10 Support services to councillors and political groups**

Support services (e.g. stationery, printing, photocopying, transport and IT resources etc) should only be used for council business. They should never be used for private purposes, for party political or campaigning activity or for the benefit of other groups or bodies.

## **20.11 Correspondence**

### **20.11.1 Between councillors and officers**

If emails or letters between officers and councillors are copied to someone else, they should say so. Blind copies should not be sent.

### **20.11.2 Letters on behalf of the council**

Most official letters on behalf of the council will be sent in the name of the appropriate officer rather than in the name of a councillor. However, it will be appropriate in certain circumstances (e.g. representations to the government) for correspondence to be sent in the name of a cabinet member or the Leader of the council.

Letters which create legal obligations or give instructions on behalf of the council and which are sent out in the name of a councillor should always be agreed in consultation with the Chief Executive or the relevant Director and on legal matters on advice from the Monitoring Officer.

## **20.12 Officer advice to political groups**

Political groups can invite officers to their meetings to give information and advice on council business but cannot insist they attend. Officers who do attend must make themselves available to all groups on the same basis.

Officers must not do anything at a political group meeting that goes beyond giving information or advice on council business.

Officers must not interpret group decisions as council decisions.

Certain points must however, be clearly understood by all those participating in this type of process, in particular:

- The observance of neutrality will be assisted if officers only attend political group meetings for specified business and officers withdraw from the meeting after the briefing/advice and



any questions and before political discussion. Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group.

- Special care needs to be exercised whenever officers attend political group meetings, which may include people who are not members of the council. Such people are not bound by the provisions concerning confidentiality in the Code of Conduct for Members and do not have to declare any conflicts of interest they may have. Officers cannot disclose confidential information at such meetings.
- Officer advice to political groups in relation to budget proposals: the administration (i.e. the political party in control) is entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the administration or until published in advance of committee/council meetings, whichever is earlier. The opposition groups are also entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of committee/council meetings, whichever is earlier. It must not be assumed by any political group or councillor that any officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- Cases of difficulty. If any councillor or officer experiences any particular case of difficulty they should raise the matter with the Chief Executive.

## **20.13 Councillors' briefings, agendas and reports**

### **20.13.1 Briefings on agendas**

The Directors and Assistant Directors and heads of service will give briefings on full council, cabinet and committee agendas to the Leader and Deputy Leader and committee chairs and vice-chairs.

### **20.13.2 Consultation on agendas**

The Leader will be consulted on agendas for the cabinet. Scrutiny panel and committee chairs (where elected prior to the meeting) will be consulted on agendas for their meetings.

## **20.14 Media releases and publicity**

### **20.14.1 Code of practice**

All communications activity by the council will comply with the government's Code of Recommended Practice on Local Authority Publicity.

### **20.14.2 Media enquiries**

The corporate communications team will deal with all media enquiries on behalf of the council and will provide factual answers about council services and policies. Enquiries of a political nature will be directed to relevant councillors.

### **20.14.3 Content of media releases**

All media releases issued on behalf of the council will be managed by the corporate communications team. Media releases can quote the Leader, cabinet members, committee chairs and the Lord Mayor.

### **20.14.4 Notice of election and publicity**

Once a notice has been published of an election in the council's area, particular care should be paid to any publicity used by the council around the time of an election. Particular advice will be given on this by the Monitoring Officer, as appropriate.

### **20.14.5 Media releases by party groups and individual councillors**

The code does not apply to press releases and publicity that councillors may arrange and distribute in their individual capacity rather than through the council. When individual councillors or spokespeople for political groups issue media releases, they should make it clear that they are not issuing them on behalf of the council.

## **20.15 Specific ward issues and ward councillors**

If a council organises a public meeting about a specific ward issue it should invite all the councillors for that ward and give them as much notice as possible.

If the council does any consultation about a specific ward issue, it should consult the councillors for that ward at the start of the consultation.

## **20.16 The council as an employer**

### **20.16.1 Fairness in employment**

Councillors should not take part in a recruitment process where any of the candidates are friends, relatives, partners or other people they live with. Nor should they have any role in disciplinary action or grievances involving these people.

Councillors should not try to influence appointments (except as members of the appointments panel). Nor should they help any particular candidate by giving them information that the other candidates could not get.

Councillors should not discriminate unfairly against officers and should judge candidates for employment or other rewards on merit.

Councillors should not take part in a recruitment process without having undertaken appropriate training.

### **20.16.2 Grievances and disciplinary procedures**

Councillors should not try to influence the handling of any grievance. Councillors can report their concerns about an officer's performance or behaviour to a line manager. But they should not try to influence any disciplinary procedure (except as members of the disciplinary committee for Directors and staff on JNC terms and conditions of employment).

Councillors serving on the disciplinary committee must base their decisions on the facts and in accordance with the council's employment obligations. They should not be influenced by party political or personal factors.

Councillors should not take part in any disciplinary process without having undertaken appropriate training.

### **20.16.3 Accountability and confidentiality**

Councillors are accountable for the decisions they make as employers and they should keep individual employment matters confidential.

### **20.17 Responsibility for this code**

The Monitoring Officer and the Standards Committee have overall responsibility for this code. The Standards Committee will review how the code is working.

## 21 Code on councillors use of ICT equipment

### In this section:

21.1	When does this code apply?	114
21.2	Security of ICT equipment and data	114
21.3	Use of ICT equipment	114
21.4	Username	115
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21.6	Computer setting and software	115
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21.9	Returning equipment	115
21.10	Complaints about this code being broken	116
21.11	Reviewing this code	116

### Related sections

19	Councillors' Code of Conduct	92
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#### 21.1 When does this code apply?

This policy applies when councillors, co-opted and independent members use the council's ICT equipment.

#### 21.2 Security of ICT equipment and data

Councillors, co-opted and independent members must follow the council's ICT security and data security policy. For example, they must:

- allow the anti-virus software and anti-malware to update itself
- allow any other automatic software updates
- keep the firewall installed and switched on
- not send confidential data in an insecure way
- not open email attachments that look suspicious
- use passwords that are difficult to guess
- log out or lock the screen when they leave their workstation
- inform the city council's IT manager of any security problems immediately

#### 21.3 Use of ICT equipment

ICT equipment is provided for councillors, co-opted and independent members to do their work as councillors or as representatives on council committees. They must not use council ICT equipment to:

- break the law
- break the council's email and internet policy

- download or distribute pornography
- pass on anything they should keep confidential
- download or distribute pirated software
- damage or spy on other computers or networks
- interfere with other users' data

#### **21.4 Usernames**

Councillors, co-opted and independent members should not use any council username except their own nor should they let other people use their own council username.

#### **21.5 Email**

When councillors, co-opted and independent members send emails from plymouth.gov.uk addresses, they should:

- be aware of the risk of libel
- be aware of the effect they might have on the council's reputation
- not harass other people, for example by forwarding chain letters or flooding their mailboxes
- use the mail address in a secure way in accordance with this code

#### **21.6 Computer setting and software**

When using the council's computers, councillors, co-opted and independent members must not change the internet security settings. Neither must they load their own software (including games) or connect ICT equipment of their own to the council's networks.

#### **21.7 Technical support**

The council only provides technical support for its own equipment.

#### **21.8 Monitoring**

The council records internet use, emails and any files that are sent to outside users and retains the right to view all messages whether incoming or outgoing and whether business, personal or otherwise. The council will investigate any incident of possible misuse. If substantiated this may result in withdrawal of access and possible further action. Access to some websites is automatically blocked. Councillors who need to visit these websites to do their council work should seek the advice of the council's ICT manager.

#### **21.9 Returning equipment**

Where a councillor or co-opted or independent member is not re-elected or has to or chooses to stand down, ICT equipment loaned to that person must be returned within 10 days of the event and the city council ICT manager's signature (or the signature of another council officer nominated by her or him) must be obtained to confirm return. If equipment is not returned within 10 days a charge amounting to the full cost to the council of replacement equipment may be made.

**21.10 Complaints about this code being broken**

Complaints about this code being broken should be directed to the Monitoring Officer. Serious complaints may be investigated by the Standards Committee.

**21.11 Reviewing this code**

The Assistant Director for ICT and the Standards Committee have overall responsibility for this code and how it is used. The Standards Committee will review the code and how it is working on an annual basis.

## RULES

### 22 Employment rules

#### In this section:

<b>22.1</b>	<b>Appointing the Chief Executive</b>	<b>117</b>
<b>22.2</b>	<b>Appointing the Directors, Assistant Directors and Heads of Service</b>	<b>117</b>
<b>22.3</b>	<b>Dismissing the Chief Executive, Directors and staff appointed on the JNC terms and conditions for Chief Officers</b>	<b>118</b>
<b>22.4</b>	<b>Councillors not to be involved in appointing or dismissing other officers</b>	<b>118</b>
<b>22.5</b>	<b>Disciplining the Head of Paid Service, Chief Finance Officer and Monitoring Officer</b>	<b>118</b>
<b>22.6</b>	<b>Recruitment and selection procedure</b>	<b>118</b>
<b>22.7</b>	<b>Advertising the positions of Chief Executive, Directors</b>	<b>118</b>
<b>22.8</b>	<b>Relationships with councillors and officers</b>	<b>118</b>
<b>22.9</b>	<b>Lobbying</b>	<b>118</b>

#### Related sections

<b>9</b>	<b>Roles of officers</b>	<b>42</b>
<b>19</b>	<b>Code on councillor-officer relations</b>	<b>106</b>

#### 22.1 Appointing the Chief Executive

The Chief Executive is appointed by council on the recommendation of the Appointments Panel. At least one member of the cabinet must be a member of the Appointments Panel.

Before the Chief Executive is appointed, the Assistant Director for Human Resources and Organisational Development must tell every member of the cabinet who the Appointments Panel wants to appoint and anything else that is relevant to the appointment.

The appointment can go ahead if the cabinet agrees or if it makes no objection by a deadline set by the Assistant Director for Human Resources and Organisational Development or if council does not consider any objection made by the cabinet relevant and justified.

#### 22.2 Appointing the Directors, Assistant Directors and Heads of Service

Chief officers (Directors, Assistant Directors and Heads of Service) are appointed by the Appointments Panel which must include at least one member of the cabinet.

Before a Director or an Assistant Director is appointed, the Assistant Director for Human Resources and Organisational Development must tell every member of the cabinet who the Appointments Panel wants to appoint and anything else that is relevant to the appointment.

The appointment can go ahead if the cabinet agrees or if it makes no objection by a deadline set by the Assistant Director for Human Resources and Organisational Development or if the Appointments Panel does not consider any objection made by the cabinet relevant and justified.

**22.3 Dismissing the Chief Executive, Directors and staff appointed on the JNC terms and conditions for Chief Officers**

The Chief Executive, and any other staff employed under the JNC terms and conditions for Chief Officers are disciplined by the Chief Officers' Investigating Panel (subject to the right of appeal at the Employment Appeals Panel) which must include at least one member of the cabinet.

Before a dismissal, the Assistant Director for Human Resources and Organisational Development must tell every member of the cabinet who the Chief Officers' Investigating Panel wants to dismiss and anything else relevant to the dismissal.

The dismissal can go ahead if the cabinet agrees or if it makes no objection by a deadline set by the Assistant Director for Human Resources and Organisational Development or if the Chief Officers' Investigating Panel does not consider any objection relevant or justified.

**22.4 Councillors not to be involved in appointing or dismissing other officers**

Councillors will not be involved in appointing or dismissing anyone except the Chief Executive and chief officers. Other officers are appointed and dismissed by their Assistant Director. All officers must be appointed on merit.

**22.5 Disciplining the Head of Paid Service, Chief Finance Officer and Monitoring Officer**

The Head of Paid Service, Chief Finance Officer and Monitoring Officer can only be disciplined if an independent investigator recommends it. They can be suspended on full pay for up to two months while an independent investigator carries out an investigation.

**22.6 Recruitment and selection procedure**

All appointments must follow the council's recruitment and selection procedure.

**22.7 Advertising the positions of Chief Executive, Directors and Assistant Directors**

When the council wants to appoint a Chief Executive or chief officer, it will produce a role profile and send it to anyone who asks. The post will be advertised in a way that will bring it to the attention of suitable applicants.

**22.8 Relationships with councillors and officers**

Candidates must disclose on their application form whether they are related to any councillor or officer or any councillor's or officer's partner as their partner, parent, child, stepchild, adopted child, grandparent, brother, sister, uncle, aunt, niece or nephew.

If a candidate declares a relationship with a councillor or officer or their partner, their appointment must be approved by the appropriate Head of Service (if they have declared a relationship with the Head of Service or their partner, it must be approved by the appropriate Director).

**22.9 Lobbying**

Councillors and officers must not lobby for or against candidates.



The council will disqualify candidates who lobby councillors or officers or get other people to lobby them. Candidates will be warned about this in the recruitment literature.

**23 Legal rules****In this section:**

<b>23.1</b>	<b>Legal action</b>	<b>120</b>
<b>23.2</b>	<b>Signing of documents</b>	<b>120</b>
<b>23.3</b>	<b>Common seal of the council</b>	<b>120</b>

**Related sections**

<b>10</b>	<b>Proper officers</b>	<b>46</b>
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**23.1 Legal action**

The Monitoring Officer and Head of Legal Services can take any legal action necessary to carry out the council's decisions or protect its interests e.g. starting defending, withdrawing, or setting any claims or legal proceedings.

All officers in the senior management structure (see section 4.4 and section 9) may start, defend or withdraw any claims or legal proceedings or authorise officers to appear on behalf of the council in court and take default action under relevant legislation if:

- the action taken is about a function that they or an officer who reports to them has budgetary or management responsibility for and
- the constitution or the law does not require the action to be taken by someone else and
- they have had regard to any advice from the Head of Legal Services

**23.2 Signing of documents**

The Monitoring Officer and Head of Legal Services can sign any document necessary to carry out the council's decisions or protect its interests including certificates given under the Local Government (Contracts) Act 1997.

All officers in the senior management structure (see section 4.4 and [section 9](#)) may sign documents on behalf of the council or authorise officers that they manage to sign documents on behalf of the council if:

- the document is about a function that they or an officer who reports to them has budgetary or management responsibility for and
- the constitution or the law does not require the document to be signed out by someone else and
- they have had regard to any advice from the Chief Finance Officer and Monitoring Officer

**23.3 Common seal of the council**

The common seal of the council will be kept by the Head of Legal Services. It will be attested by the Monitoring Officer, Head of Legal Services or an officer nominated by them.

The council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal.

