



#plymcabinet

Democratic and Member Support

Chief Executive's Department
Plymouth City Council
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Published 29 July 2016

Cabinet

Tuesday 9 August 2016
4.00 pm
Council House, Plymouth

Members:

Councillor Bowyer, Chair
Councillor Nicholson, Vice Chair
Councillors Mrs Beer, Mrs Bowyer, Darcy, Downie, Jordan, Michael Leaves, Ricketts and Riley.

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

This agenda acts as notice that Cabinet will be considering business in private if items are included in Part II of the agenda.

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Tracey Lee

Chief Executive

Cabinet

Agenda

1. Apologies

To receive apologies for absence submitted by Cabinet Members.

2. Declarations of Interest

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

3. Minutes (Pages 1 - 2)

To sign and confirm as a correct record the minutes of the meeting held on 28 June 2016.

4. Questions from the Public

To receive questions from the public in accordance with the Constitution.

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

5. Chair's Urgent Business

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

6. Capital and Revenue Monitoring Report 2016/17 - Quarter 1 (Pages 3 - 18)

Andrew Hardingham, Assistant Director for Finance will present the Capital and Revenue Monitoring Report 2016/17 – Quarter 1 which outlines the finance monitoring position of the Council as at the end of June 2016.

7. Adoption of new Byelaws regulating activities of Acupuncture, Electrolysis, Tattooing, Comestic Piercing and Semi Permanent Skin Colouring (Pages 19 - 32)

Andrew Netherton, Service Manager, Licensing to present the report which proposes that Plymouth City Council adopts new model byelaws produced by the Department of Health.

8. The Changing causes of poverty and health inequalities in Plymouth: a public perspective - Director of Public Health Annual Report 2015/16 - TO FOLLOW

Kelechi Nnoaham, Director of Public Health to present his report which investigates the factors that contribute towards poverty in modern Plymouth.

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Cabinet**Tuesday 28 June 2016****PRESENT:**

Councillor Bowyer, in the Chair.

Councillor Nicholson, Vice Chair.

Councillors Mrs Beer, Ricketts, Darcy, Jordan, Michael Leaves, Mrs Bowyer, Downie and Riley.

Also in attendance: Tracey Lee (Chief Executive), Carole Burgoyne (Strategic Director for People), Anthony Payne (Strategic Director for Place), Lesa Annear (Strategic Director for Transformation and Change), Kelechi Nnoaham (Director of Public Health) Andrew Hardingham (Assistance Director for Finance), Jonathan Bell (Head of Development and Planning), Hannah Sloggett (Neighbourhood Planning Manager), Giles Perritt (Assistant Chief Executive), Candice Sainsbury (Senior Policy, Performance and Partnership Advisor) and Amelia Boulter (Senior Democratic Support Officer (Cabinet)).

The meeting started at 4.00 pm and finished at 4.45 pm.

Note: The full discussion can be viewed on the webcast of the City Council meeting at www.plymouth.gov.uk. 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. **Declarations of Interest**

There were no declarations of interest made by members.

2. **Minutes**

The minutes of the meeting held on 22 March 2016 were agreed.

3. **Questions from the Public**

There was one question from a member of the public. The questioner attended the meeting and was given the response as follows –

Question submitted by: Mr Sharpe
To the Cabinet Member or Chair for: Culture – Cllr Jordan
To be asked at the next Cabinet meeting on Tuesday 28 June 2016
Question: Please can we have an update regarding a Plymstock Swimming Pool. We are told one will go at Sherford its set in stone. Then different years are floated around. Then it not set in stone. Then developers say possibly. Sherford is not Plymstock. We need a pool in Plymstock now.

Response:

The position with regards to the provision of a swimming pool at Sherford has not changed since the response to similar questions was given by the previous Portfolio Holder on Monday 23 November

2015. A planning application for the new sports centre is anticipated in 2017, which will include a swimming pool to service the local community of Sherford and Plymstock. The legal trigger point for the provision of a swimming pool at Sherford is still 700 dwellings.

4. **Chair's Urgent Business**

Plymouth and South West Devon Joint Local Plan – sites consultation

Councillor Nicholson (Deputy Leader) introduced Jonathan Bell (Head of Development Planning) and Hannah Sloggett (Neighbourhood Planning Manager) provided an update on the joint local plan.

Cabinet members that would like to host a community event would be provided support.

The Cabinet thanked all officers involved with the plan.

Cabinet noted the consultation timetable and process as set out in the report.

5. **Corporate Plan 2016 - 19**

Councillor Bowyer (Leader) introduced Giles Perritt (Assistant Chief Executive) and Candice Sainsbury (Senior Policy, Performance and Partnership Advisor) who presented the Corporate Plan 2016 – 19. The Cabinet were asked to note the Corporate Plan with the proviso that more work would be undertaken on the performance framework before going to Full Council in 11 July 2016. The Leader asked each Cabinet member to highlight how their portfolio of work linked to the Corporate Plan.

Cabinet agreed –

1. the Corporate Plan 2016 – 19 and recommends it to Full Council for adoption; and
2. notes the proposed performance framework to deliver the Corporate Plan.

6. **Cabinet Appointment 2016 - 17**

Giles Perritt (Assistant Chief Executive) submitted a schedule of appointments to be confirmed by Cabinet, following the Council's Annual General Meeting held on 20 May 2016.

Agreed that the appointments are confirmed as indicated on the schedule subject to Plymouth Urban Fringes Development Plan to be changed to South West Devon Joint Local Plan Member Steering Group.

