

# APPENDIX A- REFERENDUM FOR PROPOSED ALTERNATIVE EXECUTIVE GOVERNANCE ARRANGEMENTS



Briefing Note for City Council 28.04.2025

## I. EXECUTIVE SUMMARY

- 1.1. The purpose of this report is to inform the Council of the position following the receipt of a valid petition requesting a referendum on a move to a Directly Elected Mayor and Cabinet Executive form of governance, as required by Regulation 17(1) and (2) of the Local Authorities (Referendums) (Petitions) (England) Regulations 2011 ('The 2011 Regulations') and Regulation 4(1) of the Local Authorities (Conduct of Referendums) (England) Regulations 2012 ('the 2012 Regulations').
- 1.2. The report also sets out the arrangements for following the process required by legislation including the drawing up of proposals for the operation of the form of governance that is the constitutional change proposed by the petition: a Directly Elected Mayor and Cabinet Executive model.
- 1.3. A Directly Elected Mayor (Elected Mayor) is an individual elected by the local government electors for the area for a four-year term of office. The Elected Mayor is not a councillor of the authority, but is governed by the same rules on conduct, qualification and payment of allowances.
- 1.4. Moving to a Directly Elected Mayor and Cabinet form of governance, following a decision by voters at a referendum, would represent a significant change to the way in which the Council operates. Details of the key differences between Directly Elected Mayor and Cabinet and the current Leader and Cabinet forms of executive are set out below.

## 2. BACKGROUND

- 2.1. The Council received a petition on 6 February 2025 seeking a referendum on whether the Council should be run in a different way by an Elected Mayor who is elected by voters for the area which the Council serves. The petition was amalgamated with earlier petitions (dated 14 January 2025 and 28 January 2025).
- 2.2. In assessing and verifying the amalgamated petition, the Council followed the strict guidance set out in the 2011 Regulations. Regulation 9 requires the Council to check each entry individually against the current register of local government electors. As a result of this detailed check against a total of 16,547 signatures on the amalgamated petition, the Council established that there were 10,856 valid signatures. The total number of valid signatures required to validate the petition and trigger a referendum was 9,789.
- 2.3. Therefore, on 17 February 2025, the Proper Officer was satisfied that the petition was valid and, in accordance with Regulation 13 of the 2011 Regulations, informed the petition organiser of that conclusion, and that a referendum would be held. On 17 February 2025 the Proper Officer published a notice containing a statement confirming the receipt of a valid petition, the constitutional change sought by the petition, the date of the petition, that the petition is available for public inspection, the address of the Council offices and that a referendum would be held.
- 2.4. Under regulations made under sections 9MC and 9MG and 105 of the Local Government Act 2000, a local authority in receipt of a valid petition requesting a referendum on a change in its

form of executive governance arrangements is required to take certain steps in a prescribed period before the holding of the referendum. These steps include the publication of how the local authority proposes to operate the alternative form of executive arrangements in the event of an affirmative vote in the referendum.

- 2.5. Under Regulation 4(1) of the 2012 Regulations, the Proper Officer is required, at least 56 working days before the referendum (i.e. by 29 April 2025), to publish a notice which contains, among other things, a statement that proposals for the operation of a directly elected mayor and cabinet form of governance have been drawn up, and a description of the main features of such proposals.

### 3. PROPOSED CHANGES AND REASONS

#### Requirement for a referendum

- 3.1. Under Regulation 16 of the 2011 Regulations, the Council must hold the referendum no later than the end of the next 'ordinary day of election' after the Petition Date.<sup>1</sup> However, where the Petition Date is less than four months before the next ordinary day of election, then the Council has a period of six months beginning with the Petition Date within which to hold the referendum. It is the latter which applies in this case. Therefore, the referendum must be held no later than 5 August 2025.
- 3.2. The Proper Officer has set the date for the referendum for **Thursday 17 July 2025** (polling hours 7am to 10pm).
- 3.3. In accordance with the provisions of Regulation 9 of the 2012 Regulations, the conduct of the referendum is the responsibility of the Counting Officer, who is the returning officer at elections of councillors for the area in which the referendum is to be held.
- 3.4. The question to be asked in the referendum is prescribed by the 2012 Regulations, and the Council does not have a choice in this regard:

“How would you like Plymouth City Council to be run?

