

PLYMOUTH CITY COUNCIL CONSTITUTION

THE PREAMBLE

"We the people of Plymouth, through our elected representatives to Plymouth City Council, ordain and establish this Constitution today 25th June 2004 in order that it will assist in the elimination of discrimination and inequality, promote social and economic well-being, environmental sustainability and opportunity for all and establish good and open governance of our city and its inhabitants.

To further these aims we, the Council, will act at all times with honesty, integrity, dedication and courage, in keeping with the principles of equality and democracy, deriving our powers from the consent of the governed, in accordance with the law".

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PLYMOUTH CITY COUNCIL CONSTITUTION

PART A

ARTICLES OF THE CONSTITUTION

Article I – The Constitution

1.1 Powers of the Council

The Council will act in accordance with this Constitution unless it conflicts with the law.

1.2 The Constitution

This Constitution, and all its appendices, is the Constitution of Plymouth City Council.

1.3 Purpose of the Constitution

The Constitution exists to provide a framework for the Council to take its decisions and do its work effectively. It will help councillors to represent their wards and the public to take part in the decision making process. The purpose of the Constitution is to:

- provide a framework for the democratic process to allow clear leadership for the city;
- assist the Council to undertake proper consultation and take professional advice;
- assist the Council to hold decision makers to account and make sure no-one reviews their own decisions;
- assist councillors to represent their constituents effectively;
- provide a means of improving services.

1.4 Interpretation and Review of the Constitution

1.4.1 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.

1.4.2 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 and the advice of the Monitoring Officer.

1.4.3 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.

1.4.4 The Council will monitor and evaluate the operation of the constitution. The Monitoring Officer will also monitor and review the constitution and may recommend changes to Council.

Article 2 – Members of the Council

2.1 Composition and Eligibility

- (a) **Composition.** 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) **Eligibility.** Anyone who is over 18 and a Commonwealth citizen, a citizen of the Republic of Ireland or a citizen of another Member State of the European Community and is either registered as a local government elector or has occupied land in the city as owner or tenant for the previous 12 months or worked in the city for the previous 12 months or resided in the city for the previous 12 months is eligible to hold the Office of Councillor.

2.2 Election and Terms of Office of Councillors

Election and terms

(a) Councillors

- (i) A Council election takes place on the first Thursday in May 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.
- (ii) Councillors serve for four years. They become councillors on the fourth day after being elected. Their term of office ends four years later, on the fourth day after the elections.
- (iii) A Councillor may resign their position at any time by giving written notice to the Returning Officer (Chief Executive) or designee. The resignation will take effect when the notice is received.

(b) Co-opted Members

- (i) The Council or any of its committees, sub-committees or working groups may co-opt suitable people as co-opted members
- (ii) 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
- (iii) 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.
- (iv) The overview and scrutiny panel which 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 which are the responsibility of the Cabinet.

One of the church representatives will be nominated by the Diocesan Board of Education for the Church of England diocese and the other will be nominated by the Bishop of the Roman Catholic diocese within the area.

(c) Independent Members (non-elected)

- (i) 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.
- (ii) The independent members of the Standards Committee are appointed by Council upon the recommendation of the Standards Committee.
- (iii) The Audit Committee appoints three independent members.
- (iv) Members of the Independent Remuneration Panel are appointed by Council.
- (v) 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.
- (vi) An independent member may resign at any time by giving notice to the Monitoring Officer and the resignation will be effective upon receipt.

2.3 Term of Office of the Leader

- (a) In the event of the Leader of the Council's resignation, incapacitation, or death, the Deputy Leader of the Council will then assume the post of Leader of the Council, until the Leader returns or until the next Ordinary Meeting of the Council where a permanent Leader will be elected by the Council. The newly elected Leader will appoint a new Deputy 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:
 - (i) He or she resigns, or
 - (ii) He or she stops being a councillor, or
 - (iii) He or she is suspended from being a councillor and can then resume as Leader when the suspension ends; or
 - (iv) He or she is removed from office by the Council.
- (b) 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.
- (c) In the event of the resignation, incapacitation or death of both the Leader and Deputy Leader, the Cabinet shall appoint by simple majority a new Acting Leader from the Cabinet who shall serve until the next Ordinary Meeting of the Council where a new Leader is

elected. If the Leader dies the Deputy Leader will act as Leader until the next Ordinary Meeting of the Council where a new Leader will be elected by the Council.