PLYMOUTH CITY COUNCIL

Subject:	Capital and Revenue Monitoring Report 2016/17 – Quarter 1
Committee:	Cabinet
Date:	9 August 2016
Cabinet Member:	Councillor Darcy
CMT Member:	CMT
Author:	Andrew Hardingham – AD Finance
Contact details	Tel: 01752 312560 email: andrew.hardingham@plymouth.gov.uk
Ref:	
Key Decision:	No
Part:	I

Purpose of the report:

This report outlines the finance monitoring position of the Council as at the end of June 2016.

The primary purpose of this report is to detail how the Council is delivering against its financial measures using its capital and revenue resources, to approve relevant budget variations and virements, and report new schemes approved in the capital programme.

As shown in Table 1 below, the estimated revenue overspend is £3.801m. The overall forecast net spend equates to £190.503m against a budget of £186.702m, which is a variance of 2.04%. This needs to be read within the context of needing to deliver £24m of savings in 2016/17 on the back of balancing the 2015/16 revenue budget where £21m of net revenue reductions were successfully delivered.

Additional management solutions and escalated action to deliver further savings from the council's transformation programme will be brought to the table over the coming months in order to address the in year forecasted overspend.

Table 1: End of year revenue forecast

	Budget £m	Forecast Outturn £m	Variance £m
Total General Fund Budget	186.702	190.503	3.801

The latest approved capital budget covering 2015/16 to 2019/20 stood at £419m which was agreed at Council on 29th February 2016. The report details proposed increases to the capital budget of £28m, which results in a proposed budget of £447m, now for the period 2016 – 2021.

The Corporate Plan 2013/14 -2016/17:

This quarterly report is fundamentally linked to delivering the priorities within the Council's Corporate Plan. Allocating limited resources to key priorities will maximise the benefits to the residents of Plymouth.

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

Robust and accurate financial monitoring underpins the Council's Medium Term Financial Plan. The Council's Medium Term Financial Forecast is updated regularly based on on-going monitoring information, both on a local and national context.

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

The reducing revenue and capital resources across the public sector has been identified as a key risk within our Strategic Risk register. The ability to deliver spending plans is paramount to ensuring the Council can achieve its objectives to be a Pioneering, Growing, Caring and Confident City.

Equality and Diversity

Has an Equality Impact Assessment been undertaken? There are no specific implications from this report. Any implications will be addressed within the relevant services.

Recommendations and Reasons for recommended action:

That Cabinet:-

1. Note the current revenue monitoring position and action plans in place to reduce/mitigate shortfalls;
2. Approve the non-delegated revenue budget virements (shown in Table 5);
3. Are asked to recommend to Council that the Capital Budget 2016 -2021 is increased to £447m (as shown in Table 6).;

Alternative options considered and rejected:

None – our Financial Regulations require us to produce regular monitoring of our finance resources.

Published work / information:

2015/16 Budget Reports [Delivering the Co-operative Vision within a 4 year budget](#)

Background papers:

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	

Sign off:

Fin	akh1617.15	Leg	26119 /AG	Mon Off	DVS26 260	HR		Assets		IT		Strat Proc	
Originating SMT Member: Andrew Hardingham, AD for Finance													
Has the Cabinet Member(s) agreed the contents of the report? Yes													

JUNE 2016 FINANCE MONITORING

Table 2: Revenue Monitoring Position

Directorate	Gross Expenditure	Gross Income	2016/17 Latest Approved Budget	Forecast Outturn	Forecast Year End Variation	Variance as % of 16/17 Latest Approved Budget	Movement from previous month
	£m	£m	£m	£m	£m		£m
Executive Office	4.501	(0.414)	4.087	4.087	0.000	0.00	(0.158)
Corporate Items	13.237	(10.16)	3.077	3.869	0.792	25.73	0.087
Transformation and Change	149.702	(115.386)	34.316	34.333	0.017	0.05	(0.011)
People Directorate	277.691	(155.712)	121.979	123.681	1.702	1.39	1.702
Public Health	20.120	(19.822)	0.298	0.298	0.000	0.00	0.000
Place Directorate	69.190	(46.245)	22.945	24.235	1.290	5.62	0.461
TOTAL	534.441	(347.739)	186.702	190.503	3.801	2.04%	2.081

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Table 3: Plymouth Integrated Fund

Plymouth Integrated Fund	Section 75 indicative position	2016/17 Latest Budget	Forecast Outturn	Forecast Year End Overspend / (Underspend)
	£m	£m	£m	£m
New Devon CCG – Plymouth locality	331.000	360.069	360.044	(0.025)
Plymouth City Council	*131.000	135.909	137.611	1.702
TOTAL	462.000	495.978	497.655	1.677

The financial position above for the Plymouth Integrated Fund is at June 2016.

*This represents the net People Directorate budget plus the gross Public Health Commissioning budget (which is financed by a ring fenced Department of Health Grant)

Table 4: Key Issues and Corrective Actions

Issue	Variation £M	Management Corrective Action
<p>EXECUTIVE OFFICE</p> <p>Democracy and Governance support cost pressures. £0.224m relates to a stretch target for efficiencies in this area.</p>	0.000	<p>The £0.224m Democracy & Governance Legacy received in October 2015 is continuing to be actively managed. Further savings plans are being developed but are difficult to quantify at present including the upcoming service review. Despite this, there is confidence this variation will be reduced.</p>
<p>CORPORATE ITEMS – Commercialisation</p> <p>The 15/16 Game Commercialisation unachieved target has been brought forward and has now been placed within Corporate Items due to its cross cutting focus. It is a risk as it was not in the 16/17 budget.</p>	0.792	<p>The Commercial Enterprise Board (CEB) has prioritised commercial ideas identifying strategic projects with potential for income generation and smaller, low risk projects for departments to take forward. These smaller projects will only require a light touch of support and will be reviewed and discussed with Directors and Assistant Directors to secure support and buy-in for departments to deliver this year.</p> <p>The CEB is continuing to explore strategic areas that will generate the income to meet the target alongside the areas referred to above.</p>

