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Democratic and Member Support

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CITY COUNCIL

Monday 22 June 2015

2.00 pm

Council House (Next to the Civic Centre), Plymouth

Members:

The Lord Mayor, Councillor Dr. Mahony, Chair.

The Deputy Lord Mayor, Councillor Ball, Vice Chair.

Councillors Mrs Aspinall, Mrs Beer, Bowie, Bowyer, Mrs Bowyer, Mrs Bridgeman, Churchill, Coker, Damarell, Dann, Darcy, Philippa Davey, Sam Davey, Deacon, Downie, Drean, Evans, Fletcher, K Foster, Mrs Foster, Fox, Fry, Hendy, James, Jarvis, Jordan, Kelly, Martin Leaves, Michael Leaves, Sam Leaves, Lowry, McDonald, Morris, Murphy, Nicholson, Mrs Nicholson, Parker-Delaz-Ajete, Penberthy, Mrs Pengelly, Rennie, Ricketts, Riley, Dr. Salter, Singh, Smith, Sparling, Stevens, Storer, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent, Wheeler and Wiggins.

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

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Tracey Lee

Chief Executive

CITY COUNCIL

AGENDA

PART I – PUBLIC MEETING

1. APOLOGIES

To receive apologies for absence submitted by councillors.

2. MINUTES (Pages 1 - 22)

To approve and sign the minutes of the meeting held on 23 March 2015 and the Council's Annual Meeting held on 22 May 2015, as a correct record.

3. DECLARATIONS OF INTEREST (Pages 23 - 24)

Councillors will be asked to make declarations of interest in respect of items on this agenda. A flowchart providing guidance on interests is attached to assist councillors.

4. APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES ETC (Pages 25 - 28)

The Head of Legal Services will submit a schedule of vacancies on committees, outside bodies etc and of changes notified to us.

5. ANNOUNCEMENTS

- (a) To receive announcements from the Lord Mayor, Chief Executive, Assistant Director for Finance or Head of Legal Services;
- (b) To receive announcements from the Leader, Cabinet Members or Committee Chairs.

6. QUESTIONS BY THE PUBLIC

To receive questions from and provide answers to the public in relation to matters which are about something the council is responsible for or something that directly affects people in the city, in accordance with Part B, paragraph 11 of the Constitution.

Questions, of no longer than 50 words, can be submitted to the Democratic Support Unit, Plymouth City Council, Ballard House, West Hoe Road, Plymouth, PL1 3BJ, or email to democraticsupport@plymouth.gov.uk. Any questions must be received at least five complete working days before the meeting.

RECOMMENDATIONS FROM CABINET AND OTHER COMMITTEES

7. FINANCIAL OUTTURN 2014/15 INCLUDING CAPITAL PROGRAMME UPDATE (Pages 29 - 54)

Cabinet Member: Councillor Lowry.

The Cabinet report together with the Cabinet minute of 9 June 2015 will be submitted.

8. AUDIT ARRANGEMENTS 2015/16 (Pages 55 - 62)

Cabinet Member: Councillor Coker

The City Council will consider the recommendation of the Tamar Bridge and Torpoint Ferry Joint Committee.

The report which was submitted to the Joint Committee will also be submitted.

9. PROPOSED CHANGES TO STANDING ORDERS IN RESPECT OF EMPLOYMENT OF THE CHIEF EXECUTIVE, SECTION 151 OFFICER AND MONITORING OFFICER (Pages 63 - 72)

Cabinet Member: Councillor Smith

The City Council will be asked to consider the report of Lesa Annear (Strategic Director for Transformation and Change) on the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and to approve amendments to the Council's Employment Standing Orders to comply with them.

10. MOTIONS ON NOTICE

To consider motions from councillors in accordance with Part B, paragraph 14 of the Constitution.

11. AMENDMENTS TO THE CONSTITUTION (Pages 73 - 120)

David Shepperd (Head of Legal Services) will submit a report proposing revisions to the Constitution following the senior management restructure; to create a separate part of the Constitution concerning delegations to officers; to include additional information about access to information for ease of reference; to update the Policy Framework to reflect changes in practice; and to include information about the Leader's scheme of delegation.

12. ERNEST BROCK HOME FOR THE AGED CHARITY (Pages 121 - 126)

David Shepperd (Head of Legal Services) will submit a report on a request from the Trustees of the Ernest Brock Home for the Aged Charity for the Council and the Lord Mayor to agree to the release of their respective rights to nominate persons for appointment as trustees, which would enable Plymouth Community Homes to apply to the Charity Commission to be appointed as sole corporate trustee and for the current trustees to retire

13. CHANGES TO THE SENIOR MANAGEMENT STRUCTURE TO FOLLOW

Tracey Lee (Chief Executive) will submit a report on a number of changes to the senior management structure following reports to various meetings of the Chief Officer Appointments Panel.

14. QUESTIONS BY COUNCILLORS

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

15. 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(s) 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, 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.

NIL.

City Council**Monday 23 March 2015****PRESENT:**

The Lord Mayor, Councillor Fox, in the Chair.

The Deputy Lord Mayor, Councillor Murphy, Vice Chair.

Councillors Mrs Aspinall, Ball, Mrs Beer, Bowie, Bowyer, Mrs Bowyer, Mrs Bridgeman, Casey, Churchill, Coker, Damarell, Darcy, Philippa Davey, Sam Davey, Downie, Evans, K Foster, Mrs Foster, Fry, Hendy, James, Jarvis, Jordan, Martin Leaves, Michael Leaves, Sam Leaves, Lowry, Dr. Mahony, McDonald, Morris, Mrs Nelder, Nicholson, Mrs Nicholson, Parker-Delaz-Ajete, Penberthy, Mrs Pengelly, Rennie, Ricketts, Riley, Dr. Salter, Singh, Smith, John Smith, Sparling, Stark, Stevens, Storer, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent, Wheeler and Wigans.

Apology for absence: Councillor Drean

The meeting started at 2.00 pm and finished at 9.00 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.

73. **MINUTES**

Agreed the minutes of the meeting held on 23 February 2015.

74. **DECLARATIONS OF INTEREST**

The following declarations of interest were made by councillors in accordance with the code of conduct in respect of items under consideration at the meeting -

Name	Minute	Reason	Interest
Councillor Coker	78: Barbican Cumulative Impact Policy	Personal Licence holder	Disclosable Pecuniary
Councillor Casey	78: Barbican Cumulative Impact Policy	Holds a street trading licence	Disclosable Pecuniary

75. **APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES ETC**

There were no appointments for consideration.

76. **ANNOUNCEMENTS**

The Lord Mayor -

(a) **Former Councillor, Lord Mayor and Alderman Frederick Johnson**

reported that Alderman Johnson had passed away, aged 99 years on 14 March 2015 after a short illness. The Council stood in silence for one minute, as a mark of respect.

(b) **Her Majesty the Queen's visit to Plymouth**

informed the Council that he had welcomed Her Majesty the Queen to Plymouth on Friday 20 March 2015 before moving on to HMS Ocean for a reception.

(c) **City Council Elections**

thanked the Council, particularly Councillors Mrs Nelder, John Smith and Stark who would be standing down in May 2015.

(d) **Councillor Achievement Awards**

congratulated the Leader on his prestigious award of the Leader of the Year which was part of the 2015 Councillor Achievement Awards.

(e) **Sustainable Food Cities Bronze Award**

presented Darin Halifax, Cities of Service Chief Service Officer, with the Sustainable Food Cities Bronze Award on behalf of the Food Plymouth Partnership.

(f) **iESE Innovation Award (Bronze)**

presented Jenny Coles, Low Carbon Officer, with the iESE Innovation Award (Bronze) for the proactive support in the establishment and ongoing development of Plymouth Energy Community and PEC Renewables.

(g) **iESE Working Together Award (Silver)**

presented Gareth Hart, chair of the Plymouth Social Enterprise Network, with the iESE Working Together Award (Silver).

(h) **Regional School Chef of the Year**

presented Sharon Cundell, Kitchen Manager of St Edwards Church of England Primary School with the award for Regional Chef of the Year.

(i) **Apprenticeships 4 England Award 2015**

presented Ken Holder, Senior Apprentice Co-ordinator, Ricky Souch, Apprentice Co-ordinator and Jacob Ellis, Apprentice with the Large Employer of the Year Award which had been given at the Apprenticeships 4 England award 2015.

The Leader –

(j) **Inward Investment**

informed the Council that a suite of marketing publications had been produced over the last 12 months as well as attending various events in order to promote Plymouth. The work had been successful in creating links, lines of communication and new jobs.

(k) **Train Announcement**

informed the Council that the Secretary of State for Transport had announced extra electric and diesel trains for the south west to increase capacity and provide faster links. A final decision on new trains for the area would be made in June 2015.

(l) **Plymouth Airport**

commented on the announcement in the budget by George Osborne (Chancellor of the Exchequer) that there would be a study into whether an airport in Plymouth was viable. A study had already taken place which had resulted in the land at the airport being protected until 2031. The Leader appealed to the Chancellor for funding to get the airport up and running.

(m) **Enterprise Zone**

advised the Council that South Yard had been announced as an Enterprise Zone which allowed money raised in the yard to be reinvested in the yard and would provide many benefits which would assist the City's objective for growth.

The Leader thanked all officers and partners for the hard work which had resulted in the successful designation of the area as an Enterprise Zone.

(n) **Cruise Liner Terminal**

announced that Associated British Ports supported by the Waterfront Partnership and the Chamber of Commerce would be supporting the Council with £10,000 towards an economic impact study into a cruise liner terminal in the City.

(o) **Construction Apprentice of the Year Award**

informed the Council that he had announced the launch of the 'construction apprentice of the year' award at a recent Building Plymouth conference and that the family of Alderman Ron Simmonds had agreed to have the trophy named after him.

The Deputy Leader –

(p) **Natural England Higher Stewardship Scheme**

announced that Mount Edgumbe had been accepted onto the Higher Stewardship Scheme which was a land management project that provided capital and revenue funding to restore landscapes of historic value. Work would now be undertaken to identify the actions required.

(q) **Civic Delegation to Boston**

informed the Council that he had led a Civic delegation to Boston and Washington to discuss future celebrations of Mayflower 400 and build lines of communications. The delegation had attended many valuable meetings during the visit.

Councillor Vincent

(r) **Public Toilet Improvements**

announced that further investment had been approved for toilets at Richmond Walk and Devil's Point which would be refurbished. The remaining toilets across the Hoe would be refurbished as part of an ongoing programme.

(s) **Growing Plymouth Pledge**

announced that under the 'Growing Plymouth' pledge, two abandoned allotment sites at Lower Swarthmore in Central Park and land at the back of Channel Park in Efford would be improved to allow the use of another 50 sites for people to grow fruit, vegetables and enjoy gentle exercise.

Councillor McDonald -

(t) **School Improvement**

informed the Council that investments in schools had resulted in an extra 348 places across the city. Two new schools were also being built for St Matthews Church of England Primary and Nursery Academy in Derriford and Knowle Primary School in Honicknowle. Agreement had also been obtained for funding to expand a further four schools.

Councillor Tuffin –

(u) Integration of health and Wellbeing Services

informed the Council that on 10 March 2015, Cabinet approved plans to integrate Health and Wellbeing Services across Plymouth. The plans would radically transform the way health and social care services were planned, purchased and delivered, improving experiences and delivering better value for money. The system was ground breaking delivering one integrated system with one budget and had not been undertaken anywhere else in the country.

Councillor Penberthy -

- (v) highlighted the work that had been ongoing in partnership with Plymouth Energy Community to provide solid wall insulation across the PL5 area. He reported that over the last six months, 14,000 properties in this postcode had been targeted with grant offers and that Plymouth was one of the leading cities in terms of delivery of solid wall insulation.

Councillor Murphy -

(w) Plymouth Armed Forces Covenant

updated the Council on the Plymouth Armed Forces Covenant. Since signing the covenant on National Armed Forces Day in 2012 much progress had been made to enhance the relationship between the civilian and military residents with particular success with activities for young people.

77. QUESTIONS BY THE PUBLIC

Eight questions were submitted by members of the public for this meeting, in accordance with Part B, paragraph 11 of the Constitution.

In the absence of Mr Williams, the following question and response were circulated and a written response would be sent to him after the meeting -

Question No	Question By	Cabinet Member	Subject
Q14(14/15)	Mr John Williams	Councillor Lowry (Cabinet Member for Finance)	Council Tax Liability Order Charges

Whereas other local authorities employ lawyers to represent them in court over Council Tax liability, this Authority does not.

Notwithstanding this, national figures place charges levied by this Authority in the upper quartile, which seems hard to justify.

Does the Authority make a profit from the costs it claims here?

Response

Plymouth City Council reduced its Liability Order charge from £83 to £60 in 2013/14 which benchmarks favourably against other councils within the region. The cost is broken down as £40 per account to issue the summons with an additional £20.00 per account to obtain the order.

The charge reflects recovery activity undertaken by council staff which includes preparing documentation, presenting and attending the Court. The council does not make a profit from these charges.

Mr Aldred attended the meeting and asked the following question. Councillor Lowry responded as set out below -

Question No	Question By	Cabinet Member	Subject
Q15(14/15)	Mr Ryan Aldred	Councillor Lowry (Cabinet Member for Finance)	Use of the Council's Reserves
<p>Why is the council not making full use of its £10.4 million working reserves to protect jobs and services? Could you not use that money to protect jobs and services whilst simultaneously lobbying the government to restore the council's funding to pre-2010 levels?</p>			
<p>Response We have used our reserves in the past and are likely to do so this year and given the cuts from government will likely need to do so in future years. We try and retain a modest reserve of 5 percent which is less than average. We are lobbying, and continue to lobby, government for fairer funding for Plymouth and retain a focus on protecting jobs. I refer to our budget papers published in December 2014 and February 2015</p>			

In the absence of Mr Sloman, the following question and response were circulated and a written response would be sent to him after the meeting -

Question No	Question By	Cabinet Member	Subject
Q16 (14/15)	Mr Tom Sloman	Councillor Jon Taylor (Cabinet Member for Transformation and Change)	Outsourcing of Services
<p>What does this mean: "developing the intelligent client function would move away from directly delivering services, therefore staff would need have different expertise in order to manage the different service models"? Does this mean that the council will be looking to outsource its services to the private sector? (Quote taken from the budget scrutiny document section 9.1)</p>			
<p>Response Developing an intelligent client function does not mean the council will be looking to outsource its services to the private sector. Alternative models of delivery for some services will be considered in our transformation programmes, but these alternative models will always be consistent with the Council's cooperative principles.</p> <p>The Council has instigated an 'Intelligent Client Function' to ensure that it's ethical, social and statutory obligations are discharged in a way that benefits and emphasises Plymouth. We are committed to spending money with Plymouth firms and that at least 50% of Plymouth Councils spend is directed to the local economy. That is a requirement of the Council, and any partner organisations it deems beneficial to commission.</p>			

In the absence of Mr Nally, the following question and response were circulated and a written response would be sent to him after the meeting -

Question No	Question By	Cabinet Member	Subject
Q17(14/15)	Mr Tom Nally	Question asked of Councillor Lowry (Cabinet Member for Finance) and Councillor McDonald (Cabinet Member for Children, Young People and Public Health). Answered by Councillor Tuffin as within his portfolio	Adult Social Care and Children's Services

What measures are being taken to eliminate the overspend of £2.55 million within Adult Social Care and Children's Services and how will the service, which has already received £4.9 million in cuts, be affected?

Response

Adult and children's social care budgets are under unprecedented pressure across the country, due to increasing demand and reductions in government funding for local authorities.

Careful analysis of the cost of social care services provided and the number of people in receipt of support has enabled us to identify where we can further reduce costs and increase efficiencies, addressing the current overspend.

Our programme of transformation is addressing the way we will operate as a Council over the next few years by radically changing how local services are delivered. The cornerstone of our change programme is our integration agenda with health, with a pooled combined budget of circa £420m, to provide a joined up approach to the way services are commissioned and delivered in order to reduce costs, improve the experience of patients and service users and improve the health of Plymouth residents.

A key part of this major transformation programme is the Integrated Commissioning Project which aims to deliver a single integrated commissioning function focused on developing joined up preventative and early intervention strategies and adopt an asset based approach to providing an integrated system of health and wellbeing. These integrated commissioning arrangements are founded in a section 75 Agreement between the Clinical Commissioning Group and Plymouth City Council that was agreed by Cabinet on 10 March.

Ms Lewis attended the meeting and asked the following question. Councillor Lowry responded as set out below -

Question No	Question By	Cabinet Member	Subject
Q18(14/15)	Ms Hannah Lewis	Question asked of Councillor Lowry (Cabinet Member for Finance) and Councillor McDonald (Cabinet Member for Children, Young People and Public Health). Answered by Councillor Penberthy as within his portfolio.	Child Poverty
How is the council going to meet its target to reduce child poverty when there appears to be no budget for it?			

Response

In line with the Child Poverty Strategy for Plymouth 2013-16, the Council has not designated a discrete budget but is delivering against its objectives across Council budgets. Here are some examples:

- Implementation of the national living wage for all Council employees and temporary staff.
- Plymouth has not closed a single Children’s Centre: £1.5 million of their collective budget is spent directly on tackling child poverty including school readiness, raising aspirations and confidence, worklessness, money advice, and basic skills for parents.
- Capital commitment of £1.75m to develop early years’ provision, ensuring we have enough early education places for vulnerable 2 year olds.
- Creation of a £20 million investment fund to invest in Plymouth’s economy, as part of the city’s Plan for Jobs.
- Free wifi is now available in all Plymouth libraries.
- £430,000 of our housing commissioned services is allocated to our most vulnerable families and children.
- Fuel poverty is addressed through the Plymouth Energy Community which has provided tariff guidance to over 600 households, offering more than £130,000 in savings, and the Fuel Debt Advice service which has helped to clear nearly £25,000 of debt locally.
- The 1000 Club supports young people into employment. Membership now exceeds 1000 local businesses with a target to provide an additional 1250 opportunities for young people this year.
- Taking action to house 21% of families on the priority housing waiting list in brand new, energy efficient homes.

In the absence of Mr Smith the following question and response were circulated and a written response would be sent to him after the meeting -

Question No	Question By	Cabinet Member	Subject
Q19 (14/15)	Mr Aaron Smith	Councillor Lowry (Cabinet Member for Finance)	Revenue Budget Cuts
The revenue budget for 2014/15 is £204.68 million but there is already an overspend of £2.55 million. How on Earth is the council going to cut it to £178.40 million in 2018/19 without cuts to jobs and services as well as further increases in Council Tax?			

Response

The Council is being proactive in managing down the projected 2014/15 overspend which, at the end of January 2015, had reduced to £1.3m. We continue to strive to deliver as near as possible to a balanced budget at the end of the year.

We have clearly set out our plans to deliver a balanced budget in 2015/16 and beyond within our published budget papers which include financial savings and income generation that will be generated from our Transformation Programme.

Mr Plumb attended the meeting and asked the following question. Councillor Lowry responded as set out below -

Question No	Question By	Cabinet Member	Subject
Q20 (14/15)	Mr Robert Plumb	Councillor Vincent (Cabinet Member for Environment)	Greenfield Sites to the North of Tamerton Foliot

Noting that the draft Plymouth Plan (Part 1) supports major development on brownfield land and on the E and NE fringes of the city rather than elsewhere: specifically how is the Council aiming to protect our community from unsustainable development on greenfield sites to the north of Tamerton Foliot (e.g. at Allern Lane).

Response

The Plymouth Plan supports the use of brownfield land for major development, particularly residential development. Policy 42 makes clear that the Plan will give priority to development on previously developed sites.

Strategic Objective 8 also makes clear that the Council will give priority to meeting its housing need within its administrative boundaries before considering jointly with South Hams District Council the opportunities for meeting needs in the urban fringe.

It should be noted that the Plymouth Plan Part One does not identify sites to meet its housing need– it sets out the strategic framework to be used to identify sites. Site allocations themselves will be investigated as part of the work on the Plymouth Plan Part Two, and will be set out in the single Plymouth Plan which will be consulted on and submitted to the Government next year.

The strategic framework set out in the Plymouth Plan Part One therefore directs housing development and growth to the most sustainable locations – for example on previously developed land where development will contribute to the creation of sustainable linked neighbourhoods, in line with Policy 2 of the Plan.

The question notes that the Plymouth Plan Part One supports major development on the eastern and north eastern fringes of the city. This point requires clarification.

Strategic Objective 8 indicates that if, after looking to maximise development within the city's administrative boundaries, it is necessary to work with South Hams to find opportunities in the urban fringe, we would look to the north and north eastern fringes for sustainable locations to meet our housing need. Policy 43 then goes on to state that opportunities for sustainable growth will be explored at Woolwell and Newnham to meet such need.

