

Plymouth City Council

Constitution

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INTRODUCTION

I Citizens' rights and other basic rules

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1.1 Summary of citizens' rights

Citizens have the right to:

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

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

1.2 Councillors

1.2.1 Elections and terms of office

- (a) There are 57 councillors, who represent 20 wards. Each ward has three councillors except Drake, Plympton Chaddlewood and Plympton Erle which have two councillors each.
- (b) The councillors are elected for a four year term; an election takes place every year except in years when there are county council elections in the rest of England. A third of the seats are up for election each time, this is known as election by thirds.

1.2.2 Role of councillors

Councillors:

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

1.2.3 Rights and duties of councillors

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

1.2.4 Councillors' allowances

Councillors can claim allowances (see section 30)

1.3 Council

1.3.1 Role of council

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

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

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

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

1.3.2 Council meetings

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

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

1.4 The Leader and the cabinet

1.4.1 Role of the Leader

The Leader is responsible for:

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

1.4.2 Members of the cabinet

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

1.4.3 Term of office of the Leader

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

- s/he resigns or

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

1.4.4 Cabinet meetings

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

1.4.5 Cabinet decisions

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

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

1.4.6 Key decisions

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

1.5 Standards Committee

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

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

Six independent members who are not councillors or officers

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

1.6 Other committees that take decisions

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

1.7 Scrutiny

1.7.1 Scrutiny panels

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

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

1.7.2 Role of scrutiny panels

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

1.7.3 Procedure at scrutiny committees

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

1.8 Lord Mayor and Deputy Lord Mayor

1.8.1 Election of Lord Mayor and Deputy Lord Mayor

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

1.8.2 Ceremonial role

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

1.8.3 Chairing Council

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

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

1.9 Co-opted and independent members

1.9.1 Co-opted members

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

1.9.2 Independent members

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

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

1.10 Council employees

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

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

2 About the Constitution

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2.1 Status of this constitution

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

2.2 Interpreting the constitution

When the constitution and the law allow the council to do more than just one thing, the council will do what is closest to the purpose of the constitution ([see section 2.3](#)).

At council, the Lord Mayor's interpretation of the constitution will be final. When interpreting the constitution, the Lord Mayor will consider the purpose of the constitution ([see section 2.3](#)) and the advice of the Monitoring Officer.

If the constitution has no procedures for a meeting, or if there is a gap in the procedures for the meeting, the chair will decide what to do. This must be consistent with the purpose of the constitution ([see section 2.3](#)).

2.3 Purpose of the constitution

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

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

2.4 Monitoring and reviewing the constitution

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

2.5 Changing the constitution

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

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

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

2.6 Suspending the constitution

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

2.7 The constitution

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

WHO DOES WHAT?

3 Council responsibilities and executive responsibilities

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3.1 Council responsibilities and executive responsibilities

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

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

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

3.2 Summary of council responsibilities and executive responsibilities

Council responsibilities

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

Executive responsibilities

- everything else

3.3 Delegation of responsibilities

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

Council and the Leader cannot delegate to each other.

3.4 How delegation works

3.4.1 Delegation by council and the Leader

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

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

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

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

3.4.2 Delegation by committees

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

3.4.3 Officers' use of delegated powers

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

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

3.5 Interpreting the rules on delegation

When a responsibility is delegated in this constitution, so is the authority to do anything necessary to carry it out (unless it was forbidden when the responsibility was delegated).

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

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

3.6 Responsibilities that are carried out on behalf of the council

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

4 Who carries out executive responsibilities?

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4.1 Need to act within the policy framework and budget

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

4.2 Gaps in the policy framework

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

4.3 Need to follow the constitution

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

4.4 Delegation to officers

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

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

4.5 Delegation by the Leader

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

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

4.6 Changing the Leader's delegation

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

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

4.7 Decisions that must be agreed by the cabinet

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

Key decisions

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

Policy decisions and strategy

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

Finance and contract decisions

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

Property decisions

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

Decisions about services

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

4.8 Decisions that must be agreed by cabinet members

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

Policy decisions and strategy

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

Finance and contract decisions

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

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

Property decisions

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

Decisions about services

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

4.9 Decisions that must be made by joint committees

4.9.1 Responsibilities of the Mount Edgcumbe House and Country Park

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

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

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

4.9.2 Responsibilities of the South West Devon Waste Partnership

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

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

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

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

4.9.3 Responsibilities of the Devon Audit Partnership Joint Committee

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

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

4.9.4 Delegation to the executive of Birmingham City Council

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

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

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

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

4.10 Responsibilities not covered by these rules

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

5 Who carries out council responsibilities?

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5.1 Council responsibilities

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

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

5.2 Policy framework and budget

5.2.1 Description of responsibility

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

6.1.1 Who carries out the responsibility?

Council.

6.2 Planning

6.2.1 Description of responsibility

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

7.1.1 Who carries out the responsibility?

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

Within council policies the Planning Committee:

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

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

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

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

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

9.1.1 Description of responsibility

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

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

10.1.1 Who carries out the responsibility?

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

The General Licensing Committee:

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

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

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

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

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

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

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

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

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

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

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

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

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

10.2 Taxi and private hire and other vehicle licensing

10.2.1 Description of responsibility

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

10.2.2 Who carries out the responsibility?

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

The Taxi Licensing Committee:

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

The Assistant Director for Environmental Services does everything else.

10.3 Responsibilities for the Tamar Bridge and Torpoint Ferry

10.3.1 Description of responsibility

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

10.3.2 Who carries out the responsibility?

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

The Tamar Bridge and Torpoint Ferry Joint Committee:

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

10.4 South West Devon Waste Partnership non-executive responsibilities

10.4.1 Description of responsibilities

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

10.4.2 Who carries out the responsibility?

The three councils deal with:

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

10.5 Health and safety at work

10.5.1 Description of responsibility

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

10.5.2 Who carries out the responsibility?

The Assistant Director for Environmental Services.

10.6 Name and status of areas and individuals

10.6.1 Description of responsibility

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

10.6.2 Who carries out the responsibility?

Council.

10.7 Functions relating to community governance

10.7.1 Description of responsibility

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

10.7.2 Who carries out the responsibility?

Council.

10.8 Byelaws

10.8.1 Description of responsibility

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

10.8.2 Who carries out the responsibility?

Council.

10.9 Bills

10.9.1 Description of responsibility

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

10.9.2 Who carries out the responsibility?

Council.

10.10 Pensions

10.10.1 Description of responsibility

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

10.10.2 Who carries out the responsibility?

The Chief Finance Officer.

10.11 Ban on smoking in public places

10.11.1 Description of responsibility

All the responsibilities in the Health Act 2006.

10.11.2 Who carries out the responsibility?

The Assistant Director for Environmental Services.

10.12 Other council responsibilities

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

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

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

Roles of cabinet members

In this section:

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10.12.1 Role of all cabinet members

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

10.13 Principal areas of responsibility of individual cabinet members

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

11 Leader of the Council

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

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

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

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

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

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

Is the corporate project lead and may take decisions about:

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

13 Adult Health and Social Care

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

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

Is the corporate project lead and may take decisions about:

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

14 Finance, Property and People

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

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

15 Children and Young People

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

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

Is the corporate project lead and may take decisions about –

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

16 **Customer Services**

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

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

Is the corporate project lead and may take decisions about:

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

17 **Transformation, Performance and Governance**

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

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

Is the corporate project lead and may make decisions about:

- Overall transformation and change management strategy.

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

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

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

Is the corporate project lead and may take decisions about:

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

19 Community Services (Street Scene, Waste and Sustainability)

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

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

Is the corporate project lead and may take decisions about:

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

20 Transport

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

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

Is the corporate project lead and may take decisions about:

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

20.1.1 Other areas of responsibility

Areas of responsibility that are not allocated to a cabinet member in section 6.2 may be allocated to a cabinet member by the Leader.

20.1.2 Role of individual cabinet members

For their areas of responsibility, individual cabinet members will:

- (a) provide strong and fair leadership and clear political guidance to members and officers – this will include representing the council on outside organisations
- (b) develop and oversee the council’s work – this will include:
 - advising the cabinet and officers on priorities
 - individually and effectively, ensure the implementation of corporate priorities as agreed by council
 - having a clear understanding of the portfolio, the scope and range of services for which they are responsible and council policies in respect of those services
 - ensuring the delivery of best practice and continuous improvement in services and implementation of best practice in their authority
 - ensuring an appropriate consultation programme is developed for their area of responsibility, to involve local people and communities in the decisions of the council as fully as possible
 - responding within an agreed timescale to the recommendations of relevant scrutiny panel(s) and the overview and scrutiny management board, setting out what action is proposed, if any, and giving full reasons for decisions taken
 - meeting with chairs of relevant scrutiny panel(s) on a regular basis to discuss progress in their area of responsibility, responses to concerns raised by the scrutiny panel(s) and future programmes of work
 - advising project or programme boards
 - ensuring that members are briefed at the appropriate time on significant issues i.e. those that may:
 - result in a change to established policy
 - have major resource implications
 - be contentious or politically sensitive
- (c) take the decisions set out in section 4.8

7 Roles of decision taking committees

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7.1 Planning Committee

The Planning Committee carries out the responsibilities delegated to it in [section 5.3](#) and delegates some responsibilities to officers.

7.2 General Licensing Committee

The General Licensing Committee carries out the responsibilities delegated to it in [section 5.4](#) and delegates some responsibilities to officers. It delegates some responsibilities to the General Licensing Sub Committee.

7.3 Taxi Licensing Committee

The Taxi Licensing Committee carries out the responsibilities delegated to it in [section 5.5](#) and delegates some responsibilities to officers.

7.4 Audit Committee

The Audit Committee is responsible for the following:

7.4.1 External audit functions of Audit Committee

- to consider the appointment of the council's external auditor
- to consider reports from external auditors (including the external auditor's annual management letter) and agree action plans in response
- to discuss with the external auditor the nature and scope of audit coverage, including Value for Money (VFM) and to agree level of fees chargeable
- to review external audit reports and the annual audit letter, together with the management response and make recommendations to the cabinet

- to respond to any other concerns of the external auditors

7.4.2 Internal audit functions of the Audit Committee

- to monitor the progress and performance of internal audit
- to review and approve the internal audit annual programme
- to consider significant findings of internal audit reviews and investigations together with management responses and monitor implementation of agreed recommendations
- to advise council on the internal audit function, resourcing and standing within the authority
- to ensure co-ordinations between internal and external auditors
- to consider the Chief Auditor's annual report, and comment annually on the adequacy and effectiveness of internal control systems within the council
- to approve the annual statement of accounts

7.4.3 Risk management functions of the Audit Committee

- to approve, support and monitor the implementation and ongoing processes for identifying and managing key risks of the authority
- to review and advise the council's compliance with its own published standards and controls and recommend any necessary changes to Financial Regulations and Standing Orders Contracts
- to keep the anti-fraud strategy under review

7.4.4 Corporate governance

- to advise council on the promotion, maintenance and review of the council's Code of Corporate Governance.

7.5 Chief Officers' Investigating Panel

The role of the Panel is to decide disciplinary hearings about the Chief Executive and posts under the JNC Scheme of conditions of service for chief officers and make a recommendation to council. See section 22.3.

7.6 Employment Appeals Panel

The role of the Panel is to decide appeals from the Chief Executive and posts under the JNC Scheme of conditions of service for chief officers relating to their dismissal under their conditions of service relating to discipline capability and redundancy and make a recommendation to council. See section 22.3.

7.7 Independent Remuneration Panel

The role of the Panel is to make recommendations to council about the level of allowances to be paid to councillors, including special responsibility allowances, pension rights of councillors and allowances payable to co-opted and independent members of council. The panel makes recommendations about all of the allowances described in the Local Authorities (Members' Allowances) regulations.

7.8 Appointments Panel

The Appointments Panel:

- Recommends to the council who to appoint as Chief Executive
- Recommends to the council who to designate as Head of Paid Service, Chief Finance Officer and Monitoring Officer
- Appoints first and second tier officers

See [sections 22.1 and 22.2](#).

7.9 Standards Committee

The Standards Committee is responsible for:

- (a) Promoting high standards of conduct in the council
- (b) Advising council on adopting or revising the Councillors' Code of Conduct ([see section 19](#)) and monitoring how it is working
- (c) Advising on training for councillors and co-opted committee members on all aspects of the Councillors' Code of Conduct and other ethics and probity issues
- (d) Considering recommendations made by case tribunals held under Section 80 of the Local Government Act 2000
- (e) Considering reports by the Monitoring Officer or anything referred by an ethical standards officer of Standards for England or a sub-committee of the Standards Committee
- (f) Establishing sub-committees to carry out initial assessments, reviews and hearings into allegations of breaches of the Councillors' Code of Conduct
- (g) Appointing members to any sub-committee of the Standards Committee provided that they have completed the council's prescribed training on assessment of standards complaints
- (h) Giving special permission called a dispensation to councillors and co-opted committee members to speak and vote on things they have an interest in
- (i) Considering any complaints of breaches of councillor officer protocol, standing order, written council convention or council resolution
- (j) Monitoring the register of members' interests ([see section 19](#))
- (k) Overseeing the code on councillor-officer relations ([see section 20](#))
- (l) Overseeing the code on councillors' use of IT equipment ([see section 21](#))
- (m) Advising council on adopting or revising any other codes of practice or guidance for councillors
- (n) Advising council on revisions to the whistleblowing policy
- (o) Considering requests for dispensation for politically restricted posts

- (p) Monitoring the findings of the ombudsman in respect of allegations of maladministration and considering whether to agree recommendations that the council should pay compensation if this is more than £5,000

7.10 Tamar Bridge and Torpoint Ferry Joint Committee

The Tamar Bridge and Torpoint Ferry Joint Committee carries out the responsibilities delegated to it in section 5.6.

7.11 Role of Mount Edgumbe Joint Committee

The Mount Edgumbe Joint Committee carries out the responsibilities delegated to it in section 4.9.1.

7.12 Role of the South West Devon Waste Partnership

The South West Devon Waste Partnership carries out the responsibilities delegated to it in section 4.9.2.

7.13 Role of the Devon Audit Partnership Joint Committee

The Devon Audit Partnership Joint Committee carries out the responsibilities delegated to it in section 4.9.3.

8 Roles of overview and scrutiny panels and board

In this section:

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8.1 Areas of work of overview and scrutiny panels and board

The council has appointed an Overview and Scrutiny Management Board and five scrutiny panels.

8.1.1 The work of the Overview and Scrutiny Management Board is:

- overseeing workloads including approving work programmes, allocating work (based on request from panels and the Forward Plan), approving task and finish groups and monitoring the performance of panels and chairs
- managing relationships between panels, cabinet members, theme groups/chairs and partners and producing relevant protocols
- monitoring performance against inspection action plans (including access to services and equality standards) and monitoring performance of partner organisations
- considering call ins ([see section 18](#))
- monitoring councillor calls for action and petitions and allocating work accordingly
- receiving bi-monthly finance and performance reports, including corporate improvement priority monitoring and carrying out the annual budget scrutiny
- agreeing recommendations to cabinet, council, local strategic partnership board and other organisations and monitoring progress including presenting a quarterly report to cabinet
- agreeing appointments of co-optees to panels and approving an annual scrutiny training programme

8.1.2 The work of the scrutiny panels is:

Overview and Scrutiny Panel

Areas of work

Children and Young People

- Children's Services
- Lifelong learning
- Learning and family support
- Social Care
- Child healthcare
- Corporate priorities

Customers and Communities

- Customer services
- Environmental Services
- Safer communities
- Leisure, culture and sport
- Environmental regulation
- Crime and disorder
- Corporate priorities

Growth and Prosperity

- Planning
- Transport
- Strategic housing
- Economic development
- Sustainability and climate change
- Corporate priorities

Health and Adult Social Care

- Adult social care
- Public health
- Independent living
- Reducing inequalities
- Undertaking the statutory functions in relation to the reviewing and scrutinising of local health service matters
- Corporate priorities

Support Services

- Business transformation
- Finance
- ICT
- Human resources and organisational development
- Democracy and governance
- Assistant Chief Executive
- Policy and performance
- Communications
- Corporate priorities

Joint health overview and scrutiny panels

- Health scrutiny matters

8.2 What powers do overview and scrutiny panels have?

Scrutiny panels can:

- review new and existing policies and consider how they may be improved and developed
- consider equality impact assessments against new and existing policies
- investigate local issues to find out how the council and its partners can improve to meet the needs of local people
- hold public inquiries
- invite people to their meetings and gather evidence from them
- make reports and recommendations about service delivery to the Cabinet (via the management board)
- set up ad hoc working groups as and when required
- produce quarterly progress reports to go to the management board
- request senior officers ([see section 9.1](#)) and cabinet members to attend their meetings and answer questions ([see section 13](#))

8.3 Roles of overview and scrutiny panels and board

8.3.1 Developing and reviewing policy

The scrutiny panels can:

- help council and the cabinet to develop policy by studying issues in detail
- carry out research and consultation on policy
- review policies within the policy framework
- consider and introduce schemes to involve the public in developing policy
- work with national, regional and local organisations to promote the interest of local people

8.3.2 Holding the cabinet to account

The scrutiny panels can:

- monitor the budget and performance of the cabinet members, department and partners to make sure that the priorities for the area are delivered (but not decisions on individual planning or licensing applications)
- monitor performance against the relevant corporate priorities

8.3.3 Holding others to account

Scrutiny panels can review and scrutinise the performance of partner organisations.

8.3.4 Budget scrutiny

The management board can respond to the budget consultation process.

9 Roles of officers

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9.1 Senior management structure

The council has a Chief Executive and four directors. Their responsibilities and those of all senior managers are shown in the senior management structure (appendix 31).

9.2 Head of Paid Service, Monitoring Officer and Chief Finance Officer

This table shows who carries out these roles:

Role	Post
Head of Paid Service	Chief Executive
Chief Finance Officer	Director for Corporate Support
Monitoring Officer	Assistant Director for Democracy and Governance

9.3 Role of Head of Paid Service

- (a) The Head of Paid Service will report to council on how officers are organised and how the council is co-ordinating its work.
- (b) In cases of urgency or emergency the Head of Paid Service will take any action necessary to protect the council's interests and assets where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.

The Head of Paid Service, in so acting, will consult the Leader or, in her or his absence, her or his designee and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.

9.4 Role of Monitoring Officer

9.4.1 Making sure council decisions are lawful and fair

If a proposal or decision would result in unlawful action or maladministration, the Monitoring Officer will consult the Head of Paid Service and Chief Finance Officer and report to council (or the cabinet for an executive responsibility)

The proposal or decision will not be acted upon until the report has been considered.

If another body is also investigating a proposal or decision that could result in unlawful action or maladministration, the Monitoring Officer can delay reporting to council or the cabinet until that body has investigated.

9.4.2 Supporting the Standards Committee

The Monitoring Officer will support the Standards Committee. This will include advising the Standards Committee on the need for training for councillors on ethical issues.

The Monitoring Officer will meet regularly with the Head of Paid Service and the Chief Finance Officer to consider issues of governance and probity and will facilitate periodic meetings between the chair of the Standards Committee, the Leader and the Head of Paid Service.

9.4.3 Reviewing the constitution

The Monitoring Officer will maintain an up to date version of the constitution and will make sure it is widely available to councillors, staff and the public. The Monitoring Officer will review the operation of the constitution.

9.4.4 Carrying out investigations

The Monitoring Officer may investigate anything referred by the Standards Committee or ethical standards officers and make reports or recommendations based on the investigation.

9.4.5 Being proper officer for access to information

The Monitoring Officer will be the proper officer for access to information. This will include making sure that the council publishes council, cabinet and committee decisions as soon as possible, along with reasons for the decisions and the officer reports.

9.4.6 Giving advice

The Monitoring Officer will advise on the council's powers to take decisions, maladministration, financial impropriety, probity, ethics and whether decisions of the cabinet committees or officers are within the policy framework and budget.

9.4.7 Contributing to corporate governance

The Monitoring Officer will:

- contribute to the corporate management of the council in particular through the provision of professional legal services and democratic support
- keep close links with the Lord Mayor, the Leader, the chair of the Standards Committee, the Head of Paid Service and the Chief Finance Officer
- appoint a deputy and keep them briefed
- work closely with Standards for England, the council's auditors and the ombudsman and may give them relevant information even if it is confidential

9.5 Role of Chief Finance Officer

9.5.1 Making sure financial decisions are lawful

If a proposal or decision would result in unlawful spending or a loss to the council, or if the council is about to enter an unlawful item of account, the Chief Finance Officer will consult the Head of Paid Service and the Monitoring Officer and report to the council's auditors and to council (or the cabinet if it is an executive responsibility).

9.5.2 Managing the council's finances

The Chief Finance Officer will manage the council's finances.

9.5.3 Contributing to the management of the council as a whole

The Chief Finance Officer will contribute to the management of the council as a whole, especially by giving financial advice. The Chief Finance Officer will be a member of all management teams and has the right to see all reports to councillors.

9.5.4 Giving advice

The Chief Finance Officer will advise on the scope of powers and authority to take decisions, maladministration, probity, financial impropriety and the policy framework and budget to all councillors and officers in their respective roles.

9.5.5 Giving financial information

The Chief Finance Officer will make information about the council's finances available to the media and the public.

9.6 Duty to give Monitoring Officer and Chief Finance Officer the resources they need

The council will give the Monitoring Officer and Chief Finance Officer the accommodation, officers and resources necessary to do their jobs. The Monitoring Officer and Chief Finance Officer will report to council when necessary on the staff, officers and resources they need.

9.7 Duty to tell Monitoring and Chief Finance Officers about procedural, constitutional or vires issues

Directors and heads of service must alert the Monitoring Officer and Chief Finance Officer to issues of concern as soon as they come up. These will include legality, probity, vires and constitutional issues.

If the finance or contract rules have been broken, or if decisions have been taken by people who are not allowed to take them, the Monitoring and Chief Finance Officers must be told in writing.

9.8 Monitoring Officer’s right to information

9.8.1 Information for investigations

In any investigation the Monitoring Officer will have unqualified access to information from the council and its officers.

9.8.2 Reports to councillors

The Monitoring Officer has the right to see all reports to councillors.

9.8.3 Barristers’ opinions

The Monitoring Officer will have an adequate budget for getting barristers’ or expert legal opinions necessary to carry out the Monitoring Officer’s role.

9.8.4 Contributing to the management of the council as a whole

The Monitoring Officer will contribute to the management of the council as a whole, especially by giving legal advice. The Monitoring Officer will be a member of all management teams and has the right to see all reports to councillors.

9.9 Restrictions on holding other posts

The Monitoring Officer cannot be the same person as the Chief Finance Officer or Head of Paid Service.

The Head of Paid Service and the Chief Finance Officer can be the same person but the Chief Finance Officer must be a qualified accountant.