<p>CORPORATE ITEMS – CST Programme</p> <p>The CST programme has an ambitious benefits target of £1.349m to achieve in 16/17. Efforts have been made to determine the specific areas but further clarity is required.</p>	0.000	The programme's benefits are undergoing a detailed review and it is anticipated that some of the benefits not delivered in 2016/17 will be delivered in 2017/18.
<p>TRANSFORMATION and CHANGE – Finance</p> <p>Currently forecast to come in on budget despite the significant savings target set for 2016/17.</p>	0.000	Finance Fit phase I is nearing completion, with over £0.700m banked towards the £1.500m target. Plans are in place to deliver the sustainable project benefits. Any shortfall will be met from one off in year savings.
<p>TRANSFORMATION and CHANGE – Legal</p> <p>Increase costs with new ambulance contract and staffing requirements.</p>	0.046	Opportunities are being sought to reduce these pressures.
<p>TRANSFORMATION and CHANGE – Customer Services</p> <p>There is currently a nil variance to report.</p>	0.000	£0.160m efficiency target on track for delivery.

<p>TRANSFORMATION and CHANGE – Human Resources & OD</p> <p>There is a favourable variation due to the improved position on income from buy back services for Payroll & HR advisory services.</p>	(0.029)	£0.310m efficiency target on track for delivery.
<p>TRANSFORMATION and CHANGE – Transformation and Portfolio</p> <p>There is currently a nil variance to report</p>	0.000	£0.500m efficiency target on track for delivery.
<p>TRANSFORMATION and CHANGE – ICT Commissioned Service</p> <p>There is currently a nil variance to report.</p>	0.000	Processes and Service Levels monitored through the ICT Review Group.
<p>PEOPLE – Children Young People and Families</p> <p>The Children Young People and Families Service are reporting a budget pressure of £1.179m for Month 3. The Service is facing unprecedented pressures, care applications are up, and the service is struggling to purchase cost effective placements to adequately meet demand.</p> <p>As part of the transformation project for 2016/17, CYP&F are expected to make savings of over £2.100m (in order to contribute to the £9.214m Directorate target). Circa £1.000m has been saved to date through EVRS and the Transformation of Services together with an anticipated £0.800m through review</p>	1.179	A piece of work has been undertaken to ensure a systematic review of all young people in supported living and new arrangements for plans for them are in place. This will ensure appropriate plans are in place for young people improving timeliness and reducing cost pressure.

<p>and commissioning of placements and a further £0.300m from an extensive piece of work across the peninsular to provide children's secure places.</p> <p>There are risks that continue to require close monitoring and management:</p> <ul style="list-style-type: none"> • Increased number of young people in care since budget setting autumn 2015. • Lack of availability of the right in-house foster care placements creating overuse of IFA's. • Court ordered spend continues on Parent & Child Assessment placements. • There are still a small number of individual packages of care at considerably higher cost due to the needs of the young person. • There are currently 24 Residential Placements with budget for only 20. We are currently forecasting for 27 placements in line with young people's plans with a number of these placements being high cost due to the complex nature of these children's needs. • There are currently 106 Independent Foster Care (IFA's) placements with budget for only 70. We are aiming to achieve savings from the transformation of our In House Foster Care Service. • A region wide lack of placements due to an increase in demand for placements. • The overall number of children in care at the end of June stands at 410 a reduction of 1 in the month. 		<p>The In House Foster Care Service has been reviewed and recommendations have been agreed, with an action plan forthcoming to achieve an increase in In House foster care placements and a reduction in IFA placements.</p> <p>Extensive work is underway to review all placements in order to reduce the pressure on cost and volume where appropriate.</p>
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<ul style="list-style-type: none"> • There is currently one young person placed in 'welfare' secure. • The In-House Foster Care placements have 184 including connected carers' placements and 7 Foster to Adopt placements against a target budget of 219 placements, with 2 placements in 'Other Local Authority' Foster Care. • There are currently 2 In House Parent & Child Assessment Placement, 4 court ordered Independent foster care placement and no high cost Residential placements. • There are 19 young people 16+ placed in supported living against a target budget of 20. 		
<p>PEOPLE – Strategic Co-operative Commissioning</p> <p>The Strategic Co-operative Commissioning (SCC) service is reporting a budget pressure of £0.498m at month 3. There are a number of areas that are contributing to this pressure around increased costs and client numbers of care packages, with particular areas of pressure including Supported Living and Residential Care and a large increase of numbers in Nursing Care.</p>	0.498	As part of the transformation project for 2016/17, the SCC budget will need to make savings of over £5m (in order to contribute to the £9.124m Directorate target) with the activities and actions that will drive delivery forming part of the transformation programme. To date, SCC has plans for approximately £2.8m of savings around reduced client numbers, reviews of high cost packages and contract savings and will be working up plans for the remainder in the next few months.
<p>PEOPLE – Management and Support</p> <p>Projecting a balanced budget for 2016/17.</p>	0.000	
<p>PEOPLE – Housing Services</p> <p>Projecting a balanced budget for 2016/17.</p> <p>Emergency B & B placements for April to June average 32.3 per</p>	0.000	