Therefore, with regard to greenfield sites at Tamerton Foliot, the Plymouth Plan does not support major development in this part of the city or in adjacent parts of South Hams. The Plymouth Plan does not prioritise greenfield sites, and would not support unsustainable development in this location.

If any sites are proposed for development outside of the administrative boundary, South Hams District Council would consult with the City Council on the implications of development. South Hams have a duty to work with us on ensuring the development proposals are sustainable.

In the absence of Mr Else the following question and response were circulated and a written response would be sent to him after the meeting -

Question No	Question By	Cabinet Member	Subject
Q21(14/15)	Mr Brian Else	Councillor Vincent (Cabinet Member for the Environment)	Saltram Quay
<p>Would you agree that there are safety concerns with the new slope onto Saltram Quay. Cyclists, especially young and night users could come down it and straight into the river, onto the concrete gangplank or drop 4 feet onto rocks and estuary mud.</p>			
<p>Response No, I would disagree there are safety concerns with this solution. This scheme involves the reinstatement of an historic footpath link, which will be considerably widened to 3 metres, with a slope of wildflowers between the edge of the ramp and the Quay itself. This will mean there are no more risks to the young than exist with the Quay already, which is accessible to the public currently. Since we do not propose to light the route on public safety and environmental grounds there is not considered to be a risk for night users.</p>			

RECOMMENDATIONS FROM CABINET, THE CO-OPERATIVE SCRUTINY BOARD AND OTHER COMMITTEES

78. **Barbican Cumulative Impact Policy**

Cabinet minute 142 and the Cabinet report on the Barbican Cumulative Impact Policy were submitted.

Councillor Vincent (Cabinet Member for Environment) proposed and Councillor Rennie seconded the Cabinet recommendations.

Agreed that that Statement of Licensing Policy is amended to include and extended Barbican Cumulative Impact Area as outlined in the map contained in Appendix 3 of the report.

79. **City Centre Business Improvement District (BID) Veto**

Working Plymouth Scrutiny Panel minute 40 (which had been agreed by Councillor James (Chair of the Co-operative Scrutiny Board) under delegated authority) together with the report to the scrutiny panel were submitted.

Councillor James (Chair of the Co-operative Scrutiny Board) proposed and Councillor Murphy (Chair of the Working Plymouth Scrutiny Panel) seconded the recommendations of the Working Plymouth Scrutiny Panel.

Agreed that the power of veto, as per Regulation 12 of the Business Improvement District (England) Regulations 2004, is not exercised.

80. **Lord Mayoralty 2015/16**

Lord Mayor's Selection Committee minute 4 was submitted.

Councillor Evans (Leader) proposed and Councillor Nicholson seconded the recommendation of the Lord Mayor's Selection Committee.

Agreed that the nomination of Councillor Dr John Mahony as Lord Mayor for 2015/16 is forwarded to the Council's AGM.

Councillor Dr Mahony addressed the Council following the vote.

81. **Appointment of the Council's Section 151 Officer (Assistant Director for Finance)**

This item was withdrawn from the meeting.

MOTIONS ON NOTICE

82. **Land Disposals**

Councillor Nicholson proposed and Councillor Dr Mahony seconded a motion on land disposals, as submitted.

During the debate Councillor Kate Taylor proposed and Councillor Stevens seconded an amendment to the motion as follows and underlined -

- (a) the proposal that Council resolves to abandon disposals where the majority of community representations oppose such a sale. is referred to the Constitutional Review Group (CRG) in order that it may consider and formulate detailed proposals, and
- (b) that such proposals and recommendations are brought back to the next earliest Council for decision following CRG's consideration.

Following a request from ten councillors for a recorded vote the amendment was agreed.

The vote was -

For the amendment (28)

Councillors Mrs Aspinall, Bowie, Coker, Damarell, Philippa Davey, Sam Davey, Evans, Hendy, Jarvis, Lowry, McDonald, Morris, Murphy (Deputy Lord Mayor), Mrs Nelder, Parker-Delaz-Ajete, Penberthy, Rennie, Singh, John Smith, Peter Smith, Sparling, Stevens, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent and Wheeler.

Against the amendment (27)

Councillors Ball, Mrs Beer, Bowyer, Mrs Bowyer, Mrs Bridgeman, Casey, Churchill, Darcy, Downie, Foster, Mrs Foster, Fry, James, Jordan, Martin Leaves, Mike Leaves, Mrs Leaves, Dr Mahony, Mrs Nicholson, Nicholson, Mrs Pengelly, Ricketts, Riley, Dr Salter, Stark, Storer and Wigans.

Abstentions (1)

Lord Mayor (Chair)

Councillor Evans moved, Councillor Lowry seconded and the Council agreed that the motion as amended was put to the vote without further debate.

Following a request from ten councillors for a recorded vote, the motion as amended, was agreed as follows -

- (1) 'the proposal that Council resolves to abandon disposals where the majority of community representations oppose such a sale is referred to the Constitutional Review Group (CRG) in order that it may consider and formulate detailed proposals, and
- (2) that such proposals and recommendations are brought back to the next earliest Council for decision following CRG's consideration.'

The vote was -

For the amendment (28)

Councillors Mrs Aspinall, Bowie, Coker, Damarell, Philippa Davey, Sam Davey, Evans, Hendy, Jarvis, Lowry, McDonald, Morris, Murphy (deputy Lord Mayor), Mrs Nelder, Parker-Delaz-Ajete, Penberthy, Rennie, Singh, John Smith, Peter Smith, Sparling, Stevens, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent and Wheeler.

Against the amendment (24)

Councillors Ball, Mrs Beer, Bowyer, Mrs Bowyer, Casey, Churchill, Darcy, Downie, Foster, Mrs Foster, Fry, James, Jordan, Martin Leaves, Mike Leaves, Mrs Leaves, Dr Mahony, Mrs Nicholson, Nicholson, Mrs Pengelly, Ricketts, Dr Salter, Stark, and Wigans.

Abstentions (4)

Lord Mayor (Chair), Councillors Mrs Bridgeman, Riley and Storer.

83. **Car Parking**

Councillor Ricketts proposed and Councillor Mrs Bowyer seconded a motion on Car Parking, as submitted.

During the debate, Councillor Coker proposed and Councillor Mrs Nelder seconded an amendment to the motion as follows –

'Council resolves to publish its car parking strategy in the new municipal year, which will include all council run car parks throughout the city. ~~instruct the Labour Council to review car parking provision on the Barbican before agreeing to sell off the Martin's Gate car park at Bretonside.~~ Furthermore The Council further resolves to freeze all car parking charges in the City until April 2016 and to continue to maintain free parking at district car parks such as Devonport, Stoke, Whiteleigh, Crownhill, Plympton and Plymstock. for a further 18 months to help stimulate growth and tourism and to reinforce Plymouth as a destination stop.

Council commits to keeping all district shopping centres free of charge'.

Following a request from ten councillors for a recorded vote, the amendment was agreed.

The vote was -

For the amendment (53)

Councillors Mrs Aspinall, Ball, Mrs Beer, Bowie, Bowyer, Mrs Bowyer, Mrs Bridgeman, Casey, Churchill, Coker, Damarell, Darcy, Philippa Davey, Sam Davey, Evans, Foster, Mrs Foster, Fry, Hendy, James, Jarvis, Jordan, Martin Leaves, Mike Leaves, Mrs Leaves, Lowry, Dr Mahony, McDonald, Morris, Murphy (Deputy Lord Mayor), Mrs Nelder, Nicholson, Mrs Nicholson, Parker-Delaz-Ajete, Penberthy, Mrs Pengelly, Rennie, Ricketts, Riley, Singh, John Smith, Peter Smith, Sparling, Stark, Stevens, Storer, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent Wheeler and Wigans.

Abstentions (1)

Lord Mayor (Chair)

Councillor Coker moved, Councillor Rennie seconded and the Council agreed that the motion as amended was put to the vote without further debate.

The motion as amended was agreed as follows –

‘Council resolves to publish its car parking strategy in the new municipal year, which will include all council run car parks throughout the city.
Furthermore Council resolves to freeze all car parking charges for a further 18 months to help stimulate growth and tourism and to reinforce Plymouth as a destination stop.

Council commits to keeping all district shopping centres free of charge.’

84. **Transit Site**

Councillor Mrs Beer proposed and Councillor Churchill seconded a motion on a Transit Site, as submitted.

During the debate Councillor Penberthy proposed and Councillor Mrs Nelder seconded an amendment to the motion as follows –

‘This Council instructs the Cabinet Member (s) with portfolio responsibility for ~~Co-operatives, Housing and Community Safety~~ to bring forward a clear action plan to establish a transit site for ~~Gypsies~~ the Gypsy and Travellers Community as part of the Plymouth Plan process in order to reduce the costs of unauthorised encampments falling as a burden on local taxpayers.’

With the consent of Council, the meeting adjourned for councillors to consider the amendment.

Upon reconvening, Councillor Evans proposed and Councillor Rennie seconded a proposal for the Council meeting to move into Part II (to exclude the press and the public) to consider the previous disclosure of commercially sensitive information.

Following a request from ten councillors for a recorded vote, it was agreed that under Section 100(A)(3) of the Local Government Act, 1972, the press and public are excluded from the meeting for the remaining part of this item of business on the grounds that it involves 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.

The vote was -

For the proposal (30)

Councillors Mrs Aspinall, Mrs Bridgeman, Coker, Damarell, Philippa Davey, Sam Davey, Evans, Hendy, Jarvis, Lowry, McDonald, Morris, Murphy (Deputy Lord Mayor), Mrs Nelder, Parker-Delaz-Ajete, Penberthy, Rennie, Riley, Singh, John Smith, Peter Smith, Sparling, Stevens, Storer, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent and Wheeler.

Against the proposal (21)

Councillors Ball, Mrs Beer, Bowyer, Mrs Bowyer, Casey, Churchill, Darcy, Foster, Mrs Foster, Fry, James, Jordan, Martin Leaves, Mike Leaves, Mrs Leaves, Dr Mahony, Nicholson, Mrs Nicholson, Mrs Pengelly, Ricketts and Wiggins.

Abstentions (1)

Lord Mayor (Chair)

Members of the Conservative Group left the Chamber until the conclusion of this item.

After further discussion, the motion as amended was agreed as follows -

‘This Council instructs the Cabinet Member(s) with portfolio responsibility to bring forward a clear action plan to establish a transit site for the Gypsy and Traveller Community as part of the Plymouth Plan process in order to reduce the costs of unauthorised encampments falling as a burden on local taxpayers.’

(The meeting returned to Part I at the conclusion of this item.)

85. **Towns against Tax Dodging**

Councillor Phillippa Davey proposed and Councillor Morris seconded a motion on Towns against Tax Dodging.

Councillor Nicholson moved, Councillor Mrs Pengelly seconded and the Council agreed that the motion was put to the vote without further debate.

The motion was agreed as follows –

‘This Council resolves to support the campaign for tax justice, supporting the motion:

that while many ordinary people face falling household income and rising costs of living, some multinational companies are avoiding billions of pounds of tax from a tax system that fails to make them pay their fair share. Local governments in developing countries and the UK alike would benefit from a fairer tax system where multinational companies pay their fair share, enabling authorities around the world to provide quality public services. The UK government must listen to the strength of public feeling and act to end the injustice of tax dodging by large multinational companies, in developing countries and the UK.

This Council resolves to write to the political party leaders to call on them to pledge support for a Tax Dodging Bill in the first 100 days of parliament after the general election.’

86. **ADJOURNMENT OF THE MEETING**

Following the motion on ‘towns against tax dodging’ (minute 85 refers), and following a proposal from Councillor Evans and seconded by Councillor Rennie, it was agreed to waive Council Procedure Rule 10.1 to enable the conclusion of the business on the agenda.

87. **Land Registry Proposals for Local Land Charges**

Councillor Evans proposed and Councillor Stevens seconded a motion on Land Registry Proposals for Local Land Charges.

The motion was agreed as follows –

‘to mandate the Chief Executive to -

- (1) raise opposition to the Government’s proposals with local MPs;
- (2) write to the Secretary of State requesting that the proposed transfer is stopped.’

88. **European Referendum**

Councillor Churchill proposed and Councillor Ball seconded a motion on a European Referendum as follows -

In light of growing support for the devolution of powers to local authorities and the European drive to take powers away from local authorities, this Council welcomes the pledge by David Cameron who, if re-elected as Prime Minister in May, has stated that he will hold a referendum on our country’s future in Europe.

Following a request from ten councillors for a recorded vote the motion was lost.

The vote was -

For the proposal (23)

Councillors Ball, Mrs Beer, Bowyer, Mrs Bowyer, Mrs Bridgeman, Casey, Churchill, Darcy, Foster, Mrs Foster, James, Jordan, Martin Leaves, Mike Leaves, Mrs Leaves, Dr Mahony, Nicholson, Mrs Nicholson, Mrs Pengelly, Ricketts, Riley, Storer and Wigens.

Against the proposal (27)

Councillors Mrs Aspinall, Coker, Damarell, Philippa Davey, Sam Davey, Evans, Hendy, Jarvis, Lowry, McDonald, Morris, Murphy (Deputy Lord Mayor), Mrs Nelder, Parker-Delaz-Ajete, Penberthy, Rennie, Singh, John Smith, Peter Smith, Sparling, Stevens, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent and Wheeler.

Abstentions (1)

Lord Mayor (Chair)

89. **Members of Parliament**

Councillor Stevens proposed and Councillor Evans seconded a motion on Members of Parliament.

The motion was agreed as follows –

‘Council resolves to support the public’s call to ban MPs from holding second jobs, including paid directorships and consultancies outside Parliament.’

90. **CALENDAR OF MEETINGS OF THE COUNCIL AND COMMITTEES 2015/16**

Councillor Smith (Deputy Leader) presented and Councillor Evans seconded the draft calendar of meetings for Council and Committees 2015/16.

Agreed the calendar of meetings of the Council and Committees for 2015/16.

91. **REPORT OF THE LEADER ON URGENT KEY DECISIONS**

Councillor Evans (Council Leader) presented his report on urgent Cabinet and key decisions taken since May 2014.

The report was noted.

92. **QUESTIONS BY COUNCILLORS**

From	To	Subject
Councillor Mrs Beer	Councillor McDonald	Old Priory Primary School
Councillor Parker Delaz-Ajete	Councillor Penberthy	Pensioners paying Bedroom Tax
Councillor John Smith	Councillor Peter Smith	Fire and Rescue Service
Councillor Martin Leaves	Councillor Vincent	Pounds House

93. **EXEMPT BUSINESS**

There were no items of exempt business on the agenda however, the meeting went into Part II during minute 84 above.

Annual Meeting of the City Council

Friday 22 May 2015

PRESENT:

The Lord Mayor, Councillor Fox, in the Chair.

The Deputy Lord Mayor, Councillor Murphy, Vice Chair.

Councillors Mrs Aspinall, Ball (the Deputy Lord Mayor subsequently), Mrs Beer, Bowie, Bowyer, Mrs Bowyer, Mrs Bridgeman, Churchill, Coker, Damarell, Dann, Darcy, Philippa Davey, Sam Davey, Downie, Evans, Fletcher, K Foster, Mrs Foster, Fry, Hendy, James, Jarvis, Jordan, Kelly, Martin Leaves, Michael Leaves, Sam Leaves, Lowry, Dr. Mahony (the Lord Mayor subsequently), McDonald, Morris, Nicholson, Mrs Nicholson, Parker-Delaz-Ajete, Penberthy, Mrs Pengelly, Rennie, Ricketts, Riley, Dr. Salter, Singh, Smith, Sparling, Stevens, Storer, Jon Taylor, Kate Taylor, Tuffin, Tuohy, Vincent, Wheeler and Wigans.

Apology for absence: Councillor Drean.

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 Dr Mahony is elected Lord Mayor and Councillor Ball is elected Deputy Lord Mayor of the city for the ensuing year.

2. **LORD MAYOR'S CHAPLAIN**

The Lord Mayor announced the appointment of Reverend Joseph Dent, Rector of the Minster Church of St Andrew, Plymouth, as his Chaplain.

3. **PRESENTATION OF DRAKE'S SWORD**

Warrant Officer Chris Isaac, on behalf of the Royal Navy, presented Drake's Sword to the Lord Mayor to symbolise the key links between the Royal Navy and the City of Plymouth.

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

Agreed that –

- (1) the Council accords to Councillor Michael Fox the sincere thanks of the citizens of Plymouth for the invaluable services he has rendered to the city as Lord Mayor since May 2014, and for the able manner in which he has presided over the deliberations of the council during that period;
- (2) the Council also expresses its indebtedness to Councillor Pauline Murphy for her diligent and efficient discharge of the duties of Deputy Lord Mayor, and Mrs Rosemary Fox as the Lady Mayoress, and Councillor Vincent as the Deputy Lord Mayor's consort, who have supported them during their year of office.

The Lord Mayor presented the retiring Lord Mayor and the retiring Deputy Lord Mayor with gifts to commemorate their time in office for the 2014-15 civic year.

5. **TO AGREE THE LEADER OF THE CITY COUNCIL**

Councillor Evans' continuing position as Leader of the City Council was noted.

6. **TO AGREE COMMITTEES AND THEIR MEMBERS AND APPOINT CHAIRS AND VICE CHAIRS**

A schedule of the nominations to committees, joint committees, panels etc was submitted.

Agreed that approval is given to the appointments to committees, joint committees, panels, working groups and their chairs and vice chairs for the transaction of the business of the council until the next Annual Meeting as set out in the list circulated.

7. **TO NOMINATE OR APPOINT REPRESENTATIVES TO OUTSIDE BODIES**

A schedule of the nominations to outside bodies was submitted.

Agreed that –

- (1) approval is given to the appointments and nominations of councillors and others as representatives on outside bodies as indicated;
- (2) consideration of appointments to the following organisations are deferred and will be considered at the first Ordinary meeting of the Council –
 - Estover/ Leigham/ Mainstone Community Centre Association Management Committee;
 - Mount Batten Sailing and Water Sports Centre – Board of Directors;
 - Plymouth and Devon Racial Equality Council;

- Plymouth Centre for Faiths and Cultural Diversity;
- Plymouth Community Homes;
- SACRE (one vacancy);
- Wolseley CEDT.

8. **TO APPOINT THE COUNCIL'S SECTION 151 OFFICER**

Lesa Annear (Strategic Director for Transformation and Change) submitted a report on the appointment of the Council's Section 151 Officer.

Councillor Evans moved and Councillor Bowyer seconded the recommendations in the report.

Agreed that Andrew Hardingham is confirmed as the Council's Section 151 Officer with effect from the date he commences employment with the Council.

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DECLARING INTERESTS – QUESTIONS TO ASK YOURSELF

What matters are being discussed?

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Does the business relate to or is it likely to affect a disclosable pecuniary interest (DPI)? This will include the interests of a spouse or civil partner (and co-habitees):

- any employment, office, trade, profession or vocation that they carry on for profit or gain
- any sponsorship that they receive including contributions to their expenses as a councillor or the councillor’s election expenses from a Trade Union
- any land licence or tenancy they have in Plymouth
- any current contracts leases or tenancies between the Council and them
- any current contracts leases or tenancies between the Council and any organisation with land in Plymouth in they are a partner, a paid Director, or have a relevant interest in its shares and securities
- any organisation which has land or a place of business in Plymouth and in which they have a relevant interest in its shares or its securities

No

Yes

Declare interest and leave (or obtain a dispensation)

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Does the business affect the well-being or financial position of (or relate to the approval, consent, licence or permission) for:

- a member of your family or
- any person with whom you have a close association; or
- any organisation of which you are a member or are involved in its management (whether or not appointed to that body by the council). This would include membership of a secret society and other similar organisations.

Yes No You can speak and vote

Will it confer an advantage or disadvantage on your family, close associate or an organisation where you have a private interest more than it affects other people living or working in the ward?

Yes No Declare the interest and speak and vote

Speak to Monitoring Officer in advance of the meeting to avoid risk of allegations of corruption or bias

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Cabinet members must declare and give brief details about any conflict of interest* relating to the matter to be decided and leave the room when the matter is being considered. Cabinet members may apply to the Monitoring Officer for a dispensation in respect of any conflict of interest.

*A conflict of interest is a situation in which a councillor’s responsibility to act and take decisions impartially, fairly and on merit without bias may conflict with his/her personal interest in the situation or where s/he may profit personally from the decisions that s/he is about to take.

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APPOINTMENTS TO COMMITTEES, OUTSIDE BODIES ETC

City Council: 9 June 2015



Report of the Head of Legal Services.