9.10 Director of Adult Social Services, Director of Children’s Services, Director of Public Health and Chief Education Officer

This table shows who carries out the statutory responsibilities allocated to these roles by the legislation shown in the table:

Director of Adult Social Services	Local Authority Social Services Act 1970 (amended by the Children Act 2004)	Director for Community Services
Director of Children’s Services	Children Act 2004	Director of Services for Children & Young People
Director of Public Health (Joint appointment with NHS)		Director of Public Health
Chief Education Officer	Education Act 1996	Director of Services for Children & Young People

Proper officers

In this section:

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10.2	Responsibilities and proper officers	46

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10.1 Appointment of proper officers

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

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

10.2 Responsibilities and proper officers

Legislation		Responsibility	Proper officer
Local Government Act 1972	Section 83(1) to (4)	Witnessing and receiving declarations of acceptance of office	Monitoring Officer
	Section 84(1)	Receiving a councillor's resignation	Monitoring Officer
	Section 88 (2)	Calling a council meeting to elect a chair if there is a casual vacancy	Monitoring Officer
	Section 89(1)	Giving notice of a casual vacancy	Monitoring Officer
	Section 100 except 100(d)	Opening meetings to the public	Monitoring Officer
	Section 100(d)	Listing background papers for reports and making copies available for the public to look at	All Assistant Directors
	Section 115(2)	Receiving money due from officers	Chief Finance Officer
	Section 146(1)(a) and (b)	Making declarations and certificates about transferring securities	Chief Finance Officer
	Section 191	Receiving applications under Section 1 of the Ordnance Survey Act	Head of Legal Services

Legislation		Responsibility	Proper officer
Local Government Act 1972	Section 225	Depositing documents	Head of Legal Services
	Section 228(3)	Making accounts available for councillors to look at	Chief Finance Officer
	Section 229(5)	Certifying photocopies of documents	Head of Legal Services
	Section 234	Authenticating documents	Head of Legal Services and all Assistant Directors
	Section 238	Certifying byelaws	Head of Legal Services
	Section 248	Keeping a list of freemen of the city	Monitoring Officer
	Schedule 12, paragraph 4(2)(b)	Signing the summons to council	Chief Executive
	Schedule 12, paragraph 4(3)	Being told where to send summonses to council meetings	Monitoring Officer
Local Government Act 1974	Section 30(5)	Giving notice that copies of an ombudsman's report are available	Director for Corporate Support
Local Government (Miscellaneous Provisions) Act 1976	Section 41(1)	Certifying copies of resolutions and minutes	Monitoring Officer
Local Authorities Cemeteries Order 1977	Regulation 10 and schedule 2	Signing exclusive burial rights	Assistant Director for Environmental Services
Local Elections (Principal Area) Rules 1986	Rule 46	Keeping documents after an election and making them available for the public to look at	Electoral Registration Officer
Local Government and Housing Act 1989	Section 2(4)	Keeping the list of politically restricted posts	Assistant Director for Human Resources and Organisational Development
Local Government (Committees and Political Groups) Regulations 1990		Dealing with political balance on committees	Monitoring Officer

Legislation		Responsibility	Proper officer
Local Authorities (Standing Orders) (England) regulations 2001		Giving notice of appointments and dismissals of officers in accordance with the regulations	Assistant Director for Human Resources and Organisational Development
Local Government Act 2000		Acting as proper officer for all the responsibilities in the Local Government Act 2000 and subordinate legislation	Monitoring Officer
Public Health Act 1936	Section 84	Cleansing of filthy and verminous articles	Assistant Director for Environmental Services
Public Health Act 1936	Section 85(2)	Serving a notice requiring action to deal with verminous people or things	Assistant Director for Environmental Services
Public Health Act 1961	Section 37	Controlling verminous things	Assistant Director for Environmental Services
Public Health (Aircraft) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Assistant Director for Environmental Services
Public Health (Ships) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Assistant Director for Environmental Services
Health Protection (Local Authority Powers) Regulations 2010	Regulations 8 (1) and 8 (2)		Assistant Director for Environmental Services
Health Protection (Notification Regulations) 2010	Regulations 2,3, and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Assistant Director for Environmental Services
Health Protection (Part 2A Orders) regulations 2010		Preparation of application for Part 2A Order	Assistant Director for Environmental Services
National Assistance Act 1948	Section 47	Taking people in need of care and attention to a suitable place	Assistant Director for Adult Health and Social Care
National Assistance (Amendment) Act 1951	Section 1	Certifying the need for immediate action	Assistant Director for Adult Health and Social Care
Money Laundering Regulations 2003	Regulation 7	Being told about suspected money laundering	Chief Finance Officer
Local government data handling guidelines under the Data Protection Act		Manage information risk within the council's risk management framework	Chief Finance Officer

Legislation		Responsibility	Proper officer
Local Democracy, Economic Development and Construction Act 2009	Sections 31 and 32	Promote the role of and provide support to the overview and scrutiny panels and management board; provide support and guidance to members and officers in relation to the scrutiny function.	Head of Policy, Performance and Partnerships
Registration Services Act		Proper officer for registration of births, marriages and deaths	Assistant Director Democracy and Governance

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

Meeting Procedures

11 Council Procedures

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11.1 Order of business at annual meeting of council

The order of business will be:

- (a) elect the Lord Mayor and the Deputy Lord Mayor
- (b) elect the Leader
- (c) note the membership of the cabinet
- (d) agree committees and their members
- (e) agree how council responsibilities will be carried out
- (f) note how executive responsibilities will be carried out ([see section 4](#))
- (g) nominate or appoint representatives to outside bodies
- (h) adopt the constitution, if required ([see sections 1.3](#) and [2.5](#))
- (i) deal with any other business on the agenda

11.2 Order of business at ordinary meeting of council

At ordinary meetings (except for Council Tax setting meetings) the order of business will be:

- (a) election of the chair (if the Lord Mayor and Deputy are absent)
- (b) receive apologies for absence from councillors
- (c) approval of minutes of the last meeting as a correct record
- (d) declarations of interest from councillors
- (e) appointments to committees and outside bodies (unless the outside body's function relates to an executive function)
- (f) announcements from the Lord Mayor, Head of Paid Service, Chief Finance Officer and Monitoring Officer
- (g) announcements from the Leader, cabinet members, committee chairs
- (h) presentations of and response to council petitions (see section 28)
- (i) questions by the public (see section 11.11)
- (j) any unfinished business from the last meeting
- (k) recommendations from the cabinet
- (l) recommendations and reports from the Overview and Scrutiny Management Board
- (m) recommendations from other committees requiring council approval
- (n) reports from the Chief Executive, Chief Finance Officer or Monitoring Officer
- (o) motions on notice (see section 11.15)
- (p) any other agenda items
- (q) questions by councillors to the Leader, cabinet members and committee chairs about their areas of responsibility (see section 11.12)

At Council Tax setting meetings, the order of business will be (a) to (d), (f), (g), (k) and (l) above.

The Lord Mayor or the person presiding at the council meeting may, with the agreement of the council, vary the order in which business is considered at the meeting.

11.3 Special meetings of council

The following may call a special council meeting (specifying the issues/terms to be covered at the meeting):

- (a) the council by resolution
- (b) the Leader in consultation with the Leader of the majority opposition party
- (c) any ten councillors who have signed a requisition and presented it to the Monitoring Officer
- (d) the Lord Mayor

- (e) two cabinet members in accordance with the call in procedure in [section 18.6](#)
- (f) the Chief Executive

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

11.4 Time and place of council meetings

Ordinary meetings usually start at 2pm. The times of special meetings are decided by the Monitoring Officer. Meetings are usually held in the council chamber in the Council House.

The annual meeting will usually start at 10:30 am at Plymouth Guildhall and will take place within 21 days of the retirement of the outgoing councillors.

11.5 Notice of and summons to meetings

The Democratic and Member Support Manager will give notice to the public of the time and place of any meeting in accordance with the access to information rules ([see section 16](#)). At least five clear working days before a meeting, the Democratic and Member Support Manager will send a summons (an agenda) to every member of the council. The agenda will give the date, time and place of each meeting, specify the business to be transacted and will be accompanied by such reports as are available. Where appropriate, councillors will, in addition, be notified of the summons by email.

11.6 Chair of the meeting

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

11.7 Quorum for council

The quorum (minimum number of councillors needed for the meeting to proceed) will be a quarter of all councillors.

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

11.8 Adjournment of council

The council meeting will end at 7:30pm and the remaining business will be deferred to 6pm on the next day unless the council decides otherwise.

11.9 Changing the order of business

The Monitoring Officer, in consultation with the Lord Mayor, can ask the council to agree to change the order of business ([see sections 11.1 and 11.2](#)), except for the first item at the annual meeting. Council must give its consent.

11.10 Minutes

11.10.1 Signing the minutes

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

11.10.2 No minutes at annual or special meetings

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

11.11 Questions by the public

11.11.1 Asking questions at council

The public can ask questions at ordinary meetings of the council. These can be addressed to the Leader, other cabinet members or chairs of committees. Questions must be about something the council is responsible for or something that directly affects people in the city. The public cannot ask questions at an annual or special meeting.

11.11.2 Giving notice of questions

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

11.11.3 Number of questions

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

11.11.4 Asking the question

The Lord Mayor will ask the questioner to ask their question. If the questioner is not present or an answer cannot be given on the day of the meeting, the question and response will be included in the order of proceedings (handed out at the council meeting) and published on the website after the meeting. The Monitoring Officer will have a reply sent to the questioner within 10 working days.

11.11.5 Length of questions

Questions will be no more than 50 words.

11.11.6 Total length of questions

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

11.11.7 Written answers

Written questions and answers will be included in the minutes of the meeting.

(If a question is not taken, the Monitoring Officer will have a reply sent, within 10 working days, to the member of the public who would have asked the question.)

11.11.8 Discussion

Councillors can only discuss the questions or answers in councillors' question time.

11.11.9 Suitability of questions

The Monitoring Officer can reject a question if:

- it is not about something that the council is responsible for or which affects the area
- it is defamatory, frivolous, trivial or offensive
- it requires the council to make public exempt or confidential information (see section 16)

If a question is rejected, reasons must be given.

11.12 Questions by councillors

11.12.1 Questions without notice

A councillor can ask a question without notice (under the appropriate agenda item) to the Leader or cabinet members, or committee chairs on any aspect of their area of responsibility or concern.

Timing of questions will be one minute for a question, two minutes for a response and the same for supplementary questions. The overall time limit for all questions will be 30 minutes.

11.12.2 Response and supplementary questions

An answer may take the form of a direct oral answer; a reference to a publication where the desired information is located; or a written answer circulated later to councillors, within 10 working days where the reply cannot conveniently be given orally. All written answers will be published at the end of each month.

One supplementary question can be asked without notice. This must be addressed to the same councillor as the first question and must arise directly from the first question or the reply. No further supplementary questions are allowed.

11.13 Rejecting questions

The Monitoring Officer can reject a question if:

- it is not about something that the council is responsible for or which affects the area
- it is defamatory, frivolous, trivial or offensive
- it requires the council to make public exempt or confidential information (see section 16)

The Monitoring Officer's decision is final.

11.14 Reports to council

- (a) Reports and recommendations from the cabinet will be moved by the Leader or one of the cabinet members. Reports and recommendations from committees will be moved by the chair (or another member of the committee they have nominated).
- (b) The person moving a report can withdraw all or part of it, correct mistakes or make minor changes.
- (c) After any questions and amendments to recommendations to council have been dealt with, a vote will be taken.
- (d) Reports from the Chief Executive, Chief Finance Officer or Monitoring Officer will be presented by those officers.

11.15 Motions on notice (see section 11.17)

11.15.1 Giving notice of motions

Some motions may be moved without notice. These are listed in [section 11.16](#). For all other motions, the full wording must be received by the Monitoring Officer by 1pm on the fifth working day before the date of the meeting, signed by the councillor moving the motion and the councillor seconding the motion. These motions will be reproduced on the agenda for the meeting. Alternatively, motions may be e-mailed to democraticsupport@plymouth.gov.uk (separate emails must be received from both the proposer and the seconder).

11.15.2 Withdrawing a motion or moving it at a later meeting

If, before a council meeting, a councillor proposing a motion wants to withdraw a motion or move it at a later meeting, they must write to (or email) the Monitoring Officer before the meeting begins.

11.15.3 Listing motions on the agenda

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

11.15.4 Topic of motions

Motions must be about things that the council is responsible for or which affect the area (and are not found on the meeting agenda).

11.15.5 Rejecting motions

The Monitoring Officer can reject a motion if:

- it is not about something that the council is responsible for or which affects the area
- it is defamatory, frivolous, trivial or offensive
- it requires the council to make public exempt or confidential information ([see section 16](#))

The Monitoring Officer's decision is final.

11.16 Motions without notice

There is no need to give notice of motions to:

- appoint a chair of the meeting
- agree or correct the minutes
- change the order of business
- refer something somewhere else
- agree or amend recommendations of the cabinet and council committees or officers
- to appoint members to a committee or office created at the meeting
- withdraw or change a motion
- go to next business
- move to a vote
- continue the meeting beyond 7:30pm
- suspend a council procedure
- hold a discussion in private (when allowed under the access to information and key decision procedures – [see section 16](#))
- give council's agreement when it is required by the constitution

11.17 Rules of debate

What is a motion?

A motion is a proposal at a meeting that certain action is taken or certain views about a subject are expressed by the council.

The purpose of a motion is to introduce new business. A motion should be in positive language (i.e. that the council does something, not that the council refrains from doing something) to avoid confusion when voting. Motions require a majority vote.

A motion cannot be proposed when another motion is being dealt with.

Any motion requires a seconder, can be debated and can be amended.

11.17.1 No speeches until motion or amendment moved and seconded

No other speeches can be made on a motion/amendment until it has been moved, the mover has explained the purpose of the motion/amendment and it has been seconded. A councillor may have up to five minutes to move a motion/amendment and explain its purpose. No other speeches may be made until the motion/amendment has been seconded.

11.17.2 Secunder's speech

A councillor who seconds a motion or amendment can speak at that time or later in the debate.

11.17.3 Content and length of speeches

Speeches [except for points of clarification ([section 11.17.12](#)), personal explanations ([section 11.17.13](#)) and points of order ([section 11.17.11](#))] must be about the item being discussed.

Councillors' speeches cannot be longer than five minutes, except that the mover of a motion may, with the consent of the council, have one extension of a further period of five minutes.

11.17.4 When a councillor can speak again

A councillor who has already spoken in a debate cannot speak again except to:

- exercise their right of reply – see [section 11.17.8](#)
- make a point of order – see [section 11.17.11](#)
- make a point of clarification – see [section 11.17.12](#)
- make a point of personal explanation – see [section 11.17.13](#)
- speak on an amendment - see [section 11.17.1](#)
- move a further amendment - see [section 11.17.5](#)

11.17.5 Amendments to motions

Unless notice of the amendment is given, the chair may require it to be written down and handed to him/her before it is discussed. This is to ensure clarity of what is being proposed.

An amendment must be relevant to the motion and must be a proposal:

- to refer a motion elsewhere
- to add, replace or leave out words

Amendments to add, replace or leave out words must not negate the motion

Only one amendment may be moved and discussed at any one time. No further amendment may be moved until that amendment has been disposed of

After an amendment has been carried, the chair will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote

11.17.6 Debate on amendments

If an amendment is carried, the amended motion replaces the original motion. Any further amendments will be to the amended motion.

If an amendment is not carried, any further amendments will be made to the original motion.

11.17.7 Withdrawing a motion

A councillor who moved a motion at the meeting can withdraw a motion which he/she has moved at any time before the vote is taken.

No one can speak on a motion that has been withdrawn.

11.17.8 Right of reply

A councillor who moves a motion has a right of reply (and may take up to five minutes) at the end of the debate, immediately before the vote.

If an amendment is moved, the councillor who moved the amendment has the right to reply at the end of the debate but may not otherwise speak on the amendment.

11.17.9 Motions that can be moved during debate

When a motion is being debated, no other motions can be moved except for the following procedural motions:

- to withdraw or amend a motion
- to move to a vote
- to adjourn the meeting or debate
- to hold a meeting in private (when allowed by the access to information and key decision procedures – [see section 16](#))
- to limit or extend the debate (i.e. that the meeting continues beyond 7:30pm)

11.17.10 Motions to end or postpone the debate

After a speaker has finished speaking, any councillor can propose to move to a vote or adjourn the debate or meeting. They must do this without comment.

If a motion to move to a vote is seconded, council will vote on whether to take the vote on the motion/amendment under discussion. If council decides to move to the vote, the mover of the original motion/amendment will have the right to reply. Then council will vote on the motion/amendment without further debate.

If a motion to adjourn the debate or meeting is seconded, council will vote on whether to adjourn. The mover of the motion/amendment will not have the right of reply before this vote.

11.17.11 Points of order

A councillor can make a point of order at any time. The Lord Mayor will hear a point of order immediately. A point of order must be about the law or council procedures or rules being broken. The councillor must say which law or procedures or rules are being broken and how. The Lord Mayor will consider the Monitoring Officer's advice when deciding on a point of order and the Lord Mayor's decision will be final.

Any member making a point of order may not speak on the matter under discussion during the point of order.

11.17.12 Points of clarification

A member may ask a brief question in relation to the speaker's statement if the speaker agrees. No other members shall be allowed to speak. The question, if accepted, is not part of the speaker's time. The answer is part of the speaker's time. No supplementary questions are allowed.

11.17.13 Points of personal explanation

A councillor can give a personal explanation at any time. This must be about something they have said in the past that they feel is now being misunderstood or misrepresented. The Lord Mayor will have the final say over what counts as a personal explanation.

11.17.14 Motion to overturn a previous decision

A motion or amendment to overturn a decision made at a meeting of the council within the past six months cannot be moved unless the motion on notice is signed by at least ten members.

11.17.15 Motion similar to one previously rejected

A motion or amendment similar to one that has been rejected at a meeting of the council in the past six months cannot be moved unless the motion on notice or amendment is signed by at least ten members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

11.18 Voting

11.18.1 Majority

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

11.18.2 Lord Mayor's second or casting vote

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

11.18.3 Method of voting

Votes can be:

- by show of hands, or
- recorded – see section 11.18.4

11.18.4 Recorded votes

Any ten councillors present at the meeting can ask for a recorded vote and for the minutes to name who voted for, who voted against and who abstained on a vote.

11.18.5 Right to have individual vote recorded

Any councillor can ask for the minutes to record whether they voted for or against or abstained on a vote. The request must be made immediately after the vote.

11.18.6 Voting on appointments

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

11.19 Excluding the public

The public can only be excluded under the access to information rules ([see section 16](#)) or if they are disrupting the meeting ([section 11.21](#)).

11.20 Councillors' behaviour

11.20.1 Standing to speak

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

11.20.2 Use of titles

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

11.20.3 Lord Mayor standing

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

11.20.4 Councillor not to be heard further

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

11.20.5 Councillor to leave the meeting

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

11.20.6 General disturbance

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

11.20.7 Councillors' code of conduct

Councillors must abide by the councillors' code of conduct ([see section 19](#)).

11.21 Disruption by the public

11.21.1 Disruption by an individual

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

11.21.2 Clearing part of the meeting room

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

11.22 Suspending and changing the procedures in this section

11.22.1 Suspending the procedures in this section

All the council procedures in this section can be suspended except:

- 11.10.2 (No minutes at annual or special meetings)
- 11.18.5 (Right to have individual vote recorded)
- 11.20 (Councillors' behaviour) and
- 11.20 (General disturbance)

A procedure can be suspended if at least half of all councillors are present and there is a simple majority in favour. No notice is needed for a motion to suspend a procedure. Procedures can only be suspended until the end of the meeting.

11.22.2 Motions to change the council procedures in this section

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

12 Cabinet procedures

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12.1 Who carries out executive responsibilities within the council?

Executive responsibilities are carried out by the Leader, collectively by the cabinet or delegated to:

- a committee of cabinet
- a cabinet member
- an officer
- joint arrangements

Section 4 shows who is responsible for executive responsibilities.

The cabinet meets on dates agreed by the Leader. Meetings are at the Council House or another place agreed by the Leader.

12.2 Quorum

The quorum for a meeting of cabinet is three. Substitutes are not allowed.

12.3 Vacancies on the cabinet

A councillor can resign from the cabinet by writing to the Leader and sending a copy to the Monitoring Officer. If a cabinet member resigns from the cabinet or stops being a councillor, a replacement will be appointed by the Leader and reported to the next council meeting.

12.4 How are decisions taken at cabinet meetings?

Decisions are taken by a majority of members present and voting. If there is the same number of votes for and against, the chair can use a second or casting vote. Voting is by show of hands.

Any councillor can ask for the minutes to record whether they voted for, voted against or abstained on a vote. The request must be made immediately after the vote.

12.5 Who chairs cabinet meetings?

The Leader will chair cabinet meetings or if the Leader or the Deputy Leader is absent, the cabinet can appoint another councillor to act as chair. If the Leader or the person they have appointed arrives part of the way through a meeting, the acting chair will finish the item they are on and hand over the chair.

12.6 Order of business

The order of business will be:

- declarations of interest
- minutes of the last meeting
- questions from the public for up to 15 minutes
- chair's urgent business
- scrutiny reports
- agenda items, indicating which are key decisions
- review of the Forward Plan, if required

The Monitoring Officer can reject a question from the public if:

- it is not received at least five complete working days before the meeting
- it is not about something that the council is responsible for or which affects the area
- it is defamatory, frivolous, trivial or offensive
- it requires the cabinet to make public exempt or confidential information ([see section 16](#))

The Monitoring Officer's decision is final.

12.7 Who can put items on the cabinet agenda?

The Leader and cabinet members can put items on the agenda.

The Chief Executive, Monitoring Officer or Chief Finance Officer can put an item on the agenda. If the item is urgent, they can require a special meeting to consider it.

No one else can put items on the agenda.

12.8 Councillors attending and speaking at meetings

Any member of the council and members of the public may attend a public meeting of the cabinet. Non-cabinet members may only address the cabinet with the permission of the Leader or, in the Leader's absence, the Deputy Leader.

12.9 Recording and publication of cabinet decisions

All cabinet decisions are subject to call in ([see section 18](#)) and will be recorded and published on the Friday following the decision. (Unless the decision is urgent – see section 12.11).

12.10 Implementation of cabinet decisions

A cabinet decision will come into force if it is not called in by 4:30pm on the fifth working day after the publication date.

12.11 Urgent decisions

Urgent decisions can be implemented immediately (and the call in procedure does not apply).

A decision is urgent where the interests of the council or the public require immediate action. Where the cabinet regards the decision as urgent then the agreement of the chair of the Overview and Scrutiny Management Board is required (or in his/her absence the vice-chair of the management board or any other member of the management board) that the decision is urgent prior to the implementation of the decision.

Where an urgent decision is taken and agreed by the chair of the Overview and Scrutiny Management Board or designee it shall be immediately implemented and the call in procedure set out below will not apply.

The urgent decision must still be recorded, published and reported to the next meeting of council.

12.13 Exempt information

In those exceptional circumstances where it is necessary, on grounds of confidentiality, to deal with business in part II (in private) the decision sheet will record all part II items (separately if it must be confidential).

Any separate part II business sheet will be subject to the same rules of recording, publication and call in as set out above, but will in addition contain the following caveat:

“PLEASE NOTE: The following matters relate to business which relates to either exempt or confidential matters. Any breach of confidentiality could prejudice the council and the person concerned and might amount to a breach of the councillors’ and employees’ codes of conduct.”

12.12 Gaps in these procedures

If there is a gap in these procedures, the Leader will decide what to do.

13 Cabinet member decision making procedures

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13.1 A cabinet member exercising delegated power

A cabinet member exercising delegated power shall have the discretion not to exercise his/her delegated powers to make a decision.

13.2 Before making a decision

The lead officer will provide a report for the cabinet member listing all background information and setting out the options available and the corporate, financial, legal, personnel and property implications of the decision. The Monitoring Officer will ensure that the report has been approved by the necessary officers and any key decisions have been referred to the cabinet. The cabinet member will hold a meeting with the lead officer and any other appropriate officer and the decision will be published (see section 4).

13.3 Recording and publication of delegated decisions

- (a) All cabinet members' decisions are subject to call in (see section 18) and will be recorded and published on the Friday following the decision. (Unless the decision is urgent – see section 13.5).
- (b) Decisions will be recorded in writing and contain the following information:
- the decision
 - the name of the cabinet member making the decision
 - a summary of the issues
 - the reasons for the decision
 - the alternative options considered and rejected
 - who was consulted before the decision was made
 - the date of the decision
 - whether the decision and relevant report should be exempt from publication under the council's access to information rules and the reasons why exemption has been agreed
 - where the decision is urgent, the reasons for the urgency and the signature (or emailed approval) of the chair of the Overview and Scrutiny Management Board or in his/her absence the vice-chair of the management board or another member of the management board
 - any corporate, financial, personnel, legal and corporate property implications
 - background papers

13.4 Implementation of delegated cabinet member decisions

A cabinet member decision will come into force if it is not called in by 4:30pm on the fifth working day after the publication date.

13.5 Urgent decisions

Urgent decisions can be implemented immediately (and the call in procedure does not apply).

A decision is urgent where the interests of the council or the public require immediate action. Where the decision maker regards the decision as urgent then the agreement of the chair of the Overview and Scrutiny Management Board is required (or in his/her absence the vice-chair of the management board or any other member of the management board) that the decision is urgent prior to the implementation of the decision.

Where an urgent decision is taken and agreed by the chair of the Overview and Scrutiny Management Board or designee it shall be immediately implemented and the call in procedure set out below will not apply.

The urgent decision must still be recorded, published and reported to the Overview and Scrutiny Management Board.

Overview and scrutiny procedures

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14.1 Number of overview and scrutiny panels

Council has appointed the overview and scrutiny management board and five overview and scrutiny panels in [section 8](#).

14.2 Membership of overview and scrutiny panels

14.2.1 Members of overview and scrutiny panels

Each overview and scrutiny panel has twelve members. The number of members from each political group will be in proportion to its size.

Members of the overview and scrutiny panels and their substitutes must be councillors. But they cannot be cabinet members.