2.4 Term of office of the Lord Mayor

If the Lord Mayor resigns, becomes incapacitated, or dies the Deputy Lord Mayor will act as Lord Mayor until the Lord Mayor returns or until the next Ordinary Meeting of the Council where a new Lord Mayor will be elected by the Council.

2.5 Roles and functions of all Councillors

(a) Key Roles and Responsibilities

Councillors will:

- (i) Set the Council's overall policies;
- (ii) Provide political leadership;
- (iii) Take part in decision making;
- (iv) Represent people in their wards – this may involve balancing different interests;
- (v) Deal with casework for people in their wards;
- (vi) Attend council and committee meetings;
- (vii) Work to improve council services;
- (viii) Be able to represent the council on other bodies;

(b) Rights and duties

- (i) Councillors will have such rights of access to documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.
- (ii) Councillors will not make public, information which is confidential or exempt without the consent of the Council, relevant committee or authorised Member or officer, or divulge information given in confidence to anyone other than a Councillor or officer entitled to know it.
- (iii) For the purposes of this Constitution, the terms “confidential” and “exempt” information are as defined in the [Access to Information Rules](#) in Part F of this Constitution.
- (iv) Co-opted and independent members will be afforded such rights of access to documents and information, land and buildings as are necessary for the proper discharge of their functions and in accordance with the law.

2.5 Conduct

Councillors, co-opted and independent members will at all times observe the [Members' Code of Conduct](#) and the [Protocol on Member-Officer Relations](#) set out in Part G of this Constitution.

2.6 Allowances

Councillors and co-opted or independent members will be entitled to receive allowances in accordance with the [Members' Allowances Scheme](#) set out in Appendix One to this Constitution.

Article 3 – The Public and The Council

3.1 Rights of Members of the Public

Members of the public have the following rights; to:

- (i) vote at local elections and get in touch with their local councillors;
 - (ii) attend Council, Cabinet, the Overview and Scrutiny Management Board, Scrutiny Panels and Committee meetings, except when exempt or confidential items are discussed ([see Access to Information Rules Part](#));
 - (iii) speak at a Council meeting to ask a question;
 - (iv) ask questions of the Council and Cabinet);
 - (v) ask the Council to respond to petitions;
 - (vi) look at the Forward Plan, which shows what key decisions will be taken and when
 - (vii) look at agendas, reports, minutes and background papers – agendas, reports and minutes are available on the council’s website and at the first stop desk in the Civic Centre;
 - (viii) look at the register of member’s interests – this is available for inspection in the Democratic Support Office at the Civic Centre (Tel: 01752 307990 email: democratic.support@plymouth.gov.uk);
 - (ix) inspect the council’s accounts at an advertised time and comment to the external auditor.
- (c) **Complaints.** Members of the public have the right to complain to:
- (i) The Council, under its [complaints procedure](#) which is available to the public.
 - (ii) The Local Government Ombudsman, after using the Council’s own complaints scheme.

3.2 The Public’s Responsibilities

Members of the Public must not be violent, abusing or threatening to Councillors or officers and must not wilfully harm articles owned by the Council, Councillors or officers.

Article 4 – The Full Council

4.1 Definitions

(a) Policy Framework

The [Policy framework](#) is made up of a series of statutory plans and strategies (list found in Appendix One (2)).

Other overarching corporate strategies may become part of the policy framework in the future as the need arises.

- (b) **Budget.** The budget includes the allocation of financial resources to the Corporate Priorities, services and projects, proposed contingency funds, the council tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and the setting of virement limits.