- (I) The City Council is asked to consider the following appointments (items (b) to (h) were deferred from the Council's Annual Meeting) -

	Committees and Other Bodies	Membership	Nominations 2015/16
(a)	Devon and Severn Inshore Fisheries and Conservation Authority	One councillor	
	<p>A councillor is required from every funding council.</p> <p>Quarterly meetings, no preferred day.</p> <p>Term of office: until such time as the councillor resigns or is replaced by Council.</p>		
(b)	Estover/Leigham / Mainstone Community Centre Association Management Committee	One councillor	<p>Cllr Mrs Bridgeman</p> <p>Cllr Fox</p>
	<p>Monthly meetings, no preferred day. Preferably a Moor View Ward councillor.</p> <p>Term of office: one year.</p>		
(c)	Mount Batten Sailing and Water Sports Centre – Board of Directors	Two councillors	<p>Cllr Philippa Davey</p> <p>Cllr Michael Leaves</p> <p>Cllr Smith</p>
	<p>Meeting four times a year, no preferred day.</p> <p>Term of office: Fixed terms of office for three years (to be reviewed annually).</p>		
(d)	Plymouth and Devon Racial Equality Council	One councillor	<p>Cllr Mrs Bridgeman</p> <p>Cllr Parker-Delaz-Ajete</p>
	<p>Term of office: until such time as the councillor resigns or is replaced by Council.</p>		
(e)	Plymouth Centre for Faiths and Cultural Diversity	One councillor	
	<p>Term of office: one year.</p>		

(f)	Plymouth Community Homes Board	Two representatives	Cllr Churchill Cllr Storer Cllr Tuohy Head of Housing Services (Matt Garrett) authorised to vote on behalf of the Council at the AGM
<p>Six to eight Board meetings a year plus committee/subsidiary board.</p> <p>Board meetings 5pm Tues; Committee/subsidiary boards can be 5pm on Tues or Thus or 10am on Wed or Fri.</p> <p>PCH Board member job specification on the website.</p> <p>Fee of £5,500 payable (£7,500 for a committee chair) to Board members.</p> <p>Term of office: Three years (reviewable annually).</p>			
(g)	SACRE	Six councillors: Cllrs Mrs Aspinall, Jarvis, Morris, Drean and Dr Salter were appointed at the AGM.	One vacancy
<p>Four meetings per year, preferred day: Monday.</p> <p>Proportional: three Conservatives and three Labour councillors.</p> <p>Term of office: until such time as the councillor resigns or is replaced by Council.</p>			
(h)	Wolseley CEDT	Two councillors	Cllr Martin Leaves Cllr Sparling Cllr Storer
<p>The two councillors must not sit on the Four Greens or Millfields CEDTs.</p> <p>Two members from wards within the area of benefit (Devonport, Ham, Peverell or Stoke Wards) who shall be nominated annually by Plymouth City Council, providing that one member should be a representative from the political party with a majority membership on Plymouth City Council and one member from the main party of opposition. Should there be elected members of only one political party represented in the Wolseley Trust area of benefit, then Plymouth City Council should be entitled to nominate only one member to serve on the Wolseley Trust Board.</p> <p>Eight meetings per year, no preferred day.</p> <p>Term of office: one year.</p>			

(2) The City Council is asked to note the following change notified to the Head of Legal Services –

	Committee, Outside Body etc	Membership
(i)	Co-operative Scrutiny Board	Councillor Sam Davey to replace Councillor Philippa Davey

One vacancy exists on the Your Plymouth Scrutiny Panel following the appointment of Councillor Philippa Davey as a Cabinet Member.

Councillors are reminded that they should update their Register of Interest to take account of any changes to their membership of Outside Bodies for 2015/16.

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FINANCIAL OUTTURN 2014/15 INCLUDING CAPITAL PROGRAMME UPDATE

City Council: 22 June 2015



CABINET MINUTE 7 (9 June 2015)

Lesa Annear (Strategic Director for Transformation and Change) submitted a report on the final outturn report for 2014/15 which detailed the financial monitoring position of the Council as at 31 March 2015 as follows -

- (a) a net revenue spend of £204.799m, which resulted in a requirement for a transfer of £0.119m from the Working Balance, leaving a balance of £10.620m;
- (b) a number of adjustments to the financial accounts following the financial health review always undertaken by the Section 151 Officer at the end of the year;
- (c) the final capital outturn position of £53.791m.

Cabinet Members were also advised that decisions made as part of this report would feed into the Council's annual Statement of Accounts which was subject to external audit.

Councillor Lowry (Cabinet Member for Finance) introduced the proposals and indicated that –

- (d) he was awaiting the budget announcement by the Chancellor of the Exchequer on 8 July 2015 and would assess the impact of it on the Council's finances;
- (e) further investment would be announced as part of the capital programme at the City Council meeting on 22 June 2015 and in future months.

Councillor Tuffin (Cabinet Member for Health and Adult Social Care) and Councillor McDonald (Cabinet Member for Children, Young People and Public Health) advised Cabinet of the continuing challenges facing the adult and children's social care services across the country.

Councillor McDonald thanked staff for their support during her first year as a Cabinet Member and reported that transformation would be a priority in children's services this year with the acceleration of the early help framework to try and prevent children from coming into care.

Councillor Lowry indicated that he was confident that with the transformation programmes in place, a balanced budget would be delivered for 2015/16.

David Northey (Head of Corporate Resources) also attended the meeting for this item. Andrew Hardingham (Assistant Director for Finance) paid tribute to the achievement of a near balanced budget last year and reported that he was looking forward to working with members and officers in the coming year.

Alternative options considered and reasons for the decision –

As set out in the report.

Agreed –

- (1) that the provisional outturn position as at 31 March 2015 is noted;
- (2) that the adjusted revenue deficit for the year of £0.119m is noted and will be met by a transfer from the General Fund Working Balance;
- (3) that the additional, unbudgeted, income of £1.5m included as part of the Corporate Adjustments for 2014/15 is noted. In accordance with the budget report approved in February 2014, the Council Tax collection fund will continue to be reviewed with the first call on any surplus being to top up reserves. In addition, the additional income, above the amount included in the budget from the Business Rates Pool of £0.150m is noted;
- (4) the additional transfers to and from reserves reflected within the outturn as follows –
 - Transfer to Waste Reserve £0.350m
 - Creation of a Rail Reserve £0.070m
 - Release from Insurance Reserve £(0.400)m
- (5) the following net nil transfers between reserves and provisions -
 - Transfer from Collection Fund £(1.500)m
 - Creation of a Contingent Liabilities Provision £0.250m
 - Creation of an Integrated Health Reserve £0.500m
 - Transfer to Waste Reserve £0.750m
 - Reduce Equal Pay Reserve £(0.700)m
 - Transfer to Redundancy Reserve £0.700m
- (6) that the capital financing requirement of £53.791m is noted and approval is given to the borrowing requirement of £6.792m for 2014/15;
- (7) that the re-profiling changes to the capital programme identified during the outturn process subsequent to Council approval in February 2015, are noted;
- (8) that the additions to the Capital Programme which total £43.870m for the period January 2015 to April 2015 are noted;
- (9) that Cabinet Members work with officers to minimise Council tax increases in coming years and that officers bring forward options for the council tax setting base for the financial year 2016/17 to achieve a possible council tax freeze subject to the outcome of the Chancellor's Budget announcements in July 2015 and his Autumn Statement;
- (10) that officers are congratulated on their work which had contributed to the tremendous outcome of the 2014/15 budget particularly bearing in mind the government cuts and significant financial challenges in adult and children's social care.

PLYMOUTH CITY COUNCIL

Subject: Financial Outturn 2014/15 (including Capital Programme update)

Committee: Cabinet

Date: 9 June 2015

Cabinet Member: Councillor Lowry

CMT Member: Lesa Annear (Strategic Director for Transformation and Change)

Author: David Northey, Interim Assistant Director for Finance
Contact details
Tel: 01752 305428
email: david.northey@plymouth.gov.uk

Ref:

Key Decision: No

Part: I

Purpose of the report:

This report is the final monitoring, or outturn, report for 2014/15 and details the financial monitoring position of the Council as at the end of March 2015.

The Revenue position for the year, assuming the transfers to and from reserves as proposed in the report are approved, is a net spend of £204.799m.

As is normal practice, this report proposes a number of adjustments to the financial accounts following the financial health review always undertaken by the Section 151 Officer at the end of the year. Decisions made as part of this report will feed into the Council's annual Statement of Accounts which is subject to external audit.

Following approval there will be a requirement for a transfer of £0.119m from the Working Balance, leaving a balance of £10.620m at 31 March 2015.

The final Capital outturn position for 2014/15 is £53.791m.

The Corporate Plan 2013/14 – 2016/17:

This quarterly report is fundamentally linked to delivering the priorities within the Council's Corporate Plan and sets out how the Council allocates its limited resources to key priorities to maximise the benefits to the residents of Plymouth.

Implications for Medium Term Financial Plan and Resource Implications:

The final outturn at the end of the year was just £0.119m more than the budget target that we set, which is a tremendous achievement and testament to the strong financial management and discipline across all areas of the council.

Balancing the budget without the need to draw down against our financial reserves provides us with a strong foundation to address the challenges ahead. However, there are specific areas of departmental service that continued to present us with significant financial impact, mainly in relation to our demand-driven Children’s Social Care which reported an overspend of £2.7m against the budget allocation of £26.5m, and our Co-operative Commissioning and Adult Social Care programme where costs exceeded the £70.5m budget by £2.5m at year end. The 2015/16 budget allocation in both areas has been reset based on client numbers and costs, and with increasing adult client numbers linked to people living longer, this has been a major driver for us to join in partnership with colleagues from health, with a pooled budget in place from April 2015, to place our combined limited funding into preventative work, supporting people to live healthy live-styles within the community.

The Medium Term Financial Forecast will now be updated to take account of the outturn position as detailed in this report

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

In considering the budget variations for the year, Directors will identify any potential risks to delivering the budget in future years. These will be monitored as part of the corporate reporting process.

All actions taken as part of the Corporate Adjustments have been considered for their impact on: council priorities, legal obligations, customers and other services and partners.

Equality and Diversity

We have given due-regard to our Public Sector Equality Duty for all relevant management actions.

Recommendations and Reasons for recommended action:

That Cabinet:-

1. Note the provisional outturn position as at 31 March 2015
2. Note the adjusted revenue deficit for the year of £0.119m and approve that this be met by a transfer from the General Fund Working Balance
3. Note the additional, unbudgeted, income of £1.500m included as part of the Corporate Adjustments for 2014/15. Our budget report approved in February 2014 stated we continue to review our Council Tax collection fund with the first call on any surplus being the need to top up reserves. In addition note the additional income, above the amount included in the budget from the Business Rates Pool of £0.150m.

4. Approve the additional transfers to and from reserves reflected within the outturn figures:

- Transfer to Waste Reserve £ 0.350m
- Creation of a Rail Reserve £ 0.070m
- Release from Insurance Reserve £ (0.400)m

5. Approve the following net nil transfers between reserves and provisions:

- Transfer from Collection Fund £ (1.500)m
- Creation of a Contingent Liabilities Provision £ 0.250m
- Creation of an Integrated Health Reserve £ 0.500m
- Transfer to Waste Reserve £ 0.750m
- Reduce Equal Pay Reserve £ (0.700)m
- Transfer to Redundancy Reserve £ 0.700m

6. Note the capital financing requirement of £53.791m and approve the borrowing requirement of £6.792m for 2014/15.

7. Note the re-profiling changes to the capital programme identified during the outturn process subsequent to Council approval in February 2015.

8. Note the additions to the Capital Programme which total £43.870m for the period January 2015 to April 2015

Alternative options considered and rejected:

None considered as it is a statutory requirement to report on the use of the Council's budget funds.

Published work / information:

The Local Government Act 2003 and the Local Authorities (Capital Finance and Accounting) (England) [Regulations](#) 2003

Capital Financing [Regulations](#) (2012)

Background papers:

2014/15 Capital & Revenue Monitoring [Report](#) Quarter 3 2014/15

[Annual Report 2015/16](#)

Sign off:

Fin	Djn151 6.10	Leg	DVS/23 055	Mon Off	DVS/23 055	H R		Assets		IT		Strat Proc	
Originating SMT Member: David Northey													
Have the Cabinet Members agreed the contents of the report? Yes													

Plymouth City Council
Finance Monitoring – 2014/15
Quarter 4 Outturn at 31 March 2015

I. Introduction

- I.1 This report reviews the Council's financial performance for the year ended 31 March 2015.
- I.2 It is appropriate, given the financial challenges facing the Council in the next financial year and the medium term, that as part of reporting the final position for 2014/15 further consideration is now given to future levels of the Working Balance and reserves. As is normal practice at this time of year, the Chief Finance Officer, the Assistant Director for Finance is recommending a number of adjustments to provisions and reserves within the report.
- I.3 The outturn figures will now feed into the Council's formal Statement of Accounts, which will include the balance sheet position. Under the Accounts and Audit Regulations 2011 the Assistant Director for Finance, as the Council's Section 151 Officer, is required to formally approve the accounts by 30 June 2015. The external auditor is required to audit the accounts by 30 September – the statutory deadline for their publication; the Audit Committee will be formally asked to approve the final accounts for the year following completion of the audit.
- I.4 This report contains the following sections and appendices:-
- **Section A Revenue Finance**
 - **Section B Capital Programme**

 - Appendix A Revenue Outturn variances by department 2014/15
 - Appendix B Movement in Reserves Summary 2014/15
 - Appendix C Movement in Provisions Summary 2014/15
 - Appendix D Capital Programme additions January 2015 – April 2015
- I.5 Full details of how we have allocated our financial resources to our priorities are set out in our Annual Report 2015/16, which can be accessed by following the link in "Background Papers". The Annual Report summaries how we are delivering the priorities for Plymouth.
- I.6 It sets out what we aim to achieve going forward and details what we achieved during 2014/15 despite the financial challenges we are facing including the creation of more jobs and homes for the city, and our ambitious capital investment.

SECTION A REVENUE FINANCE

2. General Fund Revenue Budget

- 2.1 Council approved a net revenue budget of £204.680m for 2014/15 at its meeting on 24 February 2014. Table I below provides a summary of the Council's overall revenue expenditure and compares the draft outturn with the latest approved budget.
- 2.2 The Council's Trading Accounts have been accounted for within the Place Directorate and Office for the Director of Public Health; a summary position is included within Appendix B.

2.3 Table I End of year revenue outturn by Directorate

Directorate	2014/15 Council Approved Budget	2014/15 Budget Virements	2014/15 Latest Budget	2014/15 Outturn	Year End Overspend / (Underspend)
	£m	£m	£m	£m	£m
Executive Office	3.697	0.173	3.870	3.869	(0.001)
Corporate Items	11.008	5.798	16.806	13.534	(3.272)
Transformation and Change Directorate	31.335	(0.612)	30.723	30.657	(0.066)
People Directorate	122.746	0.005	122.751	126.190	3.439
Public Health	0.184	0.027	0.211	0.205	(0.006)
Place Directorate	35.710	(5.391)	30.319	30.344	0.025
TOTAL	204.680	0.000	204.680	204.799	0.119

- 2.4 The monitoring report received by Cabinet on 10 February 2015 forecast a revenue outturn position of £1.746m overspend at the year end, and officers were tasked with continuing to take actions to reduce the overspend. Revenue spend has reduced by £1.627m over the last three months of the financial year which reduced the end of year overspend to £0.119m.
- 2.5 Within the People Directorate, both the Children's Social Care service and the Co-operative Commissioning and Adult Social Care service recorded overspends of £2.7m and £2.5m. However other savings within the directorate reduced the overall People Directorate overspend to £3.439m.
- 2.6 Across the Council, management actions to reduce the overspend included a full review of all discretionary spend and delayed expenditure wherever possible, with major savings being achieved within the Corporate Items.
- 2.7 Analysis of the final outturn position by directorate:

1. **Executive Office:** has recorded an overall minor underspend for the year of £0.001m.

2. **Corporate items:** has recorded a final underspend position for the year of £3.272m. The detail of this saving includes:
 1. The Corporate revenue contingency of £1m was established to fund one-off in-year budget pressures; we have not had to drawdown against this contingency and we have therefore released the unrequired £1m which has resulted in an increased underspend on Corporate Items.

 2. We were able to save more than £1.4m due to our continuing Treasury Management Strategy to broaden our investment portfolio and increase the returns available on our investments. We have built £1m of these savings into the 2015/16 Budget as sustainable savings.

 3. The cost of our Transformation Programme was included in the Corporate Items budget for 2014/15 with an allocation of £5.9m. The final outturn was £5.6m contributing a saving of £0.3m.

 4. The Council is part of a business rates pool with other Local Authorities in Devon which is in its second year of operation. On top of the income included in our budget assumptions we were able to benefit from an additional £0.150m. Also during the year we received a one-off VAT refund of £0.142m.

 5. As part of our December monitoring report we undertook a review of our overall reserves and provisions. Due to changes in our insurance liabilities, at that stage we released £0.600m and as part of this final outturn position we have been able to increase this release to £1m.

 6. At the start of the year we had a Redundancy Reserve of £0.300m which has been allocated to the cost of our Voluntary Release Scheme costs. Against the savings within Corporate Items itemised above we have funded the redundancy costs incurred within 2014/15 amounting to £0.700m.

3. **Transformation and Change:** has been showing a range of areas of possible overspend across the directorate with management actions to show an overall balanced position. In March savings totalling £0.066m have been identified with additional savings from Finance and HR & OD together with additional income from Legal Services.

- 4. People Directorate:** In the December 2014 report the directorate was showing a forecast £4.852m over spend and was set a target to finish the year no more than £4m overspend; the directorate has continued to work closely with finance colleagues to minimise the outturn overspend. The improvement in the quarter is £1.413m leaving an over spend for the year of £3.439m. Although this is a significant improvement in the final quarter, officers have been tasked to understand the final movements and learn the lessons around improving monitoring.

The detail of this final outturn position includes:

1. Children's Social Care; ended the year with a total spend of £29.243m against the budget allocation of £26.519m, an overspend of £2.724m. This is attributable to the increased cost of young people's placement, including more complex care needs and a number of strategies were put in place during the year to address the rising number of children in care.
2. Adult Social Care; ended the year with a total spend of £72.998m against the budget of £70.489m, an overspend of £2.509m. Management action to contain this overspend included measures around sign off of spend at the front door and a review of high cost packages. The main additional costs relate to Care Packages; Supported Living; Direct Payments; Re-ablement and an increase in the forecasted cost of the Rapid Response Service and DoLS assessments and associated costs.
3. ELAFs recorded an underspend of £1.486m and Homes and Communities an underspend of £0.321m. In both departments it should be noted that managers did their best to reduce or defer spend wherever possible, and worked to bring forward savings to reduce the directorate's forecasted overspend.

As shown above, there are specific areas of departmental service that continued to present us with significant financial impact, mainly in relation to our demand-driven Children's Social Care and our Co-operative Commissioning and Adult Social Care programme. In setting the 2015/16 budget allocation in both areas we have reset based on client numbers and costs of provision. This resetting of the budget baseline, based on latest data modelling should ensure we do not report over spend positions at the end of 2015/16, although we must always be mindful that both services are demand-driven.

5. Public Health: A small movement in March of £0.006m has resulted in an overall minor underspend for the year.

1. Public Health came in as a balanced budget within the ring fenced grant.
2. Public Protection Service overspent by £0.021m due to a variance in Bereavement Service income
3. Civil Protection Unit had an underspend of £0.027m due to cost recovery.

6. Place Directorate: has been forecasting a breakeven position for the year and has finished with a small overspend of £0.025m.

This final outturn position includes:

1. Economic Development came in on budget at 0.898m The ED team has worked hard to mitigate significant pressures in the Events programme and circa £300k economic pressure on the £4m pa commercial rent roll. Rents will continue to require careful management as the economy recovers gradually over the next few years
2. Strategic Planning & Infrastructure (SPI) came in £0.222m under budget with an outturn of £8.614m against the budget allocation of £8.836m, largely due to a restructure.
3. Street Services recorded an over spend of £0.145m with an outturn of £22.649m against the budget allocation of £22.504m. The department has addressed a range of demand based pressures during the course of the year by implementing a number of changes. Action within car parking to review back office costs and other procurement savings has partially offset lower than expected levels of income. The street cleansing team has reviewed and reduced the need for seasonal agency workers. Additional savings on the fleet and transport and the wider street services restructure has also enabled savings targets to be met. Finally, the delays in the opening of the new Waste Disposal Facility (WDF) has been offset with contracted compensation whilst the delay in receipt of PFI credits has been met by the negotiated and shared gain on the exchange rates relating to the construction costs of the WDF

3 2014/15 Financial Review

- 3.1 As part of consideration of the outturn position, and before officially 'closing the accounts', it is necessary to review the Council's overall financial position, looking not only at the outturn position for the year, but reviewing the adequacy of reserves and provisions in the light of financial liabilities identified over the short to medium term. Decisions made feed into the Council's statutory Statement of Accounts which is subject to external audit.
- 3.2 As an integral part of the financial review the Assistant Director for Finance and Corporate Management Team (CMT) are recommending the following Corporate Adjustments, including transfers to and from reserves, which amount to a net improvement to the overall outturn of £0.130m:

- a. Transfer to Redundancy Reserve £0.700m

The balance brought forward 1 April 2014 of £0.300m has been used towards funding our Voluntary Release Scheme (VRS) during 2014/15 and prior to any adjustment will stand at zero at 31 March 2015. As part of our Transformation Programme we have highlighted the need to reduce our workforce and it is proposed to transfer £0.700m to the Redundancy Reserve for staffing changes anticipated during 2015/16.