**24 Finance rules****In this section:**

<b>24.1</b>	<b>Scope</b>	<b>122</b>
<b>24.2</b>	<b>Responsibilities under the Finance Rules</b>	<b>122</b>
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<b>24.13</b>	<b>Moving money between cost centres</b>	<b>126</b>
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<b>24.15</b>	<b>Year end balances</b>	<b>129</b>
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<b>24.33</b>	<b>Index of supplementary documents</b>	<b>137</b>

**Related sections**

<b>4</b>	<b>Who carries out executive responsibilities</b>	<b>13</b>
<b>25</b>	<b>Contract Rules</b>	<b>138</b>

## 24.1 Scope

The council acknowledges the responsibility it has for the administration of public funds, and wishes to emphasise to both the public and its employees the importance it places upon probity, financial control and honest administration.

These finance rules provide the framework for managing the council's financial affairs. They apply to every member, committee, school governing body, department, officer, partner, employee of the council, and anyone acting on behalf of the council, unless otherwise minuted by the council. Breaches will be reported to the audit committee, if the Chief Finance Officer and the chair of the audit committee deem that it is appropriate.

Failure to comply with the requirements of these finance rules and any associated guidance could be considered a potential act of gross misconduct.

Further advice and guidance is given in the documents listed at [24.33](#). These documents describe "processes and procedures" that show users "how to" deliver the requirements of the finance rules at a working level.

All of these documents' require specific approval of Audit Committee, and once adopted carry the same status as the Finance Rules themselves.

## 24.2 Responsibilities under the Finance Rules

### 24.2.1 Responsibilities of the Chief Finance Officer

The Chief Finance Officer carries out the statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

- Section 151 of the Local Government Act 1972;
- Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Accounts and Audit Regulations 2003; and
- The Local Government Act 2000;

and are supplemented and explained by case law.

The Chief Finance Officer has a legal duty to make sure the Council keeps to the highest financial standards. Other officers with responsibilities under the finance rules are using powers delegated by the Chief Finance Officer.

The Chief Finance Officer will review and update the finance rules each year to make sure they comply with relevant law and guidance. The Chief Finance Officer may also issue guidance on how to ensure high financial standards.

### 24.2.2 Responsibilities of Directors

Directors must oversee and monitor the financial management of their service areas.

### **24.2.3 Responsibilities of Assistant Directors**

Assistant Directors must:

- deliver services in compliance with these finance rules and their service budget allocations;
- make sure staff within their departments comply with these finance rules and have adequate written guidance on financial procedures and system working practices;
- monitor the overall financial state of their service area;
- make sure that they identify and agree with the Chief Finance Officer the financial implications of all proposals for new spending and partnering arrangements, and that the cabinet is advised of those implications, before such spending is incurred or committed;
- consult with the Chief Finance Officer on any report with financial implications;
- consult with, and seek agreement of, the Chief Finance Officer where it is apparent that new written processes and procedures are required.

### **24.2.4 Departmental Section 151 Responsibilities**

Departmental finance managers are required to bring the Chief Finance Officer's attention to any section 151 issue they are unable to resolve.

### **24.2.5 Governing Bodies**

School governing bodies shall conduct their affairs in accordance with these finance rules, unless this would be contrary to the law, the council's fair funding for schools scheme or a later council minute. They are responsible for:

- risk and governance arrangements for the school;
- the management of their delegated budgets in accordance with the provisions contained in the fair funding scheme;
- making sure that staff are aware of these finance rules and that they have adequate written guidance on financial procedures and system working practices, and
- ensuring that staff comply with this written guidance.

### **24.2.6 Responsibilities of all Officers**

Officers must take reasonable action to provide for the security of the assets under their control, and to make sure that the use of these resources is legal, properly authorised and provides value for money.

Officers must be familiar with these finance rules and must understand the ones that affect their work. If an officer is unclear about these rules, they must get advice before acting, by talking to their line manager or finance manager.

Officers must make sure they are using the latest version of these rules. This will always be in the constitution.

Officers must show the highest standards of financial probity. As well as following these rules, they must use their common sense and judgement.

## **24.3 Audit**

### **24.3.1 Internal audit**

Auditors will review the council's financial and management systems and must act if fraud or corruption is found. They will also comment on how to achieve better value.

Auditors have the right to see the records and to ask for information and explanations. Officers must co-operate with them fully.

### **24.3.2 External audit**

The external auditors undertake a yearly audit of the Council's statement of accounts and performance indicators. They have the right to see records and to ask for information and explanations. Officers must co-operate fully.

The Chief Finance Officer has overall responsibility for liaising with the external auditors.

## **24.4 If the finance rules have been broken**

If officers suspect that these rules are being broken or they suspect fraud, corruption or poor value for money, they must tell their line manager (unless their line manager is involved).

The council's whistle blowing policy has guidance on what to do if a line manager is involved.

If the finance rules have been broken, the Chief Finance Officer must be told in writing. The Chief Finance Officer will decide what needs to be done and whether councillors need to be told.

## **24.5 Combating fraud and corruption**

The council is committed to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is a possibility of fraud, corruption or other related problems the council will deal with it in a firm and controlled manner regardless of whether the perpetrators are from inside (members and employees) or outside the council.

The Anti-Fraud and Corruption Policy gives advice and guidance to councillors and officers about the council's approach to the serious issues of fraud and corruption and sets out how to deal with an allegation or suspicion of fraud or corruption.

## **24.6 Information and records**

The Chief Finance Officer is responsible for determining the accounting procedures to be followed and accounting records to be maintained within the authority in order to comply with the Accounts and Audit Regulations 2003 (see Retention and Disposition schedule)

Assistant Directors will arrange suitable training for their staff in keeping accounting records. The content of the training must be approved by the Chief Finance Officer.

## **24.7 Financial Systems and Procedures**

The Chief Finance Officer must ensure that the council's financial systems are sound and operate efficiently.

Assistant directors must seek the prior approval of the Chief Finance Officer to any proposed changes to the existing financial or related systems or to the establishment of any new financial or related systems which are / will be directly under their control.

Assistant Directors must also seek the prior approval of the Chief Finance Officer who, if appropriate, will seek the approval initially of the Corporate Management Team and subsequently of the Cabinet or Audit Committee as appropriate, to any proposed changes to the Council's instructions or procedural notes on financial matters which are required to meet their own specific service needs.

## **24.8 VAT and tax**

The Chief Finance Officer is responsible for keeping tax records, advising on tax, making tax payments, receiving tax credits and submitting tax returns.

Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe; all officers must therefore take particular care when dealing with issues that have tax implications.

## **24.9 Outside bodies**

The Chief Finance Officer is responsible for promoting and maintaining high standards of conduct with regard to financial administration in partnerships and joint ventures and will make sure that partnerships involving the council follow the latest accounting policies, law and guidance.

The Chief Finance Officer must approve any financial arrangements where the council acts as the accountable body, lead authority or major funder for another organisation. Such organisations must have satisfactory rules dealing with the matters covered in these finance rules and the contract rules in section 25.

The Chief Finance Officer will make sure that funding to or from outside bodies is properly recorded in the council's accounts.

## **24.10 Medium-term financial planning**

The Chief Finance Officer will report to the cabinet on the medium-term budget prospects. Reports should consider the amount of support the council can expect from the government. The capital delivery board is responsible for the governance of the medium-term capital programme; this includes reviewing and monitoring the progress of the capital programme. Directors and capital delivery project officers are required to present a capital programme summary report at each extended capital delivery board meeting.

## **24.11 Responsibility for budget decisions**

Responsibilities for budget decisions are shown in the table below, subject to the permitted changes shown in [section 24.13](#):

<b>Cabinet responsibilities</b>	<b>Full council responsibilities</b>
Recommending the budget to council	Agreeing the budget
Recommending any changes to the net revenue budget to council	Approving any changes to the net revenue budget
Recommending the Treasury Management Strategy	Agreeing or changing the Treasury Management Strategy
Setting the Council Tax base	
	Setting the Council Tax
Recommending the Prudential and Treasury indicators to Council	Agreeing or changing the Prudential and Treasury Indicators
Recommending the medium term financial strategy to council	Agreeing or changing the medium-term financial strategy
Agreeing the Risk Management Strategy	
	Agreeing or changing the capital budget
Recommending the Corporate Asset Management Plan to council	Agreeing the Corporate Asset Management Plan
Recommending the Capital Programme to council	Agreeing the capital programme

### **Audit Committee**

Scrutinising the Treasury Management Strategy before it goes to Council

### **24.12 Emergency spending**

If there is an emergency or a disaster, the Chief Executive can agree extra spending after consulting the Leader and Chief Finance Officer.

### **24.13 Moving money between cost centres**

The rules for moving money between revenue cost centres (virement) are:

<b>Amount to be moved</b>	<b>Who can approve it?</b>
Up to £10,000	Service Head (Team Plymouth)
Up to £25,000	Assistant Director
Up to £100,000	Director (with notification to Chief Finance Officer)
Up to £500,000	Cabinet Member
Over £500,000	Cabinet if it is within the budget, if not council makes the decision on the recommendation of the cabinet.

The rules for moving money between capital cost centres or changes to the capital programme are:



**New Capital Schemes** – In year, new capital schemes should be approved in accordance with the following rules:

<b>New Schemes</b>	<b>Who can approve it?</b>
Up to £100,000	Chief Finance Officer in consultation with the Director and relevant cabinet member(s)
Between £100,000 and £500,000	Cabinet
Above £500,000	Council

**Capital Programme Transfers (Virement)** – These should be approved in accordance with the following rules:

<b>Type of Transfer</b>	<b>Who can Approve it?</b>
<b>Within A Directorate</b>	
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet
<b>Between Directorates</b>	
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet

**Capital Scheme Variations** – Where there are variations in contract costs on existing schemes compared with the provision in the Capital Programme and the relevant Director is not able to identify a virement, additional costs will be approved in accordance with the following conditions:

<b>Existing Scheme Additional Costs</b>	<b>Who can Approve it?</b>
£100,000 or 10% of original contract sum (whichever is lowest)	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
£500,000 or 25% of original contract sum (whichever is lowest)	Cabinet
More than 25% of original sum or £500,000	Council

Where there are proposed increases to existing approved schemes in the Capital Programme which can be funded from increased rig-fenced funding then scheme increases will be approved in accordance with the following conditions:

<b>Existing Scheme Additional Costs</b>	<b>Who can Approve it?</b>
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
£100,000 to £500,000	Cabinet
Above £500,000	Council

Note. Changes to the capital programme will be reported to Members through the quarterly budget and performance report.

Transfers in or out of employee account codes or income account codes must be agreed by the Chief Finance Officer.

Requests for transfers must be in a format agreed by the Chief Finance Officer. Requests must say how much is going to be spent, what it is going to be spent on, where the money will come from and what effect the spending will have in current and future financial years.

## **24.14 Budgetary control**

### **24.14.1 Council's reserves**

The Chief Finance Officer must advise the council on keeping a safe level of reserves.

### **24.14.2 Monitoring budgets**

The Chief Finance Officer will give Directors and Assistant Directors the information they need to monitor their budgets.

### **24.14.3 Responsibilities of the Chief Finance Officer**

The Chief Finance Officer will:

- produce regular monitoring reports for the cabinet – these will identify any areas of concern and say how things can be put right
- tell the cabinet when spending or extra spending is needed
- advise on the medium-term effects of spending decisions
- make sure each capital scheme includes a project plan, progress targets and forecasts of linked revenue spending
- manage a scheme of carry forwards within guidelines set by the cabinet.

### **24.14.4 Responsibilities of Assistant Directors**

Assistant Directors will:

- monitor income and control spending
- monitor performance
- manage their budgets
- report any problems promptly to the Chief Finance Officer
- make sure staff keep all financial records, particularly the supporting papers for grant claims

## **24.15 Year-end balances**

The Cabinet will agree the procedures for carrying forward under and over-spending on budget headings at the year end, in consultation with the Chief Finance Officer.

Directors are responsible for monitoring the impact of the year-end variations on the level of service outputs which had been planned for both the relevant and subsequent year(s).

#### **24.16 Capital strategy**

The Chief Finance Officer will prepare an asset management plan and capital strategy. This will:

- set out the principles the council will follow in its capital planning and management
- include a five year capital programme
- show how schemes are added into the Capital Programme

#### **24.17 Project approval**

##### **24.17.1 Which projects need approval?**

All new schemes must be fully financed and approved by the Capital Delivery Board. They require an initial project proposal and detailed business case unless they meet the criteria of fast track schemes (see Capital Programme Governance document).

##### **24.17.2 Who approves projects?**

Projects of more than £100,000 but less than £500,000 need approval of cabinet on the recommendation of the Chief Finance Officer in consultation with the Capital Delivery Board. Projects of more than £500,000 require approval of council on the recommendation of cabinet.

##### **24.17.3 Project approval report**

The project approval report to the cabinet must include:

- the aim of the project and any other ways of achieving it
- effects on staffing
- legal, contractual and prudential borrowing code implications
- if the council is acting through an agent or partnership, legal advice on whether it has the power to act this way
- if it is a key decision, any comments made during consultation and the council's response
- the estimate amount and timing of any capital and revenue spending, any ongoing effect on revenue, and whether this spending is included in the budget

##### **24.17.4 Key decisions**

If project approvals are key decisions, the access to information rules and key decision procedures apply (see [section 16](#)).

## **24.18 Capital projects**

Spending is only allowed on capital projects that:

- have project approval
- are in the Capital Programme
- have been through the correct procedure in the contract rules ([see section 25](#))

## **24.19 Treasury management**

### **24.19.1 Treasury Management Strategy**

The Chief Finance Officer will produce the treasury management strategy. This will set out the treasury plans for the next year (including any prudential borrowing plans). The strategy will include a list of organisations the council will borrow from and lend to and the maximum individual amounts it will borrow or lend. The treasury management strategy must be scrutinised by Audit Committee prior to submission to Full Council for approval. A mid year and end of year report must also be produced and submitted to Audit Committee for scrutiny prior to submission to Full Council.

### **24.19.2 Day-to-day treasury management**

The Chief Finance Officer is responsible for day-to-day treasury management in liaison with the Treasury Management Board. Treasury management is carried out in accordance with detailed Treasury Management Practices, which are approved by Audit Committee. The Chief Finance Officer will make sure:

- all borrowing and investment complies with the council's treasury management strategy and the Chartered Institute of Public Finance and Accountancy's Code of Practice on Treasury Management and the Prudential Code
- all borrowing and lending is done in the name of the council
- all securities are held by the appropriate Director or Assistant Director

### **24.19.3 Bank accounts**

Only the Chief Finance Officer can open a bank or building society account on behalf of the council. The Chief Finance Officer is responsible for managing all accounts.