14.2.2 Members of the management board

The management board has twelve members: the chair of each of the overview and scrutiny panels (the chair of the children and young people's overview and scrutiny panel must be a member of the largest opposition group), three members from the majority political group and four members

from the largest opposition group. (The non-chair members will be drawn from the five scrutiny panels.)

14.2.3 Conflicts of interest

Unless they have special permission from the Standards Committee, members of the overview and scrutiny panels and management board cannot scrutinise decisions they were involved in taking and must leave the room when these decisions are scrutinised. But before they leave they can make representations and answer questions or give evidence if other members of the public would also have this right.

14.2.4 Procedure when a councillor resigns from a panel

A councillor can resign from a panel by writing to the Monitoring Officer. A replacement member will be confirmed at the next full council meeting.

14.2.5 Procedure when a panel member stops being a councillor

If a panel member stops being a councillor, a replacement member will be confirmed at the next full council meeting.

14.3 Co-opted members of overview and scrutiny panels

Non-voting co-opted members can serve on an overview and scrutiny panel/task and finish group/the management board or for a specific policy review. The overview and scrutiny management board agrees the appointment of co-opted members to panels/task and finish groups.

Co-opted members cannot vote unless they have the legal right to do so.

The overview and scrutiny panel that deals with education matters will appoint four (statutory) co-opted members (two parent governor representatives and two church representatives) who will have voting rights in relation to education matters that are the responsibility of the cabinet.

The statutory co-opted members assist the management board with its response to the annual budget consultation process and may vote on education matters that are the responsibility of the cabinet.

14.4 Overview and scrutiny panel meetings

The overview and scrutiny panels meet on dates set by full council. If they need to have extra meetings, they set the dates themselves.

The Monitoring Officer or the overview and scrutiny panel chair can decide to call a special meeting.

If a panel has nothing to do at one of its fixed meetings, the Monitoring Officer can cancel it after consulting the chair.

14.5 Substitutes, quorum and training

Members of the panels/management board can send other councillors (who must belong to the same political group) as substitutes. Substitutes have the powers of an ordinary member of the committee.

Substitutions must be for a whole meeting. A member cannot take over from their substitute or hand over to them part of the way through.

If a member wants to send a substitute, they must tell the Monitoring Officer before the meeting.

Substitutes cannot appoint substitutes of their own.

If a councillor is a member of a task and finish group, once the group has stated its work, no substitution is allowed.

The quorum is the minimum number of members required for the meeting to take place.

Committee	Quorum	Substitutes	Relevant training required?
Overview and Scrutiny Management Board	Three	Named substitutes allowed	✓
Overview and scrutiny panels	Three	Any member	

14.6 Chairs and vice-chairs of overview and scrutiny panels

14.6.1 Election of chair and vice-chair

Each overview and scrutiny panel will elect a chair and vice-chair from among its voting members at the first meeting after the annual meeting of council if the chairs and vice-chairs are not appointed at the annual meeting of council.

14.6.2 Non-political role

Scrutiny chairs should not accept other roles in their political group which could conflict with carrying out the role of the chair in a non-party political way.

14.6.3 Resignation of chair or vice-chair

If a councillor wants to resign as chair or vice-chair, they must write to the Monitoring Officer. A new chair or vice-chair will be elected at the panel's next ordinary meeting.

14.7 Programme of work

The overview and scrutiny panels suggest their own programmes of work but the work programmes must be confirmed by the overview and scrutiny management board. The panels must review anything they are asked to review by full council – see 14.9.3.

14.8 Call in

Items called in will be heard at a meeting of the overview and scrutiny management board (within 10 working days of the end of the call in period relating to that item).

14.9 Agenda

14.9.1 Putting items on the agenda

Any member of a scrutiny panel or the management board may place an item which is relevant to the functions of the panel or board on the agenda of a meeting. The panel/management board will decide what course of action, if any, to take.

Any councillor may place any local government matter (other than excluded matters – see below) which is relevant to the functions of the panel or board on the agenda of a meeting. The councillor will be invited to attend the meeting at which the item is to be considered, to explain the reasons for the request.

When considering a local government matter referred by a councillor, the panel or board will decide whether to:

- (a) review or scrutinise a decision taken by the cabinet or cabinet member
- (b) make a report or recommendation to the council or cabinet on how cabinet carries out its functions
- (c) review or scrutinise a decision taken by a council body other than the cabinet or a cabinet member
- (d) make a report or recommendation to the council or the cabinet on how a council body other than the cabinet carries out its functions
- (e) make a report or recommendation to the council or the cabinet on matters which affect the city or the inhabitants of the city
- (f) take no action

The panel or board will then report back to the councillor who raised the local government matter about the decision and the reasons for the decision.

Excluded matters:

- any matter relating to a planning decision
- any matter relating to a licensing decision
- any matter relating to an individual or body if s/he/they have, by law, a right to a review or right of appeal
- any matter which is vexatious, discriminatory or not reasonable to be included in the agenda for, or to be discussed at, a panel or management board meeting

(Local crime and disorder matters must be considered by the panel with the crime and disorder remit.)

The Monitoring Officer in consultation with the Scrutiny Officer ([see section 10.1](#)) and chair (or vice-chair in the chair's absence) of the board or panel will determine whether a matter is an excluded matter.

14.9.2 Speaking on agenda items

Any member of the public and any councillor who is not a member of the panel can speak on an agenda item if the chair agrees. The chair will decide how long they can speak for.

14.9.3 Requests for reviews from full council

The overview and scrutiny panels must review anything full council asks them to review as soon as they can make space in their programme of work.

14.9.4 Requests for reviews from the cabinet

The overview and scrutiny panels can (but do not have to) review items the cabinet or a cabinet member asks them to review.

14.10 Policy review and development

The overview and scrutiny panels' and the board's role in developing the policy framework and budget is set out in 8.3.

In areas that are not covered by the policy framework and budget, the scrutiny panels can suggest policies for the cabinet or a cabinet member to develop.

The overview and scrutiny panels can hold inquiries and consider future policy. This may involve appointing advisors, inviting witnesses, making site visits, holding public meetings, commissioning research or doing anything else that is necessary.

14.11 Task and finish groups

The overview and scrutiny management board may appoint task and finish groups to undertake pieces of scrutiny work as required and will be time specific. The chair of the task and finish group will normally be the chair of the appropriate overview and scrutiny panel.

14.12 Reports on overview and scrutiny reviews

14.12.1 Panel/task and finish group report

At the end of each policy review, the overview and scrutiny panel/task and finish group will send a report to the overview and scrutiny management board who will decide whether or not to send the report to the cabinet or a cabinet member (if it is about executive responsibilities) or to council (if it is about council responsibilities) or to another organisation, as appropriate.

14.12.2 Minority report

For each policy review, there can be a minority report giving any dissenting views. The cabinet, cabinet member or full council will consider the minority report at the same time as the panel/management board/task and finish group report.

14.12.3 Which report is the panel report and which is the minority one?

Each panel/task and finish group member can vote for one report but no more than one. The report with the most votes will be the panel/task and finish group report.

14.12.4 Timing

If the overview and scrutiny management board decides to send a report to the cabinet, a cabinet member or council:

- the cabinet must, where practicable, consider it at its next ordinary meeting if it is about executive responsibilities
- full council must, where practicable, consider it at its next ordinary meeting if it is about council responsibilities

14.13 Arrangements for cabinet to comment on reports to full council

When the overview and scrutiny management board sends a report to full council, the Monitoring Officer will send a copy to the cabinet/cabinet member. Council must consider the cabinet or cabinet member's comments on anything that affects the policy framework and budget.

14.14 Overview and scrutiny members' rights to see documents

Overview and scrutiny members' rights to see documents are set out in [section 16.11](#).

14.15 Duty of cabinet members and officers to attend overview and scrutiny meetings

14.15.1 Duty to attend

Overview and scrutiny meetings can require members of the cabinet and senior officers to attend and answer questions about:

- their performance
- decisions they were involved in
- the extent to which they have followed the policy framework and budget

14.15.2 Procedure for attending

The Monitoring Officer will tell the councillor or officer that they are required to attend, what it is about and whether they need to produce a report or provide papers.

The councillor or officer must be given reasonable time to compile information.

14.16 Whipping

Political groups should not pressure their members over how they speak or vote at overview and scrutiny meetings.

14.17 Order of business at overview and scrutiny panels and board

The overview and scrutiny panel will consider:

- declarations of interest
- anything that has been called in (overview and scrutiny management board only)
- any cabinet/cabinet member's responses to the panel's reports
- anything else on the agenda
- minutes

This procedure can be suspended if at least half of all the voting members are present and there is a simple majority in favour. It can only be suspended until the end of a meeting.

14.18 Witnesses at overview and scrutiny meetings

Witnesses should be treated with politeness and respect.

14.19 Items affecting more than one overview and scrutiny panel

If an item affects more than one overview and scrutiny panel, the chair of the overview and scrutiny management board will decide which panel to send it to (after liaising with the appropriate panel chairs).

14.20 Minutes

At the first meeting when the minutes are available, the chair will move that the minutes are correct and sign them. The management board/panel will not discuss anything arising from the minutes.

14.21 Gaps in these procedures

If there is a gap in these procedures, the chair will decide what to do.

15 Other committee procedures

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15.1 Which committees do these procedures apply to?

These procedures apply to the:

- appointments panel
- employment appeals panel
- audit committee
- chief officers investigating panel
- general licensing committee
- licensing sub-committee
- taxi licensing sub-committee
- standards committee
- planning committee
- scrutiny panels and the overview and scrutiny management board

15.2 Appointment of committees

Council is responsible for appointing and dissolving committees and for agreeing their membership and roles, unless the law says otherwise.

There must always be at least one scrutiny panel, a standards committee, an independent remuneration panel and a committee that carries out responsibilities under the Licensing Act 2003 and the Gambling Act 2005.

The committees appoint their own sub-committees and working groups.

15.3 Quorums and substitutes

Members of the committees can send other councillors (who must belong to the same political group) to the meeting as substitutes, unless the law doesn't allow it. Substitutes have the powers of an ordinary member of the committee.

Substitutions must be for a whole meeting. A member cannot take over from their substitute or hand over to them part of the way through.

If a member wants to send a substitute, they must tell the Monitoring Officer before the meeting.

Substitutes cannot send substitutes of their own.

Committee	Quorum	Substitutes	Relevant training required?
Appointments panel	Three, including at least one cabinet member/appropriate committee chair	Any member	✓
Audit committee	Three, including at least one independent member	Any member	
Chief officers investigating panel	Three	Any member	✓
Employment appeals panel	Three	Any member	✓
General licensing committee	Five	None	✓
Licensing sub-committee	Three	Any member of the general licensing committee	✓
Taxi licensing committee	Three	Any member	✓
Planning committee	Three	Any member	✓
Standards committee	Three, including at least one independent member (in the chair) and at least one councillor	Any member (though not the Leader)	✓

Standards sub-committees

Three, including at least one independent member

Any member (though not the Leader)



15.4 Joint committees

Committee	Quorum	Substitutes	Relevant training required?
Mount Edgcumbe Joint Committee	Four (two from each authority)	Named substitutes allowed	
South West Devon Waste Partnership	Three (one from each authority)	Any cabinet member	
Tamar Bridge and Torpoint Ferry Joint Committee	2 (from each authority)	Named substitutes allowed	

15.5 Vacancies on committees

15.5.1 Procedure when a councillor resigns from a committee

A councillor can resign from a committee by writing to the Monitoring Officer. The political groups can nominate a replacement who will take up their position immediately. Their replacement will be confirmed at the next council meeting.

15.5.2 Procedure when someone stops being a councillor

If someone stops being a councillor, the political groups can nominate a replacement who will take up their position immediately. The replacement committee member(s) will be confirmed at the next council meeting.

15.6 Chair and vice-chair

15.6.1 Election of chair and vice-chair

Chairs and vice-chairs of all committees (except the standards committee which has an independent chair) must be councillors.

Each committee will elect a chair and a vice-chair from among its voting members at the first meeting after annual council.

15.6.2 If the chair and vice-chair are absent

If the chair and vice-chair are absent, a committee can elect another councillor to chair the meeting. If the chair or vice-chair arrives part of the way through the meeting, the acting chair will finish the agenda item they are on and hand over the chair (the chair of the standards committee must be an independent member).

15.6.3 Resigning as chair or vice-chair

If a councillor wants to resign as chair or vice-chair, they must write to the Monitoring Officer. A new chair or vice-chair will be elected at the committee's next ordinary meeting.

15.7 Meeting of committees

15.7.1 Cancelling a meeting

If a committee has nothing to do at one of its fixed meetings, the Monitoring Officer can cancel it after consulting the chair.

15.7.2 Special meetings

The Monitoring Officer can arrange a special meeting after consulting the chair. Special meetings will only deal with the business they have been called to deal with.

15.8 Speaking on agenda items

Where the press and the public are not excluded, any member of the public and any city councillor can speak on any agenda item for up to five minutes if the chair agrees (unless the law, this constitution, the planning code of practice or the licensing procedure do not allow it).

15.9 Minutes

At the first meeting when the minutes are available, the chair will move that the minutes are correct and sign them. The committee will not discuss anything arising from the minutes.

15.10 Standards committee

- (a) All members of the committee can vote (including independent members)
- (b) The chair must be an independent member

15.11 Planning committee

The planning committee has adopted a code of practice.

15.12 General licensing committee and liensing sub-committee

Follow the procedures in the Licensing Act 2003 and the Gambling Act 2005, as amended.

15.13 Gaps in these procedures

If there is a gap in these procedures, the chair will decide what to do.

16 Access to information and key decision procedures

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16.1 Meetings affected by these procedures

These rules apply to all meetings of council, the cabinet and its committees including the overview and scrutiny management board and the scrutiny panels, the standards and audit committees and the regulatory committees (together called meetings).

16.2 Other rights to information

These procedures do not affect any other rights to information under the law or this constitution.

16.3 Public's right to attend meetings

The public can attend meetings, except when confidential or exempt information is being discussed, unless the law says otherwise - [see section 16.4](#).

16.4 Exceptions to public's right to attend meetings

16.4.1 Confidential information – council must meet in private

The council and committees must meet in private when confidential information is likely to be discussed.

Confidential information is information that is prevented from being made public by a court order or a government department that has provided the information.

16.4.2 Exempt information – council can meet in private

The council and committees can meet in private when exempt information is likely to be discussed.

Information is exempt if it would not be in the public interest to publish it and it falls into one or more of the categories set out below identified in the Local Government Act 1972 (as amended).

- **Information about individuals**

Information relating to any individual

Information which is likely to reveal the identity of an individual

- **Information about someone's finances or business**

Information relating to the financial or business affairs of any particular person (including the authority holding that information)

- **Labour relations information**

Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a minister of the crown and employees of, or office holders under, the authority

- **Information that could be considered legally privileged**

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

- **Information about legal action**

Information which reveals that the authority proposes:

- to give under any enactment a notice under or by virtue of which requirements are imposed on a person
- to make an order or direction under any enactment
- information about action to deal with a crime
- information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime

16.4.3 Standards committee and sub-committee – extra categories of exempt information

At standards committee and sub committee meetings, there are extra categories of information that can be heard in private.

16.4.4 General licensing and licensing sub-committees – extra categories of exempt information

At general licensing and licensing sub committee meetings, there are extra categories of information that can be heard in private.

16.5 Reports that are expected to be considered in private

If the Monitoring Officer expects that a report will be considered in private under [section 16.4](#), it will not be made available to the public. It will be marked “not for publication” and will say what category of information is involved.

16.6 Notice of meetings

At least five clear working days before each meeting, the council will post details of the meeting at the Civic Centre. Information will also be displayed on the council's website.

16.7 Background papers

Each report will include a list of background papers. Background papers are papers that have been relied on when writing the report. They do not include published works or documents that contain exempt or confidential information ([see section 16.4](#)).

16.8 Access to meeting papers before a meeting

The agenda and reports will be available at the Civic Centre or on the council's website at least five clear working days before a meeting. If an item or report is added later, it will be made available as soon as it is added.

Copies of the agenda, reports and background papers will be made available for public inspection. The agenda and reports will also be available on the council's website.

Councillors will normally receive the papers in advance for any committee of which they are members.

16.9 Access to meeting papers after a meeting

For six years after a meeting, the council will make available:

- the agenda, reports and background papers
- the minutes (except for items that were considered in private because they were exempt or confidential) – these will be made available within 10 working days of the meeting and for executive decisions they will record the reasons for the decision, any alternatives considered and any interests declared
- a summary of any business that was not open to the public if the minutes available to the public do not give a reasonable record

16.10 Rights of access to information for councillors

Any councillor can see any documents seen or controlled by the cabinet that are relevant to previous decisions that have been taken by the cabinet.

But this does not apply to:

- exempt and confidential information -[see section 16.4](#)
- any document in draft form (except for documents sent out for consultation)

This right is additional to any other rights the councillor has.

16.11 Extra rights of access to documents by members of scrutiny panels

Members of scrutiny panels have a right to copies of any documents seen or controlled by the cabinet or cabinet member that are relevant to decisions taken by the cabinet except for:

- exempt or confidential information (unless it is relevant to something being scrutinised)
- any document about a key decision that is in draft form (except for documents sent out for consultation)

16.12 Councillor’s duty not to pass on confidential or exempt information

Councillors must not pass on exempt information that has not been made public or confidential information (see section 16.4). If they do this, they may be breaking the law and that Members’ Code of Conduct (see section 19).

16.13 Key decisions

A key decision is an executive decision likely to:

- result in the council spending or saving or raising/reducing annual income by more than £500,000 (or more than £2,000,000 if a contract award) or
- have a significant impact on two or more wards within the city

16.14 Procedure before taking key decisions

When a key decision is taken, it must have been published in the Forward Plan (see section 16.15), unless it is urgent (see section 16.16).

If a key decision is taken by the cabinet, the report must say that it is a key decision.

16.15 The Forward Plan

16.15.1 Period of Forward Plan

The Leader will prepare a Forward Plan each month. Each plan will start with the first day of the next month and cover four months.

16.15.2 What is in the Forward Plan?

The Forward Plan will list any key decisions that are going to be taken. For each decision, it will say:

- what the decision is about
- who will take the decision
- when the decision will be taken
- who will be consulted and how
- how to comment and when by
- which documents the decision takers have been given to consider

16.15.3 Publishing the Forward Plan

The Forward Plan must be published at least 14 days before the start of the period it covers.

At least once a year, the Monitoring Officer will publish a notice in at least one local newspaper saying that:

- the council takes key decisions
- a Forward Plan will be prepared each month with information about the key decisions
- each Forward Plan will cover the next four months
- the public can come to the council offices and look at the Forward Plan – this will not cost them anything and they will be able to do it during office opening hours. The Forward Plan is also available on the website.
- each plan will list the documents given to decision takers to consider (the notice will give the address where the public can see any documents that are not confidential or exempt – see section 16.14)
- other documents may be given to decision takers (the notice will describe how members of the public can ask for details of these as they become available)

16.15.4 Exempt and confidential information

Exempt information need not be included in the Forward Plan. Confidential information cannot be included.

16.16 Urgent key decisions

16.16.1 Procedure for taking urgent key decisions

If a key decision has not been included in the Forward Plan, it can still be taken if it is not practicable to put it in the next plan and wait until the start of the first month in that plan.

Before taking a key decision that has not been included in the Forward Plan, the Monitoring Officer must write to the chair of the relevant scrutiny panel or, in her/his absence, every member of the panel. A copy of the letter will be made available to the public at the council's offices.

The decision cannot normally be taken until five clear working days after the chair is told.

But the decision can be taken before that if the chair of the overview and scrutiny management board (or in his/her absence, the vice-chair or, in both their absences, any other member of the management board) agrees that it is not reasonable to defer it.

16.16.2 Three-monthly reports to council on urgent key decisions

The Leader will report to council every three months on any urgent key decisions that have been taken.

16.17 Reports to council on decisions that were not in the Forward Plan

16.17.1 When can a scrutiny panel require a report?

The relevant scrutiny panel, the overview and scrutiny management board or its chair or any five members of the relevant scrutiny panel can require the cabinet to report to council if a key decision has been taken that was not in the Forward Plan (unless it was an urgent decision under [section 16.16](#)). Before making this decision, the advice of the Monitoring Officer must be considered.

16.17.2 Cabinet to report to council

Normally the cabinet will report to the next ordinary council meeting. But if the next meeting is within seven days of the request for cabinet to report to council, the cabinet will report to the next ordinary council meeting after that. The report will say what the decision was and who took it.

17 Policy framework and budget procedures

In this section:

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Related sections

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17.1 Responsibilities for the policy framework and budget

Council sets the policy framework and budget ([see section 5.2](#)). It will be the responsibility of council to implement it. The cabinet and officers must act within it.

17.2 Developing the policy framework and budget

- (a) The Forward Plan will include a timetable for any proposals affecting the policy framework and budget, and will say what consultation there will be. The relevant cabinet member will draft the initial proposals with the advice of officers and will publish the proposals for consultation.

In the consultation process, the cabinet member will canvass the views of interested local stakeholders including the overview and scrutiny management board in accordance with protocol for consultation.

At the end of the consultation, the cabinet member will submit a report on the draft proposals to cabinet.

- (b) Any reports to the cabinet must say what consultation there has been and what the results were. The cabinet will consider the response to the consultation and draw up firm proposals. The report to council will reflect any comments made during the consultation and the cabinet's response.
- (c) The cabinet's proposals will go to council as soon as possible.
- (d) Council can:
- accept the cabinet's proposals
 - refer the proposals back to the cabinet or
 - change the proposals, for example by adopting proposals of its own
- (e) If council accepts the cabinet's proposals without any changes, the decision will come into force immediately.
- (f) If council changes the cabinet's proposals, it will be an in principle decision only.

- (g) The Leader will be given a copy of an in principle decision. The in principle decision will come into force unless the Leader objects in writing to the Assistant Director for Democracy and Governance within five clear working days, giving reasons.
- (h) If the Leader objects to an in principle decision, council will meet again within 15 further days of the receipt of the Leader's objection. At the meeting, council can accept the cabinet's proposals or change them, in the light of the Leader's objection which will be circulated in writing to the council.
- (i) The council's decision will come into force immediately.

The council must agree and set the level of Council Tax by the statutory deadline.

- (j) In approving the policy framework and budget, the council will also specify the extent of virement within the budget and degree of in year changes to the policy framework and budget which may be undertaken by the cabinet, in accordance with virement and in year adjustments. Any other changes to the policy framework and budget must be made by council.

17.3 Decisions outside the policy framework or budget

- (a) The cabinet, committees of cabinet, individual members of cabinet, committees and joint committees and any officers carrying out executive responsibilities can only take decisions if they are:
 - in line with the policy framework and budget, or
 - allowed under section 17.4 (urgent decisions), or
 - allowed under financial procedure rules or necessary to obey the law or ministerial directions or government guidance

Any other decisions must be recommended to council - see section 17.2.

- (b) The cabinet and any officers carrying out executive responsibilities will seek the Monitoring Officer or Chief Finance Officer's advice if it is unclear whether proposals are in line with the policy framework or budget.

17.4 Urgent decisions outside the policy framework or budget

- (a) The cabinet, committees of cabinet, individual members of cabinet, committees and joint committees or officers carrying out executive responsibilities can take a decision that is outside the policy framework or budget if:
 - it is urgent
 - it is not practicable to arrange a council meeting
 - the chair of the overview and scrutiny management board and the Monitoring Officer (or designee) agrees that the decision is urgent. If the chair of the overview and scrutiny management board is absent, the vice-chair can agree that the decision is urgent and, if both are absent, any other member of the management board.
- (b) The record of the decision must say:

- why it was not practicable to arrange a meeting of councillors
- that the chair of the overview and scrutiny management board (or vice-chair or any other member of the management board) and the Monitoring Officer (or designee) agreed that the decision was urgent
- why the decision was considered to be urgent

18 Call in procedures

In this section:

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18.1 What decisions can be called in?

The following executive decisions can be called in:

- cabinet decisions
- cabinet member decisions
- executive decisions under joint arrangements

(Call in is a process where the overview and scrutiny management board can recommend that an executive decision that has not yet been carried out, is reconsidered by the decision maker)

18.2 Publishing decisions that can be called in

On the Friday after a decision that could be called in is taken, the democratic support section will email information about the decision to all councillors.

The information will be marked with the date it was published, will say what the decision was and how it can be called in.

The information will say that the decision will come into force if it is not called in by 4:30pm on the fifth working day after the publication date.