- b. Transfer from Equal Pay Reserve £(0.700)m

Prior to this proposed adjustment and following claims settled in the year, the balance at 31 March 2015 was £1.200m. Modelling by Finance and HR & OD suggests carrying forward a reserve balance of £0.500m for the remaining advised claims liability.

- c. Creation of a Rail Reserve £0.070m

The importance of a reliable, high speed rail link to London cannot be underestimated. It is proposed to set up a Rail Reserve to allow the allocation of additional resource to head up this area. It is envisaged that this post will be required for a minimum of three years; the following two years costs have been included in the Medium Term Financial Strategy.

- d. Transfer to Waste Reserve £1.100m

The Council has made a commitment to its waste disposal for the City with the building and commissioning of a new Waste Disposal Facility (WDF). As part of the construction contract a risk and gain sharing agreement was negotiated with MVV (the WDF provider) in relation to the cost of construction and the Euro exchange rate. The results of which were a financial gain to the Council which has been used to top up the Waste Reserve. The WDF is due to be fully operational from early May 2015. The Waste Reserve can be further divided to cover:

- i. The impact of delayed PFI credits to cover the period from 1 April 2015 to the date the plant becomes operational £0.250m
- ii. The additional waste disposal costs from 1 April 2015 to the date the plant becomes operational £0.550m
- iii. Contingency against these two items in the event of any further delay in the commissioning date £0.300m

e. Release from Collection Fund Reserve £(1.500)m

Cabinet is requested to note the additional, unbudgeted, income of £1.500m included as part of these Corporate Adjustments for 2014/15. Our budget report approved in February 2014 stated we continue to review our Council Tax collection fund with the first call on any residue surplus being the need to top up reserves. Each year we set our collection targets as part of the budget process. Given the economic climate it was prudent to set our income assumptions at a lower rate than previously. This £1.5m relates to Council Tax collected in the period up to 31 March 2014 where we have been able to maintain our collection rates and therefore exceeding our income assumptions. These additional resources were not able to be used prior to the 2014/15 financial period.

f. Additional Business Rates 2014/15 £0.150)m

In addition to the additional income included in our base 2014/15 budget, generated from our inclusion in the Devon Business Rates Pool, the benefit for the year has been confirmed as an additional £0.150m which is being recognised as part of the Corporate Adjustments.

g. Transfer from Insurance Reserve £(0.400)m

Following a full review of our claims history, as part of the closedown procedures, we are able to release the additional amount of £0.400m from our Insurance Reserve. This is in addition to the release of £0.600m reported as part of the December outturn position approved by Cabinet in February 2015. This will leave a balance to carry forward into 2015/16 of £1.3m

h. Creation of an Integrated Health Reserve £0.500m

As part of the 2015/16 budget setting we calculated an estimated financial impact for the year of £0.518m. This cost is still an estimate at this stage as the full implications of the Care Act are as yet still to be clarified. It is proposed that we recognise this £0.500m in the accounts whilst continuing to work through the legislation and impact.

i. Creation of a Contingent Liability Provision £0.250m

Each quarter as part of our Monitoring Officer and S151 CFO Assurance Review, the Council produces a contingent liability report, detailing known possible future liabilities. During March 2015 we have become aware of the possibility of one of these contingent liabilities crystallising early in 2015/16. It is proposed to set up a provision for 50% of the liability at this stage until further details are known.

Reserves and Provisions at 31 March 2015

3.3 Working Balance

Approval of the actions outlined above would leave a Working Balance at 31 March 2015 of £10.620m

Table 2 Working Balance

	March 2014	Less Outturn	March 2015
	£m	£m	£m
Working Balance	10.739	0.119	10.620

A working balance of £10.620m equates to approximately 5.5% of the net revenue budget for 2015/16 of £193.009m and remains in line with the approved Medium Term Financial Strategy (MTFS) which is to maintain a Working Balance of at least 5%.

3.4 Earmarked Reserves and Provisions

3.4.1 In addition to the Working Balance, the Council maintains a number of reserves which may be required for statutory purposes or set up voluntarily to earmark resources for future spending plans. Assuming the Corporate Adjustments outlined above are approved, the Council's earmarked reserves will stand at £28.700m at 31 March 2015 (up from £27.419m at 31 March 2014). This includes schools balances and reserves of £8.904m (down from £9.619m). At this point the details of the Tamar Bridge and Torpoint Ferry accounts have not been received from Cornwall Council who prepare the accounts and so any balances relating to this activity cannot be updated.

3.4.2 These figures are subject to change as the final statement of accounts is produced over the next month but any changes should be minimal. Appendix B shows the provisional movement in the reserves over the year, together with the main purpose of the reserve.

3.4.3 The Council has a number of budget provisions set up to meet known liabilities. Provisions are compulsory and required to comply with accounting standards. The balance on the provisions at year end together with movement in the year is outlined in Appendix C.

3.4.4 Schools Balances

At the end of the year there was a total of £8.904m unspent monies against schools' delegated budgets and other reserves. The main reasons why schools hold balances are:

- anticipation of future budget pressures usually arising from pupil number variations;
- to provide for the balance of Government grants paid during the financial year (April–March) which cover expenditure occurring across the academic year (September – August).
- Schools are also holding extra funds whilst they put together proposals for Early Help and the Council will be working with schools in 2015/16 to bring joint commissioning of such services to a reality.

Recommendations:

That Cabinet:-

1. note the provisional outturn position as at 31 March 2015
2. Note the adjusted revenue deficit for the year of £0.119m and approve that this be met by a transfer from the General Fund Working Balance
3. Note the additional, unbudgeted, income of £1.500m included as part of the Corporate Adjustments for 2014/15. In addition note the additional income, above the amount included in the budget from the Business Rates Pool of £0.150m.
4. Approve the additional transfers to and from reserves reflected within the outturn figures:

- | | |
|----------------------------------|------------|
| • Transfer to Waste Reserve | £ 0.350m |
| • Creation of a Rail Reserve | £ 0.070m |
| • Release from Insurance Reserve | £ (0.400)m |

5. Approve the following net nil transfers between reserves and provisions:

- | | |
|--|------------|
| • Transfer from Collection Fund | £ (1.500)m |
| • Creation of a Contingent Liabilities Provision | £ 0.250m |
| • Creation of an Integrated Health Reserve | £ 0.500m |
| • Transfer to Waste Reserve | £ 0.750m |
| • Reduce Equal Pay Reserve | £ (0.700)m |
| • Transfer to Redundancy Reserve | £ 0.700m |

SECTION B CAPITAL PROGRAMME

4. Capital Programme

- 4.1 The final outturn position for 2014/15 is £53.791m which is shown by Directorate in the table below. The Latest Budget is the revised position as reported to Full Council at its meeting in February 2015.

Table 3 – Capital Outturn 2014/15

Directorate	Latest Budget	Re-profiling	New Approvals	Variations	Outturn	Change	%
	£m	£m	£m	£m	£m	£m	
Place Directorate	32.240	(1.406)	1.548	1.106	33.488	1.248	104%
People Directorate	14.307	(0.555)	0.113	0.000	13.865	(0.442)	97%
Transformation and Change Directorate	9.938	(5.068)	0.975	0.407	6.252	(3.686)	63%
Public Health	0.186	0.000	0.000	0.000	0.186	0.000	100%
TOTAL	56.671	(7.029)	2.636	1.513	53.791	(2.880)	95%

- 4.2 The 2014/15 programme has enabled investment in some notable schemes, including £11m on improving and maintaining primary schools and academies; £2m on upgrading disabled facilities in homes; £2.9m contribution to upgrading of the Materials Recycling Facility at Chelson Meadow; £11m on highway improvements and £1.3m towards vehicle and plant replacement.
- 4.3 The year- end position highlights £7.029m re-profiling of schemes into 2015/16 with the most significant project being the decant of council staff from the Civic Centre at £3.848m. The project has slipped by six months with completion expected in September 2015 rather than the originally planned March 2015.
- 4.4 There are some projects which are ahead of schedule such as carriageway resurfacing and pothole removal £1.414m, and replacement of street lighting £0.794m.
- 4.5 The additions to the four year capital programme in the period January – April 2015 alone total £43.870m and include a further investment of £21.2m in our road network, including £10.2m on two major junctions upgrades at Derriford roundabout, with a further £0.9m on the replacement and upgrade of street lighting equipment and traffic signals to make our roads safer. Direct investment in developing our city includes a further £1.5m in the South Yard project, and there is a further £3.3m to fund two school expansions.

Capital Financing

4.6 Table 4 below shows the final financing position:

Table 4 – Financing of 2014/15 Capital Programme

Method of Financing	£m
Total Borrowing	6.792
Ring fenced funding	12.619
Un-ring fenced funding	34.380
Sub-Total Other Financing	46.999
Total Capital Financing	53.791

4.7 Appendix D sets out the additions to the Capital Programme for the final quarter of 2014/15 and April 2015.

Recommendations:

That Cabinet:-

6. Note the capital financing requirement of £53.791m and approve the borrowing requirement of £6.792m for 2014/15.
7. Note the re-profiling changes to the capital programme identified during the outturn process subsequent to Council approval in February 2015.
8. Note the additions to the Capital Programme which total £43.870m for the period January 2015 to April 2015

DEPARTMENTS	Latest Approved Final	Outturn	Outturn Variation
	£m	£m	£m
Chief Executive Office	3.109	3.025	(0.084)
Departmental Management	0.761	0.844	0.083
Total Executive Office	3.870	3.869	(0.001)
Capital Financing	10.942	9.533	(1.409)
Transformation	5.864	5.561	(0.303)
Other Corporate Items	0.000	(1.560)	(1.560)
Total Corporate Items	16.806	13.534	(3.272)
Finance	15.961	15.922	(0.039)
Legal	2.847	2.822	(0.025)
Customer Services	3.661	3.655	(0.006)
Human Resources & OD	2.629	2.399	(0.230)
Management and Support	0.268	0.502	0.234
ICT	5.357	5.357	0.000
Total Transformation and Change	30.723	30.657	(0.066)
Childrens Social Care	26.519	29.243	2.724
Co-operative Commissioning & Adult Social Care	70.489	72.998	2.509
Education, Learning & Family Support Services	15.452	13.966	(1.486)
Homes & Communities	10.101	9.780	(0.321)
Management and Support	0.190	0.203	0.013
Total People Directorate	122.751	126.190	3.439
Economic Development	0.898	0.898	0.000
Strategic Planning	8.835	8.614	(0.221)
Street Services	22.504	22.649	0.145
Management & Support	(1.918)	(1.817)	0.101
Total Place Directorate	30.319	30.344	0.025
Public Health (100% Grant Funded)	0.000	0.000	0.000
Public Protection Services	0.048	0.069	0.021
Civil Protection Unit	0.163	0.136	(0.027)
Total Office of Director of Public Health (ODPH)	0.211	0.205	(0.006)
Total General Fund budget	204.680	204.799	0.119

Reserves

Appendix B

High Level Summary group	Balance March 2014	Transfer to Reserves 14/15	Transfer from Reserves 14/15	Balance March 2015	
	£m	£m	£m	£m	
Trading Account & other statutory reserves	(0.493)	(4.845)	4.791	(0.567)	
Education/schools Earmarked reserves	(9.619)	(7.476)	8.191	(8.904)	
Commuted maintenance	(2.990)	(0.127)	(0.016)	(3.101)	
Earmarked General Reserves	(13.221)	(5.598)	(1.508)	(15.457)	
Other Reserves	(1.096)	(0.361)	(0.064)	(0.671)	
Working balance	(10.738)	0.000	0.119	(10.619)	
	(38.157)	(18.407)	11.513	(39.319)	

Summary group	Balance March 2014	Transfer to Reserves 14/15	Transfer from Reserves 14/15	Balance March 2015	Purpose of Reserve
	£m	£m	£m	£m	
<u>Trading Account & other statutory reserves</u>					
Off Street Parking	(0.037)	(2.583)	2.640	0.000	Represents Accumulated trading position
On Street Parking	0.057	(1.806)	1.749	0.000	Represents Accumulated trading position
City Market	(0.144)	(0.432)	0.434	(0.142)	Represents Accumulated trading position
Taxis	(0.311)	(0.017)	0.000	(0.328)	Represents Accumulated trading position
Street Trading	(0.007)	(0.007)	0.004	(0.010)	Represents Accumulated trading position
Land Charges Development Fund	(0.051)	0.000	(0.036)	(0.087)	To fund improvements in the LLC service
<u>Education/schools Earmarked reserves</u>					
Education Carry Forwards	(0.014)	0.000	0.001	(0.013)	Schools ringfenced resources mainly from grants
School Budget Share	(8.189)	(7.372)	8.196	(7.365)	Represents schools balances under delegated budgets
PFI reserves	(1.385)	0.000	(0.006)	(1.391)	PFI credits towards the schools PFI contract at Wood View are received in equal instalments over the course of the contract. This reserve enables the matching of the credits to actual expenditure incurred from year to year.

Summary group	Balance March 2014	Transfer to Reserves 14/15	Transfer from Reserves 14/15	Balance March 2015	Purpose of Reserve
	£m	£m	£m	£m	
Beechwood Campus Drs Surgery Reserve	(0.031)	(0.004)	0.000	(0.035)	transfer from revenue account difference between rent rec'd and unsupported borrowing cost, this is needed to pay final year of rent (contract for 25 years but surgery only paying 24)
Plymouth Adult & Community Learning	0.000	(0.100)	0.000	(0.100)	
<u>Commuted Maintenance</u>	(2.990)	(0.127)	(0.016)	(3.101)	Revenue contribution from developers /section 106 agreements to provide for future maintenance over a period of years
<u>Earmarked General Reserves</u>					
Insurance and Risk Management Reserves	(1.268)	0.000	0.055	(1.213)	To meet any unforeseen/increased costs of insurance claims or works to minimise insurance risk. The fund is available to meet the costs of urgent health and safety works that cannot be contained within existing budgets.
Budget Carry Forwards	(0.804)	(0.832)	0.281	(1.355)	various agreed c/forwards in General Reserve code
Pensions Fund	(0.567)	0.000	0.000	(0.567)	Following the triennial pensions review the council's contribution rate has been held at current levels for the next three years. However, this is on the understanding that contributions into the fund remain at least at 10/11 levels. Any shortfall will require a one off lump sum payment in year 3. Given further outsourcing, transfer of schools to academies and the anticipated reduction in workforce, it is likely that a shortfall will be incurred.
Redundancies	(0.300)	0.300	(0.700)	(0.700)	To meet potential costs of redundancies, including strain payments to the pension fund
Capital Reserve	(0.018)	0.000	0.000	(0.018)	To be used to support the capital programme and potential shortfall in capital receipts

Summary group	Balance March 2014	Transfer to Reserves 14/15	Transfer from Reserves 14/15	Balance March 2015	Purpose of Reserve
	£m	£m	£m	£m	
Job Evaluation/Equal Pay	(0.900)	(0.700)	0.000	(0.200)	To support the ongoing JE appeals process as well as potentially increased revenue costs if current claims are successful at tribunal. A sum of £0.350m has been set aside. In accordance with accounting regulations a provision for potential claims must be set up, but Capital Financing Regulations only require the Council to actually charge the revenue accounts when claims are actually paid. The provision is therefore offset by a negative reserve entry of £1.843m giving a net negative reserve of £1.493m.
Recovery costs - Icelandic Banks	(0.085)	0.000	0.000	(0.085)	Allowance for investment losses of the money invested in the Icelandic banks. Reserve currently meeting the ongoing legal costs and borrowing costs from utilising the capitalisation direction in 09/10.
Grants carryforward	(0.747)	(2.500)	(0.747)	(2.500)	Under IFRS all grant income must be released to revenue unless there are pay back conditions attached. Previously unspent balances at year end would have been carried forward as a creditor accrual. This is no longer permitted and authorities are required to use their locally approved reserve mechanisms to carry balances forward. This reserve therefore reflects unspent balances on ringfenced grant income at the year end, where there are continuing commitments.
Waste Reserve	(0.802)	(1.100)	(0.802)	(1.100)	Reserve set up to proactively provide and manage the future budget shortfall due to increasing landfill tax liability pending the new energy from waste plant becoming operational.
Stock transfer residual liabilities	(1.005)	0.000	0.000	(1.005)	Stock transfer remaining liabilities
Life Centre Dowry	(0.450)	(0.150)	0.000	(0.600)	Creation of Life Centre Dowry to release Sport England Grant Retention for capital scheme
Plan for Jobs	(0.400)	0.000	0.010	(0.390)	Revenue support to Plan for Jobs scheme
Investment Fund	(1.659)	(0.024)	0.105	(1.578)	Revenue reserve relating to Investment Fund
CEDT reserve	(0.042)	0.000	0.008	(0.034)	Reserve to support developing a new Community Economic Development Trust in the City
Transformational Change Reserve	(0.216)	0.216	(0.135)	(0.135)	Reserve to fund the acceleration of the Corporate Transformation Programme
Plymouth Plan reserve	(0.168)	0.000	(0.168)	0.000	

Summary group	Balance March 2014	Transfer to Reserves 14/15	Transfer from Reserves 14/15	Balance March 2015	Purpose of Reserve
	£m	£m	£m	£m	
Centenary Celebrations	(0.400)	0.000	0.400	0.000	
Skills Agenda	(0.100)	0.000	0.013	(0.087)	
City Deal for Young People	(0.100)	0.000	0.100	0.000	
People Directorate	0.000	(0.500)	0.000	(0.500)	Monies set aside whilst the financial impact of the Care Act and other initiatives are assessed.
Rail Manager	0.000	(0.070)	0.000	(0.070)	To ensure central government deliver rail promises
Tamar Bridge & Torpoint Ferry	(2.153)	0.000	0.000	(2.153)	Plymouth's 50% share of the operations ringfenced reserves
DRCP	(0.090)	0.000	0.046	(0.044)	Reserve set aside to meet future expenditure in Devonport, in lieu of grant funding in 2007/08, and fund DNM post
Tamar house - Commercial rents sinking fund	(0.503)	(0.238)	(0.018)	(0.723)	RDA rents sinking fund Tamar House - name changed to Commercial Property Client Account
A386 Park & Ride Leased Spaces	(0.444)	0.000	0.044	(0.400)	Upfront payment from PCT for leased spaces at George Park & Ride site. Released to revenue annually in lieu of rental income.
<u>Other Reserves</u>	(1.096)	(0.361)	(0.064)	(0.671)	All reserves have been reviewed and confirmed as required to meet specific policy commitments
Sub Total Earmarked Reserves	(27.419)	(18.407)	11.394	(28.700)	
Working Balance	(10.738)	0.000	0.119	(10.619)	General Balance available to meet unforeseen expenditure. This balance represents 5.5% of net revenue expenditure and is in line with Unitary Council averages
Total Reserves	(38.157)	(18.407)	11.513	(39.319)	

Provisions

Appendix C

DESCRIPTION	Balance March 2014	Provisions made in year	Provisions used in year	Balance March 2015
	£m	£m	£m	£m
Contingent Liabilities		(0.250)		(0.250)
Music Tutors	(0.099)			(0.099)
Landfill Site Provision	(8.794)			(8.794)
Business Rate Appeals	(0.676)	(0.704)		(1.380)
Backdated equal pay	(0.696)		0.457	(0.239)
Insurance Provision	(6.574)	(2.690)	3.852	(5.412)
General Fund Bad Debts	(1.322)	(0.274)	1.390	(1.457)
Other Bad Debt Provisions	(5.747)	(1.309)	4.490	(6.607)
Total	(23.908)	(5.227)	10.189	(24.238)