By a leader, who is an elected councillor chosen by a vote of the other elected councillors. This is how the Council is run now.

or

By a mayor, who is elected by voters. This would be a change from how the Council is run now.”

#### Executive Governance Arrangements under Directly Elected Mayor Model

- 3.5. Regulation 17 of the 2011 Regulations requires the Council to take the following action before the referendum:
  - To decide the extent to which local choice functions are to be the responsibility of the executive under a Directly Elected Mayor and Cabinet form of governance should that be approved at the referendum; and
  - To draw up proposals for the operation of a Directly Elected Mayor and Cabinet form of governance should that be approved at the referendum.
- 3.6. It is recommended to Council that that no change be made to the allocation of responsibility for local choice functions as set out in Appendix C at this stage.

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<sup>1</sup> Usually the first Thursday in May

- 3.7. Draft proposals for the operation of a Directly Elected Mayor and Cabinet form of governance are set out in Appendix C. These draft proposals are, of necessity, high level at this stage. If the voters at the referendum opt for a change to an Elected Mayor, the details of the various constitutional changes required would need to be considered separately by the Council at its first ordinary meeting after the referendum in September 2025.
- 3.8. A draft copy of the Proper Officer's notice referred to in 2.5 is included as Appendix B.
- 3.9. It should be noted that a change to a Directly Elected Mayor model of executive governance would replace the Council's existing model (Leader and Cabinet). The Elected Mayor would choose his or her cabinet from among the serving councillors, subject to a minimum of two and maximum of nine plus the mayor him/herself, one of whom must be designated the Deputy Mayor.
- 3.10. The Elected Mayor would have authority to delegate Executive functions to Executive members, officers and Committees as they see fit. The position of other councillors would remain unchanged, as would the remaining features of the Council's democratic structure, including meetings of the full Council, overview and scrutiny committees and regulatory committees. Elected Mayors do not have more powers than are available to Council leaders.
- 3.11. The key differences between a Directly Elected Mayor and Cabinet / Leader and Cabinet form of executive are set out in the table below:

<b>Council Leader</b>	<b>Elected Mayor</b>
The Council Leader is elected by the council for a period of up to four years but can be voted out of office if they no longer have the support of the majority of other councillors.	The Elected Mayor holds office for four years and cannot be voted out of office by the councillors.
The Council Leader is elected by the full council of 57 locally elected councillors.	The Elected Mayor would be directly elected by the local government electorate of the city.
The Council Leader is one of the 57 elected councillors.	The Elected Mayor would be in addition to the 57 elected councillors and would not be a councillor themselves.
Each year the Council Leader presents a budget and major policies at an agreed frequency to the council. They can be approved by a majority, and in the same way, any changes proposed by the council require a majority.	Each year the Elected Mayor would present a budget and major policies at an agreed frequency to the council. Those plans could be approved by a majority. However, any changes proposed by the Council would require the support of at least two-thirds of the council.
The Council leader is held to account through full council and at least one overview and scrutiny committee. He or she also has to stand for election as a local councillor every four years.	The Elected Mayor would be scrutinised through full council and at least one overview and scrutiny committee, as well as through direct elections across the city, every four years.