18.3 Who can call in decisions and when do they have to be called in by?

Any three councillors can call in a decision by 4:30pm on the fifth working day after the decision was published.

Co-opted committee/panel members cannot call in decisions.

18.4 How are decisions called in?

Decisions are called in by sending a call in form to the Monitoring Officer or emailing it to democratic.support@plymouth.gov.uk

Reasons for the call in must be given. If an executive decision is being called in because it is believed to be outside the policy framework and budget, the call in must say so.

There are four other reasons to call in a decision:

- the process was deficient in some way (e.g. the decision maker did not consult people who should have been consulted)
- the decision maker did not consider alternative courses of action
- the decision taker did not take into account relevant factors
- the decision was wrong in law or fact. The caller in must state why it was wrong in law or fact

When a decision is called in, the Monitoring Officer will tell the relevant officer, the chair of the body that took the decision and the cabinet member.

18.5 Where are decisions called in to?

The overview and scrutiny management board will consider all decisions that are called in.

18.6 What happens when a decision is called in?

The overview and scrutiny management board can decide to either:

- support the decision, which can then be acted on immediately
- send the decision back with its comments to the decision maker who will then take a final decision - see section 18.6.1 below
- refer the decision to council to consider the call in - see section 18.6.2 below
- send comments to full council on any decision that recommends changing the policy framework and budget

18.6.1 Sending the decision back with its comments to the decision maker

The decision maker will reconsider the decision, taking the management board's views into account. The decision maker can then either:

- (a) implement the decision (which cannot be called in again)
- (b) not implement the decision
- (c) alter the decision (which can be called in)

The decision maker will report the outcome of the above to the next overview and scrutiny management board meeting.

18.6.2 Referring the decision to council to consider the call in

The decision will be considered at the next ordinary council meeting or, if two cabinet members require action earlier, at an extraordinary council meeting – see section 11.3. Council can decide to either:

- support the decision, which can then be acted on immediately
- send the decision back with its comments to the decision maker who will then take a final decision (see below)

If the decision is sent back to the decision maker they will reconsider the decision and the procedure outlined in (a) to (c) above will be followed, taking the council's views into account.

18.7 Exceptions to the call in procedure

Call in will not apply to the following decisions:

- non-executive decisions
- executive decisions made by appeals panels
- decisions already called in once (a decision modified becomes a new decision and may be subject to call in)
- non-key decisions made by officers with delegated authority
- urgent decisions

18.8 Decisions believed to be outside the budget or policy framework

- (a) The Monitoring Officer or Director for Corporate Support will say whether the decision is outside the policy framework and budget.
- (b) If the decision is not outside the policy framework and budget, the overview and scrutiny management board can decide to:
 - support the decision, which can then be acted on immediately, or
 - send the decision back with its comments to the cabinet or cabinet member, who will then take a final decision
- (c) If the decision is outside the policy framework and budget, it will go as a recommendation to the next ordinary meeting of council, along with any comments from the overview and scrutiny management board (if two cabinet members want earlier action, an extraordinary meeting of the full council can be held – see section 11.3).
- (d) Council can then:
 - ask the cabinet to reconsider, or
 - change the policy framework and budget so that the decision is within it – the decision can then be acted on immediately

18.9 Urgent decisions outside the budget and policy framework

A decision cannot be called in if the chair of the overview and scrutiny management board agrees that:

- the decision is reasonable and
- the delay would not be in the interests of the council or the public

If the chair of the overview and scrutiny management board is not available, the vice-chair (or in her/his absence any member of the overview and scrutiny management board) must agree that the decision is urgent and reasonable.

Urgent decisions must be identified on the published information.

Urgent decisions must be reported to the next ordinary full council meeting with the reason why they were urgent.

CODES

19 Councillors' Code of Conduct

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19.1 The Model Code of Conduct

The council has adopted the Model Code of Conduct in the schedule to the Local Authorities (Model Code of Conduct) Order 2007. It has also included a local requirement that all councillors undertake a Criminal Record Bureau check. See [section 19.22](#).

19.2 Who does the code apply to?

The code applies to councillors and voting co-opted members of committees and all members of the Standards Committee.

19.3 When does the code apply?

The code applies to behaviour that is linked to being a councillor. It applies to behaviour after a councillor is elected and to any behaviour before a councillor is elected that leads to a criminal conviction after they are elected.

19.4 Does the code apply when councillors represent the council on another body?

When councillors are representing the council on another body, they must follow the code unless it conflicts with a legal duty of the other body.

19.5 Respect and equality

The code says councillors must treat other people with respect and must not bully anyone. They must not do anything that could lead the council to break equality laws.

19.6 Intimidation

The code says councillors must not intimidate or try to intimidate anyone who is likely to:

- complain about the code being broken or
- act as a witness or
- be involved in dealing with a complaint

19.7 Impartiality of council officers

The code says councillors must not do anything that would be likely to prevent officers or contractors from being impartial.

19.8 Information

The code says councillors must not stop anyone getting information they have a legal right to.

Councillors must not pass on information given to them in confidence or information they should know is confidential unless:

- they are required to by law or
- they have the consent of someone authorised to give it or
- it is to get professional advice and the person given the information agrees not to pass it on to anyone else or
- passing on the information is reasonable and in the public interest and the councillor is acting in good faith and has asked the Monitoring Officer for his/her view

19.9 Disrepute

The code says councillors must not do anything that could be seen to bring the council or the role of councillor into disrepute.

19.10 Misuse of position

The code says councillors must not try to use their position improperly to gain an advantage or disadvantage for themselves or others.

19.11 Use of council resources

The code says that when councillors use the council's resources or let other people use them, they must follow any reasonable rules set by the council and make sure that resources are not used improperly for political purposes.

19.12 Publicity

The code requires councillors to take into account the Code of Recommended Practice on Local Authority Publicity.

19.13 Advice of Monitoring Officer and Chief Finance Officer

The code says councillors must consider any advice given by the Monitoring Officer or Chief Finance Officer when taking decisions.

19.14 Giving reasons for decisions

The code says councillors must give reasons when required to by the law or by any council procedures.

19.15 Personal interests at meetings

The code lists personal interests that must normally be declared at meetings of council and the cabinet and their committees and sub-committees.

- (a) Councillors or independent or co-opted members of a council committee have a personal interest **in the issue being discussed in the meeting** if it affects their well-being or their finances or the finances of their family or their close associates more than most other people who live in the ward affected by the issue
- (b) or if it relates to an interest they **must register** (see section 19.22)

19.16 What if a councillor has a personal interest?

If a councillor has a personal interest in an item, they must declare it at the start of the item (or when they realise they have an interest if that is later). This involves saying they have an interest and what the interest is. There are two exceptions to this:

- a councillor is not required to declare an interest that they do not know about and could not be expected to know about
- if describing an interest would involve revealing sensitive information (see section 19.20), a councillor need only say that they have an interest – they need not say what the interest is

Once a councillor has declared a personal interest, they can stay in the meeting and speak and vote, unless the personal interest is also a prejudicial interest (see section 19.17).

19.17 When is a personal interest also a prejudicial interest?

The code says that a personal interest is a prejudicial interest if:

- the councillor has a personal interest in a council decision about a regulatory matter such as a planning application or licensing application, or in an issue that affects their finances
- the councillor's friends or close associates have an interest in a council decision about a regulatory matter such as a planning application or licensing application, or in an issue that affects their finances
- a member of the public who knew all the facts could reasonably consider this likely to affect the councillor's judgement of the public interest

There are some exceptions; an interest is not a prejudicial interest if it is an interest in:

- councillor's allowances, expenses or insurance
- ceremonial honours given to councillors
- Council Tax setting
- school meals or school transport and travelling expenses if the councillor is the parent or guardian of a child in full time education unless it relates particularly to the school their child attends
- school meals or school transport and travelling expenses if the councillor is a parent governor unless it relates particularly to the school of which they are a governor

There is another way that a councillor can have a prejudicial interest: if an overview and scrutiny panel/board is looking at a decision of the cabinet or a council committee or sub-committee, a councillor will have a prejudicial interest if they were involved in taking the original decision.

19.18 What if a councillor has a prejudicial interest?

A councillor with a prejudicial interest in an item must not try to influence decisions on the item improperly.

Unless the Standards Committee has given them special permission to stay, the councillor must leave the meeting while the item is dealt with. But before they leave they can make their case and answer questions if other members of the public would also have this right (for example, a councillor would be able to speak at a planning committee if they followed the planning committee procedures about members of the public speaking at the committee).

19.19 Registering interests

The code requires councillors to register certain interests by writing to the Monitoring Officer within 28 days of the code starting to apply to them or 28 days of finding out that their interests have changed. There is an exception when sensitive information is involved ([see section 19.20](#)). The interests that must be registered are:

- any outside body the council has put the councillor on
- any organisation the councillor is a member of or involved in managing or directing that does public work or has charitable goals or whose main purposes include influencing public opinion or policy
- any employment or business the councillor has
- anyone who employs the councillor or has appointed the councillor to work for them
- anyone who has contributed to the councillor's election expenses
- anyone (except the council) who has contributed to the councillor's expenses as a councillor
- anyone who gives the councillor a gift or hospitality worth £25 or more – this only applies to gifts or hospitality that are linked to being a councillor
- any land in Plymouth the councillor has a beneficial interest in or permission to occupy for 28 days or longer
- any organisation which has land or a place of business in Plymouth and in which the councillor has a beneficial interest in securities with a nominal value over £25,000 or more than 1 per cent of the total shares issued to shareholders
- any contract for goods, works or services between the council and any of the following; the councillor, a firm where the councillor is a partner, a company where the councillor is a paid director, or an organisation which has land or a place of business in Plymouth and in which the councillor has a beneficial interest in securities with a nominal value over £25,000 or more than one per cent of the total shares issued to shareholders
- any land that the council leases to any of the following: the councillor, a firm where the councillor is a partner, a company where the councillor is a paid director or an organisation which has land or a place of business in Plymouth and in which the councillor has a beneficial interest in securities with a nominal value over £25,000 or more than one per cent of the total shares issued to shareholders

(A 'beneficial interest' is an interest that can be benefited from. A person would have a beneficial interest in something that belonged to them or that was being held for them in a trust. 'Securities' are stocks, shares, bonds or anything else that pays interest or dividends. The 'nominal value' of a share is the value shown on the share certificate).

19.20 Sensitive information

Information about a councillor's interests is sensitive if making it public would be likely to create a serious risk of violence or intimidation to the councillor or someone they live with. Councillors do not have to include information in the register of interests if the Monitoring Officer agrees that it is sensitive. If a councillor finds out that the information has stopped being sensitive, they must tell the Monitoring Officer within 28 days and ask for it to be included in the register.

19.21 General principles of public life

The code of conduct should be read together with the general principles of public life in the Relevant Authorities (General Principles) Order 2001. These are:

- selflessness: councillors should serve the public interest; they should not advantage or disadvantage anyone improperly
- honesty and integrity: councillors should avoid situations where their honesty may be questioned
- objectivity: councillors should make decisions on merit, including when they make appointments, award contracts or recommend people for awards or benefits
- accountability: councillors should be accountable to the public for their actions and for how they carry out their responsibilities; they should co-operate fully with any appropriate scrutiny
- openness: councillors should be as open as possible about their own and the council's actions; they should be prepared to give reasons for actions
- personal judgements: councillors may take account of other people's views, including the views of their political group, but they should make up their own minds when deciding how to act
- respect for others: councillors should not discriminate unfairly; they should allow council officers to act with honesty and without bias
- duty to uphold the law: councillors should follow the law and remember that they are trusted by the public
- stewardship: councillors should try to ensure council resources are used legally and wisely
- leadership: councillors should promote these principles by leadership and example; they should act in a way that achieves public confidence

19.22 Model Code of Conduct

Local Authorities (Model Code of Conduct) Order 2007 No. 1159 THE MODEL CODE OF CONDUCT

Part I

General provisions

Introduction and interpretation

I

This Code applies to you as a member of an authority.

- (1) You should read this Code together with the general principles prescribed by the Secretary of State (see Annex to this Code)
- (2) It is your responsibility to comply with the provisions of this Code.
- (3) In this Code:

'meeting' means any meeting of:

- (a) the authority
- (b) the executive of the authority
- (c) any of the authority's or its executive's committees, sub-committees, joint committees or joint sub-committees or area committees

'member' includes a co-opted member and appointed member.

- (4) In relation to a parish council, references to an authority's monitoring officer and an authority's standards committee shall be read, respectively, as references to the monitoring officer and the standards committee of the district council or unitary county council which has functions in relation to the parish council for which it is responsible under Section 55(12) of the Local Government Act 2000.

Scope

2

- (1) Subject to sub-paragraphs (2) to (5), you must comply with this Code whenever you:
 - (a) conduct the business of your authority (which, in this Code, includes the business of the office to which you are elected or appointed), or
 - (b) act, claim to act or give the impression you are acting as a representative of your authorityand references to your official capacity are construed accordingly.
- (2) Subject to sub-paragraphs (3) and (4), this Code does not have effect in relation to your conduct other than where it is in your official capacity.
- (3) In addition to having effect in relation to conduct in your official capacity, paragraphs 3(2)(c), 5 and 6(a) also have effect, at any other time, where that conduct constitutes a criminal offence for which you have been convicted.
- (4) Conduct to which this Code applies (whether that is conduct in your official capacity or conduct mentioned in sub-paragraph (3)) includes a criminal offence for which you are convicted (including

an offence you committed before the date you took office, but for which you are convicted after that date).

- (5) Where you act as a representative of your authority:
- (a) on another relevant authority, you must, when acting for that other authority, comply with that other authority's code of conduct; or
 - (b) on any other body, you must, when acting for that other body, comply with your authority's code of conduct, except and insofar as it conflicts with any other lawful obligations to which that other body may be subject.

General obligations

3

You must treat others with respect.

- (1) You must not:
- (a) do anything which may cause your authority to breach any of the equality enactments (as defined in Section 33 of the Equality Act 2006)
 - (b) bully any person
 - (c) intimidate or attempt to intimidate any person who is or is likely to be:
 - (i) a complainant,
 - (ii) a witness, or
 - (iii) involved in the administration of any investigation or proceedings, in relation to an allegation that a member (including yourself) has failed to comply with his or her authority's code of conduct; or
 - (d) do anything which compromises or is likely to compromise the impartiality of those who work for, or on behalf of, your authority.
- (2) In relation to police authorities and the Metropolitan Police Authority, for the purposes of subparagraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.

4

You must not:

- (a) disclose information given to you in confidence by anyone, or information acquired by you which you believe, or ought reasonably to be aware, is of a confidential nature, except where:
- (i) you have the consent of a person authorised to give it
 - (ii) you are required by law to do so
 - (iii) the disclosure is made to a third party for the purpose of obtaining professional advice provided that the third party agrees not to disclose the information to any other person; or
 - (iv) the disclosure is:
 - (aa) reasonable and in the public interest; and
 - (bb) made in good faith and in compliance with the reasonable requirements of the authority
- (b) prevent another person from gaining access to information to which that person is entitled by law.

5

You must not conduct yourself in a manner which could reasonably be regarded as bringing your office or authority into disrepute.

6

You:

- (a) must not use or attempt to use your position as a member improperly to confer on or secure for yourself or any other person, an advantage or disadvantage; and
- (b) must, when using or authorising the use by others of the resources of your authority:
 - (i) act in accordance with your authority's reasonable requirements;
 - (ii) ensure that such resources are not used improperly for political purposes (including party political purposes); and
- (c) must have regard to any applicable Local Authority Code of Publicity made under the Local Government Act 1986.

7

- (1) When reaching decisions on any matter you must have regard to any relevant advice provided to you by:
 - (a) your authority's chief finance officer; or
 - (b) your authority's monitoring officer,where that officer is acting pursuant to his or her statutory duties.
- (2) You must give reasons for all decisions in accordance with any statutory requirements and any reasonable additional requirements imposed by your authority.

Part 2

Interests

Personal interests

8

- (1) You have a personal interest in any business of your authority where either:
 - (a) it relates to or is likely to affect:
 - (i) any body of which you are a member or in a position of general control or management and to which you are appointed or nominated by your authority;
 - (ii) any body:
 - (aa) exercising functions of a public nature;
 - (bb) directed to charitable purposes; or
 - (cc) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)
 - (dd) of which you are a member or in a position of general control or management;
 - (iii) any employment or business carried on by you;
 - (iv) any person or body who employs or has appointed you;
 - (v) any person or body, other than a relevant authority, who has made a payment to you in respect of your election or any expenses incurred by you in carrying out your duties;
 - (vi) any person or body who has a place of business or land in your authority's area, and in whom you have a beneficial interest in a class of securities of that person or body that exceeds the nominal value of £25,000 or one hundredth of the total issued share capital (whichever is the lower);
 - (vii) any contract for goods, services or works made between your authority and you or a firm in which you are a partner, a company of which you are a

- remunerated Director, or a person or body of the description specified in paragraph (vi);
 - (viii) the interests of any person from whom you have received a gift or hospitality with an estimated value of at least £25;
 - (ix) any land in your authority's area in which you have a beneficial interest;
 - (x) any land where the landlord is your authority and you are, or a firm in which you are a partner, a company of which you are a remunerated Director, or a person or body of the description specified in paragraph (vi) is, the tenant;
 - (xi) any land in the authority's area for which you have a licence (alone or jointly with others) to occupy for 28 days or longer; or
- (b) a decision in relation to that business might reasonably be regarded as affecting your well-being or financial position or the well-being or financial position of a relevant person to a greater extent than the majority of:
- (i) (in the case of authorities with electoral divisions or wards) other Council Tax payers, ratepayers or inhabitants of the electoral division or ward, as the case may be, affected by the decision;
 - (ii) (in the case of the Greater London Authority) other Council Tax payers, ratepayers or inhabitants of the Assembly constituency affected by the decision; or
 - (iii) (in all other cases) other Council Tax payers, ratepayers or inhabitants of your authority's area.
- (2) In sub-paragraph (1)(b), a relevant person is:
- (a) a member of your family or any person with whom you have a close association; or
 - (b) any person or body who employs or has appointed such persons, any firm in which they are a partner, or any company of which they are Directors;
 - (c) any person or body in whom such persons have a beneficial interest in a class of securities exceeding the nominal value of £25,000; or
 - (d) any body of a type described in sub-paragraph (1)(a)(i) or (ii).

Disclosure of personal interests

9

- (1) Subject to sub-paragraphs (2) to (7), where you have a personal interest in any business of your authority and you attend a meeting of your authority at which the business is considered, you must disclose to that meeting the existence and nature of that interest at the commencement of that consideration, or when the interest becomes apparent.
- (2) Where you have a personal interest in any business of your authority which relates to or is likely to affect a person described in paragraph 8(1)(a)(i) or 8(1)(a)(ii)(aa), you need only disclose to the meeting the existence and nature of that interest when you address the meeting on that business.
- (3) Where you have a personal interest in any business of the authority of the type mentioned in paragraph 8(1)(a)(viii), you need not disclose the nature or existence of that interest to the meeting if the interest was registered more than three years before the date of the meeting.
- (4) Sub-paragraph (1) only applies where you are aware or ought reasonably to be aware of the existence of the personal interest.
- (5) Where you have a personal interest but, by virtue of paragraph 14, sensitive information relating to it is not registered in your authority's register of members' interests, you must indicate to the meeting that you have a personal interest, but need not disclose the sensitive information to the meeting.

- (6) Subject to paragraph 12(1)(b), where you have a personal interest in any business of your authority and you have made an executive decision in relation to that business, you must ensure that any written statement of that decision records the existence and nature of that interest.
- (7) In this paragraph, “executive decision” is to be construed in accordance with any regulations made by the Secretary of State under Section 22 of the Local Government Act 2000.

10

- (1) Subject to sub-paragraph (2), where you have a personal interest in any business of your authority you also have a prejudicial interest in that business where the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest.
- (2) You do not have a prejudicial interest in any business of the authority where that business:
 - (a) does not affect your financial position or the financial position of a person or body described in paragraph 8;
 - (b) does not relate to the determining of any approval, consent, licence, permission or registration in relation to you or any person or body described in paragraph 8; or
 - (c) relates to the functions of your authority in respect of
 - (i) housing, where you are a tenant of your authority provided that those functions do not relate particularly to your tenancy or lease;
 - (ii) school meals or school transport and travelling expenses, where you are a parent or guardian of a child in full time education, or are a parent governor of a school, unless it relates particularly to the school which the child attends;
 - (iii) statutory sick pay under Part XI of the Social Security Contributions and Benefits Act 1992, where you are in receipt of, or are entitled to the receipt of, such pay;
 - (iv) an allowance, payment or indemnity given to members;
 - (v) any ceremonial honour given to members; and
 - (vi) setting Council Tax or a precept under the Local Government Finance Act 1992.

Prejudicial interests arising in relation to overview and scrutiny committees

11

You also have a prejudicial interest in any business before an overview and scrutiny committee of your authority (or of a sub-committee of such a committee) where:

- (a) that business relates to a decision made (whether implemented or not) or action taken by your authority’s executive or another of your authority’s committees, sub-committees, joint committees or joint sub-committees; and
- (b) at the time the decision was made or action was taken, you were a member of the executive, committee, sub-committee, joint committee or joint sub-committee mentioned in paragraph (a) and you were present when that decision was made or action was taken.

Effect of prejudicial interests on participation

12

- (1) Subject to sub-paragraph (2), where you have a prejudicial interest in any business of your authority:
 - (a) you must withdraw from the room or chamber where a meeting considering the business is being held:
 - (i) in a case where sub-paragraph (2) applies, immediately after making representations, answering questions or giving evidence;

- (ii) in any other case, whenever it becomes apparent that the business is being considered at that meeting;
unless you have obtained a dispensation from your authority's standards committee;
- (b) you must not exercise executive functions in relation to that business; and
- (c) you must not seek improperly to influence a decision about that business.

(2) Where you have a prejudicial interest in any business of your authority, you may attend a meeting (including a meeting of the overview and scrutiny committee of your authority or of a sub-committee of such a committee) but only for the purpose of making representations, answering questions or giving evidence relating to the business, provided that the public are also allowed to attend the meeting for the same purpose, whether under a statutory right or otherwise.

Part 3

Registration of Members' Interests

13

- (1) Subject to paragraph 14, you must, within 28 days of:
- (a) this Code being adopted by or applied to your authority; or
 - (b) your election or appointment to office (where that is later),
- register in your authority's register of members' interests (maintained under Section 81(1) of the Local Government Act 2000) details of your personal interests where they fall within a category mentioned in paragraph 8(1)(a), by providing written notification to your authority's monitoring officer.
- (2) Subject to paragraph 14, you must, within 28 days of becoming aware of any new personal interest or change to any personal interest registered under paragraph (1), register details of that new personal interest or change by providing written notification to your authority's monitoring officer.

Sensitive Information

14

- (1) Where you consider that the information relating to any of your personal interests is sensitive information, and your authority's monitoring officer agrees, you need not include that information when registering that interest, or, as the case may be, a change to that interest under paragraph 13.
- (2) You must, within 28 days of becoming aware of any change of circumstances which means that information excluded under paragraph (1) is no longer sensitive information, notify your authority's monitoring officer asking that the information be included in your authority's register of members' interests.
- (3) In this Code, "sensitive information" means information whose availability for inspection by the public creates, or is likely to create, a serious risk that you or a person who lives with you may be subjected to violence or intimidation.

Additional local provision

Criminal Record Bureau checks

15

- (1) All councillors will be subject to Enhanced Disclosures from the Criminal Records Bureau with effect from 15 January 2007. Having received such an Enhanced Disclosure, all councillors, co-opted and independent members are required to disclose to the Monitoring Officer any new convictions subsequent to the CRB check within 14 days of the new conviction(s).

- (2) Any failure to comply with this requirement will be a breach of the Code that will be referred by the Monitoring Officer to the relevant Standards Sub-Committee for appropriate action.

Annexe - The Ten General Principles

The general principles governing your conduct under the Relevant Authorities (General Principles) Order 2001 are set out below:

Selflessness

1. Members should serve only the public interest and should never improperly confer an advantage or disadvantage on any person.

Honesty and Integrity

2. Members should not place themselves in situations where their honesty and integrity may be questioned, should not behave improperly and should on all occasions avoid the appearance of such behaviour.

Objectivity

3. Members should make decisions on merit, including when making appointments, awarding contracts, or recommending individuals for rewards or benefits.