Capital Programme

Appendix D

Additions to the Capital Programme January 2015 – April 2015

Project	£m	Brief Description	PCC funded	Ring fenced grant Funded
Total individual approvals under £0.200m Jan-Mar 2015	1.510	Various incl. £0.150m Widey Lane CPO, £0.187m Flood Defence projects, £0.173m lighting of landmarks		
Total individual approvals under £0.200m Apr 2015	1.361	Various incl. £0.986m capitalised highway maintenance projects, £0.140m North Corner Pontoon		
Sub Total additions – under £0.200m	2.871		£2.240m un-ring-fenced £0.046m S106 £0.078m revenue	£0.507m
<u>Strategic Planning and Infrastructure - Transport Projects:</u>				
Forder Valley Link Road	0.304	Development costs only for the £33m proposed 1km new road that will connect Brest Road, in Derriford, with Forder Valley Road and Novorossiysk Road.	Un-ring-fenced £0.304m	
Clean Vehicle Technology Improvements	0.485	Dft grant which will be largely passported via legal agreement to bus operators for upgrade of buses.		Ring fenced grant £0.485m
<u>Greenspace Projects:</u>				
Marsh Mills Cycle Crossings	0.242	Cycle improvements at Marsh Mills		Ring fenced grant £0.242m
Derriford Community Park - Phase I	0.290	Habitat improvements including weed clearance, boundary works, hedge restoration etc	S106 £0.290m	
<u>Transport capitalised maintenance programme:</u>				
Street Lighting Columns Replacement	0.500	Repairs, replacement and upgrade of street lighting equipment and traffic signals	Un-ring-fenced £0.5m	
Living Streets - 20mph zones	0.400	Various Community Improvement Schemes	Un-ring-fenced £0.4m	

Project	£m	Brief Description	PCC funded	Ring fenced grant Funded
Carriageway resurfacing	0.359	Carriageway repairs, resurfacing, patching and micro asphalt treatments		Ring-fenced grant £0.359m
<u>Other:</u>				
Domestic Energy Improvements	0.425	Including heating control thermostats, draft proofing to prioritised properties within the North Yard area	S106 £0.425m	
Plymouth City Market Stalls & Entrance Doors	0.245	Replacement entrance doors, enhanced customer entrance to the East Car Park; replacement of daily benches with new main stalls	Un-ring-fenced £0.245m	
Mt Edgcumbe Higher level Stewardship	0.429	Historical and archaeological feature protection plus fencing & installation of bird and bat boxes.		Ring-fenced grant £0.429m
Staddiscombe Sports improvements	0.370	Pitch improvement works and installation of a primary drainage system to the 8 senior pitches.	Revenue budget £0.030m	Ring-fenced grant and contribution £0.340m
<u>Strategic Planning and Infrastructure - Transport Projects:</u>				
Derriford Transport scheme	10.160	2 major junction upgrades at Derriford Roundabout and the Tavistock Road / William Prance Road junction.		Ring-fenced grant £10.160m
Northern Corridor Strategic Cycle Network	3.303	On and off road cycling facilities & pedestrian measures on key routes into and out of the Derriford growth area	£0.843m un-ring-fenced	£2.460m ring-fenced grant
Derriford Hospital interchange scheme	2.240	Two-way bus link through Derriford Hospital. The four existing bus stops will be replaced with seven new stops, each with shelters and real time passenger information.	£0.840m un-ring-fenced	£1.400m Ring-fenced grant
<u>Transport capitalised maintenance programme:</u>				
Carriageway Resurfacing	3.800	Carriageway repairs, resurfacing, patching and micro asphalt treatments	Un-ring-fenced £3.800m	
Footway resurfacing programme	0.850		Un-ring-fenced £0.850m	

Project	£m	Brief Description	PCC funded	Ring fenced grant Funded
<u>Economic Development:</u>				
South Yard - Area East Direct Development	1.500	The total cost of the Area East proposed works are £5.6m. This is the addition of £1.5m not previously approved.		£1.500m Ring-fenced grant
Whitleigh HQ Four Greens Community Trust	1.275	Development of a HQ for the new Four Greens Community Trust in the former Whitleigh Care Home. The building will house 22 business units, 5 business incubator units and 3 community spaces.	Un-ring-fenced £1.275m	
Acquisition of Units 6a – 9a Kay Close	0.603	Investment Opportunity - Purchase of the lease and associated costs	£0.603m Ring-fenced capital receipts	
<u>Schools:</u>				
Pennycross School	2.139	School expansion as part of Basic Need Programme	£1.936m un-ring-fenced £0.203m S106	
Pomphlett Shool	1.200	School expansion as part of Basic Need Programme	£0.570m un-ring-fenced £0.630m S106	
<u>Other:</u>				
Contribution to redevelopment of Devonport Market Hall.	2.903	Towards £4m re-development by R.I.O to become a high tech facility for the development of digital gaming.	£0.225m S106	£2.678m Ring-fenced
2015-16 Fleet Replacement Programme	2.610	Phased replacement of the vehicle, plant and equipment fleet	£2.610m borrowing (invest to save)	
2016-17 Fleet Replacement Programme	1.619	Phased replacement of the vehicle, plant and equipment fleet	£1.619m borrowing - (invest to save)	
Accommodation Changes	1.353	Civic Centre decant project.	£1.353m un-ring-fenced	
New Central Library	1.395	Renovation of Taylor Maxwell House	£1.395m un-ring-fenced	
Total Additions to Capital Programme	43.870		23.310m	20.560m

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AUDIT ARRANGEMENTS 2015/16

City Council: 22 June 2015

**TAMAR BRIDGE AND TORPOINT FERRY JOINT COMMITTEE MINUTE 38
(13 March 2015)**

The Joint Committee received the Audit Arrangements for 2015/16 (previously circulated). The Business Manager highlighted that:

- (i) The Local Audit and Accountability Act 2014 removed the requirement for joint committees to have their accounts separately prepared and audited;
- (ii) The value of materiality within the two Authorities' accounts at which external auditors took interest was significantly above the Committee's revenue budgets. Anything below £20m was not considered as material to Cornwall's accounts;
- (iii) The Cornwall Council contract with Grant Thornton UK did not provide for non-statutory audits;
- (iv) In view of the above it was proposed that, in future, internal audits took place to replicate the statutory process as far as possible and in order to ensure the provision of a set of accounts for publication with confidence.

In response to Members' questions, the Business Manager confirmed that:

- (i) It was proposed that the current timetable of bringing the draft accounts and final audit to the June 2016 and September 2016 meetings respectively would continue;
- (ii) The current level of internal audit for operational tasks and processes would be maintained;
- (iii) It was anticipated that a Value For Money conclusion would still be included;
- (iv) Once the way forward had been agreed, further scoping work would be undertaken and the fee agreed.

Arising from consideration of the report, it was moved by Councillor Wheeler, seconded by Councillor Austin, and

RESOLVED TO RECOMMEND TO THE FULL COUNCILS OF CORNWALL AND PLYMOUTH CITY COUNCILS:

That the proposed Audit arrangements for 2015/16 as set out below be adopted:

In line with the financial service agreement with Cornwall Council to provide financial support to the Joint Committee, to continue with the production of a final set of accounts encompassing income and expenditure account and balance sheet, which will also allow the inclusion of the Joint Committee's financial results in the statements of the Joint Councils.

In addition, the balances that comprise these statements will then be tested independently by Cornwall Council's internal audit team to provide a level of assurance to the Joint Committee that the statements produced are accurate and represent a true and fair view.

This will not comprise a full audit ensuring compliance with regulatory framework but will be through an increased internal audit engagement, over and above their existing agreement to provide assurance on the Joint Committee's internal control environment.

Cornwall Council

Report to: **Tamar Bridge and Torpoint Ferry Joint Committee**

Date: **13 March 2015**

Title: **Audit Arrangements for 2015/16**

Portfolio Area **Cornwall Council: Transport**
Plymouth City Council: Transport

Divisions Affected **all**

Relevant Scrutiny Committee: **Scrutiny Management Committee**

Relevant Portfolio Advisory Committee (Cabinet (executive) decisions):

Key Decision:	N	Approval and clearance obtained:	Y
Urgent Decision:	N	Date next steps can be taken: (e.g. referral on of recommendation or implementation of substantive decision)	Normally 10 calendar days after decision for Cabinet
Appropriate pre-decision notification given where an executive Decision?			N

Author: **Andrew Vallance** Role: **Business Manager**
Andy Brown **Assistant Head of Finance**

Contact: **01752 812233** andrew.vallance@tamarcrossings.org.uk
01872 322537 abrown@cornwall.gov.uk

Recommendations:

1. That the Joint Committee recommends to the Joint Councils that the proposed audit arrangements for 2015/16 are as outlined in option 2 in this report.

Cornwall Council

1. Executive summary

This report sets out the changes in the audit requirements placed upon the Joint Committee for financial year 2015/16 and a proposal for the subsequent new audit arrangements to be put in place to ensure the Joint Committee has sound financial assurance.

2. Background

The Audit Commission Act 1998 required Joint Committees to prepare accounts and undergo a separate audit from their constituent bodies. In December 2014 a letter from the Department for Communities and Local Government confirmed that, from 1 April 2015, implementation of the Local Audit and Accountability Act 2014 will mean that Joint Committees will no longer be required to have their accounts separately prepared and audited.

The Government have made this change as the appropriate parts of the financial results of Joint Committees are reported in the accounts of their constituent bodies, and they will be audited by auditors appointed to audit the accounts of those bodies.

Therefore the audit, to be undertaken by Grant Thornton for the financial year 2014/15, will be the last statutory audit to be undertaken for the Tamar Bridge and Torpoint Ferry Joint Committee. The cost of this audit is circa £9K.

The Joint Committee and Joint Councils now need to consider the effect of the ending of separate Joint Committee audits and ensure that an effective financial and governance framework is maintained for the Joint Committee and the funds they control.

3. Outcomes/outputs

Although the removal of the separate audit requirement will result in the reduced assurance on the financial activity of the Joint Committee the financial results will still be subject to the audits of the Joint Councils; therefore an element of assurance can be undertaken from these audits.

Owing to the levels of materiality for the joint councils it is unlikely that revenue activity, either through spend or income generated, will be specifically tested by the Joint Councils audits, however the assets i.e. the bridge, will be material and therefore be tested under the relevant audits.

Statement of accounts, encompassing the income and expenditure account and balance sheet, will still be produced by the Cornwall Council financial team as part of the financial services agreement, and are

Cornwall Council

required as part of the process of including the financial results in the Joint Councils final accounts.

This, therefore, still provides transparency around the Joint Committee's individual financial results and these will still be available and published.

The current separate audit arrangement, undertaken by Grant Thornton, could be continued. Officers would need to undertake an exercise to specify the requirements of the Joint Committee audit and then procurement to go out to appoint an external auditor. Given the potential for changes in organisational structure after 2015/16 linked to the Value for Money review, the specification may only be apply to the forthcoming financial year.

This would require significant resource to prepare and process for which the Joint Committee would need to fund. There is also the likely risk that the current cost of audit, circa £9K, would be significantly higher should an appointment process be undertaken.

4. Options available and consideration of risk

There are a number of options open to the Joint Committee to proceed, and these are set out below.

Option 1 – Do nothing and continue without any audit or increased independent financial assurance but take assurance that the Joint Committee's undertakings are covered under the audit of the Joint Councils. Financial statements will still be produced to enable Joint Councils to include them within their final accounts.

Option 2 – In line with the financial service agreement with Cornwall Council to provide financial support to the Joint Committee, to continue with the production of a final set of accounts, encompassing income and expenditure account and balance sheet which will also allow the inclusion of the Joint Committee's financial results in the statements of the Joint Councils.

In addition the balances that comprise these statements will then be tested independently by Cornwall Council's internal audit team to provide a level of assurance to the Joint Committee that the statements produced or accurate and represent a true and fair view.

This will not comprise a full audit ensuring compliance with regulatory framework but will be through an increased internal audit engagement, over and above their existing agreement to provide assurance on the Joint Committee's internal control environment.

Cornwall Council

Option 3 – To go through a process to specific, tender and finally appoint an external auditor to undertake a separate audit of the Joint Committee's accounts. This process would require significant resource, be likely to result in noticeably higher costs and may need to be repeated if there is significant change in the undertaking's organisational structure.

5. Proposed Way Forward

Taking into consideration the financial transparency requirements of the Joint Committee, particularly for any future toll review, and the risk that any procurement exercise will require additional resource and could potentially cost considerably more than the current audit, the proposed way forward is to proceed with option 2.

The Business Manager and the Assistant Head of Finance will draw up a scheme of work with the Internal Audit Team from Cornwall Council that meets the requirements of option 2 and provides the assurance for the Joint Committee.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	N	The legal framework and requirements are as set out in the report. It will be for the joint councils to approve the arrangements for financial assurance and governance of the Joint Committee in 2015/16.
Financial	N	There is a saving to the Joint Committee or circa £9K per annum resulting in the removal of the statutory audit. If the recommended option is approved this saving can be utilised to cover the cost of the increased independent assurance to be undertaken by Cornwall Councils internal audit team.
Risk	N	There is no risk to the Joint Committee as there is no requirement to have a statutory audit in 2015/16, however there will be an increased level of risk if this is not replaced by an increased level of independent financial assurance.
Comprehensive Impact Assessment Implications		
Equality and Diversity		No issues identified.

Cornwall Council

Safeguarding		No issues identified.
Information Management		No issues identified.
Community Safety, Crime and Disorder		No issues identified.
Health, Safety and Wellbeing		No issues identified.
Other implications		No other implications identified.

Supporting Information**Appendices:****Background Papers:**

None

Approval and clearance of report**All reports:**

Final report sign offs	This report has been cleared by OR not significant/not required	Date
Legal (if significant/required)		
Finance Required for all reports	Andy Brown, Assistant Head of Finance	4 March 2015
Equality and Diversity	Not Required	

Cabinet/individual decision reports:

Final report sign offs	This report has been cleared by	Date

Cornwall Council

Head of Service		
Corporate Director		

PLYMOUTH CITY COUNCIL

Subject: Proposed Changes to Standing Orders in respect of Employment of the Chief Executive, Section 151 Officer and Monitoring Officer

Committee: Council

Date: 22 June 2015

Cabinet Member: Councillor Smith

CMT Member: Lesa Annear, Strategic Director for Transformation and Change

Author: Linda Torney, Assistant Head of Legal Services

Contact details: Email: linda.torney@plymouth.gov.uk
Tel: 01752 304330

Key Decision: No

Part: I

Purpose of the report:

The purpose of this report is to inform Members of the requirements of the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 and propose amendments to the Council's Employment Standing Orders to comply with them.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

No direct link but the Council is being open and transparent about its actions

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

This proposal will affect the composition of the Appointment Panel when considering disciplinary matters concerning the Chief Executive, Section 151 Officer and Monitoring Officer. It will require changes to the terms and conditions of those staff and changes to the arrangements with the designated Independent Persons with responsibility for advising in respect of Standards Issues.

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

None identified

Equality and Diversity:

There are no apparent equalities implications resulting from the new regulations

Recommendations and Reasons for recommended action:

1. The Panel recommends that Council amends the Employment Standing Orders and the Appointment/Appeals/Disciplinary Panel's terms of reference in the Constitution to comply with the requirements of the new regulations, as shown in the Appendix (highlighted in red).
2. The Panel recommends that Council delegates the function of dealing with any disciplinary matters concerning the Chief Executive or Section 151 Officer or Monitoring Officer to the Chief Officer Disciplinary Panel and, where considered appropriate, to make a recommendation for dismissal to Council.
3. The Panel recommends that Council designates the people who carry out the role of Independent Persons for the Standards Regime as suitable to act as Independent Persons for this purpose, subject to their agreement; and instructs the Monitoring Officer to put suitable arrangements in place.
4. The Assistant Director for Human Resources and Organisational Development takes the necessary action to agree variations to the contracts of employment of the affected staff.

The reasons for these actions and recommendations are contained in the body of the report.

Alternative options considered and rejected:

None. The proposed changes are a result of the new regulations.

Published work / information:

Plymouth City Council's constitution

Sign off:

Fin DJN 1516.05	Leg LT/23086/0 515	Mon Off LT/DVS/2 3-086	HR MF 29.5.2015	Assets	IT	Strat Proc
Has the Cabinet Member(s) agreed the content of the report? Yes						

1. Background

- 1.1 The recent Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 require local authorities to amend their Standing Orders to incorporate new arrangements for disciplinary action against the Chief Executive, Monitoring Officer and the Section 151 Officer.
- 1.2 The regulations state that Council is required to change its standing orders to reflect these new requirements at the first full Council meeting following the AGM i.e. on 22 June 2015.
- 1.3 At present the law requires a Designated Independent Person (DIP) to investigate allegations of misconduct by the Chief Executive, Monitoring Officer and the Section 151 Officer. Those officers may be suspended on full pay whilst the allegations are investigated. No further disciplinary action may be taken in respect of those officers unless it's in accordance with a recommendation in the report of the Designated Independent Person.

2.0 Effect of the regulations

- 2.1 In future, any final decision to dismiss the Chief Executive, Monitoring Officer or Section 151 Officer must be taken by full Council, unless the reason for the dismissal is as a result of permanent ill health, redundancy or a failure to renew a fixed term contract. Before taking that decision, Council must invite at least two Independent Persons to be members of a Panel to consider the matter, and Council must take into account any recommendation of that Panel before taking a final decision to appoint or to dismiss.
- 2.2 The Regulations limit the remuneration that should be paid to the Independent Persons on the panel to the level of the remuneration which they would normally receive as an Independent Person in the standards regime, i.e. a modest annual allowance or small meeting fee.

3.0 Recommendations

- 3.1 The Monitoring Officers of Devon County Council and Cornwall Council carry out the role of Designated Independent Person for the standards regime for the Council which involves providing an independent view, which must be taken into account by the Monitoring Officer before he makes a decision on a standards complaint which is being formally investigated. It is recommended that they are approached to see whether they would also be prepared to be designated to carry out the role of Designated Independent Person for this regime. This has the advantage of using people who are familiar with the roles played by these senior staff within local government and an understanding of the legal requirements involved in the process. An alternative would be for Council to advertise and appoint to such a role when required, to avoid these costs unless they become necessary and to ensure that the people appointed are available at the time required.
- 3.2 Whilst, in theory, it would be possible for Council to carry out the disciplinary process at what would presumably be an extraordinary meeting of Council; the rules of debate for full Council combined with the need for flexibility of dates would make holding a hearing of this nature impracticable. Therefore, it is proposed that Council delegates this function to the Chief Officer Disciplinary Panel which could then report to full Council with their recommendation, which would include the views of the Independent Persons.
- 3.3 The current disciplinary process is incorporated into the officers' contracts of employment, so it will be necessary to agree variations to such contracts to be able to comply with the new Regulations, without giving rise to claims for breach of contract.

- 3.4 The Panel is required to be a committee of Council, so it is subject to normal proportionality rules. The Regulations provide that the authority does not have to appoint more than two Independent Persons, but may do so if it wishes.
- 3.5 Currently, there are 7 Members on the Panel. The Independent Persons would be additional members, without voting rights.
- 3.6 On 5 June, the Appointments Panel considered this report and recommended that Council should accept the report's recommendations subject to a clarification of section 3.4 (*subsequently amended.*)
- 3.7 On 8 June, the Constitutional Review Group (CRG) considered this report with section 3.4 amended as above. The CRG recommended that Council should accept the report's recommendations.

EMPLOYMENT STANDING ORDERS

1. Appointing the Chief Executive

- 1.1 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 **but the majority of members must not be Cabinet members.**
- 1.2 Before the Chief Executive is appointed, the Assistant Director for Human Resources and Organisational Development must tell Cabinet who the Appointments Panel wants to appoint and anything else which is relevant to the appointment.
- 1.3 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.

2. Appointing the Directors, Assistant Directors and Heads of Service

- 2.1 Directors and Assistant Directors are appointed by the Appointments Panel. At least one member of the Cabinet must be a member of the Appointments Panel, **but the majority of members must not be Cabinet members.**
- 2.2 Before a Director or an Assistant Director is appointed, the Assistant Director for Human Resources and Organisational Development must tell the Cabinet whom the Appointments Panel wants to appoint and anything else which is relevant to the appointment.
- 2.3 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, Organisational Development or if the Appointments Panel does not consider any objection made by the Cabinet relevant and justified.

3. Dismissing the Chief Executive, Directors and Heads of Service

- 3.1 **The Chief Executive, Section 151 Officer and Monitoring Officer are dismissed by Council following a report and recommendation from the Chief Officers' Disciplinary Panel, unless the reason for dismissal is ill health retirement or redundancy in which case decision to dismiss is determined by the Chief Officers Disciplinary Panel. The Panel must be politically proportionate and include the relevant cabinet member but the majority of members cannot be cabinet members.**
- 3.2 **When dealing with cases of misconduct by the Chief Executive Section 151 Officer or Monitoring Officer the Panel must also include two Designated Independent Persons and the report of the Panel to Council must include their views as well as any recommendation from the Panel.**
- 3.3 **The Assistant Chief Executive, Directors and Assistant Directors are dismissed by the Chief Officers' Disciplinary Panel, which must be politically proportionate and include at least one Member of the Cabinet but the majority of members should not be Cabinet members.**

3.4 Before a dismissal, the Assistant Director for Human Resources and Organisational Development must tell the Cabinet whom the Panel wants to dismiss and anything else which is relevant to the dismissal.

3.5 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.