## **24.20 Asset Management**

### **24.20.1 Responsibilities of Chief Finance Officer**

The Chief Finance Officer will:

- recommend the asset management policy and capital strategy to council

- produce guideline for acquiring, managing and disposing of assets
- make sure the council's records include any money from sales
- make sure the council's records do not include the value of any assets that have been disposed of

#### **24.20.2 Register of fixed assets**

The Chief Finance Officer will keep a register of all fixed assets worth more than a sum that is decided from time to time by the Chief Finance Officer. Assistant Directors must report any acquisitions or disposals so that this can be kept up-to-date. Every year the Chief Finance Officer will check that the assets are still shown at the right value, that they have a suitable asset life and that they have been properly depreciated.

#### **24.20.3 Disposing of assets (except land)**

All staff should follow the Chief Finance Officer's instructions on the disposal of surplus or obsolete vehicles, plant, furniture, materials, stocks, stores or other equipment. Arrangements for the disposal of surplus goods, materials, vehicles and equipment should be carried out in the manner most beneficial to the council, making every effort to dispose of surplus or obsolete assets by competitive tender or by public auction. Where the estimated value of the proceeds is at a level determined by the Chief Finance Officer, officers must keep a record of all disposals on inventories or within stock systems, including details of the quantity, items, proceeds and the purchaser. Sale proceeds must be banked and accounted for promptly, and the Chief Finance Officer must be notified of the disposal of any capital assets.

The disposal of computers and other recordable Information and Communication Technology media should be arranged via the Information and Communication Technology department, who will ensure that all data is properly erased prior to disposal.

#### **24.20.4 Arranging leases**

The Council has employed the services of a leasing advisor to obtain the most favourable terms for its leasing agreements and the advisor should be consulted on all lease proposals. Before entering into any finance or operating lease, or lease rental agreement, or PFI arrangements, Chief Officers must get agreement from the Chief Finance Officer to ensure that the arrangement is financially advantageous to the Council and should take appropriate legal advice from the Head of Legal Services. Staff must keep an inventory of all leased assets and make sure assets are returned at the end of the lease period in accordance with the terms of the arrangement. This inventory must be made available to the Chief Finance Officer for the preparation of the statutory accounts.

#### **24.20.5 Computer systems**

The Assistant Director for Information and Communication Technology has overall responsibility for the council's computer systems. The Assistant Director for Information and Communication Technology is also responsible for making staff aware of their responsibilities relating to the computer systems.

### **20.20.6 Stocks and Inventories**

The Council holds stocks of various materials for use in service delivery. Every effort should be taken to ensure excessive stocks are not held.

Obsolete stock may be written off subject to the write off limits for debt (see 24.27.3)

### **20.20.7 Security of Assets**

Officers must ensure that all assets are safeguarded against loss, damage, misuse or any other unnecessary diminution in value so that they continue to be available to provide continuity of efficient service delivery. Similarly, information must also be safeguarded so that service delivery can continue.

### **20.21 Intellectual property**

Intellectual property is a generic term that includes inventions and written works. Certain creations, particularly computer software, may have a commercial value and be marketable outside the Council.

As a general rule, items of intellectual property which are created by an employee during the normal course of their employment will be the property of the council, not the employee.

Various Acts of Parliament detail the treatment of different types of intellectual property and provide for the patenting of the development work to safeguard it against exploitation.

## **24.22 Risk management**

### **24.22.1 Responsibilities of the Cabinet**

The cabinet will identify key risks and promote risk management in the council. The Chief Executive will report to the cabinet on how risk is being managed.

### **24.22.2 Responsibilities of the Chief Finance Officer**

The Chief Finance Officer will prepare and update the council's risk register and related policies (including anti-fraud and anti-corruption policies). The risk register must be agreed by the cabinet.

### **24.22.3 Responsibilities of Assistant Directors**

Assistant Directors must:

- identify and manage risks in their service areas
- have contingency plans for major risks
- tell the Chief Finance Officer of any risks that could result in losses or claims against the council

## **24.23 Wages, salaries and pensions**

The Chief Finance Officer is responsible for paying all wages and expenses, including councillors' allowances.

Staff costs are the largest item of expenditure for most of the Council's services. It is therefore important that payments to current and former employees are made, accurately, on the due date and in accordance with the individual's conditions of service.

Payments to councillors must be in accordance with the scheme approved by the Council and recorded accurately and promptly; and comply with statutory and other corporate requirements.

Assistant Directors must tell the Head of Human Resources and Organisational Development of any changes to staff pay and any deductions that need to be made.

## **24.24 Ordering and paying for goods and service**

### **24.24.1 Role of Chief Finance Officer**

The Chief Finance Officer will make sure there are proper procedures and controls for ordering and paying for goods and services.

New systems for orders or payments must be agreed by the Chief Finance Officer.

### **24.24.2 Responsibilities of Assistant Directors**

Assistant Directors are responsible for their service areas' orders and payments. They must make sure that officers who order and pay for goods have been properly trained and that responsibilities for ordering and paying for goods are kept separate.

### **24.24.3 Orders**

Orders must normally be in writing. Orders can be given orally in emergencies only and must be confirmed in writing as soon as possible.

Official orders for the purchase of goods or services must be in a standard form approved by the Chief Finance Officer and must be issued for all purchases with the exception of utilities (gas, electricity, water etc), taxis, refunds, grants, periodic payments (such as rent or rates), petty cash purchases, purchasing cards or other exceptions specified by the Chief Finance Officer.

In addition commitments from credit card, purchasing card or internet purchases must only occur through the Council's approved scheme and in accordance with the instructions on that scheme from the Director for Corporate Support.

Official orders must not be raised for any personal or private purchases.

The authorisation profiles agreed by the Chief Finance Officer and fixed within the Purchasing system are as follows:

<u>Purchase Order Authorisation Limits</u>	
Directors	Above £100,000
Assistant Directors	£50,000 to £100,000
Heads of Service (Team Plymouth)	£5,000 to £50,000
4 <sup>th</sup> Tier Officers and below:*	

Grades H to I	£1000 to £5000
Grades F to G	£0 - £1000

Officers below F Grades will not be able to authorise orders.

\*Any exceptions to these parameters will be subject to approval by the Director of Corporate Support (or his nominated deputy).

The use of e-business, e-commerce, credit / debit or purchasing cards, or other electronic means of purchasing goods or services, must be authorised by the Chief Finance Officer and will be subject to the following limits:

<u>Purchase Card Limits</u>	Maximum transaction limit	Maximum Authorised Card limit
	£	£
Director	1,000	5,000
Assistant Director	500	2,500
Service Head (Team Plymouth)	500	2,500
Head Teacher	500	5,000
Stores Purchase Officer	5,000	50,000
Departmental Nominated Purchase Officer	5,000	10,000
Emergency Planning Officer	10,000	50,000
Senior Officer from Finance Department (for Emergency response purposes)	10,000	50,000

Approval in excess of these limits may be given by Chief Finance Officer in exceptional cases, for example Lodge Cards.

#### **24.24.4 Unusual terms and conditions**

Officers should check with the Head of Legal Services before accepting any unusual terms or conditions.

#### **24.25 Petty cash**

The Assistant Directors will oversee the system of petty cash floats. Floats will only be topped up when a proper claim is made with receipts for all items. The Chief Finance Officer will give detailed guidance on petty cash.

#### **24.26 Income**

##### **24.26.1 Responsibilities of Chief Finance Officer**

The Chief Finance Officer will ensure that systems exist for all income to be identified, collected, receipted and promptly banked.



## 24.26.2 Responsibilities of Assistant Directors

Assistant Directors must have a proper scheme of delegation for dealing with income and spending in their service area and must make sure it is working. There must be extra controls in service areas that collect cash or cheques. Assistant Directors must ensure that:

- officers are suitably trained
- official receipts are always given
- proper records are kept
- money is banked as soon as possible
- VAT is properly accounted for

Assistant Directors must have effective systems for monitoring income due to their service area. The Chief Finance Officer must be told if income is much less than expected and it cannot be explained.

Assistant Directors must not run their own debtor systems without the agreement of the Chief Finance Officer.

## 24.26.3 Invoices

The format of invoices must be approved by the Chief Finance Officer. Invoices must make it clear that payment should be made to Plymouth City Council.

## 24.27 Debt

### 24.27.1 Collecting debt

The Cabinet will set procedures for managing debt. Officers must:

- make sure invoices are accurate
- send invoices promptly
- act quickly to collect debts
- sort out disputes as quickly as possible

### 24.27.2 Writing off debt

The rules for writing off debts are as shown in the table below:

Value of Debt	Who can approve it?
Up to £20	Nominated recovery officers
Up to £100	Nominated recovery officers (Grade E and above)
Up to £500	Nominated Officers (Grade H and above)
Up to £5,000	Heads of Service and other nominated officers of Director of Corporate Support
Up to £5,000	School principal and/or governors (schools debt)

Up to £50,000	Chief Finance Officer
Between £50,000 and £100,000	Cabinet Member
All debt over £100,000 unless covered by below exception	Cabinet
Unlimited in the case of bankruptcy or liquidation/CVA/death/no assets/no trace	Chief Finance Officer or other senior finance officer nominated by him.

### **24.27.3 Cancelling debt**

Debts can be cancelled if they have been raised by mistake. All cancellations over £5,000 must be agreed by the Chief Finance Officer or his nominated Officer.

### **24.28 Payments for Loss, Damage or Personal Injury**

Officers may make ex gratia payments for loss or damage or personal injury up to a maximum of £1,000 to any one payee in any one year following consultation with the council's corporate risk manager and the head of legal services.

### **24.29 Money laundering**

The council has procedures for checking and recording the intentions of the people and organisations it does business with and for reporting suspected money laundering. Officers must not:

- conceal, disguise, convert, transfer or remove anything gained through crime
- tip off a criminal or suspect
- assist money laundering
- pay money to terrorists or suspected terrorists or their organisations.

The maximum amount of cash that may be taken in any one transaction is £9,000.

### **24.30 External Funding**

The Chief Finance Officer will providing specific guidance to Directors and Assistant Directors to enable them to account properly for funding receivable from external sources. This will be contained within the Index.

### **24.31 Work for Third Parties**

The Chief Finance Officer will provide guidance and advice to Directors and Assistant Directors in respect of the financial aspects of third party contracts, contractual arrangements for the provision of services to third parties or external bodies.

### **24.32 Loans and Guarantee arrangements**

Officers must not enter into an arrangement to provide Loan or Guarantee facilities to any third parties without the prior approval of the Chief Finance Officer and Head of Legal Services.

### **24.33 Index of supplementary documents**

These documents are intended to be a detailed working practice but cannot override any requirements contained within the approved Financial Regulations or its Index of linked Policies

#### **24.33.1 The Finance Rules Approved Governance Documents**

Medium Term Financial Strategy  
Budget Book  
Statement of Accounts  
Annual Governance Statement  
Risk Management Strategy  
Introduction to Local Government Finance  
Asset Management Plan and Capital Strategy  
VAT handbook  
Plymouth Trading Fair Funding Guide  
Fair Funding for Schools Scheme  
Treasury Management Strategy  
Annual audit plan  
Anti Fraud and Corruption Policy  
Retention and Disposition Schedule  
Ordering and paying for the purchase of work, supplies and services  
Arrangements for the collection and processing of income and other amount due  
Budget Carry Forward Policy  
Capital Programme Governance Document

#### **24.33.2**

##### **Draft Documents yet to be Approval by Audit Committee**

Money Laundering Policy  
External Funding/Grants Protocol  
Income and Credit Management Policy  
Key Controls and Responsibilities

#### **24.33.3 Working Practices available on the Financial Management Web Pages**

Budget Managers' Role Definition  
Procurement and Purchasing Card Arrangements  
Creditors User Guide  
Working Practices for Purchasing and Creditors  
Procedures for Purchasing Goods and Services  
Purchasing Manual  
Bad Debt Write Off Policy  
Debtors Manual  
Financial Management and Budgetary Control Training Guide  
Close Down Guidance and Timetable  
Virement Working Practice  
Journal Transfer Working Practice  
General Ledger Introductory Guide  
Treasury Management Practices

**25 Contract rules****In this section:**

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**Related sections**

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### **25.1 When do these rules apply?**

- a) These rules apply when the council expects to spend money or provide other value for goods, works or services. They apply to both capital and revenue and cover:
- contracts for goods, works or services
  - acquisitions and disposals of land or buildings
- b) The officers named in section 25.11 (3) have authority to waive the requirements of any of these rules (but they must always comply with national and EU law.)

### **25.2 Other relevant guidance, rules and law**

- a) All contracts entered into by the council must be to carry out the council's functions or be in connection with the council's functions. They must comply with:
- all relevant national law and EU procurement law
  - all relevant EU procurement rules and guidance
  - the finance rules (see section 24)
  - the policy framework and budget procedures (see section 17)
  - section 4 of this constitution (Who carries out executive responsibilities?) and
  - section 5 (Who carries out council responsibilities?)
- b) Officers must consider the requirements of the constitution and legal issues when entering contracts and must ensure the risks are fully assessed

### **25.3 Responsibility to follow these rules and relevant law**

- a) These rules apply to officers and anyone else managing or supervising contracts on behalf of the council. It is the responsibility of the relevant Assistant Director to make sure their staff follow these rules.
- b) The council may take disciplinary and/or legal action against anyone who breaks these rules or the relevant national or EU law.

### **25.4 Interests of councillors and officers in contracts**

#### **(a) Avoiding conflicts of interest**

Councillors, officers and anyone acting for the council in connection with the procurement, award and management of council contracts must act with the highest standards of probity and avoid conflicts of interest.

#### **(b) Councillors' interests**

Councillors must follow the councils' code of conduct (see section 19). In addition it is a criminal offence for a councillor not to declare a financial interest in a contract.

(c) **Officer interests, reports and advice**

Officers must declare interests in contracts. It is a criminal offence for an officer not to declare a financial interest in a contract. (This does not apply to an officer's own contract of employment or their tenancy of a council owned property).

Directors are responsible for recording officers' financial interests in a register that is kept in the department.

Officers should not write reports on something they have declared an interest in; or advise council or the cabinet or a committee on something they have declared an interest in,

**25.5 Gifts and hospitality**

(a) As a general rule councillors and officers must not accept:

- any gift (other than an inexpensive gift such as a calendar or diary for use in the office); or
- any hospitality

from suppliers or potential suppliers, or from any firm or organisation with whom the council has had, is having or may have any dealings of any kind - without the written authorisation of a Director.

“Hospitality” includes drinks, meals, entertainment, overnight accommodation, travel and holidays, but does not include a lift in a private or company car or a taxi or refreshments in the course of office duty (e.g. a working lunch).

(b) All staff who accept gifts or hospitality must complete a receipt of gift or hospitality form. Once completed the form should be sent to the Monitoring Officer.

(c) Directors must immediately enter in a register particulars of

- any gift (including how it has been returned to the giver or otherwise disposed of e.g. donated to the Lord Mayor for charitable purposes); and
- any hospitality.

**25.6 Procurement plan**

For each financial year, the council will agree and publish a procurement plan setting out contracts over £75,000 to be procured for the forthcoming three financial years.