Accountability

4. Members should be accountable to the public for their actions and the manner in which they carry out their responsibilities, and should co-operate fully and honestly with any scrutiny appropriate to their particular office.

Openness

5. Members should be as open as possible about their actions and those of their authority, and should be prepared to give reasons for those actions.

Personal Judgement

6. Members may take account of the views of others, including their political groups, but should reach their own conclusions on the issues before them and act in accordance with those conclusions.

Respect for Others

7. Members should promote equality by not discriminating unlawfully against any person, and by treating people with respect, regardless of their race, age, religion, gender, sexual orientation or disability. They should respect the impartiality and integrity of the authority's statutory officers, and its other employees.

Duty to Uphold the Law

8. Members should uphold the law and, on all occasions, act in accordance with the trust that the public is entitled to place in them.

Stewardship

9. Members should do whatever they are able to do to ensure that their authorities use their resources prudently and in accordance with the law.

Leadership

10. Members should promote and support these principles by leadership, and by example, and should act in a way that secures or preserves public confidence.

(This Code of Conduct was adopted by Plymouth City Council on 6 August 2007)

20 Code on councillor-officer relations

In this section:

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20.1 Status of this code

Councillors, co-opted and independent members and officers agree to observe this code and be guided by it in the interest of fair treatment and good government.

20.2 Roles of councillors and officers

Officers and councillors both serve the public but they have different roles: officers answer to the whole council and should provide objective advice; councillors are democratically accountable, have political affiliations and answer to the electorate.

Together they must balance a complex range of obligations and competing interests. For this to be effective councillors and officers must have mutual trust and respect for each others' requirements and duties. Different points of view between officers should be resolved or presented in a balanced way that helps councillors choose between them.

20.3 Politeness and respect

Councillors and officers should show each other mutual politeness and respect. Councillor/officer relationships should be conducted in a positive and constructive way. It is important that any dealing between councillors and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors have the right to challenge officers' reports or actions, but they should:

- avoid personal and/or public attacks
- ensure their comments are fair and constructive
- try to improve things for the future

20.4 Unfair pressure

When they deal with each other, councillors and officers should try not to take advantage of their position.

Councillors should generally restrict their discussions to more senior officers, for example heads of service or team leaders.

Councillors should also be aware that officers are unable to respond to criticism in public. They should also be aware that officers (especially junior officers) may feel unable to answer back. Councillors, especially senior councillors, should be particularly aware of this.

Councillors should not pressure officers to work outside their normal hours or to do anything they are not allowed to do or that is not part of their normal work.

Councillors should normally make appointments before visiting officers and should try to avoid frequent unscheduled interruptions.

Officers should try not to persuade individual councillors to make a decision in their personal favour or raise things to do with their employment with individual councillors. Nor should they approach councillors with allegations about other officers or the internal management of a team, service or department. They should use the council's internal management procedures instead.

20.5 Councillors' enquiries

Officers should answer councillors' enquiries within three working days. If that is not possible, they should send a holding reply and as part of it let the councillor know when they will receive a full response. This should normally be within ten working days.

If it isn't possible to provide a full response within this time, for example if it is very complex issue, the councillor should be told when they will get an answer.

The deadline for a full response should be 20 working days at the very latest.

If an officer passes an enquiry to another person to respond, the councillor must be told who will be providing the response.

If a councillor raises a concern about a constituent and an officer responds directly to that constituent, the officer should make sure that the councillor either receives a copy of the response (if it was by letter or email) or, if the constituent was contacted by phone, the officer should let the councillor know that they have done so.

20.6 Close personal relationships

Close personal relationships between individual councillors and officers should be avoided.

Inappropriate relationships can be inferred from language/style. So, councillors and officers should always seek to address each other with courtesy.

20.7 Complaints about councillors or officers

If a councillor feels he/she has not been treated with proper respect, courtesy or has any concern about the conduct or capability of an officer, and fails to resolve it through direct discussion with the officer, the councillor should raise the matter with the relevant Assistant Director.

The Assistant Director will then look into the facts and report back to the councillor.

If the councillor continues to feel concern, then he/she should report the facts to the Director who is responsible for the Directorate concerned. If after doing so, the councillor is still dissatisfied, the councillor should raise the issue with the Chief Executive who will look into the matter afresh.

Any action taken against an officer in response to a complaint will be in accordance with the provisions of the council's employment procedures.

Where an officer feels that he/she has not been properly treated with respect and courtesy by a councillor, she/he should raise the matter with his/her Assistant Director or Director, especially if they do not feel able to discuss it directly with the councillor concerned. In these circumstances, Assistant Director or Director will take appropriate action either by approaching the individual councillor and/or political group leader. The Director will inform the Chief Executive if the political group leader does become involved, or as the Director feels appropriate. If the matter cannot be resolved to the satisfaction of the employee concerned and their Director the matter will be treated as a grievance and dealt with under the council's formal grievance and harassment procedures.

20.8 Information and advice

20.8.1 General information and advice

Councillors can ask the Chief Executive, a Director or an Assistant Director for information or advice that relates to their work as a councillor. As long as it does not involve giving the councillor confidential or exempt information, officers will provide the best information and advice they can with the resources available (see access to information rules).

Councillors should be reasonable in their requests for information and advice.

If it is possible that a councillor will use the information at a meeting, the cabinet member will be told what information has been asked for and given.

20.8.2 Advice for councillors with special responsibilities

The Lord Mayor, cabinet members and committee chairs can ask the Chief Executive, Directors and Assistant Directors for extra background information and advice on different courses of action.

The leaders of minority political groups can ask the Chief Executive, Directors and Assistant Directors for background information or more details about items coming to the next meeting of a committee or the cabinet. The appropriate chair or cabinet member will be told about any information given.

Political group leaders can ask for advice on presenting their budget in a correct form. This will be given in confidence.

20.8.3 Work for cabinet

It is clearly important that there should be a close working relationship between cabinet members and the officers who support and/or interact with them.

However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officer's ability to deal impartially with other councillors and other political groups.

Cabinet members will routinely be consulted as part of the process of drawing up proposals for consideration on an agenda for a forthcoming meeting, but it must be recognised that in some situations an officer will be under a professional duty to submit a report.

Similarly, a Director or senior officer will always be fully responsible for the contents of any report submitted in their name. This means that any such report will be amended only where the amendment reflects the professional judgement of the author of the report. This is to be distinguished from a situation where there is a value judgement to be made.

Any issues arising between a cabinet member and a Director in this area should be referred to the Chief Executive for resolution in conjunction with the Leader of the council.

Cabinet members must respect the political neutrality of officers. Officers must ensure that even when they are predominately supporting cabinet members or the cabinet that their critical neutrality is not compromised.

In organising support for cabinet and its councillors, there is a potential for tension between chief officers and cabinet members. All councillors and officers need to be constantly aware of the possibility of such tensions and existing or potential conflicts.

20.8.4 Help with casework

When data protection laws allow, councillors will be given the information they need to do their casework as long as this is not exempt or confidential information. This will be done in confidence.

20.9 Political activity

20.9.1 Restrictions on officers' political activities

Most senior officers and some other officers are politically restricted. These officers cannot be councillors or MPs and cannot say, publish or do anything in their private capacity that seems intended to affect public support for a political party.

The Assistant Director for Human Resources and Organisational Development keeps a list of politically restricted posts.

Any council officer in their official capacity must not publish things that seem intended to affect support for a political group on the council.

No one can be both an officer and a councillor on the same council.

20.9.2 Lines of reporting

Employees answer to the Chief Executive, not to individual councillors, whatever office they hold. But there should be good communication between senior officers and councillors with special responsibility for their area of work.

20.10 Support services to councillors and political groups

Support services (e.g. stationery, printing, photocopying, transport and IT resources etc) should only be used for council business. They should never be used for private purposes, for party political or campaigning activity or for the benefit of other groups or bodies.

20.11 Correspondence

20.11.1 Between councillors and officers

If emails or letters between officers and councillors are copied to someone else, they should say so. Blind copies should not be sent.

20.11.2 Letters on behalf of the council

Most official letters on behalf of the council will be sent in the name of the appropriate officer rather than in the name of a councillor. However, it will be appropriate in certain circumstances (e.g. representations to the government) for correspondence to be sent in the name of a cabinet member or the Leader of the council.

Letters which create legal obligations or give instructions on behalf of the council and which are sent out in the name of a councillor should always be agreed in consultation with the Chief Executive or the relevant Director and on legal matters on advice from the Monitoring Officer.

20.12 Officer advice to political groups

Political groups can invite officers to their meetings to give information and advice on council business but cannot insist they attend. Officers who do attend must make themselves available to all groups on the same basis.

Officers must not do anything at a political group meeting that goes beyond giving information or advice on council business.

Officers must not interpret group decisions as council decisions.

Certain points must however, be clearly understood by all those participating in this type of process, in particular:

- The observance of neutrality will be assisted if officers only attend political group meetings for specified business and officers withdraw from the meeting after the briefing/advice and

any questions and before political discussion. Officers must respect the confidentiality of any political group discussions at which they are present in the sense that they should not relay the content of any such discussion to another political group.

- Special care needs to be exercised whenever officers attend political group meetings, which may include people who are not members of the council. Such people are not bound by the provisions concerning confidentiality in the Code of Conduct for Members and do not have to declare any conflicts of interest they may have. Officers cannot disclose confidential information at such meetings.
- Officer advice to political groups in relation to budget proposals: the administration (i.e. the political party in control) is entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the administration or until published in advance of committee/council meetings, whichever is earlier. The opposition groups are also entitled to confidential discussions with officers to enable them to formulate alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of committee/council meetings, whichever is earlier. It must not be assumed by any political group or councillor that any officer is supportive of any policy or strategy developed because of that officer's assistance in the formulation of that policy or strategy.
- Cases of difficulty. If any councillor or officer experiences any particular case of difficulty they should raise the matter with the Chief Executive.

20.13 Councillors' briefings, agendas and reports

20.13.1 Briefings on agendas

The Directors and Assistant Directors and heads of service will give briefings on full council, cabinet and committee agendas to the Leader and Deputy Leader and committee chairs and vice-chairs.

20.13.2 Consultation on agendas

The Leader will be consulted on agendas for the cabinet. Scrutiny panel and committee chairs (where elected prior to the meeting) will be consulted on agendas for their meetings.

20.14 Media releases and publicity

20.14.1 Code of practice

All communications activity by the council will comply with the government's Code of Recommended Practice on Local Authority Publicity.

20.14.2 Media enquiries

The corporate communications team will deal with all media enquiries on behalf of the council and will provide factual answers about council services and policies. Enquiries of a political nature will be directed to relevant councillors.

20.14.3 Content of media releases

All media releases issued on behalf of the council will be managed by the corporate communications team. Media releases can quote the Leader, cabinet members, committee chairs and the Lord Mayor.

20.14.4 Notice of election and publicity

Once a notice has been published of an election in the council's area, particular care should be paid to any publicity used by the council around the time of an election. Particular advice will be given on this by the Monitoring Officer, as appropriate.

20.14.5 Media releases by party groups and individual councillors

The code does not apply to press releases and publicity that councillors may arrange and distribute in their individual capacity rather than through the council. When individual councillors or spokespeople for political groups issue media releases, they should make it clear that they are not issuing them on behalf of the council.

20.15 Specific ward issues and ward councillors

If a council organises a public meeting about a specific ward issue it should invite all the councillors for that ward and give them as much notice as possible.

If the council does any consultation about a specific ward issue, it should consult the councillors for that ward at the start of the consultation.

20.16 The council as an employer

20.16.1 Fairness in employment

Councillors should not take part in a recruitment process where any of the candidates are friends, relatives, partners or other people they live with. Nor should they have any role in disciplinary action or grievances involving these people.

Councillors should not try to influence appointments (except as members of the appointments panel). Nor should they help any particular candidate by giving them information that the other candidates could not get.

Councillors should not discriminate unfairly against officers and should judge candidates for employment or other rewards on merit.

Councillors should not take part in a recruitment process without having undertaken appropriate training.

20.16.2 Grievances and disciplinary procedures

Councillors should not try to influence the handling of any grievance. Councillors can report their concerns about an officer's performance or behaviour to a line manager. But they should not try to influence any disciplinary procedure (except as members of the disciplinary committee for Directors and staff on JNC terms and conditions of employment).

Councillors serving on the disciplinary committee must base their decisions on the facts and in accordance with the council's employment obligations. They should not be influenced by party political or personal factors.

Councillors should not take part in any disciplinary process without having undertaken appropriate training.

20.16.3 Accountability and confidentiality

Councillors are accountable for the decisions they make as employers and they should keep individual employment matters confidential.

20.17 Responsibility for this code

The Monitoring Officer and the Standards Committee have overall responsibility for this code. The Standards Committee will review how the code is working.

21 Code on councillors use of ICT equipment

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21.1 When does this code apply?

This policy applies when councillors, co-opted and independent members use the council's ICT equipment.

21.2 Security of ICT equipment and data

Councillors, co-opted and independent members must follow the council's ICT security and data security policy. For example, they must:

- allow the anti-virus software and anti-malware to update itself
- allow any other automatic software updates
- keep the firewall installed and switched on
- not send confidential data in an insecure way
- not open email attachments that look suspicious
- use passwords that are difficult to guess
- log out or lock the screen when they leave their workstation
- inform the city council's IT manager of any security problems immediately

21.3 Use of ICT equipment

ICT equipment is provided for councillors, co-opted and independent members to do their work as councillors or as representatives on council committees. They must not use council ICT equipment to:

- break the law
- break the council's email and internet policy

- download or distribute pornography
- pass on anything they should keep confidential
- download or distribute pirated software
- damage or spy on other computers or networks
- interfere with other users' data

21.4 Usernames

Councillors, co-opted and independent members should not use any council username except their own nor should they let other people use their own council username.

21.5 Email

When councillors, co-opted and independent members send emails from plymouth.gov.uk addresses, they should:

- be aware of the risk of libel
- be aware of the effect they might have on the council's reputation
- not harass other people, for example by forwarding chain letters or flooding their mailboxes
- use the mail address in a secure way in accordance with this code

21.6 Computer setting and software

When using the council's computers, councillors, co-opted and independent members must not change the internet security settings. Neither must they load their own software (including games) or connect ICT equipment of their own to the council's networks.

21.7 Technical support

The council only provides technical support for its own equipment.

21.8 Monitoring

The council records internet use, emails and any files that are sent to outside users and retains the right to view all messages whether incoming or outgoing and whether business, personal or otherwise. The council will investigate any incident of possible misuse. If substantiated this may result in withdrawal of access and possible further action. Access to some websites is automatically blocked. Councillors who need to visit these websites to do their council work should seek the advice of the council's ICT manager.

21.9 Returning equipment

Where a councillor or co-opted or independent member is not re-elected or has to or chooses to stand down, ICT equipment loaned to that person must be returned within 10 days of the event and the city council ICT manager's signature (or the signature of another council officer nominated by her or him) must be obtained to confirm return. If equipment is not returned within 10 days a charge amounting to the full cost to the council of replacement equipment may be made.

21.10 Complaints about this code being broken

Complaints about this code being broken should be directed to the Monitoring Officer. Serious complaints may be investigated by the Standards Committee.

21.11 Reviewing this code

The Assistant Director for ICT and the Standards Committee have overall responsibility for this code and how it is used. The Standards Committee will review the code and how it is working on an annual basis.

RULES

22 Employment rules

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22.1 Appointing the Chief Executive

The Chief Executive is appointed by council on the recommendation of the Appointments Panel. At least one member of the cabinet must be a member of the Appointments Panel.

Before the Chief Executive is appointed, the Assistant Director for Human Resources and Organisational Development must tell every member of the cabinet who the Appointments Panel wants to appoint and anything else that is relevant to the appointment.

The appointment can go ahead if the cabinet agrees or if it makes no objection by a deadline set by the Assistant Director for Human Resources and Organisational Development or if council does not consider any objection made by the cabinet relevant and justified.

22.2 Appointing the Directors, Assistant Directors and Heads of Service

Chief officers (Directors, Assistant Directors and Heads of Service) are appointed by the Appointments Panel which must include at least one member of the cabinet.

Before a Director or an Assistant Director is appointed, the Assistant Director for Human Resources and Organisational Development must tell every member of the cabinet who the Appointments Panel wants to appoint and anything else that is relevant to the appointment.

The appointment can go ahead if the cabinet agrees or if it makes no objection by a deadline set by the Assistant Director for Human Resources and Organisational Development or if the Appointments Panel does not consider any objection made by the cabinet relevant and justified.

22.3 Dismissing the Chief Executive, Directors and staff appointed on the JNC terms and conditions for Chief Officers

The Chief Executive, and any other staff employed under the JNC terms and conditions for Chief Officers are disciplined by the Chief Officers' Investigating Panel (subject to the right of appeal at the Employment Appeals Panel) which must include at least one member of the cabinet.

Before a dismissal, the Assistant Director for Human Resources and Organisational Development must tell every member of the cabinet who the Chief Officers' Investigating Panel wants to dismiss and anything else relevant to the dismissal.

The dismissal can go ahead if the cabinet agrees or if it makes no objection by a deadline set by the Assistant Director for Human Resources and Organisational Development or if the Chief Officers' Investigating Panel does not consider any objection relevant or justified.

22.4 Councillors not to be involved in appointing or dismissing other officers

Councillors will not be involved in appointing or dismissing anyone except the Chief Executive and chief officers. Other officers are appointed and dismissed by their Assistant Director. All officers must be appointed on merit.

22.5 Disciplining the Head of Paid Service, Chief Finance Officer and Monitoring Officer

The Head of Paid Service, Chief Finance Officer and Monitoring Officer can only be disciplined if an independent investigator recommends it. They can be suspended on full pay for up to two months while an independent investigator carries out an investigation.

22.6 Recruitment and selection procedure

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

22.7 Advertising the positions of Chief Executive, Directors and Assistant Directors

When the council wants to appoint a Chief Executive or chief officer, it will produce a role profile and send it to anyone who asks. The post will be advertised in a way that will bring it to the attention of suitable applicants.

22.8 Relationships with councillors and officers

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

If a candidate declares a relationship with a councillor or officer or their partner, their appointment must be approved by the appropriate Head of Service (if they have declared a relationship with the Head of Service or their partner, it must be approved by the appropriate Director).

22.9 Lobbying

Councillors and officers must not lobby for or against candidates.

The council will disqualify candidates who lobby councillors or officers or get other people to lobby them. Candidates will be warned about this in the recruitment literature.

23 Legal rules

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23.3	Common seal of the council	120

Related sections

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23.1 Legal action

The Monitoring Officer and Head of Legal Services can take any legal action necessary to carry out the council's decisions or protect its interests e.g. starting defending, withdrawing, or setting any claims or legal proceedings.

All officers in the senior management structure (see section 4.4 and section 9) may start, defend or withdraw any claims or legal proceedings or authorise officers to appear on behalf of the council in court and take default action under relevant legislation if:

- the action taken is about a function that they or an officer who reports to them has budgetary or management responsibility for and
- the constitution or the law does not require the action to be taken by someone else and
- they have had regard to any advice from the Head of Legal Services

23.2 Signing of documents

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

All officers in the senior management structure (see section 4.4 and [section 9](#)) may sign documents on behalf of the council or authorise officers that they manage to sign documents on behalf of the council if:

- the document is about a function that they or an officer who reports to them has budgetary or management responsibility for and
- the constitution or the law does not require the document to be signed out by someone else and
- they have had regard to any advice from the Chief Finance Officer and Monitoring Officer

23.3 Common seal of the council

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

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

24 Finance rules

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24.1 Scope

The council acknowledges the responsibility it has for the administration of public funds, and wishes to emphasise to both the public and its employees the importance it places upon probity, financial control and honest administration.

These finance rules provide the framework for managing the council's financial affairs. They apply to every member, committee, school governing body, department, officer, partner, employee of the council, and anyone acting on behalf of the council, unless otherwise minuted by the council. Breaches will be reported to the audit committee, if the Chief Finance Officer and the chair of the audit committee deem that it is appropriate.

Failure to comply with the requirements of these finance rules and any associated guidance could be considered a potential act of gross misconduct.

Further advice and guidance is given in the documents listed at [24.33](#). These documents describe "processes and procedures" that show users "how to" deliver the requirements of the finance rules at a working level.

All of these documents' require specific approval of Audit Committee, and once adopted carry the same status as the Finance Rules themselves.

24.2 Responsibilities under the Finance Rules

24.2.1 Responsibilities of the Chief Finance Officer

The Chief Finance Officer carries out the statutory duties in relation to the financial administration and stewardship of the Council. The statutory duties arise from:

- Section 151 of the Local Government Act 1972;
- Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Accounts and Audit Regulations 2003; and
- The Local Government Act 2000;

and are supplemented and explained by case law.

The Chief Finance Officer has a legal duty to make sure the Council keeps to the highest financial standards. Other officers with responsibilities under the finance rules are using powers delegated by the Chief Finance Officer.

The Chief Finance Officer will review and update the finance rules each year to make sure they comply with relevant law and guidance. The Chief Finance Officer may also issue guidance on how to ensure high financial standards.

24.2.2 Responsibilities of Directors

Directors must oversee and monitor the financial management of their service areas.

24.2.3 Responsibilities of Assistant Directors

Assistant Directors must:

- deliver services in compliance with these finance rules and their service budget allocations;
- make sure staff within their departments comply with these finance rules and have adequate written guidance on financial procedures and system working practices;
- monitor the overall financial state of their service area;
- make sure that they identify and agree with the Chief Finance Officer the financial implications of all proposals for new spending and partnering arrangements, and that the cabinet is advised of those implications, before such spending is incurred or committed;
- consult with the Chief Finance Officer on any report with financial implications;
- consult with, and seek agreement of, the Chief Finance Officer where it is apparent that new written processes and procedures are required.

24.2.4 Departmental Section 151 Responsibilities

Departmental finance managers are required to bring the Chief Finance Officer's attention to any section 151 issue they are unable to resolve.

24.2.5 Governing Bodies

School governing bodies shall conduct their affairs in accordance with these finance rules, unless this would be contrary to the law, the council's fair funding for schools scheme or a later council minute. They are responsible for:

- risk and governance arrangements for the school;
- the management of their delegated budgets in accordance with the provisions contained in the fair funding scheme;
- making sure that staff are aware of these finance rules and that they have adequate written guidance on financial procedures and system working practices, and
- ensuring that staff comply with this written guidance.

24.2.6 Responsibilities of all Officers

Officers must take reasonable action to provide for the security of the assets under their control, and to make sure that the use of these resources is legal, properly authorised and provides value for money.

Officers must be familiar with these finance rules and must understand the ones that affect their work. If an officer is unclear about these rules, they must get advice before acting, by talking to their line manager or finance manager.

Officers must make sure they are using the latest version of these rules. This will always be in the constitution.

Officers must show the highest standards of financial probity. As well as following these rules, they must use their common sense and judgement.

24.3 Audit

24.3.1 Internal audit

Auditors will review the council's financial and management systems and must act if fraud or corruption is found. They will also comment on how to achieve better value.

Auditors have the right to see the records and to ask for information and explanations. Officers must co-operate with them fully.

24.3.2 External audit

The external auditors undertake a yearly audit of the Council's statement of accounts and performance indicators. They have the right to see records and to ask for information and explanations. Officers must co-operate fully.

The Chief Finance Officer has overall responsibility for liaising with the external auditors.

24.4 If the finance rules have been broken

If officers suspect that these rules are being broken or they suspect fraud, corruption or poor value for money, they must tell their line manager (unless their line manager is involved).

The council's whistle blowing policy has guidance on what to do if a line manager is involved.

If the finance rules have been broken, the Chief Finance Officer must be told in writing. The Chief Finance Officer will decide what needs to be done and whether councillors need to be told.

24.5 Combating fraud and corruption

The council is committed to making sure that the opportunity for fraud and corruption is reduced to the lowest possible risk. Where there is a possibility of fraud, corruption or other related problems the council will deal with it in a firm and controlled manner regardless of whether the perpetrators are from inside (members and employees) or outside the council.

The Anti-Fraud and Corruption Policy gives advice and guidance to councillors and officers about the council's approach to the serious issues of fraud and corruption and sets out how to deal with an allegation or suspicion of fraud or corruption.

24.6 Information and records

The Chief Finance Officer is responsible for determining the accounting procedures to be followed and accounting records to be maintained within the authority in order to comply with the Accounts and Audit Regulations 2003 (see Retention and Disposition schedule)

Assistant Directors will arrange suitable training for their staff in keeping accounting records. The content of the training must be approved by the Chief Finance Officer.