4. Appointing Political Assistants

Appointments of Political Assistants will follow the wishes of their political groups.

5. 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, Directors and Assistant Directors other than those who report to the Director for Public Health and Political Assistants. Other officers are appointed and dismissed by their Assistant Directors or their nominees. All Officers except Political Assistants must be appointed on merit.

~~6. The Head of Paid Service, Responsible 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.~~

6. Recruitment and selection procedure

All appointments must follow the Council's recruitment and selection procedure.

7. Advertising the positions of Chief Executive, Directors and Assistant Directors

When the Council wants to appoint a Chief Executive, Director or Assistant Director (and it is not proposed that the appointment be made exclusively from the existing officers), it will produce a statement specifying the duties of the post and any qualifications or qualities to be sought in the person to be appointed and send them to anyone who asks. The post will be advertised in a way which will bring it to the attention of suitable applicants.

8. Relationships with Councillors and officers

Candidates must disclose on their application form whether they are related to any Councillor, officer, Councillor or officer's partner as their partner, parent, child, stepchild, adopted child, grandparent, grandchild, brother, sister, uncle, aunt, niece or nephew.

If a candidate declares a relationship with a Councillor, 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).

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.

CHIEF OFFICER APPOINTMENTS, APPEALS and DISCIPLINARY PANELS

I. FUNCTIONS

1.1 Undertaking the selection process for the appointment, and formulating recommendations to the Council in relation to:

- the appointment and dismissal of the Head of the Paid Service;
- the designation of an officer to act as Monitoring Officer and Responsible Finance Officer (Section 151 Officer);
- the appointment/dismissal of Monitoring Officer and Responsible Finance Officer;

in accordance with legislation, Council policies, conditions of service and the appropriate procedures set out in the employment standing orders;

1.2 Undertaking the selection, appointment and dismissal processes for any staff where so required by law;

(It should be noted that the Chief Executive as head of paid service, or a person nominated by him, has powers to appoint all other staff).

1.3. Hearing and determining any appeals by staff under the Council's approved Human Resources policies and procedures including through any appointed Sub-Committee.

1.4 Determining terms and conditions for staff employed on the JNC terms and conditions for Chief Officers.

2. PROCEDURES

2.1 The Panels shall be politically balanced and include the relevant Cabinet member when required. **The majority of members on the Panel cannot be members of the Cabinet. When acting as a Disciplinary Panel in respect of a proposal to dismiss the Chief Executive or Section 151 Officer or Monitoring Officer for reasons other than ill health retirement or redundancy the Panel will also include two Designated Independent Persons appointed for this purpose.**

2.2 A Panel which hears an appeal will not include members of the Panel which made the original decision.

Appointment of substitute members

2.3 Any member of the Council may act as substitute on a Panel provided that they have completed the Council's relevant human resources training/ briefing.

3. GENERAL

The Panels are convened from time to time as required by the Assistant Director for Human Resources and Organisational Development.

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APPENDIX**CHIEF OFFICER APPOINTMENTS PANEL MINUTE 5**

(6 June 2015)



Linda Torney, Assistant Head of Legal Services submitted a report on the proposed changes to Standing orders in respect of Employment of the Chief Executive, Section 151 Officer and Monitoring, which highlighted the following main points –

- (a) the recent Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 required local authorities to amend their Standing Orders to incorporate new arrangements for disciplinary action against the Chief Executive, Section 151 Officer and Monitoring Officer;
- (b) the regulations state that Council was required to change its Standing Orders to reflect the new requirements at the first Full Council meeting following the Annual General Meeting (22 June 2015);
- (c) the new arrangements will result in any final decision to dismiss the Chief Executive, Section 151 Officer and Monitoring Officer must be taken by full Council, unless the reasons for the dismissal was as a result of permanent ill health, redundancy or a failure to renew a fixed term contract. Before taking that decision, Council must invite at least two Independent Persons to be members of a Panel to consider the matter and Council must take into account any recommendation of that Panel before taking a final decision to appoint or to dismiss;
- (d) a meeting of the Constitutional Review Group was scheduled for Monday 8 June 2015 at which the same report would be submitted for review

The panel agreed –

- (1) to recommend that Council amends the Employment Standing Orders in the Constitution to comply with the requirement of the new regulations as shown in appendix I of the report;
- (2) to recommend that Council delegates the function of dealing with any disciplinary matters concerning the Chief Executive or Section 151 Officer or Monitoring Officer to the Chief Officer Disciplinary Panel and where considered appropriate, to make a recommendation for dismissal to Council;
- (3) to recommend that Council designates the people who carry out the role of Independent Persons for the Standards Regime, as suitable to act as Independent Persons for this purpose, subject to their agreement and instructs the Monitoring Officer to put suitable arrangements in place;

- (4) that the Assistant Director for Human Resources and Organisational Development takes the necessary action to agree variations to the contracts of employment of the affected staff;
- (5) that a more comprehensive explanation is provided in the report to Full Council on 22 June 2015, regarding the proportionality rules relating to the two Independent Persons.

PLYMOUTH CITY COUNCIL

Subject: Amendments to the Constitution
Committee: Council
Date: 22 June 2015
Cabinet Member: Councillor Smith
CMT Member: David Shepperd, Monitoring Officer
Author: Linda Torney, Assistant Head of Legal Services and Judith Shore, Democratic and Member Support Manager
Contact details: T: 01752 304330 E: linda.torney@plymouth.gov.uk
Key Decision: No
Part: I

Purpose of the report:

This report proposes revisions to the Constitution following the senior management restructure; to create a separate part of the Constitution concerning delegations to officers; to include additional information about access to information for ease of reference; to update the Policy Framework to reflect changes in practice; and to include information about the Leader's scheme of delegation via a hyperlink.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

The new changes will aid transparency and improve access to the democratic process.

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

None directly arising

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

No implications.

Equality and Diversity:

No implications.

Recommendations and Reasons for recommended action:

That Council agrees the constitutional amendments in Appendices A to D of the report.

Reasons:

As set out in the report.

Alternative options considered and rejected:

None

Published work / information:

Plymouth City Council's constitution

Sign off:

Fin	LA2 015 06 12	Leg	lt/231 01/11 0115	Mon Off	23191 DVS	HR		Assets		IT		Strat Proc	
Has the Cabinet Member(s) agreed the content of the report? Yes													

Proposals

- a) The Monitoring Officer has reviewed the Constitution in light of decisions taken by Council in the course of the administrative year and proposes the revisions appendices A to D in order to increase transparency and reflect changes within the Council.

- b) The revisions include the following:
 - 1 A redraft of the sections of the constitution that refer to the Leader's scheme of delegation (Article 11, 'Decision Making' and Part C, 'Responsibility for Executive Functions') so that it is easy to separate the changes made by the Leader from time to time from the remainder of Part C of the Constitution which describes the way in which delegations work. This would allow future changes to the Leader's scheme to be included by way of a hyperlink in the constitution and avoid the need to change two documents with the risk that this could lead to mistakes. (See Appendix A of this report.)
 - 2 An update to the Policy Framework (Appendix One of the constitution) to reflect changes in legislation and practice. (See Appendix B of this report.)
 - 3 Additional information about access to information (Part F of the constitution) to present a fuller picture of the requirements of the legislation for ease of reference. (See Appendix C of this report.)
 - 4 Amendments required as a result of the senior management restructure and to create a separate part of the Constitution (at the start of Part H) dealing with delegations to officers, for ease of reference. Also, consequential amendments to Part E, 'Committees' terms of reference' and legal matters in Article 12, 'Finance, Contracts and Legal Matters' and Part H, 'Legal Standing Orders'. (See Appendix D of this report.)

- c) On 8 June, the Constitutional Review Group considered the proposed revisions and recommended that Council agrees the constitutional amendments in Appendices A to D of this report.

Article 11 – Decision Making and Delegation of Functions

(Amendments in red)

11.1 Responsibility for decision-making

The Council will issue and keep up to date a record of the responsibility of the Council, the Leader, the Cabinet, Committees, Cabinet members and individual officers for particular types of decisions or decisions relating to particular areas or functions.

11.2 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Consultation and due consideration of professional advice from officers;
- (c) Respect for human rights;
- (d) A presumption in favour of openness;
- (e) Clarity of aims and desired outcomes; and
- (f) Explaining what options are available and giving reasons for the decisions taken.

11.3 Types of decision

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

- Council responsibilities – these are the responsibility of Council and are set out in Part B or delegated to a Committee, a sub committees or an officer;
- Executive responsibilities – these are the responsibility of the Leader and are set out in the Leader's scheme of delegation;
- Local choice responsibilities – Council has decided that these will be the responsibility of the Leader.

11.4 Full Council and key decisions

- (a) Full Council decisions:

Decisions relating to the [Council Functions](#) listed in Part B section 1 will be made by the Full Council and not delegated.

- (b) Key decisions:

Decisions relating to an executive function which would:

- result in the council spending or raising annual income by more than £500,000 (or more than £2,000,000 if that is the total cost of a contract award)

or

- result in the council saving more than £1,000,000
- or
- result in the council saving less than £1,000,000 and the saving will have a material impact upon service provision such as a significant change or a cessation of service delivery and associated staff redundancies or a significant impact on customers
- or
- have a significant impact on communities living or working in two or more wards.

A decision maker may only make a key decision in accordance with the requirements of the [Cabinet Procedure Rules](#) set out in Part C of this Constitution.

11.5 Delegation of responsibilities

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

11.6 How Delegation Works

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

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

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

11.8 Decision making by the Full Council

Unless otherwise stipulated, the Council meeting will follow the [Council Procedure Rules](#) in Part B when considering any matter.

11.9 Decision making by the Leader and Cabinet

Unless otherwise stipulated, the Cabinet will follow the [Cabinet Procedure Rules](#) in Part C when considering any matter.

11.10 Decision making by the Co-operative Scrutiny Board or Scrutiny Panels

The Co-operative Scrutiny Board and panels will follow the [Overview and Scrutiny Procedure Rules](#) in Part D when considering any matter.

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

Other Council committees and sub committees shall follow the [Committee Procedure Rules](#) in Part D when considering any matter.

11.12 Decision making by Council bodies acting as tribunals

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

Part C Responsibility For Executive Functions

(Delete the Leader's scheme of delegation and insert a hyper link to the Scheme)

I GENERAL

1.1 All the functions of the Council are executive functions except for:

- Those listed in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended); and
- Those set out in this Constitution as being the responsibility of the Council or a body established by the Council.

1.2 Executive functions will be exercised by the Leader except where the matter is dealt with under joint arrangements or delegated to the Cabinet, a committee of Cabinet, an individual Cabinet member or an officer.

1.3 The Leader will discharge these functions in accordance with the Cabinet Procedures and the Access to Information Rules.

1.4 The Leader will make sure all necessary steps are taken to prepare the authority's budget, and those plans and strategies which constitute the authority's policy framework as set out in Appendix One of this Constitution, prior to their final approval and adoption by the Council. He or she will undertake this work in accordance with the [Budget and Policy Framework Procedure Rules](#) (see Part B).

2 THE LEADER'S SCHEME OF DELEGATION

2.1 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.

2.2 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 those responsibilities on certain conditions (i.e. the Leader can choose to exercise any powers in the Scheme of Delegation).

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

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

3 OFFICER DELEGATIONS

See the Officer Scheme of Delegation of Functions in part H of the Constitution.

POLICY FRAMEWORK

(Additions in red)

Statutory Plans and Strategies

- Corporate Plan
- Licensing Authority Policy Statement – Gambling Act 2005
- **Plymouth Plan incorporating the:**
 - Local Development Framework (Documents)
 - Local Transport Plan
 - **Safer Plymouth Partnership Plan**
 - **Child Poverty Plan**
- Youth Justice Plan

(Note: the Health and Well Being Board is responsible for the Joint Strategic Needs Assessment)

Local Choice Plans and Strategies

- ~~All Our Futures (Plymouth's Strategy for the Over 50's)~~ (No longer exists)
- ~~Capital Strategy and Asset Management Plan~~ (No longer exists)
- Medium Term Financial Plan
- **Plymouth Plan incorporating the:**
 - Housing Strategy
 - Plymouth Economic Strategy
 - Waste Management Strategy
 - Children and Young People's Plan
 - **Vital Spark (Cultural Strategy)**
- ~~Investment in Children (comprising Strategy for Change and Building Schools for the Future)~~ (No longer exists)
- Licensing Policy and Taxi Licensing Policy

ACCESS TO INFORMATION: CATEGORIES OF EXEMPT INFORMATION

(This table to be included in Part F, Section 4.2.2 of the constitution)

Category	Condition
<p>1. Information relating to an individual</p>	<p>Information is not exempt information unless it relates to an individual of that description i.e. it must relate to and be recognisable as referring to a particular living individual in the roles indicated.</p> <p>Information is only exempt:</p> <ul style="list-style-type: none"> (a) where disclosure is prohibited by statute; or (b) where disclosure might involve providing personal information about individuals”, or (c) where disclosure might breach a duty of confidentiality; and (d) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
<p>2. Information which is likely to reveal the identity of an individual</p>	<p>Condition as above.</p>
<p>3. Information relating to the financial or business affairs of any particular person (including the authority holding the information) “Financial or business affairs” includes contemplated, as well as past or current, activities.</p> <p>This category will include commercial and contractual interests.</p>	<p>Information is not exempt information if it is required to be registered by law e.g. Companies Act 1985, the Charities Act 1993 etc.</p> <p>Information is only exempt if and for so long as:</p> <ul style="list-style-type: none"> (a) disclosure of the amount involved would be likely to give advantage to a person entering into or seeking to enter into a contract with the Council in respect of property, goods or services whether the advantage would arise as against the Council or as against other persons, or (b) disclosure would prejudice the efficiency and effectiveness of the use of Council resources; or (c) disclosure of trade secrets and other information would, or would likely, prejudice the commercial interests of any person, including the Council; and (d) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information

<p>4. Information relating to any consultation or negotiations or contemplated consultations or negotiations, in connection with any labour relations matters arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority</p>	<p>Information is only exempt if and for so long as its disclosure to the public:</p> <ul style="list-style-type: none"> (a) would prejudice the Council in those or any other consultations or negotiations in connection with a labour relations matter; and (b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
<p>5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings</p>	<p>Information is only exempt:</p> <ul style="list-style-type: none"> (a) where a claim of legal professional privilege could be maintained in legal proceedings e.g. correspondence such as legal advice and assistance between the Council's Legal Services and its client; and (b) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
<p>6. Information which reveals that the authority proposes:</p> <ul style="list-style-type: none"> (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or (b) to make an order or direction under any enactment 	<p>Information is exempt only if and as long as:</p> <ul style="list-style-type: none"> (a) disclosure to the public might afford an opportunity to a person affected by the notice, order or direction to defeat the purpose or one of the purposes for which the notice order or direction is to be given or made; and (b) in all circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.
<p>7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime</p>	<p>Information is only exempt if its disclosure would, or would be likely to, prejudice:</p> <ul style="list-style-type: none"> (a) criminal investigation and proceedings; or (b) the apprehension or prosecution of offenders; or (c) the administration of justice; or (d) the assessment or collection of any tax or duty or of any imposition of a similar nature; or (e) regulatory enforcement; or (f) any civil proceedings; or (g) health and safety; or (h) information obtained from confidential sources; and (i) in all the circumstances of the case, the public interest in not disclosing the information outweighs the public interest in disclosing the information.

Article 12 – Finance, Contracts and Legal Matters

(Amendments in red)

12.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the [Financial Regulations](#)

12.2 Contracts

Contracts made by or on behalf of the Council will comply with the [Contract Standing Orders](#).

12.3 Legal Proceedings

The management of the Council's legal affairs will be conducted in accordance with the [Legal Standing Orders](#). *(insert hyper link to Part H)*.

~~The Head of Legal Services is authorised to institute, defend or participate in any legal proceedings:~~

- ~~(a) — In any case where such action is necessary to give effect to decisions of the Council;~~
~~or~~
- ~~(b) — In any case where the Head of Legal Services in his/her absolute discretion considers or is advised that such action is necessary to protect the Council's or public's interests.~~

~~12.4 Authentication of Documents~~

~~Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal Services or designee, unless any enactment otherwise authorises or requires, or the Council has given authority to some other person.~~

~~12.5 Common Seal of the Council~~

~~The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal Services. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal Services should be sealed. The affixing of the Common Seal will be attested by the Head of Legal Services or designee.~~

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PART E

~~OTHER STATUTORY~~
~~FUNCTIONS;~~ COMMITTEES, JOINT
COMMITTEES; ~~AND~~ COMMITTEE
PROCEDURE RULES And OTHER
STATUTORY
FUNCTIONS;

AUDIT AND THE AUDIT COMMITTEE

I. FUNCTIONS

The Council's Internal Audit functions are carried out by the Devon Audit Partnership; External Audit is carried out by the Council's External Auditor and the Audit Committee is responsible for the functions set out in section 2 below.

MATTERS SPECIFICALLY DELEGATED TO THE AUDIT COMMITTEE

2. RESPONSIBILITIES OF THE AUDIT COMMITTEE

2.1 External Audit Functions of Audit Committee

- (a) To consider the appointment of the Council's external auditor, as far as the rules permit.
- (b) To discuss with the external auditor the nature and scope of audit coverage, including Value for Money (VFM) and Best Value Work and to agree level of fees chargeable.
- (c) To review external audit reports and annual audit letters, together with management response and make recommendations to the Cabinet.
- (d) To respond to any other concerns of the external auditors.

2.2 Internal Audit Functions of the Audit Committee

- (a) To monitor the progress and performance of Internal Audit.
- (b) To review and approve the Internal Audit annual programme.
- (c) To consider significant findings of Internal Audit reviews and investigations together with management responses and monitor implementation of agreed recommendations.
- (d) To advise Council on the Internal Audit function, resourcing and standing within the authority.
- (e) To ensure co-ordination between internal and external auditors.
- (f) To consider the Chief Auditor's annual report, and comment annually on the adequacy and effectiveness of internal control systems within the Council.

2.3 Risk Management Functions of the Audit Committee

- (a) To approve, support and monitor the implementation and ongoing processes for identifying and managing key risks of the authority.
- (b) To review and advise the Cabinet and Council on the content of the corporate governance report in the annual report, and to approve the statement of accounts.

- (c) To monitor the Council's compliance with its own published standards and controls and recommend any necessary changes to Financial Regulations and Standing Orders Contracts.
- (d) To keep under review corporate policies such as Anti-fraud Strategy.

2.4 Corporate Governance

To advise Council on the promotion, maintenance and review of Code of Corporate Governance for the City Council.

3 MATTERS DELEGATED TO OFFICERS

The Assistant Director for Finance is authorised to carry out all ~~All~~ other non executive functions in respect of audit ~~have been specifically delegated to the Assistant Director for Finance~~ in accordance with the officer scheme of delegation of functions.

TAXI LICENSING AND THE TAXI LICENSING COMMITTEE

I FUNCTIONS

1.1 To carry out 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.

1.2 Policy

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

2 MATTERS DELEGATED TO THE TAXI LICENSING COMMITTEE

2 Responsibilities of the Taxi Licensing Committee:

The Taxi Licensing Committee will:

2.1 Determine and review licence fees and terms and conditions of licences for taxis, private hire vehicles and other vehicles and operators;

2.2 Determine 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;

2.3 To determine applications for taxi and private hire and other vehicle, driver and operator licences when the applicant has a conviction and the [Assistant Director for Street Services](#) [Director of Public Health](#) has concerns about the nature of the offence; or the applicant or vehicle may be unsuitable for some other reason;

2.4 Determine whether to withdraw or suspend licences for taxis and private hire and other vehicles and their drivers and operators

3. MATTERS DELEGATED TO OFFICERS

~~All other functions in respect of taxi licensing have been delegated to the Assistant Director for Street Services. The Director for Public Health is authorised to carry out all other non-executive functions in respect of taxi licensing in accordance with the officer scheme of delegation of functions.~~

4. GENERAL

4.1 The Council's established Taxi Licensing Committee is comprised of Seven Councillors who have received the appropriate training.

LICENSING AND THE LICENSING COMMITTEE

I. FUNCTIONS

I.1 The Councils licensing functions are:

- (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 1 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).
- (c) The responsibilities set out in Part 1 of Schedule 1 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).
- (d) The responsibilities set out in Part 1 of Schedule 1 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).

I.2 Council sets policies in respect of Licensing and Gambling on the recommendation of Cabinet.

2 MATTERS SPECIFICALLY DELEGATED TO THE LICENSING COMMITTEE

2.1 The responsibilities of the Licensing Committee

The Licensing Committee will:

- Make orders identifying a place as a designated public place in connection with police powers about alcohol consumption;
- Make or revoke orders designating a locality as an alcohol disorder zone;
- Set the terms and conditions of licences, permits or registrations payable under the Licensing Act 2003;
- Set the terms and conditions of licences, permits or registrations in connection with sex shops and sex cinemas;
- Set fees for licences and permits issued under the Gambling Act 2005;
- Set fees payable in connection with Street Trading;
- Deal with any matter that is referred to it by an officer.