<p>week, this exceeds profiled budget of 28 placements per week, action ongoing to contain overall cost pressure through lower placements and prevention work.</p>		
<p>PEOPLE – Learning & Communities</p> <p>Learning and Communities is reporting a small overspend of £0.025m at the end of quarter 1. Within Home to School Transport service a pressure of £0.347m is being reported. This is linked to the retendering exercise that took place in December 2015 which resulted in an increase to the price of services contracted in.</p> <p>During 2016/17 the Learning and Communities budget will need to make savings of £1.269m (in order to contribute to the £9.214m Directorate target) with activities and actions that will drive delivery forming part of the transformation programme. Circa £0.750m has been saved to date through EVRS and the transformation of services.</p> <p>Education Services Grant is received for the provision of Local Authority services to maintained schools in the city. We are working through the possible financial impact to the Council of academy conversions.</p> <p>When schools convert to Academy status the LA loses funding to the value of £77 per annum, per pupil. There have been 3 schools converting to Academy status since 1st April 2016 with a further 20 known schools due to convert between now and 1st December 2016.</p> <p>These conversions were unforeseen when the budget was set for 2016/17 as the Government only recently changed its policy on</p>	<p>0.025</p>	<p>These pressures are being offset in part due to Star Chamber exercises that have taken place within the Service and these will continue to drive out savings during the year, to mitigate emerging pressures.</p>

<p>academisation. The adverse impact could be in the region of £0.400m; we will update the status during the next quarter's monitoring.</p>		
<p>PUBLIC HEALTH</p> <p>The cut in the Public Health ring-fenced grant for 2016/17 was £1.293m for Plymouth City Council.</p> <p>The Directorate restructure delivered £400k savings and the Directorate is on track to achieve a balanced budget.</p>	0.000	<p>This will be achieved through management of vacancies, contract activity and values, and a focus on increased commercialisation and income generation.</p>
<p>PLACE - Strategic Planning and Infrastructure</p> <p>Planning application fees are sluggish not only in relation to the higher income target that was agreed as part of the 2016/2017 budget but also in relation to the previous income targets by over £200,000.</p>	0.135	<p>We are monitoring the impact of Brexit in relation to intelligence being gathered around property and housing investment decisions which are being widely reviewed by investors. This is partly being mitigated by other income lines in transport and the withdrawal of the Boringdon planning inquiry.</p>
<p>PLACE - Economic Development</p> <p>The main pressure on the ED budget is driven by the MTV project where full cost recovery is not possible due to the contractual cap on the ticket price.</p>	0.215	<p>To help offset the delivery risks in Events and Tourist Information, the plan is to:</p> <ul style="list-style-type: none"> • Get more sponsorship – Events & promotions and MTV, and sell more MTV tickets • Sell more merchandise and increase non-book prices by 2 – 5% in TIC • New commercial opportunities especially in TIC

<p>PLACE - Street Services</p> <p>There is a projected overspend on the Waste Service of £494k. A thorough review of every budget line has been undertaken and there are significant pressures on vehicles £120k and staffing £140k. The balance arises largely as a result of a number of savings targets not being met owing to delays in implementation.</p> <p>There is also a projected unachievable target of £445k on the handing back of fleet that is no longer required for operational purposes. A major overhaul of fleet requirements across the council began in 2014 resulting in 70 vehicles from a fleet of over 300 being handed back, for auction or off hire, as services reduced requirements. This has been exhausted presently until the next phase of service modernisation commences. This requires political approval.</p>	0.940	<p>A Plan for Waste has been presented to leading members. It is a two year savings plan of extensive modernisation through changes in working practices and implementation of revised waste policies to deliver savings and generate income.</p> <p>This will address both the waste demand pressure, and the fleet size – which is tied together intrinsically. This will not mitigated pressures until 2017/18.</p>
<p>TOTAL</p>	3.801	

Overall Comments Finance AD

At this early stage of the financial year it is expected that all the reported adverse variances will be addressed by management action, either within the relevant service area or across a directorate as a whole. At the time the budget was approved there were some plans still to be finalised. Included in the Transformation Programme are targets for savings to be delivered through increased commercialisation (£790k) and through the Customer and Services review (£650k) (systems review) projects. However, directors were confident that working with Portfolio holders plans as developed would deliver the savings required in year. Since the Referendum there has been some negative impact on Council budgets (e.g. reduced planning applications, forecast reduced returns on treasury investments as The Bank of England Monetary Policy Committee (MPC) consider cutting interest rates) but it is still too early forecast with any certainty the year end effect. Officers continue to monitor the council's treasury management activities closely and are taking steps to mitigate a forecast rate reduction. Business rate income and the projections for new homes are also being closely monitored as business and markets consider the impact of Brexit.

The continued delivery of Transformation and Change savings already assumed in the 2016-17 budget will need to be watched carefully. These include Customer and Services Transformation and Commercialisation.

There are a number of adverse variances in Place. Some of these reflect a reduced level of economic activity and others reflect the implementation timeline of planned savings but it is too early to forecast the full year effect.

Within People Directorate the position on children's and adults' placements will need to be carefully monitored throughout the year. Ongoing demographic pressures that cannot be resolved will need to be considered in setting the Council's 2017-18 budget and Medium Term Financial Strategy. The progress of the delivery of benefits from Integration will also need to be watched.

Recommendation

It is recommended that Cabinet note the current monitoring position and action plans in place to reduce/mitigate shortfalls.

VIREMENTS

Table 5 below includes a number of virements between specific directorate budgets. All virements in excess of £0.1m are required to be approved by Cabinet and are shown below.

