

Plymouth City Council

Constitution

Revised numbering on sections 5 and 6 (pages 19 to 34 refer)

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](#)).
- (c) Outside body appointments: appointing representatives to outside organisations whose work relates to non-executive functions.
- (d) Anything else that by law is required to be dealt with by council

5.2.2 Who carries out the responsibility?

Council.

5.3 Planning

5.3.1 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.
- (c) 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.
- (e) 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.

5.3.2 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
- (c) 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
- (f) 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.

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

5.4.1 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).

- (c) The responsibilities set out in Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making an order identifying a place as a designated public place in connection with police powers about alcohol consumption (see Section 13(2) of the Criminal Justice and Police Act 2001).
- (d) The responsibilities set out in Part I of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 relating to making or revoking an order designating a locality as an alcohol disorder zone (see Section 16 of the Violent Crime Reduction Act 2006).

5.4.2 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](#).

5.5 Taxi and private hire and other vehicle licensing

5.5.1 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.

5.5.2 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.

5.6 Responsibilities for the Tamar Bridge and Torpoint Ferry

5.6.1 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.

5.6.2 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

5.7 South West Devon Waste Partnership non-executive responsibilities

5.7.1 Description of responsibilities

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

5.7.2 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

5.8 Health and safety at work

5.8.1 Description of responsibility

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

5.8.2 Who carries out the responsibility?

The Assistant Director for Environmental Services.

5.9 Name and status of areas and individuals

5.9.1 Description of responsibility

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

5.9.2 Who carries out the responsibility?

Council.

5.10 Functions relating to community governance

5.10.1 Description of responsibility

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

5.10.2 Who carries out the responsibility?

Council.

5.11 Byelaws

5.11.1 Description of responsibility

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

5.11.2 Who carries out the responsibility?

Council.

5.12 Bills

5.12.1 Description of responsibility

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

5.12.2 Who carries out the responsibility?

Council.

5.13 Pensions

5.13.1 Description of responsibility

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

5.13.2 Who carries out the responsibility?

The Chief Finance Officer.

5.14 Ban on smoking in public places

5.14.1 Description of responsibility

All the responsibilities in the Health Act 2006.

5.14.2 Who carries out the responsibility?

The Assistant Director for Environmental Services.

5.15 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

6 Roles of cabinet members

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6.1 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.

6.2 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:

6.2.1 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

6.2.2 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

6.2.3 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

6.2.4 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

6.2.5 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

6.2.6 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)

6.2.7 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.

6.2.8 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

6.2.9 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

6.2.10 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
-

6.3 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.

6.4 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](#)