3. THE LICENSING SUB-COMMITTEE

3.1 The Licensing Committee appoints a sub-committee (the Licensing Sub-committee)

The responsibilities of the Licensing Sub Committee

The Licensing Sub Committee will:

- 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;
- determine all matters set out in section 10 of the Licensing Act 2003;
- determine all matters set out in section 154(4)(a) of the Gambling Act 2005;
- determine applications for club gaming or club machine permits and cancellation of such permits when there are objections;
- determine applications for prize gaming permits when there are police objections or officers would want to refuse them;
- determine applications for 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 an officer.
- Determine anything else which needs a hearing or which cannot legally be delegated to officers.

4. MATTERS DELEGATED TO OFFICERS

4.1 ~~The Assistant Director for Strategic Planning and Infrastructure deals with all other licensing responsibilities in relation to Safety Certificates for sports grounds and regulated stands.~~ The Strategic Director for Place is authorised to carry out all other licensing functions in relation to Safety Certificates for sports grounds and regulated stands in accordance with the officer scheme of delegation of functions.

4.2 ~~The Assistant Director for Economic Development deals with all other licensing responsibilities in relation to street trading and market licensing.~~ The Strategic Director for Place is authorised to carry out all other licensing functions in relation to Street Trading and market licensing in accordance with the officer scheme of delegation of functions.

4.3 ~~The Assistant Director for Customer Services deals with all other licensing responsibilities in relation to premises for the solemnisation of marriage.~~ The Strategic Director for Transformation and Change is authorised to carry out all other licensing responsibilities in relation to premises for the solemnisation of marriage in accordance with the officer scheme of delegation of functions.

4.4 The Strategic Director for People deals with all other licensing responsibilities in relation to the employment of children. [The Strategic Director for People is authorised to carry out all other licensing responsibilities in relation to the employment of children in accordance with the officer scheme of delegation of functions.](#)

4.5 ~~The Head of Housing deals with all other licensing responsibilities in relation to houses in multiple occupation.~~ [The Strategic Director for People is authorised to carry out all other licensing responsibilities in relation to houses in multiple occupation in accordance with the officer scheme of delegation of functions.](#)

4.6 The ~~Assistant Director for Street Services~~ [Director of Public Health](#) deals with all other licensing responsibilities. [The Strategic Director for Public Health is authorised to carry out all other licensing responsibilities in accordance with the officer scheme of delegation of functions.](#)

5. GENERAL

5.1 The Council's Licensing Committee is comprised of 15 members.

5.2 The Licensing Committee when acting as a quasi judicial body must comprise members who have received the relevant training.

6. PROCEDURES

6.1 When an application under the Licensing Act 2003 and the Gambling Act 2005 is being dealt with the procedure followed shall be as set out in the Regulations issued under the Acts.

6.2 When any other licensing application is being dealt with the Council Rules of Procedure apply to meetings of this committee.

6.3 Quorum

The quorum of the Licensing Committee shall be no less than one third of the members of the full Committee and the Sub-Committee quorum shall be three members

6.4 Appointment of Substitute Members

No substitute members are allowed to sit on the Licensing Committee and Members appointed must have completed the Council's prescribed licensing training course. The Sub-Committee(s) will be made up of three members drawn from the members of the Licensing Committee.

PLANNING AND THE PLANNING COMMITTEE

I. FUNCTIONS

The relevant functions of the Council are:

I.1 Planning and Conservation

- A** All the Council's functions in relation to Town and Country Planning and Development Control as specified in Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

Commons registration

- B** All the Council's functions in relation to common land or town and village greens or unclaimed common land, or unlawful works on common land and to register the variation of rights of common as set out in Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

Highways Use and Regulation

- C** All the Council's functions in relation to the regulation of the use of highways set out in Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

High Hedges

- D** All the Council's functions in relation to applications and complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003.

Trees

- E** The powers 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.

I.2 Policy

The Council decides whether to adopt the Local Development Framework, on the recommendation of Cabinet.

2 MATTERS SPECIFICALLY DELEGATED TO THE PLANNING COMMITTEE

2.1 In relation to policies and strategies the Committee will:

Advise the Cabinet on the implementation of the Development Plan, Local Development Framework and other planning policies and strategies.

2.2 Within the policies laid down by the Council, the Committee will

- 2.2.1. Determine applications relating to town and country planning, commons registration, village greens, the making or confirmation of Tree Preservation Orders where there are objections that cannot be resolved and the use or regulation of highways that would have a significant impact on two or more wards of the Council.
- 2.2.2 Determine individual applications for planning permission and any other application made under planning legislation where:
- a) it is an application for 10 or more dwellings or non-residential floor space of 1000 sq m or more and more than 5 written representations raising valid planning considerations have been received during the statutory consultation period; or
 - b) the application is substantively contrary to a Local Development Framework proposal and the officer recommendation is to approve;
 - c) the application is submitted by an employee or Member of the Council, or a close relative of an employee or Member of the Council living in the same property (see paragraph 4.3 for definition of a close relative).
 - d) a Member of Council has, within 3 weeks of being sent notification of an application, written to the ~~Assistant Director for Strategic Planning and Infrastructure~~ Strategic Director for Place -directing its determination by the Committee and given reasons for this ;
 - e) the matter is referred to the Committee by the ~~Assistant Director for Strategic Planning and Infrastructure~~ Strategic Director for Place -under one of the following criteria:
 - there are finely balanced policy or precedent issues;
 - there are probity issues or public interest reasons for the matter to be determined by the Committee;
 - the matter is an unusual response to a particular set of issues that warrants debate by the Committee.
- 2.2.3 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.

In relation to Highways Matters the Committee will:

- 2.3.6. Determine the confirmation of Orders to create divert or stop up footpaths or bridleways.
- 2.3.7. Determine applications to modify the definitive map.
- 2.3.8. Determine applications that are referred by ~~either the Assistant Director for Strategic Planning and Infrastructure or the Assistant Director for Street Serv~~ Strategic Director for Placeices.

3. MATTERS DELEGATED TO OFFICERS

- 3.1** ~~All other non executive functions in respect of planning highways and transport have been specifically delegated to the Strategic Director for Place~~The Strategic Director for Place is authorised to carry out all other Planning and Conservation, Commons Registration and Highways Use and Regulation responsibilities, and responsibilities in relation to high hedges and trees; in accordance with the officer scheme of delegation of functions.

4. GENERAL

4.1. Substitute Members

Any member of Council may act as substitute provided they have undergone the Council's prescribed Member planning training course.

- 4.2** Planning Committee Procedures are found in the Planning Committee's Code of Good Practice.

- 4.3** For the purposes of the Planning Committee functions a close relative is defined as: a husband or wife (or civil partner), a son or daughter, a father or mother; or a brother or sister.

CHIEF OFFICER APPOINTMENTS, APPEALS and DISCIPLINARY PANELS

(This section will be further amended subject to the Council's decision regarding the report about 'Proposed Changes to Standing Orders in respect of Employment of the Chief Executive, Section 151 Officer and Monitoring Officer' on 22 June 2015)

1. FUNCTIONS

1.1 Undertaking the selection process for the appointment, and formulating recommendations to the Council in relation to:

- the appointment and dismissal of the Head of the Paid Service;
- the designation of an officer to act as Monitoring Officer and Responsible Finance Officer (Section 151 Officer);
- the appointment/dismissal of Monitoring Officer and Responsible Finance Officer;

in accordance with legislation, Council policies, conditions of service and the appropriate procedures set out in the employment standing orders;

1.2 Undertaking the selection, appointment and dismissal processes for any staff where so required by law;

(It should be noted that the Chief Executive as head of paid service, or a person nominated by him, has powers to appoint all other staff).

1.3. Hearing and determining any appeals by staff under the Council's approved Human Resources policies and procedures including through any appointed Sub-Committee.

1.4 Determining terms and conditions for staff employed on the NJC terms and conditions for Chief Officers.

2. PROCEDURES

2.1 The Panels shall be politically balanced and include the relevant Cabinet member when required.

2.2 A Panel which hears an appeal will not include members of the Panel which made the original decision.

Appointment of substitute members

2.3 Any member of the Council may act as substitute on a Panel provided that they have completed the Council's relevant human resources training/ briefing.

3. GENERAL

The Panels are convened from time to time as required by the [Assistant Director for Human Resources, Organisational Development and IT, Strategic Director for Transformation and Change.](#)

INDEPENDENT REMUNERATION PANEL

I. FUNCTIONS

The Panel carries out the Council's responsibilities under the Local Authorities (Members Allowances) Regulation 2003 as amended to convene an Independent Panel to make recommendations to the Council about the level of Members Allowances.

SPECIFIC RESPONSIBILITIES

- 2.1** Overall, to recommend the level of allowances to be paid to Members, including special responsibility allowances, pension rights for elected Members and allowances payable to co-opted members.
- 2.2** The Panel will recommend:
- (a) The amount of basic allowance that should be payable to elected Members;
 - (b) The categories of Members who should receive special responsibility allowances and the amount of such an allowance;
 - (c) The travel and subsistence scheme, the amount of the allowance and how it should be paid;
 - (d) The payment of an allowance for co-opted members and the amount of that allowance;
 - (e) The payment of an allowance in respect of arranging for the care of Members' children and other dependants, the amount of this allowance and the means by which it should be determined;
 - (f) Whether the allowances should be backdated to the beginning of the municipal year;
 - (g) Whether annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should run;
 - (h) Which Members are to be entitled to pensions in accordance with the scheme made under section 7 of the Superannuation Act 1972; and as to treating basic allowances and special responsibility allowances as amounts in respect of which such pensions are payable regarding the Local Government Pension Scheme (LGPS).

MOUNT EDGCUMBE HOUSE AND COUNTRY PARK AND THE MOUNT EDGCUMBE JOINT COMMITTEE

1. FUNCTIONS

- 1.1** 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 Edgcumbe house and country park including the power to acquire and sell land.
- 1.2.** Any revenue and capital expenditure incurred is to be defrayed and income shared by the two constituent Councils in equal portions.
- 1.3.** The Cabinet member with responsibility for the Mount Edgcumbe Country Park will decide whether to recommend that Cabinet approves in year variations to the business plan for the House and Country Park that require extra spending and propose the means of meeting any additional costs to Council.
- 1.4.** The Cabinet member with responsibility for Mount Edgcumbe Country Park will decide whether to agree in year variations to the business plan for the House and Country Park that do not require extra spending

MATTERS SPECIFICALLY DELEGATED TO THE JOINT COMMITTEE

2. RESPONSIBILITIES OF THE JOINT COMMITTEE

- 2.1** 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.

3. MATTERS SPECIFICALLY DELEGATED TO OFFICERS

Following consultation with the Director for Environment, Planning and Economy of Cornwall Council, the Strategic Director for Place in Plymouth ~~has delegated authority is~~ [authorised](#) to carry out all other functions in relation to Mount Edgcumbe [in accordance with the officer scheme of delegation of functions](#).

4. PROCEDURES

The Mount Edgcumbe Joint Committee Terms of Reference will apply.

TAMAR BRIDGE AND TORPOINT FERRY AND JOINT COMMITTEE

I FUNCTIONS

- I.1.** Plymouth City Council and Cornwall Council undertake the functions in relation to the Bridge and Ferry that are required by law to be carried out by the two authorities. Any revenue and capital expenditure incurred is to be defrayed and income shared by the two constituent Councils in equal portions.
- I.2** A joint committee of the Authorities has been appointed under the provisions of the Local Government Act of 1972 relating to joint committees:
- I.3** The Councils of the constituent authorities, acting together, are responsible for all the responsibilities for the Tamar Bridge and Torpoint Ferry as set out in the Tamar Bridge Acts 1957, 1979, 1998 which cannot by law be delegated to the Joint Committee. These principally are.
- (a) all matters relating to the discharge of the functions of the Authorities under the Tamar Bridge Act 1957 to 1998 shall stand referred to such joint committee for consideration; those relating to the acquisition, appropriation, leasing or disposal of land;
 - (b) there shall be delegated to such joint committee all the powers of the Tamar Bridge Act conferred upon the Authorities except: those relating to the ceasing to demand and take and recover tolls and those relating to resuming the demanding, taking and recovering of tolls
 - (c) those contained in Part VI (Finance) of the Tamar Bridge Act
- I.4** The Councils of the constituent authorities acting together may make byelaws to:
- (a) prevent injury and damage to the bridge
 - (b) regulate the conduct of all persons using the bridge
 - (c) regulate the traffic along over and under the bridge and also for regulating the use of the bridge and for prohibiting the use thereof in certain cases and by certain engines carriages vehicles and animals or other classes of traffic and for providing that the bridge may be temporarily closed to road traffic for repairs or other emergencies and for ensuring that road traffic shall not be unreasonably delayed
 - (d) prohibit the conveyance upon the bridge of any goods which may in the opinion of the Authorities be injurious to or prejudicially affect the use of the same or the traffic to be carried thereon or endanger the safety of the bridge or the passenger and other traffic carried thereon
 - (e) regulate to the issue and inspection of tickets and collection of tolls
 - (f) regulate and control the use of the bridge

2. MATTERS SPECIFICALLY DELEGATED TO THE JOINT COMMITTEE

The Tamar Bridge and Torpoint Ferry Joint Committee will:

- propose a business plan to Cabinet as part of the annual budget setting process;
- monitor performance of the undertaking against the business plan;
- monitor performance of the undertaking to ensure value for money is achieved;
- make sure the management of the Bridge and Ferry accords with proper financial and legal practice appropriate to local authorities;
- make sure proper audit and risk management procedures are in place;
- make sure an appropriate inspection of the Bridge and Ferry takes place on an annual basis;
- undertake appropriate consultation with key stakeholders;

3. MATTERS SPECIFICALLY DELEGATED TO OFFICERS

The Strategic Director for Place in Plymouth is authorised to and the Director for Environment, Planning and Economy in Cornwall have delegated responsibility to carry out all other functions in respect of the Tamar Bridge and Torpoint Ferry in accordance with the officer scheme of delegation of functions and in conjunction with the Director for Environment, Planning and Economy in Cornwall.

4. PROCEDURES

- 4.1 The Tamar Bridge Joint Committee procedures will apply.

DEVON AUDIT PARTNERSHIP AND JOINT COMMITTEE

I. FUNCTIONS

- I.1** The Devon Audit Partnership comprises Plymouth City Council Devon County Council and Torbay Council.
- I.2** The Audit Partnership provides an internal audit function for the three Councils.

2 RESPONSIBILITIES OF THE DEVON AUDIT PARTNERSHIP JOINT COMMITTEE

The Joint Committee will:

- 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.

3 MATTERS SPECIFICALLY DELEGATED TO OFFICERS

The ~~Strategic Director for Transformation and Change Assistant Director of Finance is authorised to has delegated responsibility~~ to carry out all other functions in respect of the Devon Audit Partnership in accordance with the officer scheme of delegation of functions.

4. PROCEDURES

The Devon County Council procedures apply to meetings of the Committee.

SOUTH WEST DEVON WASTE PARTNERSHIP JOINT COMMITTEE

I FUNCTIONS

- 1.1** The South West Devon Waste Partnership comprises Plymouth City Council, Devon County Council and Torbay Council.
- 1.2** The purpose of the three authorities in establishing the Joint Committee is to facilitate 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.
- 1.3** The functions of the Committee are set out in full in the Committee's Joint working Agreement. (The Joint working Agreement is available on request).

2. DELEGATION TO THE JOINT COMMITTEE

- 2.1** The responsibilities of the Committee are set out in full in the Committee's Joint Working Agreement which is available on request.
- 2.2** The key responsibilities of the Joint Committee are:
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.
- 2.3** 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

3. MATTERS SPECIFICALLY DELEGATED TO OFFICERS

The Chief Executive of Plymouth City Council in his capacity as chair of the Waste PFI project executive [is authorised to deals](#) with all other executive functions relating to the partnership [in accordance with the officer scheme of delegation of functions.](#)

4. PROCEDURES

- 4.1** Schedule C of the Committee's Joint Working Agreement apply. (The Joint Working Agreement is available upon request)

- 4.2** Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules
- 4.3** The Joint Committee shall operate under the Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules of Plymouth City Council.
- 4.4** Quorum
The quorum of the South West Devon Waste Partnership Joint Committee will be no less than three Members.

DEVON AND CORNWALL POLICE AND CRIME PANEL

1. MEMBERSHIP

The Panel has 20 members (18 councillors and two independent people):

- 18 councillors from: Cornwall Council, Devon County Council, East Devon District Council, Exeter City Council, Isles of Scilly Council, Mid Devon District Council, North Devon District Council, Plymouth City Council, South Hams District Council, Teignbridge District Council, Torbay Council, Torridge District Council and West Devon Borough Council.
- Two co-opted independent members – one from Cornwall and one from Devon

2. FUNCTION

The Police and Crime Panel will support and challenge the Police and Crime Commissioner (PCC) when they carry out their functions. The panel has the power to request reports and call the PCC to attend its meetings.

3. RESPONSIBILITIES

The panel will:

- review the police and crime plan and annual report
- scrutinize (and potentially veto) the PCC's proposed council tax precept* for policing
- hold confirmation hearings for the PCC's proposed appointment of a Chief Constable and senior support staff (the panel may veto the Chief Constable appointment)
- review the PCC's proposals to remove the Chief Constable
- scrutinise the actions and decisions of the PCC (but not the performance of the police force)
- consider complaints against the PCC of a non-criminal nature

*the money collected from Council Tax for policing

3. PROCEDURES

The Panel Arrangements and Terms of Procedure apply

HEALTH AND WELL BEING BOARD

I. FUNCTIONS

The council's function relating to its Health and Wellbeing Board under Part 5 of the Health and Social Care Act 2012 as amended (2.2 below).

2. RESPONSIBILITIES OF HEALTH AND WELLBEING BOARD

2.1 The purpose of the Board is to promote the health and wellbeing of all citizens in the City of Plymouth. The Board has three principles of working cooperatively which are to:

- Work together with all city partners and with those we serve to take joint ownership of the sustainability agenda
- Ensure systems and processes will be developed and used to make the best use of limited resources, every time
- Ensure partners move resources – both fiscal and human to the prevention and health and wellbeing agenda

2.2 The Board will identify and develop a shared understanding of the needs and priorities of local communities in Plymouth through the development of the Plymouth Joint Strategic Needs Assessment (JSNA). Specifically, the Board will ensure that:

- A Joint Health and Wellbeing Strategy for Plymouth is prepared and published to ensure that the needs identified in the JSNA are delivered in a planned, coordinated and measurable way.
- The Plymouth JSNA is based on the best evidence and data available so that it is fit for purpose and reflects the needs of local people, users and stakeholders
- The JSNA drives the development of the Joint Plymouth Health and Wellbeing Strategy and influences other key plans and strategies across the city
- Plymouth City Council, NEW Devon Clinical Commissioning Groups and NHS Commissioning Board Area Teams demonstrate how the JSNA has driven commissioning decisions

2.3 The Board will:

- Develop an agreed set of strategic priorities to focus both collective effort and resources across the city
- Seek assurance that commissioners plans are in place to deliver the Board's strategic priorities and outcomes
- Review the commissioning plans for healthcare, social care and public health to ensure that they have due regard to the Joint Plymouth Health and Wellbeing Strategy and take appropriate action if they do not
- Ensure that appropriate structures and arrangements are in place to ensure the effective engagement and influence of local people and stakeholders
- Represent Plymouth in relation to health and wellbeing issues across the sub regional and at national level

- Work closely with Plymouth Healthwatch ensuring that appropriate engagement and involvement with existing patient and service user involvement groups takes place
- Retain a strategic overview of the work of commissioners in the city
- Support joint commissioning of NHS, social care and public health services and identify those service areas in Plymouth where additional improvements in joint commissioning could achieve the Board's priority outcomes
- Recommend the development of aligned or pooled budgets and encourage partners to share or integrate services where this would lead to efficiencies and improved service delivery

3. MATTERS DELEGATED TO OFFICERS

- 3.1 ~~All other functions in respect of health and wellbeing have been delegated to the~~ The Strategic Director for People is authorised to carry out all other functions in respect of health and wellbeing in accordance with the officer scheme of delegation of functions.

4 GENERAL

Membership

- 4.1 The Council's Health and Wellbeing Board is comprised of:-

A core membership being -

- The Cabinet Member for Public Health and Adult Social Care
- The Cabinet Member for Children and Young People
- The lead opposition member for health
- The Director of Public Health
- The Strategic Director for People
- One representative from the Clinical Commissioning Groups
- One representative of the local Healthwatch

Reflecting the co-operative approach to engage with customers and other stakeholders over the city's key priorities, the Board will co-opt additional partners which it considers are most likely to be able to work together to deliver the vision. The Board will make recommendations to the city council for appointments to the Board.

