

PLYMOUTH CITY COUNCIL CONSTITUTION

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

## **1. Responsibility for council functions**

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

## **2. Delegation by committees**

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

## **3. Council functions**

### **Functions that may only be exercised by the council**

#### **Procedural Functions**

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

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

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

having regard to the Independent Remuneration Panel's report;

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

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

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

#### **4. Council procedure rules**

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

#### **5. Notice of and summons to meetings**

- 5.1. The Monitoring Officer will give notice to the public of the time and place of any meeting in accordance with the Access to Information Rules. At least five clear working days<sup>1</sup> before a meeting, the Monitoring Officer will send a summons (an agenda) to every Councillor of the Council. The agenda will give the date, time and place of each meeting, specify the business to be transacted and will be accompanied by such reports as are available. Where appropriate, Councillors will, in addition/instead, be notified of the summons by email.

#### **6. Time and place of council meetings**

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

#### **7. Order of business at annual meeting of council**

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

#### **8. Order of business at ordinary meeting of council**

- 8.1. At ordinary meetings the order of business will be to:
- a) elect the chair (if the Lord Mayor and Deputy are absent)
  - b) receive apologies for absence from Councillors
  - c) approve minutes of the last meeting as a correct record
  - d) receive declarations of interest from Councillors
  - e) make appointments to committees and outside bodies (unless the outside body's function relates to an executive function)
  - f) reply to questions by the public (Not to exceed 10 minutes)
  - g) receive announcements from the Lord Mayor, Head of Paid Service, Responsible Finance

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

Officer and Monitoring Officer

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

## **9. Annual budget meeting**

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

## **10. Extraordinary meetings of council**

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

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

## **11. Changing the order of business**

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

## **12. Chair of meeting**

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

## **13. Quorum**

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

13.2. If a quorum is not present at the start of a meeting, the meeting will be put back by 15 minutes. If there is still no quorum, the business will be deferred until a quorate meeting can be arranged. If a meeting becomes inquorate part of the way through, business will stop for five minutes. If there is still no quorum, the business will be deferred until a quorate meeting can be arranged.

## **14. Duration of meeting**

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

## **15. Questions by the public**

### **Asking questions at Council**

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

### **Giving notice of questions**

15.2. The wording of questions must be given to the Monitoring Officer at least five complete working days<sup>2</sup> before the meeting. Each question must include the name and address of the person or organisation asking it and the name or position of the Councillor being asked it.

### **Number of questions**

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

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

## **Asking the question**

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

## **Length of questions**

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

## **Total length of questions**

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

## **Written answers**

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

## **Discussion**

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

## **Suitability of questions**

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

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

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

## **16. QUESTIONS BY COUNCILLORS**

### **Questions without notice**

- 16.1. A Councillor can ask a question without notice (under the appropriate agenda item) to the

Leader or Cabinet members, or committee chairs on any aspect of their area of responsibility.

## Timing

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

## Response and supplementary questions

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

## Rejecting questions

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

## 17. Presentation of minutes

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

## 18. Motions on notice

### Giving notice of motions

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

### Withdrawing a motion or moving it at a later meeting

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



the meeting begins.

### **Absence of the Proposer**

- 18.3. In the event that a proposer is not available to move the motion the seconder of the motion may move the motion and seek a seconder from the floor.
- 18.4. In the event that both the proposer and seconder are not available the Lord Mayor will invite the relevant political group to nominate another councillor to move the motion.

### **Listing motions on the agenda**

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

### **Topic of motions**

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

### **Rejecting motions**

- 18.7. The Monitoring Officer, can reject a motion if:
- it is not about something for which the Council is responsible or which affects the City;
  - it is potentially defamatory, frivolous, trivial or offensive
  - it requires the Council to make public exempt or confidential information ([see Part F Access to Information Rules](#))
- 18.8. The Monitoring Officer's decision is final.

### **Time Limit to Motions on Notice**

- 18.9. There is a time limit to the motions on notice agenda item of two hours. When the time expires, following an opportunity to sum up by the mover of the motion, the Council will move to the vote. Should a motion not be discussed, the motion may re-submitted for a future meeting through the established process, motions will be heard in the order they are received.

### **Motions without notice**

- 18.10. There is no need to give notice of motions to:
- a. appoint a Chair of the meeting;
  - b. agree or correct the minutes;
  - c. change the order of business;
  - d. refer something somewhere else;
  - e. agree or amend recommendations of the Cabinet and Council Committees or officers;
  - f. to appoint members to a Committee or office created at the meeting;
  - g. amend or change a motion;

- h. go to next business;
- i. move to a vote;
- j. continue the meeting beyond 7:30pm;
- k. suspend a Council procedure;
- l. hold a discussion in private (when allowed under the Access to Information Procedures;
- m. Give Council's agreement when it is required by the Constitution.

## **19. Voting**

### **Majority vote**

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

### **Lord Mayor's second or casting vote**

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

### **Method of voting**

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

### **Voting on appointments**

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

### **Reports to note**

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

## **20. Minutes**

### **Signing the minutes**

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

### **No minutes at Annual or Extraordinary meetings**

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

## **21. RECORD OF ATTENDANCE**

- 21.1. A record of attendance at Council meetings is noted on the minutes of the meeting. A

record of attendance for all meetings is kept and accessible on the Council's website.

- 21.2. Councillors will be expected to remain in the meeting for its duration (exceptions being short personal breaks or leaving pursuant to a declaration of interest).

## **22. Exclusion of public**

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

## **23. Councillors' conduct**

### **Standing to speak**

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

### **Forms of Address**

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

### **Chair standing**

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

### **Councillor not to be heard further**

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

### **Councillor to leave the meeting**

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

### **General disturbance**

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

### **Removal of member of the public**

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

## **Clearance of part of meeting room**

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

## **24. Suspension of council procedure rules**

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

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

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

## **25. Changes to these procedures**

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

## **26. The Framework for Cabinet Decisions**

26.1. Council sets the policy framework and budget.

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

## **27. Process for developing the budget and policy framework**

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

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

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

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

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

27.6. The Council may:

- Adopt the report and the proposals contained in it;
- Amend the proposals and adopt them;

- Refer the proposals back to the Cabinet for further consideration; or
- Substitute its own proposals for those of the Cabinet.

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

## **28. Decisions outside the budget or policy framework**

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

## **29. Urgent decisions outside the budget or policy framework**

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

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

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

### **30. Recording Urgent decisions**

30.1. The record of the decision must say:

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

### **31. In-year changes to the budget and policy framework**

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

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

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

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