24.7 Financial Systems and Procedures

The Chief Finance Officer must ensure that the council's financial systems are sound and operate efficiently.

Assistant directors must seek the prior approval of the Chief Finance Officer to any proposed changes to the existing financial or related systems or to the establishment of any new financial or related systems which are / will be directly under their control.

Assistant Directors must also seek the prior approval of the Chief Finance Officer who, if appropriate, will seek the approval initially of the Corporate Management Team and subsequently of the Cabinet or Audit Committee as appropriate, to any proposed changes to the Council's instructions or procedural notes on financial matters which are required to meet their own specific service needs.

24.8 VAT and tax

The Chief Finance Officer is responsible for keeping tax records, advising on tax, making tax payments, receiving tax credits and submitting tax returns.

Tax issues are often very complex and the penalties for incorrectly accounting for tax are severe; all officers must therefore take particular care when dealing with issues that have tax implications.

24.9 Outside bodies

The Chief Finance Officer is responsible for promoting and maintaining high standards of conduct with regard to financial administration in partnerships and joint ventures and will make sure that partnerships involving the council follow the latest accounting policies, law and guidance.

The Chief Finance Officer must approve any financial arrangements where the council acts as the accountable body, lead authority or major funder for another organisation. Such organisations must have satisfactory rules dealing with the matters covered in these finance rules and the contract rules in section 25.

The Chief Finance Officer will make sure that funding to or from outside bodies is properly recorded in the council's accounts.

24.10 Medium-term financial planning

The Chief Finance Officer will report to the cabinet on the medium-term budget prospects. Reports should consider the amount of support the council can expect from the government. The capital delivery board is responsible for the governance of the medium-term capital programme; this includes reviewing and monitoring the progress of the capital programme. Directors and capital delivery project officers are required to present a capital programme summary report at each extended capital delivery board meeting.

24.11 Responsibility for budget decisions

Responsibilities for budget decisions are shown in the table below, subject to the permitted changes shown in [section 24.13](#):

Cabinet responsibilities	Full council responsibilities
Recommending the budget to council	Agreeing the budget
Recommending any changes to the net revenue budget to council	Approving any changes to the net revenue budget
Recommending the Treasury Management Strategy	Agreeing or changing the Treasury Management Strategy
Setting the Council Tax base	
	Setting the Council Tax
Recommending the Prudential and Treasury indicators to Council	Agreeing or changing the Prudential and Treasury Indicators
Recommending the medium term financial strategy to council	Agreeing or changing the medium-term financial strategy
Agreeing the Risk Management Strategy	
	Agreeing or changing the capital budget
Recommending the Corporate Asset Management Plan to council	Agreeing the Corporate Asset Management Plan
Recommending the Capital Programme to council	Agreeing the capital programme

Audit Committee

Scrutinising the Treasury Management Strategy before it goes to Council

24.12 Emergency spending

If there is an emergency or a disaster, the Chief Executive can agree extra spending after consulting the Leader and Chief Finance Officer.

24.13 Moving money between cost centres

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

Amount to be moved	Who can approve it?
Up to £10,000	Service Head (Team Plymouth)
Up to £25,000	Assistant Director
Up to £100,000	Director (with notification to Chief Finance Officer)
Up to £500,000	Cabinet Member
Over £500,000	Cabinet if it is within the budget, if not council makes the decision on the recommendation of the cabinet.

The rules for moving money between capital cost centres or changes to the capital programme are:

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

New Schemes	Who can approve it?
Up to £100,000	Chief Finance Officer in consultation with the Director and relevant cabinet member(s)
Between £100,000 and £500,000	Cabinet
Above £500,000	Council

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

Type of Transfer	Who can Approve it?
Within A Directorate	
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet
Between Directorates	
Up to £100,000	Chief Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet

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

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

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

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

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

Transfers in or out of employee account codes or income account codes must be agreed by the Chief Finance Officer.

Requests for transfers must be in a format agreed by the Chief Finance Officer. Requests must say how much is going to be spent, what it is going to be spent on, where the money will come from and what effect the spending will have in current and future financial years.

24.14 Budgetary control

24.14.1 Council's reserves

The Chief Finance Officer must advise the council on keeping a safe level of reserves.

24.14.2 Monitoring budgets

The Chief Finance Officer will give Directors and Assistant Directors the information they need to monitor their budgets.

24.14.3 Responsibilities of the Chief Finance Officer

The Chief Finance Officer will:

- produce regular monitoring reports for the cabinet – these will identify any areas of concern and say how things can be put right
- tell the cabinet when spending or extra spending is needed
- advise on the medium-term effects of spending decisions
- make sure each capital scheme includes a project plan, progress targets and forecasts of linked revenue spending
- manage a scheme of carry forwards within guidelines set by the cabinet.

24.14.4 Responsibilities of Assistant Directors

Assistant Directors will:

- monitor income and control spending
- monitor performance
- manage their budgets
- report any problems promptly to the Chief Finance Officer
- make sure staff keep all financial records, particularly the supporting papers for grant claims

24.15 Year-end balances

The Cabinet will agree the procedures for carrying forward under and over-spending on budget headings at the year end, in consultation with the Chief Finance Officer.

Directors are responsible for monitoring the impact of the year-end variations on the level of service outputs which had been planned for both the relevant and subsequent year(s).

24.16 Capital strategy

The Chief Finance Officer will prepare an asset management plan and capital strategy. This will:

- set out the principles the council will follow in its capital planning and management
- include a five year capital programme
- show how schemes are added into the Capital Programme

24.17 Project approval

24.17.1 Which projects need approval?

All new schemes must be fully financed and approved by the Capital Delivery Board. They require an initial project proposal and detailed business case unless they meet the criteria of fast track schemes (see Capital Programme Governance document).

24.17.2 Who approves projects?

Projects of more than £100,000 but less than £500,000 need approval of cabinet on the recommendation of the Chief Finance Officer in consultation with the Capital Delivery Board. Projects of more than £500,000 require approval of council on the recommendation of cabinet.

24.17.3 Project approval report

The project approval report to the cabinet must include:

- the aim of the project and any other ways of achieving it
- effects on staffing
- legal, contractual and prudential borrowing code implications
- if the council is acting through an agent or partnership, legal advice on whether it has the power to act this way
- if it is a key decision, any comments made during consultation and the council's response
- the estimate amount and timing of any capital and revenue spending, any ongoing effect on revenue, and whether this spending is included in the budget

24.17.4 Key decisions

If project approvals are key decisions, the access to information rules and key decision procedures apply (see [section 16](#)).

24.18 Capital projects

Spending is only allowed on capital projects that:

- have project approval
- are in the Capital Programme
- have been through the correct procedure in the contract rules ([see section 25](#))

24.19 Treasury management

24.19.1 Treasury Management Strategy

The Chief Finance Officer will produce the treasury management strategy. This will set out the treasury plans for the next year (including any prudential borrowing plans). The strategy will include a list of organisations the council will borrow from and lend to and the maximum individual amounts it will borrow or lend. The treasury management strategy must be scrutinised by Audit Committee prior to submission to Full Council for approval. A mid year and end of year report must also be produced and submitted to Audit Committee for scrutiny prior to submission to Full Council.

24.19.2 Day-to-day treasury management

The Chief Finance Officer is responsible for day-to-day treasury management in liaison with the Treasury Management Board. Treasury management is carried out in accordance with detailed Treasury Management Practices, which are approved by Audit Committee. The Chief Finance Officer will make sure:

- all borrowing and investment complies with the council's treasury management strategy and the Chartered Institute of Public Finance and Accountancy's Code of Practice on Treasury Management and the Prudential Code
- all borrowing and lending is done in the name of the council
- all securities are held by the appropriate Director or Assistant Director

24.19.3 Bank accounts

Only the Chief Finance Officer can open a bank or building society account on behalf of the council. The Chief Finance Officer is responsible for managing all accounts.

24.20 Asset Management

24.20.1 Responsibilities of Chief Finance Officer

The Chief Finance Officer will:

- recommend the asset management policy and capital strategy to council

- produce guideline for acquiring, managing and disposing of assets
- make sure the council's records include any money from sales
- make sure the council's records do not include the value of any assets that have been disposed of

24.20.2 Register of fixed assets

The Chief Finance Officer will keep a register of all fixed assets worth more than a sum that is decided from time to time by the Chief Finance Officer. Assistant Directors must report any acquisitions or disposals so that this can be kept up-to-date. Every year the Chief Finance Officer will check that the assets are still shown at the right value, that they have a suitable asset life and that they have been properly depreciated.

24.20.3 Disposing of assets (except land)

All staff should follow the Chief Finance Officer's instructions on the disposal of surplus or obsolete vehicles, plant, furniture, materials, stocks, stores or other equipment. Arrangements for the disposal of surplus goods, materials, vehicles and equipment should be carried out in the manner most beneficial to the council, making every effort to dispose of surplus or obsolete assets by competitive tender or by public auction. Where the estimated value of the proceeds is at a level determined by the Chief Finance Officer, officers must keep a record of all disposals on inventories or within stock systems, including details of the quantity, items, proceeds and the purchaser. Sale proceeds must be banked and accounted for promptly, and the Chief Finance Officer must be notified of the disposal of any capital assets.

The disposal of computers and other recordable Information and Communication Technology media should be arranged via the Information and Communication Technology department, who will ensure that all data is properly erased prior to disposal.

24.20.4 Arranging leases

The Council has employed the services of a leasing advisor to obtain the most favourable terms for its leasing agreements and the advisor should be consulted on all lease proposals. Before entering into any finance or operating lease, or lease rental agreement, or PFI arrangements, Chief Officers must get agreement from the Chief Finance Officer to ensure that the arrangement is financially advantageous to the Council and should take appropriate legal advice from the Head of Legal Services. Staff must keep an inventory of all leased assets and make sure assets are returned at the end of the lease period in accordance with the terms of the arrangement. This inventory must be made available to the Chief Finance Officer for the preparation of the statutory accounts.

24.20.5 Computer systems

The Assistant Director for Information and Communication Technology has overall responsibility for the council's computer systems. The Assistant Director for Information and Communication Technology is also responsible for making staff aware of their responsibilities relating to the computer systems.

20.20.6 Stocks and Inventories

The Council holds stocks of various materials for use in service delivery. Every effort should be taken to ensure excessive stocks are not held.

Obsolete stock may be written off subject to the write off limits for debt (see 24.27.3)

20.20.7 Security of Assets

Officers must ensure that all assets are safeguarded against loss, damage, misuse or any other unnecessary diminution in value so that they continue to be available to provide continuity of efficient service delivery. Similarly, information must also be safeguarded so that service delivery can continue.

20.21 Intellectual property

Intellectual property is a generic term that includes inventions and written works. Certain creations, particularly computer software, may have a commercial value and be marketable outside the Council.

As a general rule, items of intellectual property which are created by an employee during the normal course of their employment will be the property of the council, not the employee.

Various Acts of Parliament detail the treatment of different types of intellectual property and provide for the patenting of the development work to safeguard it against exploitation.

24.22 Risk management

24.22.1 Responsibilities of the Cabinet

The cabinet will identify key risks and promote risk management in the council. The Chief Executive will report to the cabinet on how risk is being managed.

24.22.2 Responsibilities of the Chief Finance Officer

The Chief Finance Officer will prepare and update the council's risk register and related policies (including anti-fraud and anti-corruption policies). The risk register must be agreed by the cabinet.

24.22.3 Responsibilities of Assistant Directors

Assistant Directors must:

- identify and manage risks in their service areas
- have contingency plans for major risks
- tell the Chief Finance Officer of any risks that could result in losses or claims against the council

24.23 Wages, salaries and pensions

The Chief Finance Officer is responsible for paying all wages and expenses, including councillors' allowances.

Staff costs are the largest item of expenditure for most of the Council's services. It is therefore important that payments to current and former employees are made, accurately, on the due date and in accordance with the individual's conditions of service.

Payments to councillors must be in accordance with the scheme approved by the Council and recorded accurately and promptly; and comply with statutory and other corporate requirements.

Assistant Directors must tell the Head of Human Resources and Organisational Development of any changes to staff pay and any deductions that need to be made.

24.24 Ordering and paying for goods and service

24.24.1 Role of Chief Finance Officer

The Chief Finance Officer will make sure there are proper procedures and controls for ordering and paying for goods and services.

New systems for orders or payments must be agreed by the Chief Finance Officer.

24.24.2 Responsibilities of Assistant Directors

Assistant Directors are responsible for their service areas' orders and payments. They must make sure that officers who order and pay for goods have been properly trained and that responsibilities for ordering and paying for goods are kept separate.

24.24.3 Orders

Orders must normally be in writing. Orders can be given orally in emergencies only and must be confirmed in writing as soon as possible.

Official orders for the purchase of goods or services must be in a standard form approved by the Chief Finance Officer and must be issued for all purchases with the exception of utilities (gas, electricity, water etc), taxis, refunds, grants, periodic payments (such as rent or rates), petty cash purchases, purchasing cards or other exceptions specified by the Chief Finance Officer.

In addition commitments from credit card, purchasing card or internet purchases must only occur through the Council's approved scheme and in accordance with the instructions on that scheme from the Director for Corporate Support.

Official orders must not be raised for any personal or private purchases.

The authorisation profiles agreed by the Chief Finance Officer and fixed within the Purchasing system are as follows:

<u>Purchase Order Authorisation Limits</u>	
Directors	Above £100,000
Assistant Directors	£50,000 to £100,000
Heads of Service (Team Plymouth)	£5,000 to £50,000
4 th Tier Officers and below:*	

Grades H to I	£1000 to £5000
Grades F to G	£0 - £1000

Officers below F Grades will not be able to authorise orders.

*Any exceptions to these parameters will be subject to approval by the Director of Corporate Support (or his nominated deputy).

The use of e-business, e-commerce, credit / debit or purchasing cards, or other electronic means of purchasing goods or services, must be authorised by the Chief Finance Officer and will be subject to the following limits:

<u>Purchase Card Limits</u>	Maximum transaction limit	Maximum Authorised Card limit
	£	£
Director	1,000	5,000
Assistant Director	500	2,500
Service Head (Team Plymouth)	500	2,500
Head Teacher	500	5,000
Stores Purchase Officer	5,000	50,000
Departmental Nominated Purchase Officer	5,000	10,000
Emergency Planning Officer	10,000	50,000
Senior Officer from Finance Department (for Emergency response purposes)	10,000	50,000

Approval in excess of these limits may be given by Chief Finance Officer in exceptional cases, for example Lodge Cards.

24.24.4 Unusual terms and conditions

Officers should check with the Head of Legal Services before accepting any unusual terms or conditions.

24.25 Petty cash

The Assistant Directors will oversee the system of petty cash floats. Floats will only be topped up when a proper claim is made with receipts for all items. The Chief Finance Officer will give detailed guidance on petty cash.

24.26 Income

24.26.1 Responsibilities of Chief Finance Officer

The Chief Finance Officer will ensure that systems exist for all income to be identified, collected, receipted and promptly banked.

24.26.2 Responsibilities of Assistant Directors

Assistant Directors must have a proper scheme of delegation for dealing with income and spending in their service area and must make sure it is working. There must be extra controls in service areas that collect cash or cheques. Assistant Directors must ensure that:

- officers are suitably trained
- official receipts are always given
- proper records are kept
- money is banked as soon as possible
- VAT is properly accounted for

Assistant Directors must have effective systems for monitoring income due to their service area. The Chief Finance Officer must be told if income is much less than expected and it cannot be explained.

Assistant Directors must not run their own debtor systems without the agreement of the Chief Finance Officer.

24.26.3 Invoices

The format of invoices must be approved by the Chief Finance Officer. Invoices must make it clear that payment should be made to Plymouth City Council.

24.27 Debt

24.27.1 Collecting debt

The Cabinet will set procedures for managing debt. Officers must:

- make sure invoices are accurate
- send invoices promptly
- act quickly to collect debts
- sort out disputes as quickly as possible

24.27.2 Writing off debt

The rules for writing off debts are as shown in the table below:

Value of Debt	Who can approve it?
Up to £20	Nominated recovery officers
Up to £100	Nominated recovery officers (Grade E and above)
Up to £500	Nominated Officers (Grade H and above)
Up to £5,000	Heads of Service and other nominated officers of Director of Corporate Support
Up to £5,000	School principal and/or governors (schools debt)

Up to £50,000	Chief Finance Officer
Between £50,000 and £100,000	Cabinet Member
All debt over £100,000 unless covered by below exception	Cabinet
Unlimited in the case of bankruptcy or liquidation/CVA/death/no assets/no trace	Chief Finance Officer or other senior finance officer nominated by him.

24.27.3 Cancelling debt

Debts can be cancelled if they have been raised by mistake. All cancellations over £5,000 must be agreed by the Chief Finance Officer or his nominated Officer.

24.28 Payments for Loss, Damage or Personal Injury

Officers may make ex gratia payments for loss or damage or personal injury up to a maximum of £1,000 to any one payee in any one year following consultation with the council's corporate risk manager and the head of legal services.

24.29 Money laundering

The council has procedures for checking and recording the intentions of the people and organisations it does business with and for reporting suspected money laundering. Officers must not:

- conceal, disguise, convert, transfer or remove anything gained through crime
- tip off a criminal or suspect
- assist money laundering
- pay money to terrorists or suspected terrorists or their organisations.

The maximum amount of cash that may be taken in any one transaction is £9,000.

24.30 External Funding

The Chief Finance Officer will providing specific guidance to Directors and Assistant Directors to enable them to account properly for funding receivable from external sources. This will be contained within the Index.

24.31 Work for Third Parties

The Chief Finance Officer will provide guidance and advice to Directors and Assistant Directors in respect of the financial aspects of third party contracts, contractual arrangements for the provision of services to third parties or external bodies.

24.32 Loans and Guarantee arrangements

Officers must not enter into an arrangement to provide Loan or Guarantee facilities to any third parties without the prior approval of the Chief Finance Officer and Head of Legal Services.

24.33 Index of supplementary documents

These documents are intended to be a detailed working practice but cannot override any requirements contained within the approved Financial Regulations or its Index of linked Policies

24.33.1 The Finance Rules Approved Governance Documents

Medium Term Financial Strategy
Budget Book
Statement of Accounts
Annual Governance Statement
Risk Management Strategy
Introduction to Local Government Finance
Asset Management Plan and Capital Strategy
VAT handbook
Plymouth Trading Fair Funding Guide
Fair Funding for Schools Scheme
Treasury Management Strategy
Annual audit plan
Anti Fraud and Corruption Policy
Retention and Disposition Schedule
Ordering and paying for the purchase of work, supplies and services
Arrangements for the collection and processing of income and other amount due
Budget Carry Forward Policy
Capital Programme Governance Document

24.33.2

Draft Documents yet to be Approval by Audit Committee

Money Laundering Policy
External Funding/Grants Protocol
Income and Credit Management Policy
Key Controls and Responsibilities

24.33.3 Working Practices available on the Financial Management Web Pages

Budget Managers' Role Definition
Procurement and Purchasing Card Arrangements
Creditors User Guide
Working Practices for Purchasing and Creditors
Procedures for Purchasing Goods and Services
Purchasing Manual
Bad Debt Write Off Policy
Debtors Manual
Financial Management and Budgetary Control Training Guide
Close Down Guidance and Timetable
Virement Working Practice
Journal Transfer Working Practice
General Ledger Introductory Guide
Treasury Management Practices

25 Contract rules

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25.1 When do these rules apply?

- a) These rules apply when the council expects to spend money or provide other value for goods, works or services. They apply to both capital and revenue and cover:
- contracts for goods, works or services
 - acquisitions and disposals of land or buildings
- b) The officers named in section 25.11 (3) have authority to waive the requirements of any of these rules (but they must always comply with national and EU law.)

25.2 Other relevant guidance, rules and law

- a) All contracts entered into by the council must be to carry out the council's functions or be in connection with the council's functions. They must comply with:
- all relevant national law and EU procurement law
 - all relevant EU procurement rules and guidance
 - the finance rules (see section 24)
 - the policy framework and budget procedures (see section 17)
 - section 4 of this constitution (Who carries out executive responsibilities?) and
 - section 5 (Who carries out council responsibilities?)
- b) Officers must consider the requirements of the constitution and legal issues when entering contracts and must ensure the risks are fully assessed

25.3 Responsibility to follow these rules and relevant law

- a) These rules apply to officers and anyone else managing or supervising contracts on behalf of the council. It is the responsibility of the relevant Assistant Director to make sure their staff follow these rules.
- b) The council may take disciplinary and/or legal action against anyone who breaks these rules or the relevant national or EU law.

25.4 Interests of councillors and officers in contracts

(a) Avoiding conflicts of interest

Councillors, officers and anyone acting for the council in connection with the procurement, award and management of council contracts must act with the highest standards of probity and avoid conflicts of interest.

(b) Councillors' interests

Councillors must follow the councils' code of conduct (see section 19). In addition it is a criminal offence for a councillor not to declare a financial interest in a contract.

(c) **Officer interests, reports and advice**

Officers must declare interests in contracts. It is a criminal offence for an officer not to declare a financial interest in a contract. (This does not apply to an officer's own contract of employment or their tenancy of a council owned property).

Directors are responsible for recording officers' financial interests in a register that is kept in the department.

Officers should not write reports on something they have declared an interest in; or advise council or the cabinet or a committee on something they have declared an interest in,

25.5 Gifts and hospitality

(a) As a general rule councillors and officers must not accept:

- any gift (other than an inexpensive gift such as a calendar or diary for use in the office); or
- any hospitality

from suppliers or potential suppliers, or from any firm or organisation with whom the council has had, is having or may have any dealings of any kind - without the written authorisation of a Director.

“Hospitality” includes drinks, meals, entertainment, overnight accommodation, travel and holidays, but does not include a lift in a private or company car or a taxi or refreshments in the course of office duty (e.g. a working lunch).

(b) All staff who accept gifts or hospitality must complete a receipt of gift or hospitality form. Once completed the form should be sent to the Monitoring Officer.

(c) Directors must immediately enter in a register particulars of

- any gift (including how it has been returned to the giver or otherwise disposed of e.g. donated to the Lord Mayor for charitable purposes); and
- any hospitality.

25.6 Procurement plan

For each financial year, the council will agree and publish a procurement plan setting out contracts over £75,000 to be procured for the forthcoming three financial years.

25.7 Before a contract is procured

(a) Before undertaking a contract procurement the authorised officer must:

- identify the need for the services, goods or works in question and fully assess all options for meeting those needs (including recycling and re-use where appropriate)
- establish a business case for the procurement

- establish the council has the legal power to enter into the contract
 - contact strategic procurement to discuss the available options
 - make sure the project has been accepted onto the capital programme, if it is a capital project (see section 24.14) See capital programme governance document
 - consider whether there is an appropriate framework agreement or Office of Corporate Governance contract that could be used if the total contract value has been calculated (see section 25.27)
 - consider the council's procurement business plan as appropriate
 - choose a course of action which represents best value for money for the council – see section 25.36
- (b) The Chief Finance Officer must also consider the overall corporate arrangements and legal issues when arranging contracts with external bodies and ensure that the risks have been fully appraised before agreements are entered into with external bodies.

25.8 Estimating the total contract value

- (a) The total contract value is the total amount (minus VAT) that is expected to be paid to the supplier as a result of the contract award during the whole of the contract. If the value is £50,000 per annum for two years, then the total value of the contract is estimated at £100,000. It includes
- the value of anything the council is getting for free as part of the contract
 - any amount that could be paid by extending the contract (if it is possible to extend it).
- (b) If the length of a contract is uncertain, its total value will be its estimated monthly value times 48.
- (c) A single contract must not be split into smaller contracts to get around these contract rules or the law, and supplies services or works must not be split to get around these contract rules or the law.
- (d) The contract must be treated as a high value procurement where there is a transfer of staff.

25.9 Format of contracts

- (a) Contracts must be in writing.
- (b) Contracts must be executed as a deed if they are for property building and construction, nil consideration, probate, or if the Head of Legal Services advises they must be executed as a deed.
- (c) All other contracts must be signed by two officers who are authorised to do so.
- (d) Contracts over £75,000 must be in a form approved by the Head of Legal Services.
- (e) Contracts over the EU threshold must comply with relevant EU procurement law.
- (f) Electronic signatures may be used in accordance with the Electronic Signature Regulations 2002 if the strategic procurement manager is satisfied that the arrangements are secure.