- 4.2 The Health and Wellbeing Board is a committee of the council under the Local Government Act 1972. The Local Authority (Public Health, Health and Wellbeing and Health Scrutiny) Regulations 2013 have dis-applied aspects of the Act which have been incorporated into these terms of reference.

- 4.3 The Board will act in accordance with the council constitution unless this conflicts with law.

Meetings

- 4.4 The Health and Wellbeing Board will meet four times per year which will be reviewed after 12 months. The date, time and venue of meetings will be fixed in advance by the Board and an annual schedule of meetings will be agreed by council. Additional meetings may be convened at the request of the Chair. Meetings will be webcast and utilise social media tools to allow real time interaction with the meeting.

Voting

- 4.5 In principle, decisions and recommendations will be reached by consensus. In exceptional circumstances and where decisions cannot be reached by a consensus of opinion and/or there is a need to provide absolute clarity on the will of the Board to executive bodies, voting will take place and decisions will be agreed by a simple majority of all members (councillors and co-opted members) present.

Where there are equal votes the Chair of the meeting will have the casting vote.

Declaration of Interests

- 4.6 Members of the Health and Wellbeing Board will promote and support high standards of conduct and as such will be subject to the council's code of conduct. Members of the Board must, before the end of 28 days beginning with the day on which they become a member of the Board, notify the authority's monitoring officer of any disclosable pecuniary interests. Notification of changes to declared interests must be made to the authority's monitoring officer within 28 days of the change taking effect.

Quorum

- 4.7 A quorum of one third of all members will apply for meetings of the Health and Wellbeing Board including at least one elected councillor from Plymouth City Council.

Access to Information/ Freedom of Information

- 4.8 Health and Wellbeing Board meetings will be regarded as a council committee for Access to Information Act purposes and meetings will be open to the press/public. Freedom of Information Act provisions shall apply to all business.

Papers

- 4.9 The agenda and supporting papers will be in a standard format and circulated at least five clear working days in advance of meetings. The minutes of decisions taken at meetings will be kept and circulated to partner organisations as soon as possible and will be published on the city council web site.

General Rules

- 4.10 The Health and Wellbeing Board will adhere to the Rules of Debate and General Rules Applying to Committees. Where there are gaps in procedure the Chair will decide what to do.

DELEGATION OF OTHER MISCELLANEOUS NON EXECUTIVE FUNCTIONS
unless they are specifically delegated to Council a committee or an Officer elsewhere
in this constitution

Legislation	Responsibility	Carried out by
Local Government Act 1972, Section 112	Power to appoint staff and to set their terms and conditions (including procedures for dismissing them)	<p>The appointments panel appoints First and Second Tier staff and recommends the appointment of Chief Executive and designation of Head of Paid Service, Responsible Finance Officer and Monitoring Officer to Council. (Council has delegated the function of appointing and dismissing staff who report direct to the Director of Public Health, to the Director of Public Health.)</p> <p>The Chief Executive and First and Second Tier staff appoint everyone else.</p> <p>The Chief Executive sets collective terms and conditions other than for posts under the JNC for chief officers which are set by Council.</p>
Local Government Act 1972, Section 135	Power to make contract rules	Council
Local Government Act 1972, Section 151	Duty to arrange proper financial administration	Responsible Finance Officer
Local Government Act 1972, Section 270(3)	Power to appoint proper officers for the purposes of the Local Government Act 1972	Monitoring Officer (or any other officer specifically appointed in the constitution)
Local Government and Housing Act 1989, Section 4(1)	Duty to designate Head of Paid Service and provide resources	Council (but appointments committee makes a recommendation)
Local Government and Housing Act 1989, Section 5(1)	Duty to designate Monitoring Officer and provide resources	Council

Local Government Act 2000, Sections 82A(4) and (5)	Duty to provide resources to a person named by the Monitoring Officer	Council
Local Government Act 2000, paragraphs 12 and 14 of Schedule 1	Powers relating to scrutiny committees (voting rights of Council-opted members)	Council
Local Government Act 2000, Section 92	Power to provide compensation when there has been maladministration	If the compensation is less than £5000 the power is delegated to officers in the senior management structure
Representation of the People Act 1983, Section 8(2)	Duty to appoint an electoral registration officer	The Chief Executive is the electoral registration officer
Representation of the People Act 1983, Section 35	Duty to appoint returning officer for local government elections	The Chief Executive is the returning officer
Local Government and Public Involvement in Health Act 2007, Sections 33(2), 38(2) and 40(2)	Duty to consult on change of scheme for elections	Council
Local Government and Public Involvement in Health Act 2007, Sections 35, 41 and 52	Duties relating to publicity	Council
Local Government and Public Involvement in Health Act 2007, Section 53	Duties relating to notice to Electoral Commission	Council
Local Government and Public Involvement in Health Act 2007, Section 59	Functions relating to change of name of an electoral area	Council
	Powers to appoint the Lord Mayor and the Deputy Lord Mayor	Council on the recommendation of the Lord Mayor's Selection Committee

All the responsibilities in Paragraph C of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Powers and responsibilities in relation to Health and Safety at Work	The Assistant Director for Street Services
All the responsibilities in Paragraph EB of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Functions in relation to community governance	Council
All the responsibilities in Paragraph H of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Functions in relation to pensions	The Responsible Finance Officer
All the responsibilities in the Health Act 2006 in relation to the ban on smoking in public places.	Functions in relation to the ban on smoking in public places.	The Assistant Director for Street Services

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PLYMOUTH CITY COUNCIL CONSTITUTION

PART H

OFFICER SCHEME OF DELEGATION STANDING ORDERS AND REGULATIONS

OFFICER SCHEME OF DELEGATION OF FUNCTIONS And PROPER OFFICERS

I The scheme of delegation to Officers

- I.1 The intention of the scheme is to authorise the Chief Executive or a first tier officer, to carry out responsibilities for
- (i) All Council functions which the Council has not reserved to itself or delegated to a Committee or Sub Committee in this constitution and which Council has not authorised an officer to carry out.
 - (ii) All Executive functions where the Leader has not reserved the decision to himself or herself or delegated it to Cabinet, a committee of Cabinet, or a Councillor in this constitution, or in his or her scheme of delegation of functions, and which the Leader, the Cabinet, that Committee of Cabinet or Councillor has not authorised an officer to carry out.
- I.2 The fact that an Officer is authorised to carry out a function does not require that Officer to give the matter his or her personal attention and the Officer may authorise an officer of suitable skills and experience to carry out that function. Any such authorisation must be set out in writing, kept by the Strategic Director and notified to the Monitoring Officer.

- 1.3 Where an Officer is authorised to carry out a function he or she will authorise another officer or officers to carry out that function in his absence, or as required by him or her.
- 1.4 Officers do not have to deal with all matters where they have authority to do so: they can refer the matter back to the Council a Committee or a Sub Committee or to the Leader the Cabinet a Committee of Cabinet or a Councillor.

2 Interpreting these rules

- 2.1 The scheme delegates functions of the Council or the Cabinet to officers and should be interpreted widely rather than narrowly. In cases of dispute as to the interpretation of this scheme the interpretation of the Monitoring Officer shall apply.
- 2.2 In the scheme “officer” means the holder of any post named in this scheme.
“Council functions” means those functions which are prescribed as Council functions by regulation
“Executive functions” means those functions which are prescribed as the responsibility of the Executive by regulations
“First tier officer” means an officer who reports directly to the Chief Executive and who does not carry out a role which has the primary function of carrying out an administrative or secretarial support role
“Second tier officer” means an officer who reports directly to a First Tier officer and who does not carry out a role which has the primary function of carrying out an administrative or secretarial support role.
- 2.3 This scheme operates under the Local Government Act 1972, the Local Government Act 2000, the National Health Service Act 2006, the Localism Act 2011 and all other legislation conferring powers and responsibilities on the Council as amended consolidated or re-enacted from time to time.
- 2.4 Any reference to a statute, statutory provision or statutory instrument includes a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under it as from time to time amended, consolidated or re-enacted.
- 2.4 Where an Officer is authorised to carry out a function within this scheme of delegation or elsewhere in the Constitution, he or she has authority to do anything necessary to carry it out that function (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 statutory action if:
- a) the Officer has management or budget responsibility for the function concerned, and
 - b) the law or the Council’s standing orders do not require the action to be taken by someone else and
 - c) the decision maker has had regard to any advice from the Chief Financial Officer under Section 114 of the Local Government Finance Act 1988 and the Monitoring Officer under section 5 of the Local Government and Housing Act 1989.

2.5 Limitations

This scheme does not delegate to officers:-

- Any matter which by law may not be delegated to an officer;
- Any matter reserved to full Council and which Council has not authorised an officer to carry out;
- Any decision that has been delegated to a Committee or sub Committee of Council and which that Committee or subcommittee has not authorised an officer to carry out;
- Any decision that has been reserved to the Leader or delegated to the Cabinet a committee of Cabinet or a Councillor; and which the Leader, Cabinet, Committee of Cabinet, or Councillor has not authorised an officer to carry out;
- Any matter which is a new policy or is a departure from the existing and agreed policy framework of the Council.
- Any decision that is not in accordance with the budget.
- Any matter in which the officer has a personal interest.

2.6 Any exercise of delegated powers shall be subject to:-

- Any statutory restriction
- The Council's Constitution
- The Council's budget and policy framework
- Any other policies

2.7 In exercising delegated powers officers shall keep Members properly informed of activity arising within the scope of these delegations.

APPOINTMENT OF PROPER OFFICERS

1.1 The Chief Executive, and all first and second tier officers are designated Proper Officers of the Council pursuant to Section 234 of the Local Government Act 1972, and empowered to sign, pursuant to Section 270(3) of the Local Government Act, 1972, any notice, order or other document required to be made, given or issued to give effect to the powers delegated to them if:

- (a) they 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 Councils standing orders or the law does not require the function to be carried out by someone else.

Legislation		Responsibility	Proper officer
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	Responsible Finance Officer
	Section 146(1)(a) and (b)	Making declarations and certificates about transferring securities	Responsible Finance Officer
	Section 191	Receiving applications under Section 1 of the Ordnance Survey Act	Head of Legal Services
	Section 225	Depositing documents	Head of Legal Services
	Section 228(3)	Making accounts available for Councillors to look at	Responsible 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
	Schedule 14, paragraph 25	Certifying resolutions passed under this paragraph	Head of Legal Services
Local Government Act 1974	Section 30(5)	Giving notice that copies of an ombudsman's report are available	Strategic Director for Transformation and Change
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 Street Scene 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, Organisational Development and ICT
Local Government (Committees and Political Groups) Regulations 1990		Dealing with political balance on committees	Monitoring Officer
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, Organisational Development and ICT
Local Government Act 2000		Acting as proper officer for all the responsibilities in the Local Government Act	Monitoring Officer

		2000 and subordinate legislation	
Public Health Act 1936	Section 84	Cleansing of filthy and verminous articles	<p>Director of Public Health</p> <p>Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit</p>
Public Health Act 1936	Section 85(2)	Cleansing of filthy and verminous persons and their clothing	<p>Director of Public Health</p> <p>Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit</p>
Public Health Act 1961	Section 37	Controlling verminous things	Assistant Director for Street Scene Services
Public Health (Aircraft) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		<p>Director of Public Health</p> <p>Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset</p>

			Public Health England Centre or by any successor agency or unit (as Medical Officer of Health)
Public Health (Ships) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Director of Public Health Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit (as Medical Officer of Health)
Public Health (Control of Disease Act) 1984 as amended	Section 61 and 62	Powers to enter premises for health protection purposes, and supplementary powers of entry	Director of Public Health Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit Environmental Health Practitioners employed within Public Protection Service
Public Health (Control of Disease Act) 1984 as amended	Section 48	Certification for removal of bodies to mortuary or for burial.	Director of Public Health Consultant in

			Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Health Protection (Local Authority Powers) Regulations 2010	Regulations 8 (1) and 8 (2)		Director of Public Health Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
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	Director of Public Health Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit Assistant Director for Environmental Services
Health Protection (Part 2A Orders) regulations 2010		Preparation of application for Part 2A Order	Director of Public Health

Registration Services Act 1953		Power to act as proper office for the registration service	Assistant Director for Customer Services
National Assistance Act 1948	Section 47	Taking people in need of care and attention to a suitable place	Head of Strategic Co-operative Commissioning
National Assistance (Amendment) Act 1951	Section 1	Certifying the need for immediate action	Head of Strategic Co-operative Commissioning
Money Laundering Regulations 2003	Regulation 7	Being told about suspected money laundering	Responsible Finance Officer
Local government data handling guidelines under the Data Protection Act		Manage information risk within the Council's risk management framework	Responsible Finance 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.	Assistant Chief Executive
Registration Services Act		Proper officer for registration of births, marriages and deaths	Assistant Director for Customer Services

Legislation in these tables includes any amendments, re-enactments and subordinate legislation.

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PLYMOUTH CITY COUNCIL

Subject: Ernest Brock Home for the Aged Charity
Committee: City Council
Date: 22 June 2015
Cabinet Member: Councillor Penberthy
CMT Member: David Shepperd, Head of Legal Services
Author: Stephen Crane, Legal Services
Contact details: Tel: 01752 306039
E mail: steve.crane@plymouth.gov.uk
Ref: I488/SC
Key Decision: No
Part: I

Purpose of the report:

The trustees of the Ernest Brock Home for the Aged Charity have asked the Council and the Lord Mayor to agree to the release of their respective rights to nominate persons for appointment as trustees.

This would enable Plymouth Community Homes (PCH), at the request of the present trustees, to apply to the Charity Commission to be appointed as sole corporate trustee and for the current trustees to retire. The Trust would then also apply to the Charity Commission for a scheme to amend the Trust's objects so they are broadly compatible with PCH's social housing objects. Legal advice obtained by the trustees provides this would be the best way to resolve existing governance issues and take the Trust forward.

The Brilliant Co-operative Council Corporate Plan 2013/14 -2016/17:

Co-operative Values: The grant of consent demonstrates how the Council can co-operate and work with charity and public sector partners to facilitate the future operation and success of the charity.

Caring Plymouth: The grant of consent will enable the continued provision of residential accommodation to persons in need, including the aged.

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

Financial and resource implications are minimal though there would be administrative costs savings within the Democratic Support Service and Legal Service as the council would no longer have any involvement in the appointment of trustees to the charity.

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

To grant consent to the release of the nomination rights will ensure continued provision of secure residential accommodation to persons in need, including the aged

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? Yes

Recommendations and Reasons for recommended action:

Recommendation: To approve the grant of consent to release the rights of the Council and the Lord Mayor to nominate persons for appointment as Trustees to the charity.

Reasons: To ensure the compliance by the charity with the requirements of the Trust and to regularise the administration of the charity to ensure continued provision of secure residential accommodation to persons in need, including the aged.

Alternative options considered and rejected:

To refuse consent to the release of the nomination rights of the Council and Lord Mayor. Rejected on the basis that legal advice obtained by the Trust recommends this course as the best way in which its interests can be furthered.

Published work / information:

Background papers:

Title	Part I	Part II	Exemption Paragraph Number						
			1	2	3	4	5	6	7
Legal advice to the trust		x			x		x		

Sign off:

Fin	Djn/ 1415 .48	Leg	SC/I 488	Mon Off	DVS 1488	HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the content of the report? Yes / No													

Ernest Brock Home for the Aged – Proposed Release of Trustee Appointment Rights

I. Introduction

- 1.1 The above charity was originally set up pursuant to the will of Ernest Brock dated 3 April 1947. The trustees comprise 2 persons nominated by Plymouth City Council and 1 person nominated by the Lord Mayor. There is no provision in the will or other governing documents for trustees to be appointed in any other way.
- 1.2 The annual income of the Trust must be used (i) to pay a sum not exceeding £50 to provide tea at Christmas for poor children residing in Plymouth, (ii) to pay a sum not exceeding £50 to provide a smoking concert for poor men aged over 60 residing in Plymouth and (iii) to apply such of the balance as the trustees see fit for the benefit of the aged and deserving poor residing in Plymouth. Any unapplied income must be accumulated and added to the capital of the Trust.
- 1.3 The trustees have the following relevant powers under the Will:
 - (i) to purchase buildings within or near Plymouth suitable for use as Almshouses or to purchase land in that area and to erect suitable buildings thereon as Almshouses (to be named the ‘Ernest Brock Almshouses’) for use as rent-free residences for the aged and deserving poor residing in Plymouth;
 - (ii) to make regulations for the management of the said Almshouses and for the selection of candidates for residence;
 - (iii) to set apart such part of the trust fund as shall be sufficient out of the annual income to provide for the donations described in paragraph 1.2 above and for the upkeep of the Almshouses including if they think fit the provision for a resident caretaker.
- 1.4 Pursuant to the provisions of a charity scheme dated 8 September 1989 the trustees have the power at any time to apply the whole or part of the property of the Trust in or towards providing land and buildings to be settled upon trust for use as a home for occupation by aged and deserving poor persons who are inhabitants of Plymouth (with preference for inhabitants of Valletort Ward).
- 1.5 Pursuant to the provisions of the Charity Scheme the trustees entered into an agreement with the Council dated 16 July 1990 under which the Council and the trustees agreed to jointly develop land at Vauxhall Street, Plymouth as a block of sheltered housing accommodation. The trustees agreed to contribute £472,876 from the Trust’s funds for the cost of the development. In return the Council agreed to grant to the trustees a lease of seven units of sheltered accommodation.
- 1.6 Following the development of the Vauxhall Street site which was named ‘Brock House’, the parties entered into the Lease dated 20 April 1993 for a term of 125 years at a peppercorn rent (plus insurance and service charge). The Lease was in fact granted for eight of the 33 units. The number of units subject to the Lease represented the value of the Trust’s contribution to the development of the site.
- 1.7 Brock House now forms part of the Housing Stock transferred to Plymouth Community Homes. Following the transfer, PCH assumed the management and administration of the charity (save for the appointment of trustees which has been retained by the Council) and is now the landlord under the Lease of the 8 units.

2. Legal Advice received by the Trust

- 2.1 Legal advice received by the trust has identified that the governance arrangements and objects of the trust require to be updated to enable the trust to achieve its purposes going forward.
- 2.2 An appraisal carried out by the trust's legal representatives has identified various options for resolving these issues which are set out in paragraph 3 below.

3. Proposed Way Forward

- 3.1 The appraisal provides there are 2 options for updating the governing arrangements of the Trust being either to retain the Trust's existing charitable objects or to change these objects.
- 3.2 Retaining the existing objects would mean that PCH would need to put in place amended criteria to be met by potential occupants when units become available so as to comply with the power of the trust in paragraph 1.3(i) that such persons fall into the classification of 'aged and deserving poor'
- 3.3 The legal appraisal has provided though that the recommended way forward would be for the charitable objects of the Trust to be amended so as to be broadly compatible with PCH's social housing objects and for the express link to Almshouses to be removed. The amended object required by the trustees would be 'to provide housing for those in need by reason of old age and poverty in Plymouth and the surrounding areas'. PCH's object is to provide housing, accommodation and assistance to help house people and associated facilities and amenities for poor people or for the relief of aged, disabled (whether physically or mentally) or chronically sick people. These respective objects are now compatible
- 3.4 The appraisal also recommends that Charity Commission consent is also requested for the two gifts of £50 referred to in paragraph 1.2 above to be removed as either too small to be of use or alternatively no longer charitable.
- 3.5 To proceed in accordance with 3.3 above the Trust would need to apply to the Charity Commission for a scheme to amend the charitable objects of the Trust and it is a matter for the commission to decide whether to grant consent to the application or not.
- 3.6 The legal advice received also indicates that in order for PCH to effectively deal with the Trust's assets and to resolve the current governance issues it should apply to the Charity Commission to appoint it as sole corporate trustee of the Trust by way of a scheme. By doing this, PCH would automatically gain trust corporation status upon appointment. This means that it would be able to give good receipt for capital assets belonging to the Trust. It is worth noting here that the Trust would remain in existence in its own right and not be subsumed in PCH, though it would no longer be regulated by the Charity Commission but instead by the Homes and Communities Agency by reason of the link to PCH. However, the Trust would continue to be charitable and subject to charity law rules.

- 3.7 The trustees wish to proceed in this way and have been advised that the Trust's governing documents would also need to be modified so as to be fit for purpose. This could be effected by way of a resolution of the trustees which would need to be filed with the Charity Commission, though the commission's consent is not required. The modification to the governing documents would need to include a new method or process for appointing Trustees and this change could only be implemented if the Council's and Lord Mayor's consent was given to the release of their respective rights to nominate persons for appointment as Trustees.
- 3.8 The Trustees have requested the Council's and Lord Mayor's consent to the release of their respective rights to nominate persons for appointment as Trustees.

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