4.2 Functions and Responsibilities of the Full Council

4.2.1 Some functions are the responsibility of the Council as a whole and must either be dealt with by Council at its meetings or delegated to a committee, sub committee or an officer. These are determined by regulations.

4.2.2 These fall into the following main categories - the policy framework and budget; regulatory work for example planning and licensing; and legal and governance work for example standards and audit.

4.2.3 Details of the functions that are dealt with by the Council are set out in Part B. Part B also contains the Council procedures and the procedure for dealing with [Urgent decisions which are outside the Policy Framework and Budget](#) see Part B section

4.2.4 Details of how the Council has delegated its remaining functions to Committees or allocated them to Officers are set out in Part E – [Other Statutory functions, Committees, Joint Committees and Committee Procedures.](#)

4.3 Council Meetings

There are three types of Council meeting:

- (a) The Annual meeting;
- (b) Ordinary meetings;
- (c) Extraordinary meetings.

and they will be conducted in accordance with the [Council Procedure Rules](#) in Part B of this Constitution.

Article 5 – Lord Mayor and Chair of the Council

5.1 Appointment of the Lord Mayor

5.1.1 The Lord Mayor will be elected by the Council annually.

Each municipal year the Council will appoint a panel of Councillors to receive nominations from amongst the Council for a Councillor to hold the position of Lord Mayor for the coming municipal year. The panel will make a recommendation to Full Council prior to the Annual Meeting from amongst the persons nominated.

5.1.2 Following the panel's recommendation the nominee shall within 4 weeks notify the panel of his or her recommendation for the position of Deputy Lord Mayor.

5.2 Role and functions of the Lord Mayor

The Lord Mayor and in his or her absence, the Deputy Lord Mayor will have the following roles and functions:-

(a) Ceremonial Role

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

(b) Chairing the Council Meeting

The Lord Mayor, and in his or her absence the Deputy Lord Mayor chairs Council meetings. (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.

Article 6 – The Leader, Deputy Leader and Cabinet

6.1 Role and Responsibility

6.1.1 Some of the Council's functions are the responsibility of the Leader and must either be dealt with by her/him or delegated to the Cabinet, a committee of Cabinet, an individual cabinet member or an officer. These are determined by regulations.

6.1.2 Full details of how the Leader has decided to allocate these responsibilities are set out in the [Leaders scheme of delegation](#).

6.2 Leader

6.2.1 The Leader is a Councillor who is elected by the Council at its annual meeting. The Leader will hold office until he or she:

- (a) resigns from the office; or
- (b) is incapacitated or through death;
- (c) is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension); or
- (d) is no longer a Councillor; or
- (e) is removed from office by resolution of the Council; or
- (f) the Council appoints a new Leader.

6.2.2 The Leader:

- appoints members of the cabinet
- delegates executive responsibilities to the cabinet
- delegates executive functions to committees carrying out executive functions
- delegates executive responsibilities to individual cabinet members
- allocates executive responsibilities to officers
- allocates executive responsibilities when no-one has responsibility for them.

6.4 Deputy Leader

The Deputy Leader is nominated by the Leader of the Council. The Deputy Leader will hold office until he or she:

- (a) resigns from the office; or
- (b) is incapacitated or through death;

- (c) is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he or she may resume office at the end of the period of suspension); or
- (d) is no longer a Councillor; or
- (e) becomes Leader through succession;
- (f) the Council appoints a new Leader or
- (g) is removed from office by the Leader who must give written notice of any removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

The Cabinet

6.5 Form and Composition

[The Cabinet](#) will consist of the Leader, and Deputy Leader (who may also hold a portfolio), together with Cabinet members. Cabinet members will be appointed by the Leader and notified to the Council. No member of Cabinet will serve on the Overview and Scrutiny Management Board or its panels.

6.6 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the [Cabinet Procedure Rules](#) set out in Part C of this Constitution.

6.7 Responsibility for Functions and Delegations

The [roles and responsibilities of the Cabinet and individual members of the Cabinet](#) are set out in Part C.