25.10 Contract terms and conditions

- (a) Contracts must be entered into on the council's terms and conditions, which will be referenced on each purchase order and included with each Invitation to tender ("ITT"). Exceptions to this rule must be approved by the Head of Legal Services.
- (b) Where contracts are subject to the Regulations, the rules relating to technical specifications will be followed and any reference to a technical standard, make or type will be prefaced with the words "or equivalent". This requirement applies to both Part A and Part B Services (as defined in the Regulations).
- (c) The standard terms and conditions of the council are available on the website.

25.11 When is there no need to seek quotes or tenders?

25.11.1 Emergencies

If there is an unforeseen emergency or a disaster involving immediate risk to persons, property or serious disruption to council services or significant financial loss any Director can approve waiving these rules after consulting the Head of Legal Services where practicable. They must prepare a report for the next cabinet to support the action taken.

25.11.2 Exempt contracts

The following contracts are exempt from the requirements to obtain tenders and the requirement to execute a deed provided that quotations are sought.

- contracts for less than £75,000
- contracts relating solely to disposal or acquisition of an interest in land (see section 26), provided that the contract is not deemed to be a works contract in which case the contract shall be procured in accordance with these rules as a works contract
- individual personal care services
- transactions conducted by the Chief Finance Officer in respect of dealing in the money market or obtaining finance for the council
- contracts offered by the Head of Legal Services for the appointment of counsel
- sole supplier because of exclusive rights (e.g. alterations to statutory undertakers apparatus)
- council contracts of employment are exempt from these regulations

25.11.3 Where there is a written waiver

In cases where the EU regulations do not apply, the relevant Director and the heads of strategic procurement and legal services can waive the requirements of any of the contract rules. All waivers and the reasons for them must be recorded using the designated form which can be found on the

document library. The waiver form must be signed by the Director and agreed by the heads of strategic procurement, legal services and the head of the relevant service area.

25.12 Purchasing Card Procurement

- (a) Purchasing cards are badged charge cards, issued to an individual for the express function of purchasing low value, low risk goods and services for the authority which are not available on corporate contracts via the CIVICA purchasing system.
- (b) Only the person whose name appears on the card is authorised to use the card up to the maximum transaction value as detailed in the table in [section 25.13](#)
- (c) They work in a similar way to personal credit cards, however they do not offer extended credit and the balance on the cards is automatically paid off monthly. Cash cannot be withdrawn except by nominated Emergency Response Officers.
- (d) Purchasing cards shall only be used in accordance with the Purchasing Card Cardholder User Guide which is available on the document library.

25.13 Table of purchase card limits

	Maximum transaction limit	Maximum authorized card limit
Director	£1,000	£5,000
Head of Service	£500	£2,500
3rd Tier Manager	£500	£2,500
Head Teacher	£500	£5,000
Stores Purchase Officer	£5,000	£50,000
Departmental Nominated Purchase Officer	£5,000	£10,000
Emergency Planning Officer	£10,000	£50,000
Senior Officer from Finance Department (for Emergency response purposes)	£10,000	£50,000

25.14 Lodge Cards

- (a) Lodge cards are a type of credit card which are badged and “lodged” with the supplier so the card number does not need to be quoted on each order. They provide a cost effective and simple means of managing and allocating spend, ensuring the availability of electronic management information without the need for placing purchase orders.

- (b) Lodge cards should be used with suppliers whose service is provided centrally to a service area such as schools catering, travel etc. Agreement for the use of a lodge card will only be given by the Strategic Procurement Manager.

25.15 Low value procurement - thresholds for quotes and tenders

- (a) Competitive quotations are not required for contracts or orders with an estimated value at or below £5,000. Unless there is a corporate contract already in place a written quotation must be obtained from the supplier before a formal purchase order can be issued. The purchase order must specify the services, supplies or works to be provided and set out the price and the terms of purchase.
- (b) To avoid unnecessary risk, only council approved purchasing suppliers should be used for low value procurement.
- (c) Approved suppliers are those who have registered and have been green flagged on the council's Sell 2 Plymouth vendor management portal which can be viewed at www.sell2plymouth.co.uk
- (d) Quotations can be obtained either prior to or after supplier approval however purchase orders can only be placed after supplier approval via the Sell to Plymouth portal.

25.16 Intermediate Value Procurement

- (a) For procurements valued over £5,000 but below £75,000 and for works procurements valued below £200,000 at least three written quotations must be invited, one of which shall be from a local supplier, before a formal purchase order is issued specifying the supplies or services to be provided and setting out the price and terms of purchase. Faxed or e-mailed quotations are acceptable for these purposes.
- (b) To avoid unnecessary risk, only council approved purchasing suppliers should be used for intermediate value procurement.
- (c) Approved suppliers are those who have registered and have been green flagged on the Councils Sell 2 Plymouth vendor management portal. www.sell2plymouth.co.uk
- (d) Quotations can be obtained either prior to or after supplier approval however purchase orders can only be placed after supplier approval via the Sell to Plymouth portal.

25.17 High Value/High Risk Procurements

- (a) For all procurements of goods and services valued above £75,000 or above £200,000 for works procurements or those where staff will transfer, a tender and contract award procedure must be conducted in accordance with these contract rules. The outcome of the contract award procedure must be recorded in the contracts register, which is maintained by the strategic procurement unit.
- (b) For all high value / high risk procurements, approval must be obtained for both the evaluation criteria and award of contract in accordance with the table in [section 25.18](#).
- (c) In the event of a re-tender due to legal obligations under procurement law, authorisation to re-tender is not required. In all other circumstances (i.e. new procurements) Business case approval must be sought in accordance with the table of authorisation detailed in [section 25.18](#).

- (d) Any contract that is funded by capital funds can only be approved if it is on the capital programme (see section 24)

25.18 Who can authorise contracts?

Contract Value	Who can authorise the tender/business case?	Who can approve the Evaluation Criteria?	To be placed on the Forward Plan?	Approval documents required	Who can award the contract?
Over £75,000 and less than £500,000	Head of Service	Head of Service	N/A (unless it constitutes a key decision)	Contract Award Report	Head of Service
Over £500,000 and less than £2,000,000	Portfolio Holder	Portfolio Holder	N/A (unless it constitutes a key decision)	Contract Award Report and Delegated Decision Report	Portfolio Holder
Over £2,000,000 or a key decision	Cabinet	Portfolio Holder	Yes	Contract Award Report and Cabinet Report	Cabinet

25.19 High value/high risk procurement process

- (a) Prior to the commencement of procurement the Authorised Officer will develop the procurement approach.
- (b) One of five procurement procedures must be used as appropriate for the particular procurement i.e. open, restricted, competitive dialogue, negotiated or predetermined framework agreement (information on these procedures are detailed below – see sections 25.21 to 25.25).
- (c) For procurements valued above £75,000 but falling below the EU threshold tender timescales and procedures can be adjusted accordingly but only after consultation with strategic procurement.
- (d) For procurements that constitute a key decision or are above £500,000, decisions to approve the business case must be taken by either the cabinet member or cabinet as detailed in table 25.18 and the head of service needs to arrange for notice of the earliest date on which the decision could be taken to be placed on the forward plan. The head of service will also need to provide appropriate reports to the portfolio holder or cabinet using the standard forms that are available on the document library.

25.20 Application of the Regulations

- (a) Where an estimated value of a contract exceeds the current EU threshold then the contract must be procured in accordance with the Regulations, unless there is a suitable framework available. Under the Regulations, the contract may be tendered under the restricted, open, competitive dialogue or, in exceptional circumstances exhaustively set out in the Regulations, the negotiated procedure.
- (b) The current EU thresholds effective from 1st January 2010 are:

	Supplies	Services	Works
Value at which a Contract/Order must be put through the EU process	£156,442	£156,442	£3,926,60

- (c) For procurements subject to EU thresholds a contract notice in the prescribed form will be published in the Official Journal of the European Union (OJEU) in order to invite tenders for or expressions of interest.
- (d) Procurements for Part B services (as defined in the regulations) do not need to be advertised in the OJEU unless there is a possibility of cross border interest. The successful tenderer's details must be published in the OJEU.
- (e) The rules relating to technical specifications and the publication of contract award notices will be observed for all contracts as must the EU Treaty and the general principles of EU law including non-discrimination, equal treatment, proportionality, transparency and mutual recognition.
- (f) The Regulations set out the minimum timescales for receipt of expressions of interest and tenders (bids for the negotiated procedure). Where the council has published a Prior Information Notice announcing its forthcoming contracts for the year ahead, then the council may rely on reduced timescales as set out in the regulations if appropriate.
- (g) When using any procedure under OJEU, the contract award is subject to a mandatory 10-day standstill period. The 10 day standstill period starts on the day that all the suppliers are formally notified via either fax letters or e-mail of the decision to award the contract or conclude the framework agreement. This notice must also give details of the criteria for the award the reasons for the decision, including the characteristics and relative advantages of the successful tender, their respective score against the evaluation criteria (as set down in the ITT) and the score and name of the winning tenderer, and the date before which the council will not enter the contract or conclude the framework agreement. Once the 10 days have expired then on the next working day the council is able to place the contract with the successful tenderer (days to be added for bank holidays), if no valid challenge is received.
- (h) The regulations allow contracting authorities to reserve contracts for supported factories and businesses, Public Sector Procurement Directive Article 19 (Regulation 7 of the Regulations) applies. This directive is committed to ensuring equality of employment opportunity for everyone.

25.21 Restricted Procedure

- (a) The Authorised Officer must publish an advertisement:
- in OJEU (if required by the Regulations)
 - on the council's procurement portal (www.devontenders.gov.uk)
- (b) Only those suppliers selected by the council may be invited to tender. Suppliers will be selected on the basis of published pre-qualification criteria.

- (c) If the Regulations apply, a minimum of five suppliers must be invited to tender and in all other cases a minimum of three must be invited to tender.
- (d) The Restricted Procedure is the Council's chosen standard process for procurements above the EU threshold. Any other process can only be used if the relevant officers have agreed to waive this rule and have signed the necessary forms – see section 25.12.
- (e) If the regulations do not apply, tender timescales can be amended accordingly.

25.22 Open Procedure

- (a) The Authorised Officer must publish an advertisement in:
 - OJEU (if required by the Regulations)
 - on the council's procurement portal (www.devontenders.gov.uk)
- (b) The advertisement must contain details of the proposed contract and specify a time limit within which interested parties may express an interest in tendering for the contract.
- (c) After the expiry of the deadline date for expressions of interest, the Council will send any party expressing an interest an ITT. The ITT must specify the return date for tenders.

25.23 Negotiated Procedure

- (a) This procedure may only be used after consultation with the strategic procurement manager and having obtained the agreement of the Head of Legal Services. It may only be used in very limited circumstances and is rarely used by local authorities.
- (b) The Authorised Officer must publish an advertisement in OJEU and the council's procurement portal. Only those suppliers selected by the council are invited to tender. Suppliers shall be selected on the basis of published pre-qualification criteria. Any notice will state that a negotiated procedure is being used.
- (c) A minimum of three suppliers should be invited to negotiate following publication of a notice.
- (d) At least two officers, at least one of whom must be a strategic procurement representative or their delegate, must be present at all times during the negotiations.
- (e) The authorised officer must keep proper records of all negotiations and these will be signed as such by all participants.
- (f) At all times during the negotiations, the council will consider and implement the principles of non-discrimination, equal treatment and transparency.

25.24 Competitive Dialogue Procedure

- (a) The competitive dialogue procedure is for use where the strategic procurement manager considers that the open or restricted procedure will not allow the award of the contract due to the fact that it is a particularly complex procurement. The use of the competitive dialogue procedure must be considered before the use of the negotiated procedure. It can only be used with the most

economically advantageous award criteria and this must be stated in the contract notice or accompanying descriptive document.

- (b) The council envisages the competitive dialogue procedure being used for many private public partnerships where contracts are complex and the technical means and/or the legal and financial structure cannot be determined without dialogue with suppliers.
- (c) In the case of a particularly complex contract, you may be aware of your needs but not know in advance what the best technical, and/or legal and/or financial solution is. A competitive dialogue procedure between buyers and suppliers is therefore necessary to identify the solution or solutions that best meet their needs. Such a dialogue is not allowed under the current open and restricted procedures. However, the process is time-consuming and the most expensive method of procurement.
- (d) The Authorised Officer must publish an advertisement in:
 - OJEU (if required by the Regulations)
 - on the council's procurement portal (www.devontenders.gov.uk).
- (e) The Regulations set out further rules which apply to Competitive Dialogue Procurements. Competitive Dialogue procurements should be referred to the council's strategic procurement and legal services teams.

25.25 Predetermined Framework Agreements

- (a) Framework agreements set up by third party organisations may be used after consultation with the strategic procurement manager and head of legal services.
- (b) Framework agreements established by the council will be procured in accordance with the regulations.
- (c) When awarding call-offs (individual contracts), under framework agreements, the authority does not have to go through the full procedural steps in the Regulations again so long as the rules were followed appropriately in the setting up of the framework agreements themselves.
- (b) Call-offs under the framework agreement should be awarded within the terms laid down in the agreement.
- (c) Arrangements to enter into a contract through a call-off agreement will still require appropriate authorisations as shown in the table of authorisation in [section 25.18](#).

25.26 Pre-qualification

- (a) The council will only enter into a contract with a supplier if it is satisfied as to the supplier's:
 - eligibility in accordance with regulation 23 of the regulations and
 - economic and financial standing and
 - technical or professional ability.

- (b) Technical ability includes the supplier's quality management systems including human resources, health and safety and environmental management systems where relevant to the performance of the contract.
- (c) The council's standard pre-qualification questionnaire template document is available on the document library.

25.27 The Invitation to Tender

- (a) The invitation to tender ("ITT") will include details of the Council's requirements for the particular contract including:
 - (i) a description of the services, supplies or works being procured;
 - (ii) the procurement timetable including the tender return date and time, which will allow a reasonable period for the applicants to prepare their tenders;
 - (iii) a specification and instructions on whether any variants are permissible (this must be stated in any OJEU notice);
 - (iv) the council's terms and conditions of contract;
 - (v) the evaluation criteria including scoring methodology and any weightings as considered appropriate;
 - (vi) pricing mechanism and instructions for completion;
 - (vi) whether the Council is of the view that the Transfer of Undertakings Protection of Employment (TUPE) regulations may apply;
 - (viii) form and content of method statements to be provided;
 - (ix) a requirement for tenderers to declare that the tender content, price, or any other particulars concerning the tender have not been unnecessarily disclosed to any other party;
 - (x) any further information which will inform or assist tenderers in preparing tenders;
 - (xi) a statement that the Council is not obliged to accept the lowest or any tender and that the tenderers are responsible for their own costs with regard to the tender;
 - (xii) the address for the return of a hard copy tender must be:

Plymouth City Council
Strategic Procurement Department
Civic Centre
Plymouth
PL1 2AA

Electronic tenders should be uploaded onto www.devontenders.gov.uk

- (b) The council's standard tender template document is available on the document library and also on the procurement website.
- (c) The requirements of section 25.27(a) may be varied as appropriate for procurements falling under section 25.23 (negotiated procedure), section 25.24 (competitive dialogue procedure) and section 25.25 (predetermined frameworks)

25.28 Submission and Opening of Tenders

- (a) Tenders must be submitted in accordance with requirements set out in the ITT. Tenders must be kept in a safe place by the strategic procurement department and remain unopened until the time and date specified for its opening. Tenders received after the specified date and time will not be considered or accepted by the council unless the strategic procurement manager is satisfied that there is sufficient evidence for the tender having been despatched in sufficient time for it to have arrived before the closing date and time.
- (b) Tenders must be opened by an officer of the strategic procurement department and one or more officers of the project team. An immediate record will be made of the tenders received including names, addresses and the date and time of opening.
- (c) Prior to the tender evaluation all officers of the tender evaluation team are required to sign a declaration of direct or indirect interest, canvassing and confidentiality form. The completed form should be returned to the strategic procurement department.

25.29 Electronic Tendering

Requests for quotations (RFQs) and ITTs may be transmitted by electronic means. Quotations and tenders may be submitted by electronic means provided that:

- (i) evidence that the transmission was successfully completed is obtained and recorded;
- (ii) electronic tenders are kept in a separate secure folder under the control of the strategic procurement department, which is not opened until the deadline has passed for receipt of tenders.

25.30 Tender Evaluation

- (a) Tenders will be evaluated in accordance with the weighted evaluation criteria which must be detailed in the ITT.
- (b) All contracts, except contracts where lowest price was predetermined to be the appropriate criteria, will be awarded on the basis of the offer which represents 'Best Value for Money' to the council.
- (c) The evaluation criteria must be predetermined, given weightings, and listed in the ITT documentation, in order of importance if applicable. The criteria must be strictly observed at all times throughout the contract award procedure by any officer involved in the tender evaluation.

25.31 Evaluation Team

For each contract subject to the regulations or for goods and services valued above £75,000, or for works procurements valued above £200,000 the authorised officer will form an evaluation team with responsibility for evaluating tenders.

25.32 Bonds, Guarantees and Insurance

- (a) For high value procurements, the evaluation team will consider as part of its prequalification assessment and evaluation process whether a performance bond and/or a parent company guarantee (if applicable) will be required from the preferred supplier.
- (b) The evaluation team must also consider the appropriate type and level of insurance requirements for each contract (e.g. employer liability, public liability, professional indemnity, etc.).

25.33 Award of Contract

- (a) A contract may only be awarded by an officer with the requisite delegated authority to award contracts. The authorised officer should make sure that the budget holder responsible for the contract has sufficient funds in place to sustain the contract prior to award. For all procurements valued at above £500,000 the decision to award a contract must be made by the cabinet member for the relevant portfolio. (See the table in [section 25.18](#) which demonstrates the decision levels within the council).
- (c) In the event that the council does not wish to award a contract after evaluating a tender response the authorised officer should advise all suppliers in writing detailing the reason for the decision and the way forward.

25.34 Debriefing

- (a) The authorised officer responsible for the procurement will provide feedback to all unsuccessful tenderers, detailing the reasons for the decision, including characteristics and relative advantages of the successful tenderer. Scores of the unsuccessful bidder and the winning bidder must also be issued with the award decision.
- (b) Should the unsuccessful tenderer request a further debrief after receipt of the feedback detailed in [section 25.37\(a\)](#) it is the responsibility of the authorised officer to do so. The standard agenda for the debriefing is available on the document library.

25.35 Contract Award Notice

Where a contract has been tendered pursuant to the regulations, the council will publish a contract award notice in OJEU no later than 48 days after the date of award of the contract.

25.36 Copies of tenders and contracts and register of contracts

Keeping copies of old tenders and contracts

- (a) The Authorised Officer in respect of a particular procurement must maintain a list of all tenders received.

- (b) For every individual contract, a contracts file must be maintained by the chief officer. If the total contract value is over £10,000, the chief officer must keep a copy of the contract for at least seven years from their end date if they were signed; and for at least 13 years from their end date if they were sealed,

Keeping a register of contracts

- (a) The strategic procurement unit will allocate a contract number to each individual contract and will maintain a register of all contracts awarded above £75,000.
- (b) Each chief officer will maintain their own register of all other contracts entered into by their department.

What will the register record?

For each contract, the register will record:

- what the contract is for;
- the total contract value;
- the name of the contractor;
- the start and end dates;
- the procurement method used
- whether the contract can be extended and how;
- whether a certificate was issued under the Local Government (Contracts) Act.

25.37 Joint Procurement

- (a) Any joint procurement arrangements with other bodies including membership or use of purchasing consortia must be approved by the strategic procurement manager and the head of legal services prior to the commencement of any procurement on behalf of the council.
- (b) Approval will only be given where the joint procurement arrangement assures compliance with the regulations.

25.38 Consultants

- (a) Any consultants used by the council must be appointed in accordance with these contract rules. The authorised officer must ensure that the consultant's performance is monitored.
- (b) Where the council uses consultants to act on its behalf in relation to any procurement, then the authorised officer must ensure that the consultants carry out any procurement in accordance with these rules.
- (c) No consultant may make any decision on whether to award a contract or who a contract should be awarded to.

25.39 Statistical Returns

- (a) Each year the council will make a statistical return to the government for onward transmission to the European Commission concerning the contracts awarded during the year under the regulations.
- (b) The strategic procurement manager is responsible for this statistical return and will make the necessary arrangements for information to be collected annually. Directors will comply with these arrangements.

25.40 Contract Extension and Variation

- (a) Any contract may be extended or varied in accordance with its terms but subject to the advice of the Head of Legal Services and the strategic procurement manager. Where the terms do not expressly provide for extension, contracts subject to the regulations may be extended by negotiation in accordance with the rules set out in the regulations. Such extension must be notified to the individual cabinet councillor for the relevant portfolio and EU rules taken into consideration.
- (b) Other contracts may be extended by negotiation in the same circumstances. The authorised officer must always be satisfied that extension will achieve best value for money and is reasonable in all the relevant circumstances. Such extension must be notified to the cabinet member for the relevant portfolio and a contract extension/exemption form must be completed and duly authorised.

25.41 Termination of Contracts

Contracts may only be terminated after seeking advice from the strategic procurement manager and the Head of Legal Services. For any contract exceeding £500,000 in value, termination must be approved by the cabinet member for the relevant portfolio. For any contract that is a key decision or is valued above £2,000,000 termination must be approved by the cabinet.

25.42 Review and Amendment of Contract Rules

- (a) These contract rules will be reviewed and updated on a regular basis by the strategic procurement manager.
- (b) The strategic procurement manager will produce guidance to the use of contract rules.

25.43 Interpreting the contract rules

Questions about the contract rules and any related guidance will be dealt with by the strategic procurement manager or Head of Legal Services. Their interpretation will be final.

26 Property Disposal Rules

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26.1 When do the land and property disposal rules apply?

- (a) The land and property disposal rules apply to all disposals of land and property by the council. They require each service department to formally determine whether a property is surplus to its requirements, after which all other service departments are given the opportunity to consider its re-use for operational purposes, before disposal. The respective ward councillors are also notified of the pending disposal for their information
- (b) The rules aim to generate additional capital receipts, relating to property transactions.
- (c) As disposal of land held by councils can be contentious it is important that officers follow the council's land and property disposal guidelines to demonstrate good practice, avoid allegations of impropriety and avoid or defeat legal challenge. Where a disposal also involves construction works advice should be obtained from procurement or legal services to establish whether the contract rules in relation to works contracts also apply. See [section 25](#).

26.2 Need to follow these rules

- (a) In order to comply with legislation and best practice it is essential that the procedures adopted for land disposals seek to obtain the best terms reasonably available:
- (i) allowing all interested parties an equal opportunity to lease or purchase
 - (ii) avoiding partiality or bias
- (b) In respect of each disposal (or series of disposals) the corporate property team will declare the land/property surplus to requirements and available for disposal.
- (c) In respect of each disposal the Assistant Director for Economic Development will evaluate all relevant matters to the disposal of the property concerned and make a recommendation on the most appropriate method of disposal and in the case of disposal by private treaty, whether a special purchaser be offered direct negotiations. The evaluation will include the financial costs or benefit to the council of the method of disposal recommended.
- (d) Every disposal of land by way of tender must comply with these rules and no exception from any of the following provisions of these rules shall be made otherwise than by the direction of the council.

26.3 Tenders

- (a) Where land/property is to be disposed of by way of tender the Assistant Director for Economic Development will advertise the council's intention in a suitable publication. The advertisement will include the following:
- a description of the property to be disposed of
 - an indication that particulars are available from the commercial property service
 - the date by which tenders should be returned
- (b) Tenderers shall be requested when returning the tender to provide such evidence of their financial standing as is deemed appropriate in respect of each disposal.

26.4 Use of select list tenders

- (a) Where land/property is to be disposed of by select list tender in order to facilitate development, the Assistant Director for Economic Development will publish an advertisement in a suitable publication inviting expressions of interest in the property to be disposed of.
- (b) All persons/organisations responding to the advertisement will be issued with particulars which will include details of the property to be disposed of and, if appropriate, an outline of the council's objectives in securing disposal.
- (c) The particulars will stipulate the information that prospective purchasers will provide in order to be considered for invitation to tender. This will include:
- the prospective purchasers experience of property development
 - copies of the prospective purchasers audited accounts covering the previous three years
 - where appropriate, preliminary drawings of the development proposed
- (d) The closing date for deposit of submissions to the council shall be stipulated in the particulars.
- (e) Invitations to tender shall be sent to not fewer than four of the persons who have deposited submissions in response to the advertisement. If fewer than four such persons apply, all shall be invited to tender if, in the opinion of the Assistant Director for Economic Development, they are suitable tenderers and subject to financial appraisal by the Chief Finance Officer.