**25.7 Before a contract is procured**

(a) Before undertaking a contract procurement the authorised officer must:

- identify the need for the services, goods or works in question and fully assess all options for meeting those needs (including recycling and re-use where appropriate)
- establish a business case for the procurement

- establish the council has the legal power to enter into the contract
  - contact strategic procurement to discuss the available options
  - make sure the project has been accepted onto the capital programme, if it is a capital project (see section 24.14) See capital programme governance document
  - consider whether there is an appropriate framework agreement or Office of Corporate Governance contract that could be used if the total contract value has been calculated (see section 25.27)
  - consider the council's procurement business plan as appropriate
  - choose a course of action which represents best value for money for the council – see section 25.36
- (b) The Chief Finance Officer must also consider the overall corporate arrangements and legal issues when arranging contracts with external bodies and ensure that the risks have been fully appraised before agreements are entered into with external bodies.

### **25.8 Estimating the total contract value**

- (a) The total contract value is the total amount (minus VAT) that is expected to be paid to the supplier as a result of the contract award during the whole of the contract. If the value is £50,000 per annum for two years, then the total value of the contract is estimated at £100,000. It includes
- the value of anything the council is getting for free as part of the contract
  - any amount that could be paid by extending the contract (if it is possible to extend it).
- (b) If the length of a contract is uncertain, its total value will be its estimated monthly value times 48.
- (c) A single contract must not be split into smaller contracts to get around these contract rules or the law, and supplies services or works must not be split to get around these contract rules or the law.
- (d) The contract must be treated as a high value procurement where there is a transfer of staff.

### **25.9 Format of contracts**

- (a) Contracts must be in writing.
- (b) Contracts must be executed as a deed if they are for property building and construction, nil consideration, probate, or if the Head of Legal Services advises they must be executed as a deed.
- (c) All other contracts must be signed by two officers who are authorised to do so.
- (d) Contracts over £75,000 must be in a form approved by the Head of Legal Services.
- (e) Contracts over the EU threshold must comply with relevant EU procurement law.
- (f) Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 if the strategic procurement manager is satisfied that the arrangements are secure.



## **25.10 Contract terms and conditions**

- (a) Contracts must be entered into on the council's terms and conditions, which will be referenced on each purchase order and included with each Invitation to tender ("ITT"). Exceptions to this rule must be approved by the Head of Legal Services.
- (b) Where contracts are subject to the Regulations, the rules relating to technical specifications will be followed and any reference to a technical standard, make or type will be prefaced with the words "or equivalent". This requirement applies to both Part A and Part B Services (as defined in the Regulations).
- (c) The standard terms and conditions of the council are available on the website.

## **25.11 When is there no need to seek quotes or tenders?**

### **25.11.1 Emergencies**

If there is an unforeseen emergency or a disaster involving immediate risk to persons, property or serious disruption to council services or significant financial loss any Director can approve waiving these rules after consulting the Head of Legal Services where practicable. They must prepare a report for the next cabinet to support the action taken.

### **25.11.2 Exempt contracts**

The following contracts are exempt from the requirements to obtain tenders and the requirement to execute a deed provided that quotations are sought.

- contracts for less than £75,000
- contracts relating solely to disposal or acquisition of an interest in land (see section 26), provided that the contract is not deemed to be a works contract in which case the contract shall be procured in accordance with these rules as a works contract
- individual personal care services
- transactions conducted by the Chief Finance Officer in respect of dealing in the money market or obtaining finance for the council
- contracts offered by the Head of Legal Services for the appointment of counsel
- sole supplier because of exclusive rights (e.g. alterations to statutory undertakers apparatus)
- council contracts of employment are exempt from these regulations

### **25.11.3 Where there is a written waiver**

In cases where the EU regulations do not apply, the relevant Director and the heads of strategic procurement and legal services can waive the requirements of any of the contract rules. All waivers and the reasons for them must be recorded using the designated form which can be found on the

document library. The waiver form must be signed by the Director and agreed by the heads of strategic procurement, legal services and the head of the relevant service area.

### 25.12 Purchasing Card Procurement

- (a) Purchasing cards are badged charge cards, issued to an individual for the express function of purchasing low value, low risk goods and services for the authority which are not available on corporate contracts via the CIVICA purchasing system.
- (b) Only the person whose name appears on the card is authorised to use the card up to the maximum transaction value as detailed in the table in [section 25.13](#)
- (c) They work in a similar way to personal credit cards, however they do not offer extended credit and the balance on the cards is automatically paid off monthly. Cash cannot be withdrawn except by nominated Emergency Response Officers.
- (d) Purchasing cards shall only be used in accordance with the Purchasing Card Cardholder User Guide which is available on the document library.

### 25.13 Table of purchase card limits

	<b>Maximum transaction limit</b>	<b>Maximum authorized card limit</b>
Director	£1,000	£5,000
Head of Service	£500	£2,500
3rd Tier Manager	£500	£2,500
Head Teacher	£500	£5,000
Stores Purchase Officer	£5,000	£50,000
Departmental Nominated Purchase Officer	£5,000	£10,000
Emergency Planning Officer	£10,000	£50,000
Senior Officer from Finance Department (for Emergency response purposes)	£10,000	£50,000

### 25.14 Lodge Cards

- (a) Lodge cards are a type of credit card which are badged and “lodged” with the supplier so the card number does not need to be quoted on each order. They provide a cost effective and simple means of managing and allocating spend, ensuring the availability of electronic management information without the need for placing purchase orders.

- (b) Lodge cards should be used with suppliers whose service is provided centrally to a service area such as schools catering, travel etc. Agreement for the use of a lodge card will only be given by the Strategic Procurement Manager.

#### **25.15 Low value procurement - thresholds for quotes and tenders**

- (a) Competitive quotations are not required for contracts or orders with an estimated value at or below £5,000. Unless there is a corporate contract already in place a written quotation must be obtained from the supplier before a formal purchase order can be issued. The purchase order must specify the services, supplies or works to be provided and set out the price and the terms of purchase.
- (b) To avoid unnecessary risk, only council approved purchasing suppliers should be used for low value procurement.
- (c) Approved suppliers are those who have registered and have been green flagged on the council's Sell 2 Plymouth vendor management portal which can be viewed at [www.sell2plymouth.co.uk](http://www.sell2plymouth.co.uk)
- (d) Quotations can be obtained either prior to or after supplier approval however purchase orders can only be placed after supplier approval via the Sell to Plymouth portal.

#### **25.16 Intermediate Value Procurement**

- (a) For procurements valued over £5,000 but below £75,000 and for works procurements valued below £200,000 at least three written quotations must be invited, one of which shall be from a local supplier, before a formal purchase order is issued specifying the supplies or services to be provided and setting out the price and terms of purchase. Faxed or e-mailed quotations are acceptable for these purposes.
- (b) To avoid unnecessary risk, only council approved purchasing suppliers should be used for intermediate value procurement.
- (c) Approved suppliers are those who have registered and have been green flagged on the Councils Sell 2 Plymouth vendor management portal. [www.sell2plymouth.co.uk](http://www.sell2plymouth.co.uk)
- (d) Quotations can be obtained either prior to or after supplier approval however purchase orders can only be placed after supplier approval via the Sell to Plymouth portal.

#### **25.17 High Value/High Risk Procurements**

- (a) For all procurements of goods and services valued above £75,000 or above £200,000 for works procurements or those where staff will transfer, a tender and contract award procedure must be conducted in accordance with these contract rules. The outcome of the contract award procedure must be recorded in the contracts register, which is maintained by the strategic procurement unit.
- (b) For all high value / high risk procurements, approval must be obtained for both the evaluation criteria and award of contract in accordance with the table in [section 25.18](#).
- (c) In the event of a re-tender due to legal obligations under procurement law, authorisation to re-tender is not required. In all other circumstances (i.e. new procurements) Business case approval must be sought in accordance with the table of authorisation detailed in [section 25.18](#).

- (d) Any contract that is funded by capital funds can only be approved if it is on the capital programme (see section 24)

### 25.18 Who can authorise contracts?

Contract Value	Who can authorise the tender/business case?	Who can approve the Evaluation Criteria?	To be placed on the Forward Plan?	Approval documents required	Who can award the contract?
Over £75,000 and less than £500,000	Head of Service	Head of Service	N/A (unless it constitutes a key decision)	Contract Award Report	Head of Service
Over £500,000 and less than £2,000,000	Portfolio Holder	Portfolio Holder	N/A (unless it constitutes a key decision)	Contract Award Report and Delegated Decision Report	Portfolio Holder
Over £2,000,000 or a key decision	Cabinet	Portfolio Holder	Yes	Contract Award Report and Cabinet Report	Cabinet

### 25.19 High value/high risk procurement process

- (a) Prior to the commencement of procurement the Authorised Officer will develop the procurement approach.
- (b) One of five procurement procedures must be used as appropriate for the particular procurement i.e. open, restricted, competitive dialogue, negotiated or predetermined framework agreement (information on these procedures are detailed below – see sections 25.21 to 25.25).
- (c) For procurements valued above £75,000 but falling below the EU threshold tender timescales and procedures can be adjusted accordingly but only after consultation with strategic procurement.
- (d) For procurements that constitute a key decision or are above £500,000, decisions to approve the business case must be taken by either the cabinet member or cabinet as detailed in [table 25.18](#) and the head of service needs to arrange for notice of the earliest date on which the decision could be taken to be placed on the forward plan. The head of service will also need to provide appropriate reports to the portfolio holder or cabinet using the standard forms that are available on the document library.

### 25.20 Application of the Regulations

- (a) Where an estimated value of a contract exceeds the current EU threshold then the contract must be procured in accordance with the Regulations, unless there is a suitable framework available. Under the Regulations, the contract may be tendered under the restricted, open, competitive dialogue or, in exceptional circumstances exhaustively set out in the Regulations, the negotiated procedure.
- (b) The current EU thresholds effective from 1st January 2010 are:

	Supplies	Services	Works
Value at which a Contract/Order must be put through the EU process	£156,442	£156,442	£3,926,60

- (c) For procurements subject to EU thresholds a contract notice in the prescribed form will be published in the Official Journal of the European Union (OJEU) in order to invite tenders for or expressions of interest.
- (d) Procurements for Part B services (as defined in the regulations) do not need to be advertised in the OJEU unless there is a possibility of cross border interest. The successful tenderer's details must be published in the OJEU.
- (e) The rules relating to technical specifications and the publication of contract award notices will be observed for all contracts as must the EU Treaty and the general principles of EU law including non-discrimination, equal treatment, proportionality, transparency and mutual recognition.
- (f) The Regulations set out the minimum timescales for receipt of expressions of interest and tenders (bids for the negotiated procedure). Where the council has published a Prior Information Notice announcing its forthcoming contracts for the year ahead, then the council may rely on reduced timescales as set out in the regulations if appropriate.
- (g) When using any procedure under OJEU, the contract award is subject to a mandatory 10-day standstill period. The 10 day standstill period starts on the day that all the suppliers are formally notified via either fax letters or e-mail of the decision to award the contract or conclude the framework agreement. This notice must also give details of the criteria for the award the reasons for the decision, including the characteristics and relative advantages of the successful tender, their respective score against the evaluation criteria (as set down in the ITT) and the score and name of the winning tenderer, and the date before which the council will not enter the contract or conclude the framework agreement. Once the 10 days have expired then on the next working day the council is able to place the contract with the successful tenderer (days to be added for bank holidays), if no valid challenge is received.
- (h) The regulations allow contracting authorities to reserve contracts for supported factories and businesses, Public Sector Procurement Directive Article 19 (Regulation 7 of the Regulations) applies. This directive is committed to ensuring equality of employment opportunity for everyone.

## 25.21 Restricted Procedure

- (a) The Authorised Officer must publish an advertisement:
- in OJEU (if required by the Regulations)
  - on the council's procurement portal ([www.devontenders.gov.uk](http://www.devontenders.gov.uk))
- (b) Only those suppliers selected by the council may be invited to tender. Suppliers will be selected on the basis of published pre-qualification criteria.

- (c) If the Regulations apply, a minimum of five suppliers must be invited to tender and in all other cases a minimum of three must be invited to tender.
- (d) The Restricted Procedure is the Council's chosen standard process for procurements above the EU threshold. Any other process can only be used if the relevant officers have agreed to waive this rule and have signed the necessary forms – see section 25.12.
- (e) If the regulations do not apply, tender timescales can be amended accordingly.

#### **25.22 Open Procedure**

- (a) The Authorised Officer must publish an advertisement in:
  - OJEU (if required by the Regulations)
  - on the council's procurement portal ([www.devontenders.gov.uk](http://www.devontenders.gov.uk))
- (b) The advertisement must contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract.
- (c) After the expiry of the deadline date for expressions of interest, the Council will send any party expressing an interest an ITT. The ITT must specify the return date for tenders.

#### **25.23 Negotiated Procedure**

- (a) This procedure may only be used after consultation with the strategic procurement manager and having obtained the agreement of the Head of Legal Services. It may only be used in very limited circumstances and is rarely used by local authorities.
- (b) The Authorised Officer must publish an advertisement in OJEU and the council's procurement portal. Only those suppliers selected by the council are invited to tender. Suppliers shall be selected on the basis of published pre-qualification criteria. Any notice will state that a negotiated procedure is being used.
- (c) A minimum of three suppliers should be invited to negotiate following publication of a notice.
- (d) At least two officers, at least one of whom must be a strategic procurement representative or their delegate, must be present at all times during the negotiations.
- (e) The authorised officer must keep proper records of all negotiations and these will be signed as such by all participants.
- (f) At all times during the negotiations, the council will consider and implement the principles of non-discrimination, equal treatment and transparency.

#### **25.24 Competitive Dialogue Procedure**

- (a) The competitive dialogue procedure is for use where the strategic procurement manager considers that the open or restricted procedure will not allow the award of the contract due to the fact that it is a particularly complex procurement. The use of the competitive dialogue procedure must be considered before the use of the negotiated procedure. It can only be used with the most

economically advantageous award criteria and this must be stated in the contract notice or accompanying descriptive document.

- (b) The council envisages the competitive dialogue procedure being used for many private public partnerships where contracts are complex and the technical means and/or the legal and financial structure cannot be determined without dialogue with suppliers.
- (c) In the case of a particularly complex contract, you may be aware of your needs but not know in advance what the best technical, and/or legal and/or financial solution is. A competitive dialogue procedure between buyers and suppliers is therefore necessary to identify the solution or solutions that best meet their needs. Such a dialogue is not allowed under the current open and restricted procedures. However, the process is time-consuming and the most expensive method of procurement.
- (d) The Authorised Officer must publish an advertisement in:
  - OJEU (if required by the Regulations)
  - on the council's procurement portal ([www.devontenders.gov.uk](http://www.devontenders.gov.uk)).
- (e) The Regulations set out further rules which apply to Competitive Dialogue Procurements. Competitive Dialogue procurements should be referred to the council's strategic procurement and legal services teams.