Article 7 – Overview and Scrutiny Management Board and Panels

7.1 Appointment of the Overview and Scrutiny Management Board and Panels

- (a) The Council will appoint:
 - (i) An [Overview and Scrutiny Management Board](#) which has the roles and responsibilities set out in Part D of the Constitution and
 - (ii) A number of [Overview and Scrutiny Panels](#) to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations made under it.

7.2 Proceedings of the Overview and Scrutiny Management Board and Panels

The Overview and Scrutiny Management Board and panels will conduct their proceedings in accordance with the [Overview and Scrutiny Procedures](#) in Part D of the Constitution.

Article 8 – Other Committees and Quasi-Judicial Committees

8.1 Other Committees and Quasi-Judicial Committees

The Council will appoint a number of standing committees, including an [Audit Committee](#) and a [Standards Committee](#). Their roles and responsibilities are set out in Part E.

Article 9 – Joint Arrangements

9.1 Arrangements to promote well being

The Council or the Leader may:

- (a) Enter into arrangements, agreements or partnerships with any person or body;
- (b) Co-operate with, facilitate or co-ordinate the activities of any person or body; and
- (c) Exercise on behalf of that person or body any functions of that person or body,

in order to promote the economic, social or environmental well being of the area.

9.2 Joint Arrangements

- (a) The Council or the Leader may establish joint arrangements with one or more local authorities to exercise functions in any of the participating authorities, or to advise the Council or Leader. (Such arrangements may involve the appointment of a joint committee with these other local authorities).
- (b) Appointment of members to the joint arrangement shall be made by the Council or the Leader as appropriate.
- (c) Details of any joint arrangements including any delegations to joint committees are set out in Part E of this Constitution.

9.3 Access to information

The [Access to Information Rules](#) in Part F of this Constitution apply, to any joint or partnership arrangements.

Article 10 – Officers

10.1 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council (through the Appointments Panel) will engage persons for posts, who will be members of the Council’s [Senior Management Team](#):
- (c) **Head of Paid Service, Monitoring Officer and Responsible Finance Officer.** The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Assistant Director of Democracy and Governance	Monitoring Officer
Director for Corporate Support (Sect. 151)	Responsible Finance Officer

- (d) **Structure.** The Head of Paid Service will determine, publicise and maintain a description of the overall departmental structure of the Council showing the management structure and deployment of officers.

10.2 Functions of the Head of Paid Service

- (a) **To report on the discharge of functions by the Council.** The Head of Paid Service (Chief Executive), where appropriate to do so will report to Council on the manner in which the discharge of the Council’s functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers.
- (b) **Proper officer for access to information.** The Proper Officer (Chief Executive or designee) will make sure that committee’ decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available.
- (c) **Restrictions on functions.** The Head of Paid Service may not be the Monitoring Officer or the Responsible Finance Officer.
- (d) **Functions in case of emergency.** 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.

- (e) 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.

10.3 Functions of the Monitoring Officer

- (a) **To maintain the Constitution.** The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available to Members, staff and the public. The Monitoring Officer will review the operation of the Constitution.
- (b) **To ensure lawfulness and fairness of decision-making.** After consulting with the Head of Paid Service and Responsible Finance Officer, the Monitoring Officer will report to Council if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **To contribute to Corporate Management.** The Monitoring Officer as Assistant Director of Democracy and Governance will contribute to the Corporate Management of the Council, in particular through the provision of professional legal advice and democratic support.
- (d) **To support the Standards Committee.** The Monitoring Officer or designee will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee.
- (e) **To conduct investigations.** The Monitoring Officer or designee will conduct investigations into matters referred to him/her by the Standards Board for England and make reports or recommendations based on the investigation.
- (f) **To advise whether committee decisions are within the budget and policy framework.** The Monitoring Officer will advise, as required, whether decisions of the Cabinet, committees or officers are in accordance with the budget and policy framework.
- (g) **To provide advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors.
- (h) **Restrictions on posts.** The Monitoring Officer cannot be the Responsible Finance Officer or the Head of Paid Service.