Table 5 Virements detail

	Transfer of approved Grant c/f's 15/16 back to services in the new year (16/17)	Transfer from Reserves - TCA - IHWB	Transfer of income generation from Corporate Items to Executive Office.	Transfer of inter-departmental budgets; see Note below.	Totals
Directorate	£m	£m	£m	£m	£m
Executive Office			0.107	0.346	0.486
Corporate Items	(2.307)	(0.178)	(0.107)		(2.625)
Transformation and Change	0.822	0.178		0.000	1.,000
People Directorate	0.828			(0.346)	0.482
Public Health	0.442			0.000	0.442
Place Directorate	0.215				0.215
	0.000	0.000	0.000	0.000	0.000

Note: Transfer of budgets for Children's Centre contracts from Early Years to Strategic Co-operative Commissioning, Advocacy & Independent Visitor PEO/09055Var3, Apportionment of Delivery Plan Savings, Transfer of Career South West contract budgets from Youth to Co-operative Commissioning budget, and Transfer of Training budget to HR.

Recommendation

It is recommended that Cabinet approve the non-delegated virements which have occurred since 1st April 2016.

Capital Programme 2016-2021

The latest approved capital budget was reported to Council on 29th February 2016, as £419m. This covered the 5 year period 2015 –20.

The budget has since been reviewed to include the removal of resources funding the 2015/16 outturn, and the inclusion of forecast resources for 2020/21. This has increased the overall funding for the period 2016 – 21, by £28m to £447m. This is set out in Table 6 below.

Table 6: Current Capital Resources

Description	£m
Latest Approved Budget 2015 - 20	419
Less 2015/16 Outturn	(62)
Addition of financial year 2020/21	28
Addition of ring-fenced grants 2016-20	55
Increased use of Borrowing (Including proposed ICT Transformation) 2016-20	9
Reduction in S106 and CIL Forecast 2016-20	(2)
Removal of School Maintenance Funding 2019/20 re Academy Proposals	(2)
Other Changes	2
Total Revised Capital Budget for Approval (2016 – 21)	447

Within the approved budget (representing forecast resources), the Capital Programme represents projects approved for delivery. Table 7 below shows the revised annual programme for the 2016 – 21 period, as at the end of June 2016.

Table 7: Revised Capital Programme

Directorate	2016/17	2017/18	2018/19	2019/20	2020/21	Total
	£m	£m	£m	£m	£m	£m
Transform & change	5.584	0.080				5.664
People	14.564	3.813	0.464			18.841
Place	70.563	34.368	14.192	10.602	2.738	132.463
Public Health						0.000
Total	90.711	38.261	14.656	10.602	2.738	156.968

Recommendation

Cabinet are asked to recommend to Council that the Capital Budget 2016 -2021 is increased to £447m (as shown in Table 6).

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PLYMOUTH CITY COUNCIL

Subject:	Adoption of new Byelaws Regulating Activities of Acupuncture, Electrolysis, Tattooing, Cosmetic Piercing and Semi Permanent Skin Colouring
Committee:	Cabinet
Date:	9 August 2016
Cabinet Member:	Cllr John Riley
CMT Member:	Kelechi Nnoaham (Director of Public Health)
Author:	Andrew Netherton, Service Manager, Licensing
Contact details	Tel: 01752 304742 email: andy.netherton@plymouth.gov.uk
Ref:	AN/ 012016
Key Decision:	No
Part:	I

Purpose of the report:

Plymouth City Council has adopted Part VIII of the Local Government (Miscellaneous Provisions) Act 1982, which requires persons undertaking acupuncture, tattooing, ear piercing and electrolysis to be registered with the Council. Byelaws made under the Act have been adopted to regulate the hygiene and cleanliness of the premises, people and equipment.

Fashion has now seen the growth in new techniques of cosmetic body piercing and semi permanent skin colouring, which carry the same risk of transmission of blood borne virus but are not controlled by the existing byelaws. The Local Government Act 2003 extended the 1982 Act to include these new activities.

It is proposed that Plymouth City Council adopts new model byelaws produced by the Department of Health, with the existing byelaws to be repealed. This report submits the national model byelaws for approval and the commencement of the statutory process.

The Corporate Plan 2013/14 -2016/17:

Caring Plymouth – Skin piercing is a high risk activity for the transmission of blood borne infections and post treatment infections. The adoption of these byelaws will enable the enforcement of standards to the activities of body piercing and semi-permanent colouring.

Growing Plymouth – These treatments are gaining popularity. Public confidence in the safety of these treatments is paramount to their continued growth in addition to having consistent standards across all businesses. The combining of different byelaws and the associated fee structure will reduce administrative burdens on businesses.

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

Businesses already pay a one off fee to register with the local authority therefore these changes place no additional burden on the authority, but do provide a new enforcement option. There will be no additional income or expenditure associated with the use of these byelaws.

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

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

The provisions are designed to protect residents from the risks of infection associated with skin piercing activities

Equality and Diversity

Has an Equality Impact Assessment been undertaken? Yes.

Recommendations and Reasons for recommended action:

That Cabinet considers this report and recommends that Council resolves to:

- 1) Adopt the new byelaw to set minimum standards of cleanliness and hygiene in the carrying out of Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis as set out in Appendix I.
- 2) Authorise officers to carry out the necessary procedure in relation to the creation of the new byelaw (which includes application to the Secretary of State for confirmation of the byelaw and publishing a notice in the local newspaper of the intention to do so)
- 3) Authorise the Common Seal of the Council to be applied to the new byelaw
- 4) Revoke the existing byelaws upon the coming into force of the new byelaw.

Body piercing and semi permanent skin colouring pose high risks of transmission of blood infections and therefore it is important to ensure that the practices, premises and people involved are clean and hygienic. Changes to the legislation allow these activities to be regulated and it is recommended that the model byelaws be adopted to set minimum standards.