#### **25.25 Predetermined Framework Agreements**

- (a) Framework agreements set up by third party organisations may be used after consultation with the strategic procurement manager and head of legal services.
- (b) Framework agreements established by the council will be procured in accordance with the regulations.
- (c) When awarding call-offs (individual contracts), under framework agreements, the authority does not have to go through the full procedural steps in the Regulations again so long as the rules were followed appropriately in the setting up of the framework agreements themselves.
- (b) Call-offs under the framework agreement should be awarded within the terms laid down in the agreement.
- (c) Arrangements to enter into a contract through a call-off agreement will still require appropriate authorisations as shown in the table of authorisation in [section 25.18](#).

#### **25.26 Pre-qualification**

- (a) The council will only enter into a contract with a supplier if it is satisfied as to the supplier's:
  - eligibility in accordance with regulation 23 of the regulations and
  - economic and financial standing and
  - technical or professional ability.

- (b) Technical ability includes the supplier's quality management systems including human resources, health and safety and environmental management systems where relevant to the performance of the contract.
- (c) The council's standard pre-qualification questionnaire template document is available on the document library.

### **25.27 The Invitation to Tender**

- (a) The invitation to tender ("ITT") will include details of the Council's requirements for the particular contract including:
  - (i) a description of the services, supplies or works being procured;
  - (ii) the procurement timetable including the tender return date and time, which will allow a reasonable period for the applicants to prepare their tenders;
  - (iii) a specification and instructions on whether any variants are permissible (this must be stated in any OJEU notice);
  - (iv) the council's terms and conditions of contract;
  - (v) the evaluation criteria including scoring methodology and any weightings as considered appropriate;
  - (vi) pricing mechanism and instructions for completion;
  - (vi) whether the Council is of the view that the Transfer of Undertakings Protection of Employment (TUPE) regulations may apply;
  - (viii) form and content of method statements to be provided;
  - (ix) a requirement for tenderers to declare that the tender content, price, or any other particulars concerning the tender have not been unnecessarily disclosed to any other party;
  - (x) any further information which will inform or assist tenderers in preparing tenders;
  - (xi) a statement that the Council is not obliged to accept the lowest or any tender and that the tenderers are responsible for their own costs with regard to the tender;
  - (xii) the address for the return of a hard copy tender must be:

Plymouth City Council  
Strategic Procurement Department  
Civic Centre  
Plymouth  
PL1 2AA

Electronic tenders should be uploaded onto [www.devontenders.gov.uk](http://www.devontenders.gov.uk)



- (b) The council's standard tender template document is available on the document library and also on the procurement website.
- (c) The requirements of section 25.27(a) may be varied as appropriate for procurements falling under section 25.23 (negotiated procedure), section 25.24 (competitive dialogue procedure) and section 25.25 (predetermined frameworks)

### **25.28 Submission and Opening of Tenders**

- (a) Tenders must be submitted in accordance with requirements set out in the ITT. Tenders must be kept in a safe place by the strategic procurement department and remain unopened until the time and date specified for its opening. Tenders received after the specified date and time will not be considered or accepted by the council unless the strategic procurement manager is satisfied that there is sufficient evidence for the tender having been despatched in sufficient time for it to have arrived before the closing date and time.
- (b) Tenders must be opened by an officer of the strategic procurement department and one or more officers of the project team. An immediate record will be made of the tenders received including names, addresses and the date and time of opening.
- (c) Prior to the tender evaluation all officers of the tender evaluation team are required to sign a declaration of direct or indirect interest, canvassing and confidentiality form. The completed form should be returned to the strategic procurement department.

### **25.29 Electronic Tendering**

Requests for quotations (RFQs) and ITTs may be transmitted by electronic means. Quotations and tenders may be submitted by electronic means provided that:

- (i) evidence that the transmission was successfully completed is obtained and recorded;
- (ii) electronic tenders are kept in a separate secure folder under the control of the strategic procurement department, which is not opened until the deadline has passed for receipt of tenders.

### **25.30 Tender Evaluation**

- (a) Tenders will be evaluated in accordance with the weighted evaluation criteria which must be detailed in the ITT.
- (b) All contracts, except contracts where lowest price was predetermined to be the appropriate criteria, will be awarded on the basis of the offer which represents 'Best Value for Money' to the council.
- (c) The evaluation criteria must be predetermined, given weightings, and listed in the ITT documentation, in order of importance if applicable. The criteria must be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

### **25.31 Evaluation Team**

For each contract subject to the regulations or for goods and services valued above £75,000, or for works procurements valued above £200,000 the authorised officer will form an evaluation team with responsibility for evaluating tenders.

### **25.32 Bonds, Guarantees and Insurance**

- (a) For high value procurements, the evaluation team will consider as part of its prequalification assessment and evaluation process whether a performance bond and/or a parent company guarantee (if applicable) will be required from the preferred supplier.
- (b) The evaluation team must also consider the appropriate type and level of insurance requirements for each contract (e.g. employer liability, public liability, professional indemnity, etc.).

### **25.33 Award of Contract**

- (a) A contract may only be awarded by an officer with the requisite delegated authority to award contracts. The authorised officer should make sure that the budget holder responsible for the contract has sufficient funds in place to sustain the contract prior to award. For all procurements valued at above £500,000 the decision to award a contract must be made by the cabinet member for the relevant portfolio. (See the table in [section 25.18](#) which demonstrates the decision levels within the council).
- (c) In the event that the council does not wish to award a contract after evaluating a tender response the authorised officer should advise all suppliers in writing detailing the reason for the decision and the way forward.

### **25.34 Debriefing**

- (a) The authorised officer responsible for the procurement will provide feedback to all unsuccessful tenderers, detailing the reasons for the decision, including characteristics and relative advantages of the successful tenderer. Scores of the unsuccessful bidder and the winning bidder must also be issued with the award decision.
- (b) Should the unsuccessful tenderer request a further debrief after receipt of the feedback detailed in [section 25.37\(a\)](#) it is the responsibility of the authorised officer to do so. The standard agenda for the debriefing is available on the document library.

### **25.35 Contract Award Notice**

Where a contract has been tendered pursuant to the regulations, the council will publish a contract award notice in OJEU no later than 48 days after the date of award of the contract.

### **25.36 Copies of tenders and contracts and register of contracts**

#### **Keeping copies of old tenders and contracts**

- (a) The Authorised Officer in respect of a particular procurement must maintain a list of all tenders received.

- (b) For every individual contract, a contracts file must be maintained by the chief officer. If the total contract value is over £10,000, the chief officer must keep a copy of the contract for at least seven years from their end date if they were signed; and for at least 13 years from their end date if they were sealed,

### **Keeping a register of contracts**

- (a) The strategic procurement unit will allocate a contract number to each individual contract and will maintain a register of all contracts awarded above £75,000.
- (b) Each chief officer will maintain their own register of all other contracts entered into by their department.

### **What will the register record?**

For each contract, the register will record:

- what the contract is for;
- the total contract value;
- the name of the contractor;
- the start and end dates;
- the procurement method used
- whether the contract can be extended and how;
- whether a certificate was issued under the Local Government (Contracts) Act.

### **25.37 Joint Procurement**

- (a) Any joint procurement arrangements with other bodies including membership or use of purchasing consortia must be approved by the strategic procurement manager and the head of legal services prior to the commencement of any procurement on behalf of the council.
- (b) Approval will only be given where the joint procurement arrangement assures compliance with the regulations.

### **25.38 Consultants**

- (a) Any consultants used by the council must be appointed in accordance with these contract rules. The authorised officer must ensure that the consultant's performance is monitored.
- (b) Where the council uses consultants to act on its behalf in relation to any procurement, then the authorised officer must ensure that the consultants carry out any procurement in accordance with these rules.
- (c) No consultant may make any decision on whether to award a contract or who a contract should be awarded to.

### **25.39 Statistical Returns**

- (a) Each year the council will make a statistical return to the government for onward transmission to the European Commission concerning the contracts awarded during the year under the regulations.
- (b) The strategic procurement manager is responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Directors will comply with these arrangements.

### **25.40 Contract Extension and Variation**

- (a) Any contract may be extended or varied in accordance with its terms but subject to the advice of the Head of Legal Services and the strategic procurement manager. Where the terms do not expressly provide for extension, contracts subject to the regulations may be extended by negotiation in accordance with the rules set out in the regulations. Such extension must be notified to the individual cabinet councillor for the relevant portfolio and EU rules taken into consideration.
- (b) Other contracts may be extended by negotiation in the same circumstances. The authorised officer must always be satisfied that extension will achieve best value for money and is reasonable in all the relevant circumstances. Such extension must be notified to the cabinet member for the relevant portfolio and a contract extension/exemption form must be completed and duly authorised.

### **25.41 Termination of Contracts**

Contracts may only be terminated after seeking advice from the strategic procurement manager and the Head of Legal Services. For any contract exceeding £500,000 in value, termination must be approved by the cabinet member for the relevant portfolio. For any contract that is a key decision or is valued above £2,000,000 termination must be approved by the cabinet.

### **25.42 Review and Amendment of Contract Rules**

- (a) These contract rules will be reviewed and updated on a regular basis by the strategic procurement manager.
- (b) The strategic procurement manager will produce guidance to the use of contract rules.

### **25.43 Interpreting the contract rules**

Questions about the contract rules and any related guidance will be dealt with by the strategic procurement manager or Head of Legal Services. Their interpretation will be final.

## 26 Property Disposal Rules

### In this section:

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### 26.1 When do the land and property disposal rules apply?

- (a) The land and property disposal rules apply to all disposals of land and property by the council. They require each service department to formally determine whether a property is surplus to its requirements, after which all other service departments are given the opportunity to consider its re-use for operational purposes, before disposal. The respective ward councillors are also notified of the pending disposal for their information
- (b) The rules aim to generate additional capital receipts, relating to property transactions.
- (c) As disposal of land held by councils can be contentious it is important that officers follow the council's land and property disposal guidelines to demonstrate good practice, avoid allegations of impropriety and avoid or defeat legal challenge. Where a disposal also involves construction works advice should be obtained from procurement or legal services to establish whether the contract rules in relation to works contracts also apply. See [section 25](#).

### 26.2 Need to follow these rules

- (a) In order to comply with legislation and best practice it is essential that the procedures adopted for land disposals seek to obtain the best terms reasonably available:
- (i) allowing all interested parties an equal opportunity to lease or purchase
  - (ii) avoiding partiality or bias
- (b) In respect of each disposal (or series of disposals) the corporate property team will declare the land/property surplus to requirements and available for disposal.
- (c) In respect of each disposal the Assistant Director for Economic Development will evaluate all relevant matters to the disposal of the property concerned and make a recommendation on the most appropriate method of disposal and in the case of disposal by private treaty, whether a special purchaser be offered direct negotiations. The evaluation will include the financial costs or benefit to the council of the method of disposal recommended.
- (d) Every disposal of land by way of tender must comply with these rules and no exception from any of the following provisions of these rules shall be made otherwise than by the direction of the council.

### **26.3 Tenders**

- (a) Where land/property is to be disposed of by way of tender the Assistant Director for Economic Development will advertise the council's intention in a suitable publication. The advertisement will include the following:
- a description of the property to be disposed of
  - an indication that particulars are available from the commercial property service
  - the date by which tenders should be returned
- (b) Tenderers shall be requested when returning the tender to provide such evidence of their financial standing as is deemed appropriate in respect of each disposal.

### **26.4 Use of select list tenders**

- (a) Where land/property is to be disposed of by select list tender in order to facilitate development, the Assistant Director for Economic Development will publish an advertisement in a suitable publication inviting expressions of interest in the property to be disposed of.
- (b) All persons/organisations responding to the advertisement will be issued with particulars which will include details of the property to be disposed of and, if appropriate, an outline of the council's objectives in securing disposal.
- (c) The particulars will stipulate the information that prospective purchasers will provide in order to be considered for invitation to tender. This will include:
- the prospective purchasers experience of property development
  - copies of the prospective purchasers audited accounts covering the previous three years
  - where appropriate, preliminary drawings of the development proposed
- (d) The closing date for deposit of submissions to the council shall be stipulated in the particulars.
- (e) Invitations to tender shall be sent to not fewer than four of the persons who have deposited submissions in response to the advertisement. If fewer than four such persons apply, all shall be invited to tender if, in the opinion of the Assistant Director for Economic Development, they are suitable tenderers and subject to financial appraisal by the Chief Finance Officer.

### **26.5 Information to be given to tenderers**

Each invitation to tender, or where the tender is by way of open tender, the tender documents, shall state:

- (a) that no tender will be received except in a plain sealed envelope addressed to:

Legal Services  
Plymouth City Council  
Civic Centre  
Plymouth  
PL1 2AA

which must bear the word TENDER and indicate the land/property to which it relates.

- (b) clearly specify the date and time before which the tender must be returned. Any tender returned after the specified time shall not be considered and must not be opened but kept in a safe place by an officer delegated by the head of legal services until the tender has been awarded. After award, the late tender may be opened to find out the name and address of the tenderer and returned to it, with a note recording the circumstances of its return.
- (c) that any indication on the envelope identifying the tenderer will invalidate the tender.

#### **26.6 Receipt of tenders**

- (a) All tenders will remain in the custody of the head of legal services until the time appointed for their opening.
- (b) The head of legal services will record, in a book to be kept for the purpose; the tenders received and indicate on each tender envelope received the date and time of such receipt.

#### **26.7 Opening of tenders**

- (a) Tenders will be opened at the appointed time by the head of legal services and assistant director for economic development or other senior officers authorised by them.
- (b) The representative of the head of legal services will list the names of the tenderers and where practicable the respective amount thereof.
- (c) The assistant director for economic development will initial the tenders and arrange for their immediate tabulation and any necessary further negotiation and checking.
- (d) The assistant director for economic development will give written notice to the cabinet member of the time appointed for the opening of the tenders so that he/she may be present at the time.

#### **26.8 Acceptance of tenders**

- (a) No tender other than the highest tender will be accepted by the cabinet member unless s/he and the monitoring officer have considered a written report from the assistant director for economic development.
- (b) As soon as possible after the opening of the tenders the assistant director for economic development will write to the unsuccessful tenderers informing them of the outcome of the tender exercise.