- 3.12. Neither a Council Leader nor Elected Mayor can be removed from their post by the voters during their term of office. However, the Leader can be removed by a vote at Council.
- 3.13. In the event of a vote in the referendum for changed arrangements, the first election for a directly elected mayor would be combined with Local Elections on 7 May 2026. The Elected Mayor elected at the May 2026 Mayoral election will be subject to a second election which must be held on the ordinary day of election in the year which ordinary elections of councillors are held, but it must take place between 23 and 67 months after the first election. The length of the Elected Mayor's first term of office (the date of the second election) will be

agreed at the first ordinary meeting of full Council after the referendum. After the second election, the Elected Mayor shall serve for a term of four years unless the Elected Mayor dies, resigns or is otherwise disqualified from office. The date of each subsequent mayoral election shall coincide with the date of ordinary elections of Councillors. Unlike the Leader of the Council, an Elected Mayor cannot be removed from office or be required to resign as a result of any vote or resolution of the Council, during their term of office.

- 3.14. It would be possible for an existing Councillor to stand for election as Elected Mayor; but if elected, upon that person taking office as Elected Mayor, an immediate casual vacancy would arise in that Councillor's seat on the Council.
- 3.15. The requirement to have certain statutory officers in place (e.g. Head of Paid Service, Monitoring Officer, Chief Finance Officer, Director of Children's Services) would remain unchanged.
- 3.16. Regulation 2(b) of the Local Authorities (Elected Mayor and Mayor's Assistant) (England) Regulations 2022 provides that an elected mayor of a local authority is to be treated as a councillor of the Local Authority for the purposes of Section 18 (1), (3), (4) and (5) of the Local Government and Housing Act 1989 which provides for the schemes of Basic and Special Responsibility Allowances for local authority members.
- 3.17. As a scheme of member allowances can only be agreed or amended by the Council itself, after taking into account the recommendations of the Independent Remuneration Panel, it is proposed that, in the event of an affirmative outcome in the referendum, the Independent Remuneration Panel should be asked to make initial recommendations on what remuneration arrangements should apply in an Elected Mayor model, including remuneration of the Elected Mayor, after the referendum but before the Mayoral election. Such recommendations would be provisional only, however, because as noted above, it will be for the Elected Mayor themselves to decide how many Executive members to appoint, and the extent of the Executive responsibilities (if any) to delegate to each of them. It is likely that the final remuneration package will depend at least partly on such factors. It is suggested that in fairness to those who choose to stand in any Mayoral election, some indication of likely levels of remuneration to the successful candidate should be given in advance of such an election.

### **Moratorium period**

- 3.18. If the Elected Mayor model is introduced following a referendum, the Council is effectively locked into that model for ten years from the date of the referendum and may only change it at a subsequent referendum
- 3.19. The 2011 Regulations provide that a petition seeking a referendum on a change in governance cannot be valid (even if it contains the required number of valid signatures) if it is presented to the Council during the moratorium period. The moratorium period is defined as the period of nine years commencing from the date on which a referendum was last held.
- 3.20. If the result of the referendum is to reject the proposal for an Elected Mayor, the Council can make its own constitutional change without a referendum by a resolution of Full Council (unless the Council wishes to hold a referendum of its own volition). However, the Council can only make such resolutions once every five years, unless it first holds a referendum (which can be held once every ten years).

### **The name and role of the Lord Mayor**

- 3.21. The law provides that in those local authorities where there is an elected mayor, the titles of Mayor and Deputy Mayor can only be used by the elected mayor and their chosen deputy mayor. However, government guidance makes clear, that in very few cases, such as where the title of Lord Mayor derives from a Royal Charter, as in Plymouth's case, this title would continue whichever form of executive were chosen.

- 3.22. In those instances, it is for the local authority to ensure that the two mayoral titles are distinguished from each other in some way.
- 3.23. A decision as to whether or not the Elected Mayor is to hold the Royal Charter title will be taken after the first ordinary meeting of the Council following the referendum along with a decision as to the title that will be used by the Elected Mayor in the event that the two roles are to remain separate.
- 3.24. Paragraph 9HF of the Local Government Act 2000 enables a local authority to change the title by which the Directly Elected Mayor of the authority is to be known as from one of the following alternative titles:
- County commissioner
  - County governor
  - Elected leader
  - Governor
- 3.25. Alternatively, the authority may choose a title that it considers more appropriate than the alternative titles mentioned above. An example might be referring to the Elected Mayor as the Mayor of Plymouth, and the Lord Mayor for the ceremonial Mayor.