Alternative options considered and rejected:

The recommendations offer protection for the general public from the risk of blood borne and post treatment infections from the recent growth in new skin piercing practices. Not adopting the byelaws would leave premises and customers unprotected and unsupervised due to the inability to adequately regulate the activities.

Published work / information:

Chartered Institute of Environmental Health.
Tattooing and Body Art Toolkit. London : CIEH, 2013

Local Government (Miscellaneous Provisions) Act 1982.

Department of Health guidance on Section 120 and Schedule 6 of the Local Government Act 2003

Background papers:

Title	Part I	Part II	Exemption Paragraph Number							
			1	2	3	4	5	6	7	

Sign off:

Fin	ODPHF PHC161 7 001	Leg	2588 3/ag/ 21.6. 16	Mon Off		HR		Assets		IT		Strat Proc	
Originating SMT Member													
Has the Cabinet Member(s) agreed the contents of the report? Yes													

Adoption of New Byelaws Regulating Activities of Acupuncture, Electrolysis, Tattooing, Cosmetic Piercing and Semi Permanent Skin Colouring.

1.0 Background

- 1.1 Plymouth City Council has adopted Section 15 of the Local Government (Miscellaneous Provisions) Act 1982, which requires persons undertaking acupuncture, tattooing, ear piercing and electrolysis to be registered with the Council. Byelaws were also adopted by the Council to regulate these separate activities.
- 1.2.1 Activities that pierce or impregnate the skin carry the inherent risk of blood borne diseases such as Hepatitis B, C and HIV viruses and post treatment infections. It is important that the premises and operator practices are clean and hygienic.

2.0 Current Issues

- 2.1 Since the making of the original byelaws there has been an increase in the popularity of cosmetic body piercing and semi permanent skin colouring. Piercing of parts of the body, other than ears, and temporary tattooing (e.g. eyebrows) using semi permanent dyes are now routinely performed at a number of permanent premises. The risks of transmission of blood borne diseases and post treatment infections with these new activities are similar to the previous controlled activities.
- 2.2 The Local Government Act 2003 amended the 1982 Act to include cosmetic piercing and semi-permanent colouring. These provisions have required proprietors of such businesses to register themselves and their premises, but there have been no byelaws relating to the cleanliness and hygiene of premises, practitioners and equipment.
- 2.3 The Department of Health has produced a new model byelaw to reflect current infection control advice and industry practice, and has been prepared taking into account the views of local authorities and trade associations issues. This single model byelaw includes acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis and the controls are better than those currently in force.
- 2.4 A charge may be made for registration to contribute towards the cost of inspection and regulation. It is anticipated that enforcement of the new byelaw will be met from existing resources.

3.0 Adoption Procedure

- 3.1 The function of making or amending byelaws is a function of Full Council by virtue of Part B of the Council's constitution and therefore cannot be delegated to any other committee or officer. A resolution must be passed by Full Council as detailed below before the procedure to create the new byelaw can be commenced. The procedure for adopting byelaws is specified in Section 236 of the Local Government Act 1972.
- 3.2 All byelaws must be confirmed by the relevant Secretary of State. The Government Department with responsibility for confirming this byelaw is the Department of Health. The steps which would be required include:-
 - 1. Council approves the model byelaw
 - 2. The byelaw is formally sealed
 - 3. The Council advertises the byelaw in a local newspaper and invites representations to the Secretary of State

4. The sealed byelaw is sent to the Secretary of State for confirmation
5. The Secretary of State decides whether to confirm the byelaw
6. The byelaw comes into force after one month following confirmation by Secretary of State.

4 0 **Impact**

- 4.1 Existing businesses registered with the Council will not require any further approval, but will need to comply with the new byelaws. These new byelaws will allow for consistent regulation across all skin piercing activities and compliance with the latest byelaws.

Appendix I: Model Byelaws

BYELAWS RELATING TO

Acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis

Byelaws for the purposes of securing the cleanliness of premises registered under sections 14(2) or 15(2) or both of the Local Government (Miscellaneous Provisions) Act 1982 and fittings in such premises and of persons registered under sections 14(1) or 15(1) or both of the Act and persons assisting them and of securing the cleansing and, so far as appropriate, sterilization of instruments, materials and equipment used in connection with the practice of acupuncture or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis, or any two or more of such practice and businesses made by Plymouth City Council in pursuance of sections 14(7) or 15(7) or both of the Act.

Interpretation

1. (1) In these byelaws, unless the context otherwise requires –

“The Act” means the Local Government (Miscellaneous Provisions) Act 1982;

“client” means any person undergoing treatment;

“hygienic piercing instrument” means an instrument such that any part of the instrument that touches a client is made for use in respect of a single client, is sterile, disposable and is fitted with piercing jewellery supplied in packaging that indicates the part of the body for which it is intended, and that is designed to pierce either –

- (a) the lobe or upper flat cartilage of the ear, or
- (b) either side of the nose in the mid-crease area above the nostril;

“operator” means any person giving treatment, including a proprietor;

“premises” means any premises registered under sections 14(2) or 15(2) of the Act;

“proprietor” means any person registered under sections 14(1) or 15(1) of the Act;

“treatment” means any operation in effecting acupuncture, tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis;

“the treatment area” means any part of premises where treatment is given to clients.

(2) The Interpretation Act 1978 shall apply for the interpretation of these byelaws as it applies for the interpretation of an Act of Parliament.