### **26.9 Informal and negotiated tenders**

- (a) The preceding paragraphs will apply to informal and negotiated tenders unless they are inconsistent with this paragraph.
- (b) Following the opening of the tenders the assistant director for economic development or an officer authorised by him/her will enter into negotiations regarding the fulfilment of conditions but will not seek to increase the basic tenders put forward nor accept increased offers from unsuccessful tenderers.
- (c) In cases where the scale, complexity or perceived sensitivity of the negotiation is of particular importance, the negotiating officer will, whenever possible, be accompanied to meetings by another council officer. (The requirement for a second council officer will be deemed to be met if the negotiations are attended by an officer of another local authority or government department or by a representative of external advisers appointed by the council).
- (d) Meetings will normally take place at the council's offices or at the offices of the council's advisers, on site, at the premises of the prospective purchaser/lessee or those of their advisers or at the offices of another local authority or government department. Any departure from this practice will be formally recorded on file and notified to the head of service.
- (e) Notes of meetings and telephone calls should be recorded at the time on the file.
- (f) Where external consultants have been appointed to advise the council, these rules apply equally to the external consultants as they would to council officers.

### **26.10 Councillors role in land and property transactions**

- (a) Councillors should not be involved in negotiations on land and property transactions with third parties. Councillor involvement in the discussion of initial scheme proposals (e.g. the assessment of schemes at expression of interest or formal tender stage) will occasionally be necessary but this should only be in the format of proper meetings and presentations organised in consultation with the cabinet member and head of service. Such meetings must be recorded and noted on the file. Where a third party attempts to involve a councillor in negotiations, the councillor will refer the same to the Monitoring Officer and will have no further part in the transaction concerned.
- (b) No councillor shall issue any order in respect of works required on any council site or property.
- (c) Similarly, no councillor shall claim any right to enter upon land and premises not in council ownership but which the council has a right or duty to inspect.
- (d) Any councillor proposing to inspect any council building or works shall not do so without the authority of the head of capital and assets, in consultation with the cabinet member responsible for property and shall report back to the cabinet member.'
- (e) The Leader, cabinet and cabinet members will take executive decisions about land and property transactions based on written reports from officers (see section 4).



## **26.11 Surplus Property Procedures**

### **What are the procedures that apply when disposing of surplus operational property (excluding Minor Garden Land Disposals)?**

#### **A Advance Notification**

Where there is potential for any property to become surplus to requirements, the relevant departmental officers will consult with the cabinet member, departmental management team and with the relevant officers in the corporate property team at the earliest possible stage

#### **B Surplus Property Declaration**

Where property is no longer required for the purpose for which it was originally acquired or held, or has become unsuitable for purpose or is significantly underused, the responsible controlling head of service will, in consultation with the cabinet member and departmental director, make a recommendation to the head of capital and assets to declare the property surplus to requirements.

#### **C Interim Management**

Management of property declared surplus to requirements will immediately transfer to the corporate property team.

#### **D Options for re-use**

Upon being advised of property being declared surplus, the head of capital and assets will inform all council departments of its availability and a minimum of 14 days will be allowed for them to indicate any requirements for service provision. Ward councillors will also be notified of impending disposal.

If surplus property is required for service provision and has a value in excess of £250,000, the head of service requiring the property will, following consultation with the cabinet member, head of capital and assets and departmental director, prepare a report for consideration by the corporate management team, which will determine whether the property should be retained, or proceed to disposal. If the property has a value less than £250,000 the decision to retain the property or proceed to disposal will be made by the head of capital and assets in consultation with the cabinet member responsible for asset management.

#### **E Requirement for Service Provision**

If the corporate management team determines that a property will be retained for future service provision, management will transfer to the head of service seeking the property or, in the case of public open space, revert to the original responsible head of service.

#### **F Disposal**

If surplus property is not required for service provision, the head of capital and assets and/or assistant director of economic development or other nominee will proceed to make arrangements for its disposal in accordance with the council's land and property disposal guidelines.

If land declared surplus to requirements is underused public open space or allotments that by virtue of legislation require advertisements and the invitation of objections, an appropriate advertisement will be placed in the local press.

If objections are received in response to an advertisement of intention to dispose of public open space, the head of capital and assets and/or assistant director of economic development will consult with the cabinet member and prepare a report for consideration by the corporate management team to determine whether disposal should proceed.

## **G Minor Property Interests**

Where land being prepared for disposal has a value of less than £100,000 and an area of less than 0.25 hectares, in the case of no alternative use having been put forward, the head of capital and assets and/or assistant director of economic development may declare the property surplus to requirements.

However, the surplus property disposal procedure does not apply to minor garden/amenity land disposals (see policy for disposal of amenity land).

## **What rules apply when disposing of surplus non operational property (Excluding Minor Garden Land Disposals)?**

### **Non operational property**

## **H Leases Incorporating Options**

In all cases where the council is contractually committed to sell through clauses in existing agreements, the properties will be declared unconditionally surplus to requirements and the appropriately authorised officer will proceed to disposal in accordance with contract requirements.

## **I Other Income Producing Properties**

The assistant director for economic development may declare property surplus to requirements if the following conditions are met:

- a) The property is an investment property – occupied and let in a non-operational capacity
- b) The property is not required for current or anticipated future service provision

Properties to be sold or let will proceed to disposal in accordance with the council's land and property disposal guidelines.

## **J Vacant Investment Property**

If investment property is vacant or there is a reasonable likelihood of its becoming vacant and is no longer required for service provision, the assistant director for economic development will inform other council departments of its availability for service provision and policies D, F and G above will apply.

## **K Formal Approvals**

Approval Procedures

Decisions reached by the head of capital and assets in relation to surplus property declaration and re-use of surplus property will be subject to the approval of the relevant cabinet member for the property service or cabinet where necessary (see section 4).

**L Investment properties (including employment land)**

Disposal Procedures

Sites and buildings which are held by the council for economic policy reasons will be deemed to be surplus when disposals are contemplated with the objective of accommodating specific occupiers. In such circumstances, disposal negotiations will be undertaken by private treaty and based on normal market terms.

## **APPENDICES**

### **27 Councillor Call for Action - guidance**

#### **Guide to Councillor Call for Action**

##### **1 Introduction**

The Local Government and Public Involvement in Health Act 2007 introduced the Councillor Call for Action (CCfA) from 1 April 2009. This guide sets out how Plymouth city councillors can use this power.

##### **2 What is a Councillor Call for Action?**

- 2.1 In their day-to-day role, councillors identify concerns in their communities and try to resolve them by talking to the council and other service providers. If they can't resolve a particular issue they can make a 'Councillor Call for Action' which asks for the matter to be referred to the overview and scrutiny management board for further investigation.
- 2.2 Any councillor can refer an issue to the management board. Issues must relate to the city council's functions, affect all or part of the councillor's ward or any person who lives or works in the ward and can include matters that the council and its partners are delivering.
- 2.3 The Police and Justice Act 2006 makes provision for a CCfA for crime and disorder and community safety issues. In practice, referrals made relating to these issues should be dealt with in the same way as other CCfAs.

##### **3 How does it work?**

- 3.1 The councillor attempts to resolve the issue at a local level in the usual way e.g. raising it as casework with the appropriate officer and/or cabinet member, through the formal complaints procedure of the council, with the relevant partner organisation, questions to council/committee, a motion on notice to the city council and so on.
- 3.2 If these approaches don't resolve the matter or if it is a persistent matter, the councillor can refer the issue to the Democratic and Member Support Manager (by using the form at Appendix A) who will discuss it with the chair of the management board.
- 3.3 It should be noted that the CCfA is intended to be a measure of last resort and may not be considered until all other avenues have been tried.

##### **4 Criteria for considering requests for a CCfA**

###### **4.1 Background information**

Has enough information been provided to enable a view to be taken as to:

- which service/functions of the city council or partner organisation are most relevant to the CCfA?
- whether the request relates to the councillor's ward or to a person who lives or works in the ward?

- what steps have already been taken to try and resolve the issue?

#### 4.2 Outcome

Has the councillor clearly stated the desired outcome?

#### 4.3 Use of existing procedures

Have the city council's procedures (or partners' procedures) for resolution of issues been used without success? Councillors will need to demonstrate that they have taken reasonable steps to resolve the matter. (See Appendix B)

#### 4.4 History

- Has the same issue been the subject of a previous CCfA?
- Is the length of time that has elapsed between the date of the last action by the councillor to try to solve the problem and the request for the CCfA such that the CCfA can no longer be regarded as a timely and suitable method of resolution – a time bar of 6 months is suggested.

#### 4.5 Vexatious

Is the matter vexatious/not reasonable? (Likely to cause distress/disruption or irritation without any proper or justified cause?)

#### 4.6 Discrimination

Is the subject matter discriminatory? (Discriminates against another in relation to their race/religion/faith/belief/sexual orientation/gender/disability)

### 5 Referral to scrutiny

5.1 The chair of the management board will consider the request and inform the councillor whether they accept the request. In the event of disagreement between the councillor and the chair, the matter will be referred to the Assistant Director of Democracy and Governance.

5.2 Reasons the chair of the management board may not agree to take the CCfA forward to the management board could include:

- Not enough information has been provided
- More could be done to resolve the issue at local level
- The matter has recently been examined by scrutiny
- The matter is the subject of an ombudsman complaint or other official complaints procedure
- The matter is excluded by legislation. For example, planning and licensing applications/appeals

- The CCfA is vexatious or discriminatory

- 5.3 The Democratic and Member Support Manager will notify the councillor, within 14 days of the request being made, of the outcome of the initial consideration of the CCfA request.
- 5.4 The councillor may reply to the chair with further information to support the CCfA.
- 5.5 If the CCfA is accepted, the management board will include the CCfA on the agenda at the first available business meeting following the initial consideration of the request.

## **6 Role of the Overview and Scrutiny Management Board**

- 6.1 The management board will hear from relevant witnesses, including the councillor submitting the CCfA, and reach a conclusion as follows:
- Write a report setting out their findings and recommendations to Cabinet/a partner organisation as appropriate
  - Decide that the CCfA matter is complex that needs further investigation and refer the matter to another body for more detailed scrutiny (refer it to the appropriate scrutiny panel or set up a task and finish group)
  - Decide not to take any action
- 6.2 The outcome of the meeting will be published and details sent to the councillor who submitted the CCfA, relevant cabinet members and partners (subject to the rules on confidential and exempt information).
- 6.3 The councillor who submitted the CCfA will advise the individual(s) who made the initial representations of the outcome of the CCfA.
- 6.4 Where cabinet members and partners are asked to take action to resolve a particular issue they will be asked to make a formal response to a future meeting of the management board within 28 days, complying with the new requirement, the Duty to Respond.

## Request for the Overview and Scrutiny Management Board to consider a Councillor Call for Action

Councillor:			
Ward:			
Summary of issue and why it should be raised with the Management Board ( <i>You may wish to attach a letter or an email instead of completing this box</i> )			
CCfA should only be considered as a 'last resort' when you have made all reasonable efforts to resolve the problem. Have you had discussions with any of the following?			
		Date	Contact name/Tel no.
Cabinet Member	Yes/No		
Director/Chief Executive	Yes/No		
Assistant Director	Yes/No		
Other council officer	Yes/No		
Other ward member	Yes/No		
Partner organisation representative (e.g.: NHS, police)	Yes/No		
Please give details of the outcome of the discussions you have had (continue on an additional sheet if necessary) or include this information in a letter/email attached to this form.			

What outcome do you hope to achieve from your CCfA?

Certain statutory exclusions apply to the CCfA process. Please answer the following questions:

- |   |        |
|---|--------|
| Does it relate to a complaint made by an individual or organisation?                | Yes/No |
| Does it relate to a planning, licensing, Council Tax/Benefit application or appeal? | Yes/No |
| Does it relate to an issue currently under dispute in a court of law?               | Yes/No |

Signed:.....Date:.....

Please complete and return this form to Judith Shore, Democratic and Member Support Manager,  
Plymouth City Council, Council House, Plymouth PL1 2AA  
or email it to: [judith.shore@plymouth.gov.uk](mailto:judith.shore@plymouth.gov.uk)



**Examples of the steps which a councillor could be expected to have taken before submitting a Councillor Call for Action to overview and scrutiny**

- 1) **Resident or stakeholder raises matter with the councillor** at a surgery or other meeting point. The councillor emails or speaks to the appropriate officer and/or portfolio holder and reports back on the action taken. When a reply is received, the councillor advises the resident whether the matter has been resolved or not, and the next steps. If the matter remains unresolved and has wider significance for a community or area, the councillor will refer the matter to the chair of the overview and scrutiny management board and the Democratic and Member Support Manager.
- 2) **The relevant complaints procedures have been complied with**

If the issue appears to be that a standard service has not been provided, or not provided to a sufficient standard, the councillor should check that the relevant complaints procedure has been used and that the service provider has responded to the complaint.
- 3) **The appropriate officer has been approached**

The issue may be that local people feel that the standard service is not the right one for local conditions and therefore the matter may be a question of making some slight adjustments at management's discretion. The councillor would therefore be expected to have discussed the matter with the appropriate senior manager in an attempt to secure the change. This process could apply across the range of partner agencies.
- 4) **Relevant partnerships or local groups have been approached**

It is more likely that matters which merit a Councillor Call for Action are more complicated than the examples above. One likely possibility is that the matter requires attention from a number of agencies acting in partnership. The councillor should in such cases demonstrate that local partnership bodies have had an opportunity to respond. For example, it may be appropriate for a councillor to raise an issue at a Partners and Communities Together (PACT) meeting that covers their local area.
- 5) **The relevant Cabinet members have been approached**

The councillor may come to the view that a pattern of conditions in the local area can only be addressed through a substantial policy change. In that case, the management board will expect to see that the councillor has approached the relevant cabinet members and at least given them a reasonable opportunity to respond.

## 28 Petitions - guidance

### **Plymouth City Council's Petition Scheme**

Plymouth City Council welcomes petitions and understands that they are one way in which people's concerns can be expressed.

Within 10 working days of receiving your petition, we'll let you know how we plan to deal with the petition and when we will respond to you. We'll also say as much as we can about what we have done, or plan to do, with the petition.

Petitions may be sent, either on paper or via email, to:

- Democratic Support, Plymouth City Council, Plymouth PL1 2AA
- [democratic.support@plymouth.gov.uk](mailto:democratic.support@plymouth.gov.uk)
- First Stop (the main reception at the Civic Centre) (paper copies only)

Plymouth City Council will consider all petitions received. (We will treat it as a petition if you say it is a petition, or if it seems to us that it is intended to be a petition.) The minimum number of signatures required on a petition is 25.

### **What are the guidelines for submitting a petition?**

Petitions must include:

- a clear statement covering the subject matter
- what the petitioners want the council to do and
- the name, address and signature of everyone supporting the petition

Petitions should be accompanied by contact details (address [and email if available]) for the petition organiser (this is the person the council will contact to give a response to the petition). Anyone who lives, works or studies in the city of Plymouth may sign a petition.