10.4 Functions of the Responsible Finance Officer (Director for Corporate Support: Section 151 Officer)

- (a) **To make sure decisions are lawful and financially prudent.** After consulting with the Head of Paid Service and the Monitoring Officer, the Responsible Finance Officer will report to the Full Council and the Council's external auditor if he/she considers that any proposal, decision or course of action would incur unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully.
- (b) **To administer financial affairs.** The Responsible Finance Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **To contribute to corporate management.** The Responsible Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **To providing advice.** The Responsible Finance Officer or designee will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and officers in their respective roles.
- (e) **Providing financial information.** The Responsible Finance Officer or designee will provide financial information to the media, members of the public and the community.
- (f) **Restrictions on Post.** The Responsible Finance Officer cannot be the Monitoring Office. The Head of Paid Service and the Responsible Finance Officer can be the same person but the Responsible Finance Officer must be a qualified accountant.

10.5 Duty to provide sufficient resources to the Monitoring Officer and Responsible Finance Officer

The Council will provide the Monitoring Officer and Responsible Finance Officer with such officers, accommodation and other resources sufficient to allow their duties to be performed.

10.6 Duty to tell Monitoring and Responsible Finance Officers about procedural, constitutional or vires issues.

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

10.7 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

10.8 Conduct of Officers Generally

All officers will comply with the [Officers’ Code of Conduct](#) and the [Member/Officer Protocol](#).

10.9 Employment

The recruitment, selection and dismissal of officers will comply with the [Employment Standing Orders](#) in Part H this Constitution.

Article 11 – Decision Making

11.1 Responsibility for decision-making

The Council will issue and keep up to date a record of the responsibility of the Council, the Leader, the Cabinet, Committees, Cabinet members and individual officers for particular types of decisions or decisions relating to particular areas or functions. (See the Leaders [Scheme of Delegation](#))

11.2 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) Proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) Consultation and due consideration of professional advice from officers;
- (c) Respect for human rights;
- (d) A presumption in favour of openness;
- (e) Clarity of aims and desired outcomes; and
- (f) Explaining what options are available and giving reasons for the decisions taken.

11.3 Types of decision

- (a) Full Council decisions:

Decisions relating to the [Council functions](#) listed in Part B section 1 will be made by the Full Council and not delegated.

- (b) A Key decision is:

- (i) Any decision in relation to an Executive function which results in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates;

or

- (ii) any decision which is likely to have a significant impact on two or more wards within the Council.

The threshold for significant expenditure/savings is £2 million for the award of contracts and £500,000 for all other matters.

- (iii) A decision maker may only make a key decision in accordance with the requirements of the [Cabinet Procedure Rules](#) set out in Part C of this Constitution.

11.4 Decision making by the Full Council

Unless otherwise stipulated, the Council meeting will follow the [Council Procedure Rules](#) in Part B when considering any matter.

11.5 Decision making by the Cabinet

Unless otherwise stipulated, the Cabinet will follow the [Cabinet Procedure Rules](#) in Part C when considering any matter.

11.6 Decision making by the Overview and Scrutiny Management Board or Scrutiny Panels

The Overview and Scrutiny Management Board and panels will follow the [Overview and Scrutiny Procedure Rules](#) in Part D when considering any matter.

11.7 Decision making by other committees and sub-committees established by the Council

Other Council committees and sub committees shall follow the [Committee Procedure Rules](#) in Part E.

11.8 Decision making by Council bodies acting as tribunals

The Council, a councillor or an officer when acting as a tribunal or in a quasi judicial manner and determining or considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the Human Rights Act 1998.

Article 12 – Finance, Contracts and Legal Matters

12.1 Financial Management

The management of the Council's financial affairs will be conducted in accordance with the [Financial Regulations](#).

12.2 Contracts

Contracts made by or on behalf of the Council will comply with the [Contract Standing Orders](#).