2. (1) For the purpose of securing the cleanliness of premises and fittings in such premises a proprietor shall ensure that –

- (a) any internal wall, door, window, partition, floor, floor covering or ceiling is kept clean and in such good repair as to enable it to be cleaned effectively;

- (b) any waste material, or other litter arising from treatment is handled and disposed of in accordance with relevant legislation and guidance as advised by the local authority;
 - (c) any needle used in treatment is single-use and disposable, as far as is practicable, or otherwise is sterilized for each treatment, is suitably stored after treatment and is disposed of in accordance with relevant legislation and guidance as advised by the local authority;
 - (d) any furniture or fitting in premises is kept clean and in such good repair as to enable it to be cleaned effectively;
 - (e) any table, couch or seat used by a client in the treatment area which may become contaminated with blood or other body fluids, and any surface on which a needle, instrument or equipment is placed immediately prior to treatment has a smooth impervious surface which is disinfected –
 - (i) immediately after use; and
 - (ii) at the end of each working day.
 - (f) any table, couch, or other item of furniture used in treatment is covered by a disposable paper sheet which is changed for each client;
 - (g) no eating, drinking, or smoking is permitted in the treatment area and a notice or notices reading “No Smoking”, and “No Eating or Drinking” is prominently displayed there.
- (2) (a) Subject to sub-paragraph (b), where premises are registered under section 14(2) (acupuncture) or 15(2) (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the 1982 Act, a proprietor shall ensure that treatment is given in a treatment area used solely for giving treatment;
- (b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.
- (3) (a) Subject to sub-paragraph (b) where premises are registered under section 15(2) (tattooing, semi-permanent skin-colouring and cosmetic piercing) of the 1982 Act, a proprietor shall ensure that the floor of the treatment area is provided with a smooth impervious surface;
- (b) Sub-paragraph (a) shall not apply if the only treatment to be given in such premises is ear-piercing or nose-piercing using a hygienic piercing instrument.
- 3. (1)** For the purposes of securing the cleansing and so far as is appropriate, the sterilization of needles, instruments, jewellery, materials and equipment used in connection with treatment –
- (a) an operator shall ensure that –
 - (i) any gown, wrap or other protective clothing, paper or other covering, towel, cloth or other such article used in treatment –

- (aa) is clean and in good repair and, so far as is appropriate, is sterile;
- (bb) has not previously been used in connection with another client unless it consists of a material which can be and has been adequately cleansed and, so far as is appropriate, sterilized.
- (ii) any needle, metal instrument, or other instrument or equipment used in treatment or for handling such needle, instrument or equipment and any part of a hygienic piercing instrument that touches a client is sterile;
- (iii) any jewellery used for cosmetic piercing by means of a hygienic piercing instrument is sterile;
- (iv) any dye used for tattooing or semi-permanent skin-colouring is sterile and inert;
- (v) any container used to hold dye for tattooing or semi-permanent skin-colouring is either disposed of at the end of each treatment or is cleaned and sterilized before re-use.

(b) a proprietor shall provide –

- (i) adequate facilities and equipment for –
 - (aa) cleansing; and
 - (bb) sterilization, unless only pre-sterilized items are used.
- (ii) sufficient and safe gas points and electrical socket outlets;
- (iii) an adequate and constant supply of clean hot and cold water on the premises;
- (iv) clean and suitable storage which enables contamination of the articles, needles, instruments and equipment mentioned in paragraphs 3(1)(a)(i), (ii), (iii), (iv) and (v) to be avoided as far as possible.

4. (1) For the purpose of securing the cleanliness of operators, a proprietor –

- (a) shall ensure that an operator –
 - (i) keeps his hands and nails clean and his nails short;
 - (ii) keeps any open lesion on an exposed part of the body effectively covered by an impermeable dressing;
 - (iii) wears disposable examination gloves that have not previously been used with another client, unless giving acupuncture otherwise than in the circumstances described in paragraph 4(3);

- (iv) wears a gown, wrap or protective clothing that is clean and washable, or alternatively a disposable covering that has not previously been used in connection with another client;
- (v) does not smoke or consume food or drink in the treatment area; and
- (b) shall provide –
 - (i) suitable and sufficient washing facilities appropriately located for the sole use of operators, including an adequate and constant supply of clean hot and cold water, soap or detergent; and
 - (ii) suitable and sufficient sanitary accommodation for operators.
- (2) Where an operator carries out treatment using only a hygienic piercing instrument and a proprietor provides either a hand hygienic gel or liquid cleaner, the washing facilities that the proprietor provides need not be for the sole use of the operator.
- (3) Where an operator gives acupuncture a proprietor shall ensure that the operator wears disposable examination gloves that have not previously been used with another client if –
 - (a) the client is bleeding or has an open lesion on an exposed part of his body; or
 - (b) the client is known to be infected with a blood-borne virus; or
 - (c) the operator has an open lesion on his hand; or
 - (d) the operator is handling items that may be contaminated with blood or other body fluids.
- 5. A person registered in accordance with sections 14 (acupuncture) or 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Act who visits people at their request to give them treatment should observe the requirements relating to an operator in paragraphs 3(1)(a) and 4(1)(a).
- 6. The byelaws relating to acupuncture, tattooing, and electrolysis that were made by Plymouth City Council on the 11th September 1984 and were confirmed by the Secretary of State for Health on 27th March 1985 are revoked.

Councils Signature

Common Seal:

The foregoing byelaws are hereby confirmed by the Secretary of State for Health on XX and shall come into operation on XX.

Member of the Senior Civil Service
Department of Health

NOTE - THE FOLLOWING DOES NOT FORM PART OF THE BYELAWS

Proprietors shall take all reasonable steps to ensure compliance with these byelaws by persons working on premises. Section 16(9) of the Local Government (Miscellaneous Provisions) Act 1982 provides that a registered person shall cause to be prominently displayed on the premises a copy of these byelaws and a copy of any certificate of registration issued to him under Part VIII of the Act. A person who contravenes section 16(9) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 2 on the standard scale (see section 16(10)).