### **When will a petition not be accepted?**

A petition will not be accepted or dealt with:

- if it is considered to be vexatious, abusive or otherwise inappropriate
- it relates to matters where there are ongoing legal proceedings
- it targets individuals
- it applies to a matter where there is already a right of appeal (e.g. planning or licensing applications or statutory petitions (such as that for requesting a referendum on having an elected mayor) as these will be dealt with under separate arrangements

If your petition is about something over which the city council has no direct control we may consider making representations to the relevant organisation and, where possible, ask partners to respond to you. If your petition is about something that another council is responsible for, we will forward it to that council, and let you know that we have done so.

## How will the Council respond?

The response to a petition will necessarily depend on what it is asking for and how many people have signed it, but may include:

- taking the action requested
- considering the petition at a council meeting
- holding an inquiry or researching the matter
- holding a public meeting or a meeting with petitioners
- holding a consultation
- referring the petition to the relevant Scrutiny Panel
- calling a referendum
- writing to the petition organiser giving our views about the request and / or letting you know what the city council has already decided to do or proposes to do on the issue

## Exclusions

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here:

- Planning
- Licensing
- Council tax bands and business rates

## Debate at city council meetings (over 5,000 signatures)

If the petition has received 5,000 signatures it will automatically trigger a debate at the next ordinary city council meeting. In this case, we will confirm the date of the next meeting and the petition organiser will be given five minutes to present the petition and put forward his / her case for the action requested.

At the meeting, the city councillors will decide how to respond to the petition and the petition organiser will receive written confirmation of this decision, which will also be published on the council's website as part of the minutes for that meeting.

## Officer evidence (over 2,500 signatures)

If your petition contains at least 2,500 signatures, you may ask for a senior council officer (Chief Executive, Assistant Chief Executive, Directors and Assistant Directors) to give evidence at one of the Council's Scrutiny Panels (e.g. to explain progress or to explain the advice given to councillors to assist their decision making). The Panel may also require the relevant Cabinet Member to attend the meeting. Panel members will ask the questions at this meeting, but you can suggest questions to the Chair of the Panel by contacting the Democratic Support team ([democratic.support@plymouth.gov.uk](mailto:democratic.support@plymouth.gov.uk)) at least seven working days before the meeting.

**What can I do if I feel my petition has not been dealt with properly?**

If you feel that the council has not dealt with your petition properly, the petition organiser has the right to ask the relevant scrutiny panel to review the council's response. The petition organiser should give a short explanation as to why the council's response is not felt to be adequate.

That scrutiny panel will try to consider your request at its next meeting. Once the appeal has been considered the petition organiser will be informed of the results within 5 working days and they will be published on the council's website as part of the minutes for that meeting.

*Please note:*

In the period immediately before an election or referendum 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.

## 29 Policy Framework

The policy framework is made up of a series of Statutory Plans and Strategies listed below:

### **Statutory Plans and Strategies**

- Corporate Plan
- Children and Young People's Plan
- Licensing Authority Policy Statement – Gambling Act 2005
- Local Development Framework (Documents)
- Local Transport Plan
- Sustainable Community Strategy
- Youth Justice Plan

### **Local Choice Plans and Strategies**

- All Our Futures (Plymouth's Strategy for the Over 50's)
- Capital Strategy and Asset Management Plan
- Housing Strategy
- Investment in Children (comprising Strategy for Change and Building Schools for the Future)
- Plymouth Economic Strategy
- Waste Management Strategy

## 30 Councillors' allowances

**MEMBERS' ALLOWANCE SCHEME\*****Summary of basic allowance and special responsibility allowances**

<b>Post</b>	<b>Basic Allowance</b>	<b>Special Responsibility Allowance</b>	<b>Total Allowance per Member</b>
<b>Basic Allowance</b>			
All members	£10,044.84		£10,044.84
<b>Band One</b>			
Leader	£10,044.84	£30,131.76	£40,176.60
<b>Band Two</b>			
Deputy Leader	£10,044.84	£21,202.44	£31,247.28
Cabinet Member	£10,044.84	£20,085.60	£30,130.44
Chair of Overview and Scrutiny Management Board	£10,044.84	£20,085.60	£30,130.44
<b>Band Three</b>			
Overview & Scrutiny Panel chairs	£10,044.84	£10,044.84	£20,089.68
Chair of Planning			
Chair of Licensing (Misc)			
Chair of Licensing (Hackney Carriage)			
Leader of the largest minority party			
<b>Band Four</b>			
Overview and Scrutiny Management Board members	£10,044.84	£5,022.36	£15,067.20
Chair of Audit			
Leader of other minority parties			
Deputy Leader of largest minority party			
Vice chair of Planning			

<b>Post</b>	<b>Basic Allowance</b>	<b>Special Responsibility Allowance</b>	<b>Total Allowance per Member</b>
<b>Band Five</b>			
Chair of Standards Committee (independent member)		£1,027.44	£1,027.44

- (1) There are also the Lord Mayor's and the Deputy Lord Mayor's Personal Allowances, which fall outside the scope of this scheme
- (2) Only one special responsibility allowance is payable to an individual Member and in cases where a Member is eligible for more than one allowance, only the higher allowance is payable.

All allowances are subject to the annual Local Government pay percentage increase as agreed each April. (Note: Members did not receive any increase in allowances in the 2009/2010 and 2010/2011 financial years)

\*Scheme originally approved by Plymouth City Council 4 February 2008

**Senior Management Structure**

Chief Executive

Assistant Chief Executive

Head of Policy, Performance and Partnerships

Head of Communications

Director of Services for Children and Young People

Assistant Director, Learner and Family Support

Assistant Director for Lifelong Learning

Assistant Director for Children's Social Care

Director for Community Services

Assistant Director for Culture, Sport and Leisure

Assistant Director for Environmental Services

Assistant Director for Safer Communities

Assistant Director for Adult Health and Social Care

Director for Development and Regeneration

Assistant Director for Planning Services

Assistant Director for Transport

Assistant Director for Strategic Housing

Assistant director for Economic Development

Director for Corporate Support

Assistant Director for Customer Services and Business

Assistant Director for Finance, Assets and Efficiencies

Assistant Director for Information and Communication Technology (ICT)

Assistant Director for Human Resources and Organisational Development

Assistant Director for Democracy and Governance



## Glossary

Authorised officer	A person with appropriate delegated authority to act on behalf of Plymouth City Council
Beneficial Interest	An interest that can be benefited from – a person would have a beneficial interest in something that belonged to them or that was being held for them in a trust
Best consideration	The best deal
Best value for money	The optimum combination of whole life costs and benefits to meet the customer's requirement. This term equates to the European Union's procurement requirement; 'most economically advantageous offer.
Budget and policy framework	The council's overall budget and policies
Call in a decision	Call in is a process where the overview and scrutiny management board can recommend that an executive decision that has not yet been carried out, is reconsidered by the decision maker
Case tribunals	Tribunals to hear complaints that are about councillors and that have been referred by Standards for England
Chief officer	The Chief Executive, Directors, Heads of service, Head teachers, Principals and governing bodies
Development control	System for dealing with planning applications
Ethical standards officer	A person that Standards for England appoints to investigate a complaint that a councillor has broken the councillors' code of conduct
EU	European Union
Framework agreement	An agreement that allows Plymouth City Council to lawfully contract with a supplier to provide supplies, services or works in accordance with the terms of the agreement
General fund	The fund for the council's finances in most areas (but not council housing finance)
Local development framework	documents that show how land in the city can be used and that guide decisions on planning applications
ICT	Information and communications technology
ITT	Invitation to tender

Maladministration	When a council is inefficient or unreasonable or does not follow its own procedures
Nominal value of a share	The value shown on the share certificate
OJEU	Official Journal of the European Union
Officer	The officer designated by the Chief Officer to deal with the contract in question
OGC	Office of Government Commerce
Policy framework	The council's overall policies
Portfolio holder	The cabinet member with the responsibility for the relevant service as part of their portfolio (see 4.8 and 6)
PQQ	Pre-qualification questionnaire
Proper officer	Officer given a responsibility that the law requires to be done by a specified post holder
Quotation	A quotation of price and any other relevant matter (without the formal issue of an ITT)
Regulations	The Public Contracts Regulations 2006 (as amended) and all other UK law implementing EU public procurement directives from time to time
RFQ	Request for quotation
Securities	Stocks, shares, bonds or anything else that pays interest or dividends
Supplier	Any person, body of persons or other legal entity providing, or seeking to provide, supplies, services or works to the council.
Tender	A proposal submitted in response to an ITT
TUPE	Transfer of Undertakings (Protection of Employment) regulations 1981 (as amended)
Vires	Legal power to do something

20 JUNE 2011

**COMMITTEE/OUTSIDE BODY APPOINTMENTS**

Report of the Director for Corporate Support

Committee Appointments

	<b>Committee</b>	<b>Appointments/Change of membership</b>
1.	Licensing Committee (Miscellaneous)	Councillor McDonald has replaced Councillor Murphy
2.	Overview and Scrutiny Management Board	Councillor Reynolds has replaced Councillor Lock as a substitute member
3.	Support Services Overview and Scrutiny Panel	Councillor Stevens has replaced Councillor Tuffin
4.	Mount Edgcombe Joint Committee	Councillors Wendy Foster and Browne have been appointed Second Conservative substitute member is Councillor Lynda Bowyer
5.	SACRE	Councillor Mrs Aspinall has replaced Councillor Tuohy

Outside Body Appointments

	<b>Organisation</b>	<b>No. of Members</b>	<b>Term of Office</b>	<b>Appointments / Nominations 2010/11</b>	<b>Appointments / Nominations 2011/12</b>
1.	Devonport Community Lands Trust	One councillor	Continuing membership until such time as the Member resigns or is replaced by Council	Cllr Mrs Dolan	Cllr Mrs Dolan Cllr Stevens
2.	Estover/Leigham/Mainstone Management Committee	One councillor	Annual appointment	Cllr Delbridge	Cllr Delbridge Cllr Wright
3.	Plymouth Foyer	One representative	Continuing membership until such time as the Member resigns or is replaced by Council	One Conservative vacancy	Tam McPherson Cllr Tuffin
4.	South West Councils (formerly SW Provincial CouncilsSWLGA))	One councillor (normally the Leader)	Continuing membership until such time as the Member resigns or is replaced by Council	Cllr Bowyer Cllr Wright	Cllr Bowyer Cllr Wright

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# **THE FOUR MONTH FORWARD PLAN**

1 July 2011 to 31 October 2011



**Date of Publication:**

9 June 2011

**Contact Officer:**

Nicola Kirby

Senior Democratic Support Officer (Cabinet)

Email: [nicola.kirby@plymouth.gov.uk](mailto:nicola.kirby@plymouth.gov.uk)

Telephone: 01752 304867

Fax No: 01752 304819

**The Forward Plan is published monthly**

**PLYMOUTH CITY COUNCIL  
FORWARD PLAN OF KEY DECISIONS**

**What is the Forward Plan?**

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 require the Leader to prepare a Forward Plan to cover a period of four months. The Forward Plan contains **key decisions** that the Leader believes are to be taken within this period. It describes the nature of the decision, who is the decision maker, the period in which the decision will be taken, those whom the decision taker proposes to consult, the steps any individual may take who wishes to make representations to the decision maker and a list of background papers considered by the decision taker in respect of the key decision.

**What is a Key Decision?**

A **key decision** is –

- (a) Any decision in relation to an Executive function which results in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;

or

- (b) Any decision that is likely to have a significant impact on two or more wards within the Council.

The threshold for significant expenditure / savings is £2 million for the award of contracts and £500,000 for all other matters.

The Cabinet cannot consider key decisions if they have not been included within the Forward Plan unless they fall within the two exceptions set out at paragraph 15 & 16 of the Regulations, namely:

**REGULATION 15. GENERAL EXCEPTION**

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Regulation 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the monitoring officer has informed the Chair of a relevant Scrutiny Panel, or if there is no such person, each member of that panel in writing, by notice, of the matter to which the decision is to be made;
- (c) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council; and
- (d) at least 5 working days have elapsed since the Monitoring Officer complied with (a) and (b).

Where such a decision is taken by a committee, it must be taken in public.

**REGULATION 16. SPECIAL URGENCY**

If by virtue of the date by which a decision must be taken Regulation 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the Chair of the body making the decision, obtains the agreement of the Chair of the Overview and Scrutiny Management Board that the taking of the decision cannot be reasonably deferred. If there is no Chair of the Overview and Scrutiny Management Board, in his/her absence the Vice Chair will suffice, or in both their absences, any other Member of the Board.

The Forward Plan does not need to refer to exempt information and confidential information cannot be included.

**What is the Budget and Policy Framework?**

This is a reference to the Council’s policy framework and is made up of a series of Statutory Plans and Strategies listed as below:

- |  |   |
|--|---|
| Corporate Plan   | All Our Futures   |
| Children and Young People’s Plan                         | Capital Strategy and Asset Management Plan  |
| Licensing Authority Policy Statement – Gambling Act 2005 | Housing Strategy  |
| Local Development Framework (Documents)                  | Investment in Children (comprising Strategy for Change and Building Schools for the Future) |
| Local Transport Plan                                     | Plymouth Economic Strategy  |
| Sustainable Community Strategy                           | Waste Management Strategy   |
| Youth Justice Plan                                       |   |

**What does the Forward Plan tell me?**

The Plan gives information about:

- what key decisions are coming forward in the next four months
- when those key decisions are likely to be made
- who will make those decisions
- what consultation will be undertaken
- who you can make representations to, and how
- what documents can you ask for, and when
- who you can contact for further information



### Who takes Key Decisions?

Under the Council's Constitution most key decisions are taken at public meetings of either the City Council or the Cabinet and these bodies are presently scheduled to meet on the following dates:

	July 2011	August 2011	September 2011	October 2011
City Council Council House (2 pm)	25 July	-	-	10 October
Cabinet Council House (2pm)	12 July	9 August	13 September	18 October

### Who can I contact?

Each entry in the Plan indicates the names of all the relevant people to contact about that particular item. In addition, the last page of the Forward Plan gives a complete list of all Members of the City Council, the Leader/Executive Members and the Chief Executive/ Executive Directors.

### How do I make contact?

Wherever possible, full contact details are listed in the individual entries in the Forward Plan. If you are unsure how to make contact, please ring the City Council and staff will be able to assist you: Telephone 01752 668000.

### How do I get copies of agenda papers?

The agenda papers for City Council and Cabinet meetings are usually available five working days before the meeting and can be accessed on the Council's website: [www.plymouth.gov.uk/modgov](http://www.plymouth.gov.uk/modgov).

On occasions, the papers you request may contain exempt or confidential information. If this is the case, it will be explained why it will not be possible to make copies available.