26.5 Information to be given to tenderers

Each invitation to tender, or where the tender is by way of open tender, the tender documents, shall state:

- (a) that no tender will be received except in a plain sealed envelope addressed to:

Legal Services
Plymouth City Council
Civic Centre
Plymouth
PL1 2AA

which must bear the word TENDER and indicate the land/property to which it relates.

- (b) clearly specify the date and time before which the tender must be returned. Any tender returned after the specified time shall not be considered and must not be opened but kept in a safe place by an officer delegated by the head of legal services until the tender has been awarded. After award, the late tender may be opened to find out the name and address of the tenderer and returned to it, with a note recording the circumstances of its return.
- (c) that any indication on the envelope identifying the tenderer will invalidate the tender.

26.6 Receipt of tenders

- (a) All tenders will remain in the custody of the head of legal services until the time appointed for their opening.
- (b) The head of legal services will record, in a book to be kept for the purpose; the tenders received and indicate on each tender envelope received the date and time of such receipt.

26.7 Opening of tenders

- (a) Tenders will be opened at the appointed time by the head of legal services and assistant director for economic development or other senior officers authorised by them.
- (b) The representative of the head of legal services will list the names of the tenderers and where practicable the respective amount thereof.
- (c) The assistant director for economic development will initial the tenders and arrange for their immediate tabulation and any necessary further negotiation and checking.
- (d) The assistant director for economic development will give written notice to the cabinet member of the time appointed for the opening of the tenders so that he/she may be present at the time.

26.8 Acceptance of tenders

- (a) No tender other than the highest tender will be accepted by the cabinet member unless s/he and the monitoring officer have considered a written report from the assistant director for economic development.
- (b) As soon as possible after the opening of the tenders the assistant director for economic development will write to the unsuccessful tenderers informing them of the outcome of the tender exercise.

26.9 Informal and negotiated tenders

- (a) The preceding paragraphs will apply to informal and negotiated tenders unless they are inconsistent with this paragraph.
- (b) Following the opening of the tenders the assistant director for economic development or an officer authorised by him/her will enter into negotiations regarding the fulfilment of conditions but will not seek to increase the basic tenders put forward nor accept increased offers from unsuccessful tenderers.
- (c) In cases where the scale, complexity or perceived sensitivity of the negotiation is of particular importance, the negotiating officer will, whenever possible, be accompanied to meetings by another council officer. (The requirement for a second council officer will be deemed to be met if the negotiations are attended by an officer of another local authority or government department or by a representative of external advisers appointed by the council).
- (d) Meetings will normally take place at the council's offices or at the offices of the council's advisers, on site, at the premises of the prospective purchaser/lessee or those of their advisers or at the offices of another local authority or government department. Any departure from this practice will be formally recorded on file and notified to the head of service.
- (e) Notes of meetings and telephone calls should be recorded at the time on the file.
- (f) Where external consultants have been appointed to advise the council, these rules apply equally to the external consultants as they would to council officers.

26.10 Councillors role in land and property transactions

- (a) Councillors should not be involved in negotiations on land and property transactions with third parties. Councillor involvement in the discussion of initial scheme proposals (e.g. the assessment of schemes at expression of interest or formal tender stage) will occasionally be necessary but this should only be in the format of proper meetings and presentations organised in consultation with the cabinet member and head of service. Such meetings must be recorded and noted on the file. Where a third party attempts to involve a councillor in negotiations, the councillor will refer the same to the Monitoring Officer and will have no further part in the transaction concerned.
- (b) No councillor shall issue any order in respect of works required on any council site or property.
- (c) Similarly, no councillor shall claim any right to enter upon land and premises not in council ownership but which the council has a right or duty to inspect.
- (d) Any councillor proposing to inspect any council building or works shall not do so without the authority of the head of capital and assets, in consultation with the cabinet member responsible for property and shall report back to the cabinet member.'
- (e) The Leader, cabinet and cabinet members will take executive decisions about land and property transactions based on written reports from officers (see section 4).

26.11 Surplus Property Procedures

What are the procedures that apply when disposing of surplus operational property (excluding Minor Garden Land Disposals)?

A Advance Notification

Where there is potential for any property to become surplus to requirements, the relevant departmental officers will consult with the cabinet member, departmental management team and with the relevant officers in the corporate property team at the earliest possible stage

B Surplus Property Declaration

Where property is no longer required for the purpose for which it was originally acquired or held, or has become unsuitable for purpose or is significantly underused, the responsible controlling head of service will, in consultation with the cabinet member and departmental director, make a recommendation to the head of capital and assets to declare the property surplus to requirements.

C Interim Management

Management of property declared surplus to requirements will immediately transfer to the corporate property team.

D Options for re-use

Upon being advised of property being declared surplus, the head of capital and assets will inform all council departments of its availability and a minimum of 14 days will be allowed for them to indicate any requirements for service provision. Ward councillors will also be notified of impending disposal.

If surplus property is required for service provision and has a value in excess of £250,000, the head of service requiring the property will, following consultation with the cabinet member, head of capital and assets and departmental director, prepare a report for consideration by the corporate management team, which will determine whether the property should be retained, or proceed to disposal. If the property has a value less than £250,000 the decision to retain the property or proceed to disposal will be made by the head of capital and assets in consultation with the cabinet member responsible for asset management.

E Requirement for Service Provision

If the corporate management team determines that a property will be retained for future service provision, management will transfer to the head of service seeking the property or, in the case of public open space, revert to the original responsible head of service.

F Disposal

If surplus property is not required for service provision, the head of capital and assets and/or assistant director of economic development or other nominee will proceed to make arrangements for its disposal in accordance with the council's land and property disposal guidelines.

If land declared surplus to requirements is underused public open space or allotments that by virtue of legislation require advertisements and the invitation of objections, an appropriate advertisement will be placed in the local press.

If objections are received in response to an advertisement of intention to dispose of public open space, the head of capital and assets and/or assistant director of economic development will consult with the cabinet member and prepare a report for consideration by the corporate management team to determine whether disposal should proceed.

G Minor Property Interests

Where land being prepared for disposal has a value of less than £100,000 and an area of less than 0.25 hectares, in the case of no alternative use having been put forward, the head of capital and assets and/or assistant director of economic development may declare the property surplus to requirements.

However, the surplus property disposal procedure does not apply to minor garden/amenity land disposals (see policy for disposal of amenity land).

What rules apply when disposing of surplus non operational property (Excluding Minor Garden Land Disposals)?

Non operational property

H Leases Incorporating Options

In all cases where the council is contractually committed to sell through clauses in existing agreements, the properties will be declared unconditionally surplus to requirements and the appropriately authorised officer will proceed to disposal in accordance with contract requirements.

I Other Income Producing Properties

The assistant director for economic development may declare property surplus to requirements if the following conditions are met:

- a) The property is an investment property – occupied and let in a non-operational capacity
- b) The property is not required for current or anticipated future service provision

Properties to be sold or let will proceed to disposal in accordance with the council's land and property disposal guidelines.

J Vacant Investment Property

If investment property is vacant or there is a reasonable likelihood of its becoming vacant and is no longer required for service provision, the assistant director for economic development will inform other council departments of its availability for service provision and policies D, F and G above will apply.

K Formal Approvals

Approval Procedures

Decisions reached by the head of capital and assets in relation to surplus property declaration and re-use of surplus property will be subject to the approval of the relevant cabinet member for the property service or cabinet where necessary (see section 4).

L Investment properties (including employment land)

Disposal Procedures

Sites and buildings which are held by the council for economic policy reasons will be deemed to be surplus when disposals are contemplated with the objective of accommodating specific occupiers. In such circumstances, disposal negotiations will be undertaken by private treaty and based on normal market terms.

APPENDICES

27 Councillor Call for Action - guidance

Guide to Councillor Call for Action

1 Introduction

The Local Government and Public Involvement in Health Act 2007 introduced the Councillor Call for Action (CCfA) from 1 April 2009. This guide sets out how Plymouth city councillors can use this power.

2 What is a Councillor Call for Action?

- 2.1 In their day-to-day role, councillors identify concerns in their communities and try to resolve them by talking to the council and other service providers. If they can't resolve a particular issue they can make a 'Councillor Call for Action' which asks for the matter to be referred to the overview and scrutiny management board for further investigation.
- 2.2 Any councillor can refer an issue to the management board. Issues must relate to the city council's functions, affect all or part of the councillor's ward or any person who lives or works in the ward and can include matters that the council and its partners are delivering.
- 2.3 The Police and Justice Act 2006 makes provision for a CCfA for crime and disorder and community safety issues. In practice, referrals made relating to these issues should be dealt with in the same way as other CCfAs.

3 How does it work?

- 3.1 The councillor attempts to resolve the issue at a local level in the usual way e.g. raising it as casework with the appropriate officer and/or cabinet member, through the formal complaints procedure of the council, with the relevant partner organisation, questions to council/committee, a motion on notice to the city council and so on.
- 3.2 If these approaches don't resolve the matter or if it is a persistent matter, the councillor can refer the issue to the Democratic and Member Support Manager (by using the form at Appendix A) who will discuss it with the chair of the management board.
- 3.3 It should be noted that the CCfA is intended to be a measure of last resort and may not be considered until all other avenues have been tried.

4 Criteria for considering requests for a CCfA

4.1 Background information

Has enough information been provided to enable a view to be taken as to:

- which service/functions of the city council or partner organisation are most relevant to the CCfA?
- whether the request relates to the councillor's ward or to a person who lives or works in the ward?

- what steps have already been taken to try and resolve the issue?

4.2 Outcome

Has the councillor clearly stated the desired outcome?

4.3 Use of existing procedures

Have the city council's procedures (or partners' procedures) for resolution of issues been used without success? Councillors will need to demonstrate that they have taken reasonable steps to resolve the matter. (See Appendix B)

4.4 History

- Has the same issue been the subject of a previous CCfA?
- Is the length of time that has elapsed between the date of the last action by the councillor to try to solve the problem and the request for the CCfA such that the CCfA can no longer be regarded as a timely and suitable method of resolution – a time bar of 6 months is suggested.

4.5 Vexatious

Is the matter vexatious/not reasonable? (Likely to cause distress/disruption or irritation without any proper or justified cause?)

4.6 Discrimination

Is the subject matter discriminatory? (Discriminates against another in relation to their race/religion/faith/belief/sexual orientation/gender/disability)

5 Referral to scrutiny

5.1 The chair of the management board will consider the request and inform the councillor whether they accept the request. In the event of disagreement between the councillor and the chair, the matter will be referred to the Assistant Director of Democracy and Governance.

5.2 Reasons the chair of the management board may not agree to take the CCfA forward to the management board could include:

- Not enough information has been provided
- More could be done to resolve the issue at local level
- The matter has recently been examined by scrutiny
- The matter is the subject of an ombudsman complaint or other official complaints procedure
- The matter is excluded by legislation. For example, planning and licensing applications/appeals

- The CCfA is vexatious or discriminatory

5.3 The Democratic and Member Support Manager will notify the councillor, within 14 days of the request being made, of the outcome of the initial consideration of the CCfA request.

5.4 The councillor may reply to the chair with further information to support the CCfA.

5.5 If the CCfA is accepted, the management board will include the CCfA on the agenda at the first available business meeting following the initial consideration of the request.

6 Role of the Overview and Scrutiny Management Board

6.1 The management board will hear from relevant witnesses, including the councillor submitting the CCfA, and reach a conclusion as follows:

- Write a report setting out their findings and recommendations to Cabinet/a partner organisation as appropriate
- Decide that the CCfA matter is complex that needs further investigation and refer the matter to another body for more detailed scrutiny (refer it to the appropriate scrutiny panel or set up a task and finish group)
- Decide not to take any action

6.2 The outcome of the meeting will be published and details sent to the councillor who submitted the CCfA, relevant cabinet members and partners (subject to the rules on confidential and exempt information).

6.3 The councillor who submitted the CCfA will advise the individual(s) who made the initial representations of the outcome of the CCfA.

6.4 Where cabinet members and partners are asked to take action to resolve a particular issue they will be asked to make a formal response to a future meeting of the management board within 28 days, complying with the new requirement, the Duty to Respond.

Request for the Overview and Scrutiny Management Board to consider a Councillor Call for Action

Councillor:			
Ward:			
Summary of issue and why it should be raised with the Management Board (<i>You may wish to attach a letter or an email instead of completing this box</i>)			
CCfA should only be considered as a 'last resort' when you have made all reasonable efforts to resolve the problem. Have you had discussions with any of the following?			
		Date	Contact name/Tel no.
Cabinet Member	Yes/No		
Director/Chief Executive	Yes/No		
Assistant Director	Yes/No		
Other council officer	Yes/No		
Other ward member	Yes/No		
Partner organisation representative (e.g.: NHS, police)	Yes/No		
Please give details of the outcome of the discussions you have had (continue on an additional sheet if necessary) or include this information in a letter/email attached to this form.			

What outcome do you hope to achieve from your CCfA?

Certain statutory exclusions apply to the CCfA process. Please answer the following questions:

- | | |
|-------------------------------------------------------------------------------------|--------|
| Does it relate to a complaint made by an individual or organisation? | Yes/No |
| Does it relate to a planning, licensing, Council Tax/Benefit application or appeal? | Yes/No |
| Does it relate to an issue currently under dispute in a court of law? | Yes/No |

Signed:.....Date:.....

Please complete and return this form to Judith Shore, Democratic and Member Support Manager,
Plymouth City Council, Council House, Plymouth PL1 2AA
or email it to: judith.shore@plymouth.gov.uk

Examples of the steps which a councillor could be expected to have taken before submitting a Councillor Call for Action to overview and scrutiny

- 1) **Resident or stakeholder raises matter with the councillor** at a surgery or other meeting point. The councillor emails or speaks to the appropriate officer and/or portfolio holder and reports back on the action taken. When a reply is received, the councillor advises the resident whether the matter has been resolved or not, and the next steps. If the matter remains unresolved and has wider significance for a community or area, the councillor will refer the matter to the chair of the overview and scrutiny management board and the Democratic and Member Support Manager.
- 2) **The relevant complaints procedures have been complied with**

If the issue appears to be that a standard service has not been provided, or not provided to a sufficient standard, the councillor should check that the relevant complaints procedure has been used and that the service provider has responded to the complaint.
- 3) **The appropriate officer has been approached**

The issue may be that local people feel that the standard service is not the right one for local conditions and therefore the matter may be a question of making some slight adjustments at management's discretion. The councillor would therefore be expected to have discussed the matter with the appropriate senior manager in an attempt to secure the change. This process could apply across the range of partner agencies.
- 4) **Relevant partnerships or local groups have been approached**

It is more likely that matters which merit a Councillor Call for Action are more complicated than the examples above. One likely possibility is that the matter requires attention from a number of agencies acting in partnership. The councillor should in such cases demonstrate that local partnership bodies have had an opportunity to respond. For example, it may be appropriate for a councillor to raise an issue at a Partners and Communities Together (PACT) meeting that covers their local area.
- 5) **The relevant Cabinet members have been approached**

The councillor may come to the view that a pattern of conditions in the local area can only be addressed through a substantial policy change. In that case, the management board will expect to see that the councillor has approached the relevant cabinet members and at least given them a reasonable opportunity to respond.

28 Petitions - guidance

Plymouth City Council's Petition Scheme

Plymouth City Council welcomes petitions and understands that they are one way in which people's concerns can be expressed.

Within 10 working days of receiving your petition, we'll let you know how we plan to deal with the petition and when we will respond to you. We'll also say as much as we can about what we have done, or plan to do, with the petition.

Petitions may be sent, either on paper or via email, to:

- Democratic Support, Plymouth City Council, Plymouth PL1 2AA
- democratic.support@plymouth.gov.uk
- First Stop (the main reception at the Civic Centre) (paper copies only)

Plymouth City Council will consider all petitions received. (We will treat it as a petition if you say it is a petition, or if it seems to us that it is intended to be a petition.) The minimum number of signatures required on a petition is 25.

What are the guidelines for submitting a petition?

Petitions must include:

- a clear statement covering the subject matter
- what the petitioners want the council to do and
- the name, address and signature of everyone supporting the petition

Petitions should be accompanied by contact details (address [and email if available]) for the petition organiser (this is the person the council will contact to give a response to the petition). Anyone who lives, works or studies in the city of Plymouth may sign a petition.

When will a petition not be accepted?

A petition will not be accepted or dealt with:

- if it is considered to be vexatious, abusive or otherwise inappropriate
- it relates to matters where there are ongoing legal proceedings
- it targets individuals
- it applies to a matter where there is already a right of appeal (e.g. planning or licensing applications or statutory petitions (such as that for requesting a referendum on having an elected mayor) as these will be dealt with under separate arrangements

If your petition is about something over which the city council has no direct control we may consider making representations to the relevant organisation and, where possible, ask partners to respond to you. If your petition is about something that another council is responsible for, we will forward it to that council, and let you know that we have done so.

How will the Council respond?

The response to a petition will necessarily depend on what it is asking for and how many people have signed it, but may include:

- taking the action requested
- considering the petition at a council meeting
- holding an inquiry or researching the matter
- holding a public meeting or a meeting with petitioners
- holding a consultation
- referring the petition to the relevant Scrutiny Panel
- calling a referendum
- writing to the petition organiser giving our views about the request and / or letting you know what the city council has already decided to do or proposes to do on the issue

Exclusions

If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, other procedures apply. Further information on all these procedures and how you can express your views is available here:

- Planning
- Licensing
- Council tax bands and business rates

Debate at city council meetings (over 5,000 signatures)

If the petition has received 5,000 signatures it will automatically trigger a debate at the next ordinary city council meeting. In this case, we will confirm the date of the next meeting and the petition organiser will be given five minutes to present the petition and put forward his / her case for the action requested.

At the meeting, the city councillors will decide how to respond to the petition and the petition organiser will receive written confirmation of this decision, which will also be published on the council's website as part of the minutes for that meeting.

Officer evidence (over 2,500 signatures)

If your petition contains at least 2,500 signatures, you may ask for a senior council officer (Chief Executive, Assistant Chief Executive, Directors and Assistant Directors) to give evidence at one of the Council's Scrutiny Panels (e.g. to explain progress or to explain the advice given to councillors to assist their decision making). The Panel may also require the relevant Cabinet Member to attend the meeting. Panel members will ask the questions at this meeting, but you can suggest questions to the Chair of the Panel by contacting the Democratic Support team (democratic.support@plymouth.gov.uk) at least seven working days before the meeting.

What can I do if I feel my petition has not been dealt with properly?

If you feel that the council has not dealt with your petition properly, the petition organiser has the right to ask the relevant scrutiny panel to review the council's response. The petition organiser should give a short explanation as to why the council's response is not felt to be adequate.

That scrutiny panel will try to consider your request at its next meeting. Once the appeal has been considered the petition organiser will be informed of the results within 5 working days and they will be published on the council's website as part of the minutes for that meeting.

Please note:

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply.

29 Policy Framework

The policy framework is made up of a series of Statutory Plans and Strategies listed below:

Statutory Plans and Strategies

- Corporate Plan
- Children and Young People's Plan
- Licensing Authority Policy Statement – Gambling Act 2005
- Local Development Framework (Documents)
- Local Transport Plan
- Sustainable Community Strategy
- Youth Justice Plan

Local Choice Plans and Strategies

- All Our Futures (Plymouth's Strategy for the Over 50's)
- Capital Strategy and Asset Management Plan
- Housing Strategy
- Investment in Children (comprising Strategy for Change and Building Schools for the Future)
- Plymouth Economic Strategy
- Waste Management Strategy

30 Councillors' allowances

MEMBERS' ALLOWANCE SCHEME*

Summary of basic allowance and special responsibility allowances

Post	Basic Allowance	Special Responsibility Allowance	Total Allowance per Member
Basic Allowance			
All members	£10,044.84		£10,044.84
Band One			
Leader	£10,044.84	£30,131.76	£40,176.60
Band Two			
Deputy Leader	£10,044.84	£21,202.44	£31,247.28
Cabinet Member	£10,044.84	£20,085.60	£30,130.44
Chair of Overview and Scrutiny Management Board	£10,044.84	£20,085.60	£30,130.44
Band Three			
Overview & Scrutiny Panel chairs	£10,044.84	£10,044.84	£20,089.68
Chair of Planning			
Chair of Licensing (Misc)			
Chair of Licensing (Hackney Carriage)			
Leader of the largest minority party			
Band Four			
Overview and Scrutiny Management Board members	£10,044.84	£5,022.36	£15,067.20
Chair of Audit			
Leader of other minority parties			
Deputy Leader of largest minority party			
Vice chair of Planning			

Post	Basic Allowance	Special Responsibility Allowance	Total Allowance per Member
Band Five			
Chair of Standards Committee (independent member)		£1,027.44	£1,027.44

- (1) There are also the Lord Mayor's and the Deputy Lord Mayor's Personal Allowances, which fall outside the scope of this scheme
- (2) Only one special responsibility allowance is payable to an individual Member and in cases where a Member is eligible for more than one allowance, only the higher allowance is payable.

All allowances are subject to the annual Local Government pay percentage increase as agreed each April. (Note: Members did not receive any increase in allowances in the 2009/2010 and 2010/2011 financial years)

*Scheme originally approved by Plymouth City Council 4 February 2008

Chief Executive

Assistant Chief Executive

Head of Policy, Performance and Partnerships

Head of Communications

Director of Services for Children and Young People

Assistant Director, Learner and Family Support

Assistant Director for Lifelong Learning

Assistant Director for Children's Social Care

Director for Community Services

Assistant Director for Culture, Sport and Leisure

Assistant Director for Environmental Services

Assistant Director for Safer Communities

Assistant Director for Adult Health and Social Care

Director for Development and Regeneration

Assistant Director for Planning Services

Assistant Director for Transport

Assistant Director for Strategic Housing

Assistant director for Economic Development

Director for Corporate Support

Assistant Director for Customer Services and Business

Assistant Director for Finance, Assets and Efficiencies

Assistant Director for Information and Communication Technology (ICT)

Assistant Director for Human Resources and Organisational Development

Assistant Director for Democracy and Governance

Glossary

Authorised officer	A person with appropriate delegated authority to act on behalf of Plymouth City Council
Beneficial Interest	An interest that can be benefited from – a person would have a beneficial interest in something that belonged to them or that was being held for them in a trust
Best consideration	The best deal
Best value for money	The optimum combination of whole life costs and benefits to meet the customer's requirement. This term equates to the European Union's procurement requirement; 'most economically advantageous offer.
Budget and policy framework	The council's overall budget and policies
Call in a decision	Call in is a process where the overview and scrutiny management board can recommend that an executive decision that has not yet been carried out, is reconsidered by the decision maker
Case tribunals	Tribunals to hear complaints that are about councillors and that have been referred by Standards for England
Chief officer	The Chief Executive, Directors, Heads of service, Head teachers, Principals and governing bodies
Development control	System for dealing with planning applications
Ethical standards officer	A person that Standards for England appoints to investigate a complaint that a councillor has broken the councillors' code of conduct
EU	European Union
Framework agreement	An agreement that allows Plymouth City Council to lawfully contract with a supplier to provide supplies, services or works in accordance with the terms of the agreement
General fund	The fund for the council's finances in most areas (but not council housing finance)
Local development framework	documents that show how land in the city can be used and that guide decisions on planning applications
ICT	Information and communications technology
ITT	Invitation to tender

Maladministration	When a council is inefficient or unreasonable or does not follow its own procedures
Nominal value of a share	The value shown on the share certificate
OJEU	Official Journal of the European Union
Officer	The officer designated by the Chief Officer to deal with the contract in question
OGC	Office of Government Commerce
Policy framework	The council's overall policies
Portfolio holder	The cabinet member with the responsibility for the relevant service as part of their portfolio (see 4.8 and 6)
PQQ	Pre-qualification questionnaire
Proper officer	Officer given a responsibility that the law requires to be done by a specified post holder
Quotation	A quotation of price and any other relevant matter (without the formal issue of an ITT)
Regulations	The Public Contracts Regulations 2006 (as amended) and all other UK law implementing EU public procurement directives from time to time
RFQ	Request for quotation
Securities	Stocks, shares, bonds or anything else that pays interest or dividends
Supplier	Any person, body of persons or other legal entity providing, or seeking to provide, supplies, services or works to the council.
Tender	A proposal submitted in response to an ITT
TUPE	Transfer of Undertakings (Protection of Employment) regulations 1981 (as amended)
Vires	Legal power to do something