Section 16 of the Local Government (Miscellaneous Provisions) Act 1982 also provides that any person who contravenes these byelaws shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. If a person registered under Part VIII of the Act is found guilty of contravening these byelaws the Court may, instead of or in addition to imposing a fine, order the suspension or cancellation of the person's registration. A court which orders the suspension of or cancellation of a person's registration may also order the suspension or cancellation of the registration of the premises in which the offence was committed if such premises are occupied by the person found guilty of the offence. It shall be a defence for the person charged under the relevant sub-sections of section 16 to prove that he took all reasonable precautions and exercised all due diligence to avoid commission of the offence.

Nothing in these byelaws extends to the practice of acupuncture, or the business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis by or under the supervision of a person who is registered as a medical practitioner, or to premises in which the practice of acupuncture, or business of tattooing, semi-permanent skin-colouring, cosmetic piercing or electrolysis is carried out by or under the supervision of such a person.

Nothing in these byelaws extends to the practice of acupuncture by or under the supervision of a person who is registered as a dentist, or to premises in which the practice of acupuncture is carried out by or under the supervision of such a person.

The legislative provisions relevant to acupuncture are those in section 14. The provisions relevant to treatment other than acupuncture are in section 15.

The key differences in the application of requirements in respect of the various treatments are as follows:

*The references in the introductory text to provisions of section 14 (acupuncture) of the Local Government (Miscellaneous Provisions) Act 1982 **only apply to acupuncture.***

*The references in the introductory text to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) of the Local Government (Miscellaneous Provisions) Act 1982 **do not apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 14 (acupuncture) **only apply to acupuncture.***

*The references in paragraph 1(1) in the definition of "premises" to provisions of section 15 (tattooing, semi-permanent skin-colouring, cosmetic piercing and electrolysis) **do not apply to acupuncture.***

*The requirement in paragraph 2 (2) that treatment is given in a treatment area used solely for giving treatment **applies to acupuncture, tattooing, semi-permanent skin-colouring, cosmetic***

piercing and electrolysis but not to ear piercing or nose piercing using a hygienic piercing instrument.

The requirement in paragraph 2(3) that the floor of the treatment area be provided with a smooth impervious surface **applies to tattooing, semi-permanent skin-colouring and cosmetic piercing but not to acupuncture or electrolysis or ear-piercing or nose-piercing using a hygienic piercing instrument.**

The requirements relating to dye or a container used to hold dye used for skin treatment in paragraphs 3(1) (a) (iv) and (v) **apply to tattooing and semi-permanent skin-colouring.**

The requirement in paragraph 4(1) (a) (iii) that an operator wears disposable examination gloves that have not previously been used with another client **does not apply to acupuncture otherwise than in the circumstances described in paragraph 4(3).**

The provisions of paragraph 4(2) in relation to washing facilities **apply to cosmetic piercing using only a hygienic piercing instrument.**

The exception whereby the byelaws do not apply to treatment carried out by or under the supervision of a dentist **applies only to acupuncture (see section 14(8) of the Act).**

EQUALITY IMPACT ASSESSMENT

Public Protection Service



STAGE 1: WHAT IS BEING ASSESSED AND BY WHOM?

What is being assessed - including a brief description of aims and objectives?	<p>Adoption of new model byelaws for skin piercing</p> <p>The new byelaws extend hygiene controls to new forms of skin piercing which are not covered by the existing byelaws. The byelaws are used to ensure any skin piercing activities are undertaken in a safe and hygienic manner.</p> <p>The byelaws do not depart from model byelaws issued by the Dept of Health, which would have been subject to their equalities impact assessment.</p>
Author	Andy Netherton
Department and service	ODPH, PPS
Date of assessment	19.07.16

STAGE 2: EVIDENCE AND IMPACT

Protected characteristics (Equality Act)	Evidence and information (eg data and feedback)	Any adverse impact See guidance on how to make judgement	Actions	Timescale and who is responsible
Age	No adverse feedback from businesses already registered	None – standards are applied universally	None	NA
Disability	No adverse feedback from businesses already registered	None – standards are applied universally	None	NA
Faith/religion or belief	No adverse feedback from businesses already registered	None – standards are applied universally	None	NA
Gender - including marriage, pregnancy and	No adverse feedback from businesses already registered	None – standards are applied universally	None	NA

maternity				
Gender reassignment	No adverse feedback from businesses already registered	None – standards are applied universally	None	NA
Race	No adverse feedback from businesses already registered	None – standards are applied universally	None	NA
Sexual orientation - including civil partnership	No adverse feedback from businesses already registered	None – standards are applied universally	None	NA

STAGE 3: ARE THERE ANY IMPLICATIONS FOR THE FOLLOWING? IF SO, PLEASE RECORD ACTIONS TO BE TAKEN

Local priorities	Implications	Timescale and who is responsible
Reduce the inequality gap, particularly in health between communities.	Byelaws are used to regulate commercial activities of skin piercing. Skin piercing is a high hazard activity due to the risk of blood borne infections or opportunistic infections. Current byelaws do not cover activities of cosmetic piercing and semi-permanent tattoos – this gap leads to a potential risk. Improved standards of skin piercers benefits all sections of society	None
Good relations between different communities (community cohesion)	None	None
Human rights Please refer to guidance	None	None
Principles of fairness Please refer to guidance	The new byelaws ensures universal standards across all skin piercing activities.	None

STAGE 4: PUBLICATION

Responsible Officer

Date

Director, Assistant Director or Head of Service