12.3 Legal Proceedings

The Assistant Director of Democracy and Governance is authorised to institute, defend or participate in any legal proceedings:

- (a) In any case where such action is necessary to give effect to decisions of the Council; or
- (b) In any case where the Assistant Director of Democracy and Governance in his/her absolute discretion considers or is advised that such action is necessary to protect the Council's or public's interests.

12.4 Authentication of Documents

Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Assistant Director of Democracy and Governance or designee, unless any enactment otherwise authorises or requires, or the Council has given authority to some other person.

12.5 Common Seal of the Council

The Common Seal of the Council will be kept in a safe place in the custody of the Assistant Director of Democracy and Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Assistant Director of Democracy and Governance should be sealed. The affixing of the Common Seal will be attested by the Assistant Director of Democracy and Governance or designee.

Article 13 – Review and Revision of the Constitution

13.1 Duty to monitor and review the Constitution

The Council and Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

13.2 Protocol for monitoring and review of Constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations on ways the Constitution can be amended to better achieve the its purpose.

In undertaking this task the Monitoring Officer or designee may:

- (a) Observe meetings of different parts of the Member and officer structure;
- (b) Undertake an audit trail of a sample of decisions;
- (c) Record and analyse issues raised with him/her by Members, officers, the public and other relevant stakeholders; and
- (d) Compare practices in this authority with those in other comparable authorities, or national examples of best practice.

13.3 Changes to the Constitution

- (a) The Monitoring Officer can change the constitution, in consultation with the appropriate Cabinet Member 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.
- (b) The Monitoring Officer can also change Part C ([Responsibility for executive functions](#)) and Part C section ([Roles of Cabinet members](#)) to reflect the wishes of the Leader.
- (c) Any other changes must be agreed by Council after considering a report from the Monitoring Officer.

Article 14 – Suspension, Interpretation and Publication of the Constitution

14.1 Suspension of the Constitution

- (a) **Limit to suspension.** The Articles of this Constitution may not be suspended.
- (b) **Procedure to suspend the rules of procedure.** A motion to suspend any rules will not be moved without notice unless at least one half of the whole number of councillors are present. The extent and duration of suspension will be proportionate to the result to be achieved, taking account of the purposes of the Constitution.

14.2 Interpretation

The ruling of the Lord Mayor or Chair of a meeting as to the Rules of Debate or any proceedings of the Council shall not be challenged at any meeting of the Council. Such interpretation will have regard to the purpose of this Constitution.

14.3 Publication

The Monitoring Officer will ensure that up-to-date copies of the Constitution are made available to Members, Officers and the public on request.

PLYMOUTH CITY COUNCIL CONSTITUTION

PART B

RESPONSIBILITY FOR COUNCIL FUNCTIONS, THE COUNCIL AND COUNCIL PROCEDURES

RESPONSIBILITY FOR COUNCIL FUNCTIONS

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

Delegation by Committees

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

THE COUNCIL

COUNCIL FUNCTIONS

PART I - FUNCTIONS THAT MAY ONLY BE EXERCISED BY THE COUNCIL

Procedural Functions

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

Functions relating to the Budget, Policy, the Council, and the City.

11. To agree the Council's revenue and capital budgets;
12. To set the Council Tax levels;
13. To approve Prudential Indicators for Capital;
14. To take decisions about proposals which do not comply with the Policy Framework or Budget, unless they are urgent. The procedure for dealing with [Urgent decisions that are outside the Policy Framework and Budget](#) is in Part B section .
15. To agree the Council's [Policy Framework and Budget](#); (Appendix I(2))

16. To keep under review ward boundaries and to decide the Council's response to any proposals by the Local Government Boundary Commission affecting the authority's electoral boundaries;
17. Any other matter by law required to be considered or determined by the Council;
18. To promote or oppose local, personal or other Bills of Parliament;
19. To determine the Council's [Scheme for Members' Allowances](#) in Appendix I (I) after having regard to the Independent Remuneration Panel's report;
20. To approve any application to the Secretary of State in respect of any Housing Land Transfer;
21. To appoint the Head of Paid Service (Chief Executive);
22. To receive any report by the Responsible Finance Officer;
23. To receive any report by the Monitoring Officer (Assistant Director of Democracy and Governance);
24. To receive any report by the Chief Executive
25. To make, amend, revoke or re-enact any byelaws to apply within the unitary boundaries.
26. To receive any report of the Council's Committees as appropriate;