### How can I get copies of the Plan?

Copies of the Plan are available for inspection at reasonable hours, free of charge, at the Plymouth City Council offices. The Plan is updated monthly on:

<b>2011</b>
14 July
11 August
15 September
13 October
10 November
8 December
<b>2012</b>
12 January
9 February
15 March
12 April

Copies are also available on the City Council's website: [www.plymouth.gov.uk/modgov](http://www.plymouth.gov.uk/modgov).

### General

If you have any questions or comments about the Plan, we would positively welcome them and would ask that you send them direct to the contact officer named at the start of the Plan. Please also let us know if you have any difficulty in accessing a copy of the Plan or any of the documents referred to therein.

## THE FOUR MONTH FORWARD PLAN

**1 July 2011 to 31 October 2011**

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\* These items appear in the Forward Plan for the first time.

**COMMUNITY INFRASTRUCTURE LEVY AND INFRASTRUCTURE DELIVERY**  
**DATE FIRST INCLUDED IN THE FP: 14 APRIL 2011**

**Nature of the decision:**

To approve the programme for moving to a Community Infrastructure Levy (CIL) scheme for Plymouth, including approval of the Infrastructure Delivery Plan as a key evidence base in support of CIL and wider resource planning and prioritisation.

**Who will make the decision?** Cabinet (on the recommendation of Councillor Fry)

**Timing of the decision?** Between 7 June 2011 and 29 July 2011

**Who will be consulted and how?**

Persons to be consulted with:

Plymouth Regeneration Forum  
Local Agents Forum  
Relevant infrastructure and service providers  
Neighbouring local authorities

Process to be used:

Direct discussions  
Meetings

**Information to be considered by the decision makers:**

1. Planning Obligations and Affordable Housing Supplementary Planning Document
2. Government publications on Community Infrastructure Levy
3. CIL Regulations

**Documents to be considered when the decision is taken**

As above for decision makers.

**Representations:** In writing by 26 May 2011 to -  
Assistant Director of Development and Regeneration (Planning Services)  
Councillor Fry (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
Jonathan Bell, Head of Development Planning  
Email: jonathan.bell@plymouth.gov.uk Tel: 01752 304353

**REVIEW OF LOCAL DEVELOPMENT SCHEME**  
**DATE FIRST INCLUDED IN THE FP: 14 APRIL 2011**

**Nature of the decision:**

To seek approval for the review of the Local Development Scheme

**Who will make the decision?** Cabinet (on the recommendation of Councillor Fry)

**Timing of the decision?** Between 7 June 2011 and 29 July 2011

**Who will be consulted and how?**

Persons to be consulted with:

Government Office South West  
Devon County Council  
South Hams District Council  
Planning Inspectorate

Process to be used:

Direct discussions  
Meetings

**Information to be considered by the decision makers:**

1. Local Development Scheme
2. Local Development Framework Annual Monitoring Report

**Documents to be considered when the decision is taken**

As above for decision makers.

**Representations:** In writing by 26 May 2011 to -  
Assistant Director of Development and Regeneration (Planning Services)  
Councillor Fry (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
Jonathan Bell, Head of Development Planning  
Email: jonathan.bell@plymouth.gov.uk Tel: 01752 304353

**ACQUISITION OF DERRIFORD BUSINESS PARK  
DATE FIRST INCLUDED ON THE FP: 12 MAY 2011**

**Nature of the decision:**

Authorisation to proceed with the acquisition of the freehold interest from SWRDA of Derriford Business Park, a commercial investment comprising seven office buildings totalling c. 4,000 sq m (43,000 sq ft) available to be leased to third parties, with car parking and landscaping.

**Who will make the decision?** Cabinet (on the recommendation of Councillor Fry)

**Timing of the decision?** 7 June 2011

**Who will be consulted and how?**

Persons to be consulted with:

- legal officers
- finance officers
- planning officers

Process to be used:

Discussions have been held with relevant officers

**Information to be considered by the decision makers:**

1. Summary of the acquisition cost
2. property lettings and estate liabilities
3. the capital value of the property
4. possible future development potential
5. the method of financing its acquisition

**Documents to be considered when the decision is taken**

Legal, finance and valuation advice

**Representations:** In writing by 26 May 2011 to -  
Assistant Director for Economic Development  
Councillor Fry (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
David James, Head of Strategic Projects  
Email: david.james2@plymouth.gov.uk Tel: 01752 304571

**TRANSFER OF SWRDA OWNED PROPERTIES TO PLYMOUTH CITY COUNCIL**  
**DATE FIRST INCLUDED IN THE FP: 12 MAY 2011**

**Nature of the decision:**

Authorisation to proceed to take a freehold transfer of properties owned by the South West RDA in Plymouth including Royal William Yard and Western King, Plymouth International Medical and Technology Park, land at Stonehouse Creek and the RDA's interests in certain income-producing properties owned by the City Council.

**Who will make the decision?** Cabinet (on the recommendation of Councillor Fry)

**Timing of the decision?** 7 June 2011

**Who will be consulted and how?**

Persons to be consulted with:

- legal officers
- finance officers
- planning officers

Process to be used:

Discussions have been held with relevant officers.

**Information to be considered by the decision makers:**

1. Summary of property asset package legal
2. Valuation advice
3. Summary of proposed finance ring-fencing arrangements for these assets, which are to be used to assist the completion of major projects at RWY and PIMTP or for economic development initiatives in Plymouth in conjunctions with the approved Growth Fund

**Documents to be considered when the decision is taken**

Legal and valuation advice

**Representations:** In writing by 26 May 2011 to -  
Assistant Director for Economic Development  
Councillor Fry (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
David James, Head of Strategic Projects  
Email: david.james2@plymouth.gov.uk Tel: 01752 304571

**REVISED HOUSING ASSISTANCE POLICY**  
**DATE FIRST INCLUDED IN THE FP: 14 APRIL 2011**

**Nature of the decision:**

Approval of the revised Housing Assistance Policy.

**Who will make the decision?** Cabinet (on the recommendation of Councillor Fry)

**Timing of the decision?** 12 July 2011

**Who will be consulted and how?**

Persons to be consulted with:

Officers, external partners, stakeholders and organizations.

Process to be used:

Electronic and written communication, meetings

**Information to be considered by the decision makers:**

The revised Assistance Policy with terms and conditions.

**Documents to be considered when the decision is taken**

A covering report charting changes from the existing policy and the basis for making those changes.

**Representations:** In writing by 27 June 2011 to -  
Assistant Director for Strategic Housing  
Councillor Fry (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
Peter Grimoldby, Senior Renewals Officer  
Email: [peter.grimoldby@plymouth.gov.uk](mailto:peter.grimoldby@plymouth.gov.uk) Tel: 01752 307084



**AWARD OF CONTRACT FOR THE PROCUREMENT OF CORPORATE, EDUCATION, SOCIAL CARE AND WHEELCHAIR ACCESSIBLE TAXIS  
DATE FIRST INCLUDED ON THE FP: 9 JUNE 2011**

**Nature of the decision:**

To award a contract for the procurement of corporate, education, social care and wheelchair accessible taxis.

**Who will make the decision?** Cabinet (on the recommendation of Councillor Bowyer)

**Timing of the decision?** 12 July 2011

**Who will be consulted and how?**

Persons to be consulted with:

Director of Services for Children and Young People  
Assistant Director for Finance, Assets and Efficiencies  
Head of Legal Services

Process to be used:

Cabinet Report (Contract Award)

**Information to be considered by the decision makers:**

Cabinet Report (Contract Award)

**Documents to be considered when the decision is taken**

Cabinet Report (Contract Award)

**Representations:** In writing by 27 June 2011 to -  
Assistant Director for Finance, Assets and Efficiencies  
Councillor Bowyer (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
Phil Bees, Product Portfolio Manager  
Email: philip.bees@plymouth.gov.uk Tel: 01752 304485

**VISITOR PLAN FOR PLYMOUTH**  
**DATE FIRST INCLUDED IN THE FP: 14 APRIL 2011**

**Nature of the decision:**

To adopt the Visitor Plan for Plymouth.

**Who will make the decision?** Cabinet (on the recommendation of Councillor Fry)

**Timing of the decision?** 9 August 2011

**Who will be consulted and how?**

Persons to be consulted with:

- Destination Plymouth; Plymouth Waterfront Partnership; Plymouth City Centre Company; Head of Strategic Marketing – Positively Plymouth
- Culture Board
- Economic Development, Leisure, Strategic Planning, Transport
- University of Plymouth; Plymouth Chamber of Commerce; Plymouth Area Business Council
- Transport Operators
- Visit England
- Plymouth Naval Base Visitor Centre Company and Naval Base Commander

Process to be used:

The draft report to be circulated to all the above consultees and presentations on the Visitor Plan will be made to Members of Plymouth City Council and separate presentations to Destination Plymouth, the Culture Board and the Naval Base Visitor Centre Company, at time to be agreed during and at the completion of the programme.

**Information to be considered by the decision makers:**

The Visitor Plan, together with associated Business and Marketing Plans for Destination Plymouth.

**Documents to be considered when the decision is taken**

as above for decision maker.

**Representations:** In writing by 25 July 2011 to -  
Director for Development and Regeneration  
Councillor Fry (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
Patrick Knight, City Centre Project Officer  
Email: [patrick.knight@plymouth.gov.uk](mailto:patrick.knight@plymouth.gov.uk) Tel: 01752 304472

**PLYMOUTH'S LOCAL CARBON FRAMEWORK**  
**DATE FIRST INCLUDED ON THE FP: 9 JUNE 2011**

**Nature of the decision:**

The Local Carbon Framework is citywide strategic 'plan' that sets out a series of recommendations for future action related to the reduction of the city's carbon footprint, the establishment of low carbon economy and the continuing need to tackle the impacts of climate change. It builds on the city's existing Climate Change Action Plan 2009/2011. Approval of the Framework's content, including the recommendations, is required before the document is presented to the Board of the Local Strategic Partnership.

**Who will make the decision?** Cabinet (on the recommendation of Councillor Michael Leaves)

**Timing of the decision?** 13 September 2011

**Who will be consulted and how?**

Persons to be consulted with:

The Carbon Framework builds on existing consultation and development is led by the city's Climate Change Commission members. Interactive consultation has been undertaken with a wide range of specialists and experts, local communities, the business and academic sectors and individuals since March 2010. In addition, the three commissioned studies will have drawn from interaction with the Marketing Works Behavioural Change Study drawing specifically on focus groups and interviews. Consultees and partners in this project include the Universities of Plymouth and Exeter, the Chamber of Commerce and Industry, Better Together, the Met Office, the Youth Parliament, the Plymouth Marine Sciences Partnership and a wide range of individuals.

Process to be used:

Between March 2010 and July 2011 a number of interactive events have been completed. These including the Marketing Works focus groups, public and staff room surveys, promotional events and meetings. In each case the feedback of this partnership led Framework has been fed back in to the information making up the text. The interaction has also been used to clarify the scientific data required to support the evidence for this Framework.

**Information to be considered by the decision makers:**

Surveys, policies and the Local Carbon Framework

**Documents to be considered when the decision is taken**

Report and supporting appendices - report introducing the Framework document

**Representations:** In writing to by 26 August 2011 to -  
 Director for Corporate Support  
 Councillor Michael Leaves (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
 Jackie Young, Sustainable Development Officer  
 Email: jackie.young@plymouth.gov.uk Tel: 01752 304220

**POLICY FRAMEWORK ITEM: DERRIFORD AND SEATON AREA ACTION PLAN: REVISED PRE-SUBMISSION VERSION  
DATE FIRST INCLUDED IN THE FP: 14 APRIL 2011**

**Nature of the decision:**

To seek approval for the submission of the Derriford and Seaton Area Action Plan to the Secretary of State, including publication of the revised pre-submission version of the area action plan for the purposes of consultation

*(Note: This item is included in the Forward Plan to cover the eventuality that a further process of consultation is required in relation to the pre-submission stage).*

*(Note: this item is a voluntary addition to the Forward Plan. The decision is not a Key Decision)*

**Who will make the decision?** City Council (Cabinet Member: Councillor Fry)

**Timing of the decision?** Between 7 June 2011 and 26 September 2011

**Who will be consulted and how?**

Persons to be consulted with:

Key stakeholders, local communities and members consulted as part of pre-submission process, which was approved by the City Council on 31 January 2011.

Process to be used:

Pre-submission consultation process involved exhibitions, meetings, briefings, use of newsletter and other publicity material.

**Information to be considered by the decision makers:**

1. Local Development Scheme
2. Local Development Framework Core Strategy
3. Consultation responses on pre-submission draft of Area Action Plan
4. Local Development Framework evidence base reports

**Documents to be considered when the decision is taken**

As above for decision makers.

**Representations:** In writing by 26 May 2011 to -  
Assistant Director of Development and Regeneration (Planning Services)  
Councillor Fry (Cabinet Member)

Contact details available from Plymouth City Council Tel: 01752 668000

Further information – Availability of Documents: For further information contact:  
Jonathan Bell, Head of Development Planning  
Email: jonathan.bell@plymouth.gov.uk Tel: 01752 304353

**Municipal Year 2011/12  
Cabinet / Cabinet Members:**

Councillor Mrs Vivien Pengelly, Leader of the Council  
Councillor Ted Fry, Deputy Leader and Planning, Strategic Housing and Economic Development  
Councillor Richard Ball, Customer Services  
Councillor Ian Bowyer, Finance, Property and People  
Councillor Glen Jordan, Community Services (Safer and Stronger Communities and Leisure, Culture and Sport)  
Councillor Michael Leaves, Community Services (Street Scene, Waste and Sustainability)  
Councillor Sam Leaves, Children and Young People  
Councillor Grant Monahan, Adult Health and Social Care  
Councillor Steven Ricketts, Transformation, Performance and Governance  
Councillor Kevin Wogens, Transport

**Chief Executive and Executive Directors**

Barry Keel, Chief Executive  
Adam Broome, Director for Corporate Support  
Carole Burgoyne, Director for Community Services  
Bronwen Lacey, Director of Services for Children and Young People  
Anthony Payne, Director for Development and Regeneration  
Deb Laphorne, Director for Public Health

***Members of the City Council***

The Lord Mayor, Councillor Brookshaw  
The Deputy Lord Mayor, Councillor Delbridge, and  
Councillors Aspinall; Mrs Beer; Berrow; Bowie; Mrs Bowyer; Mrs Bragg; Browne; Casey; Churchill; Coker; Davey; Mrs Dolan; Drear, Evans; Foster; Mrs W Foster; Gordon; Haydon; James; Lowry; Martin Leaves; Lock; Dr Mahony; McDonald; Murphy; Mrs Nelder; Nicholson; Mrs Nicholson; Penberthy; Rennie; Reynolds; Dr Salter; Singh; J Smith; P Smith; Stevens; Stark; Thompson; Tuffin; Tuohy; Vincent; Wheeler; Wildy, Williams and Wright

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