### **Referendum Period Publicity**

- 3.26. As with any election or referendum, the Council is required to abide by strict rules concerning the publication of material about the referendum. This period runs from the publication date of the Information Statement (a minimum of 56 working days before the date of the referendum) ending with the date of the referendum (Regulation 5, the 2012 Regulations) with further and specific restrictions on the 28 days before the referendum. The Council is permitted to:
- Make available materials to persons in response to specific requests for information or person specifically seeking access to it;
  - Public information relating to the holding of the poll at the referendum; or
  - Publish press notices containing factual information where the sole purpose of the publication is to refute or correct any inaccuracy in material published by a person other than the local authority.
- 3.27. Members of the Council will be advised that they should not use Council resources to make statements or comments which might be interpreted as an expression of support for one side or other in the referendum debate.

### **Guidance for Campaigners**

- 3.28. The Council will publish an Information Pack for Campaigners, which will include helpful information including the referendum timetable, the statutory restriction on referendum expenses that campaigners may incur, campaign material, and other matters.
- 3.29. There is no requirement to register as a campaigner or campaign group in such referenda. However, campaigners will need to apply to the Counting Officer to observe certain aspects of the poll, and there are strict rules which control referendum expenses.
- 3.30. Referendum expenses cover things such as advertising, unsolicited materials, rallies and events etc. They also include circumstances where certain property, services or facilities are made available free of charge or at least at a discount.
- 3.31. The referendum expenses limit in respect of this referendum is £14,048.43. Referendum expenses incurred by or on behalf of any individual or body during the

referendum period (from 28 April 2025 to the date of the referendum) cannot exceed this limit.

- 3.32. As with similar material in other polls, imprints with details of the printer and promotor are required by the Counting Officer to be added to campaign material to show who is responsible for its production. Under the Elections Act 2022 the law requires imprints on some kinds of digital material.

#### 4. FINANCIAL IMPLICATIONS AND RISK

- 4.1. As the referendum will not be held as a combined poll the full costs will have to be borne by the Council, and there is no scope for re-claiming any of these costs from any other source.
- 4.2. Total costs associated with the referendum and the first Mayoral election will be in the region of £0.410m. The budget has been identified from the Council's Working Balance.
- 4.3. In the event of an affirmative outcome in the referendum, the first Elected Mayoral election would be held on the 7 May 2026 and will be combined with the local city council elections. There is no scope for this process and timescale to be varied by the Council or by any other authority including central government.
- 4.4. There is speculation that the Directly Elected Mayor and executive forms of governance arrangements may be abolished as part of the Government's English Devolution White Paper. However, the Council must continue with the Referendum process until such time as existing legislation governing the process for a change in governance arrangements is repealed.

#### 5. TIMESCALES

- 5.1. The timetable for the referendum is prescribed in the 2012 Regulations and the Local Government Act Referendum Rules:

Event/Action	Timeline Date
Proper Officer to publish Notice of Referendum (Information Statement) containing: (a): statement that proposals have been drawn up (b): a description of the main features of the proposals (c): a statement that a referendum will be held, and details including the date of referendum, the question to be asked, the referendum expenses limit, and procedures for inspecting or obtaining copies of the proposals <i>Regulation 4 (1), the 2012 Regulations</i>	Not fewer than 56 working days before the referendum date (17 July 2025). Publication date: 28 April 2025
Publish Notice of Referendum <i>Rule 3, Schedule 3, the 2012 Regulations</i>	By no later than the 25 <sup>th</sup> working day before the referendum day. By 12 June 2025
Notice of Poll <i>Rule 3, Schedule 3, the 2012 Regulations</i>	By no later than the 6 <sup>th</sup> working day before the referendum: By 9 July 2025
Polling Day	Between 7am and 10pm Thursday 17 July 2025.