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

27. To change the name of the city under Section 74 of the Local Government Act 1972.
28. To confer the title of Freedom of the City, Honorary Alderman, Honorary Recorder;
29. To appoint any electoral registration officer under Section 8(2) of the Representation of the People Act 1983 (c.2)(c);
30. To assign officers in relation to requisitions of the registration officer under Section 52(4) of the Representation of the People Act 1983;
31. To appoint a returning officer for Local Government elections under Section 35 of the Representation of the People Act 1983;
32. To provide assistance at European Parliamentary elections under Paragraph 4(3) and (4) of Schedule I to the European Parliamentary Elections Act 1978 (c.10)(d);

33. To divide constituencies into polling districts under Section 18 of the Representation of the People Act 1983;
34. To divide wards and parliamentary constituencies into polling districts at local government elections under Section 31 of the Representation of the People Act 1983;
35. To exercise all powers in respect of holding of elections under Section 39(4) of the Representation of the People Act 1983;
36. To pay expenses properly incurred by electoral registration officers under Section 54 of the Representation of the People Act 1983;
37. To fill vacancies in the event of insufficient nominations under Section 21 of the Representation of the People Act 1985;
38. To declare vacancy in office in certain cases under Section 86 of the Local Government Act 1972;
39. To give public notice of a casual vacancy;
40. To determine fees and conditions for supply of copies of, or extracts from, elections documents under Rules 48(3) of the Local Elections (Principal Areas) Rules 1986 (S I 1986 (S I 1986/2214) and rule 48(3) of the Local Elections (Parishes and Communities) Rules 1986 (S I 1986/2215);
41. To submit proposals to the Secretary of State for an order under section 10 (pilot schemes for local elections in England and Wales) of the Representation of the People Act 2000 under Section 10 of the Representation of the People Act 2000 (c.2).

COUNCIL PROCEDURES

COUNCIL PROCEDURE RULES

1. All Meetings of the Full Council will follow standard [Rules of Debate](#) (see Appendix 1(3)) for the conduct of its business in order to facilitate debate in an open but orderly manner.

2. NOTICE OF AND SUMMONS TO MEETINGS

The Assistant Director for Democracy and Governance will give notice to the public of the time and place of any meeting in accordance with the [Access to Information Rules](#) (see Part F). At least five clear working days before a meeting, the Assistant Director for Democracy and Governance 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.

3. TIME AND PLACE OF COUNCIL MEETINGS

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

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.

4. ORDER OF BUSINESS AT ANNUAL MEETING OF COUNCIL

The order of business will be to:

- (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 and appoint Chairs and Vice Chairs;
- (e) agree how Council responsibilities will be carried out;
- (f) note how Executive responsibilities will be carried out;
- (g) nominate or appoint representatives to outside bodies;
- (h) adopt the constitution, if required;
- (i) deal with any other business on the agenda.

5. ORDER OF BUSINESS AT ORDINARY MEETING OF COUNCIL

5.1 Ordinary Meetings except for Council Tax setting meetings

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

- (a) elect the chair (if the Lord Mayor and Deputy are absent);
- (b) receive apologies for absence from councillors;
- (c) approve minutes of the last meeting as a correct record;
- (d) receive declarations of interest from councillors;
- (e) make appointments to committees and outside bodies (unless the outside body's function relates to an executive function;)
- (f) receive announcements from the Lord Mayor, Head of Paid Service, Responsible Finance Officer and Monitoring Officer;
- (g) receive announcements from the Leader, cabinet members, committee chairs;
- (h) receive presentations of and responses to [Council Petitions](#) (see Part G, section);
- (i) reply to [questions by the public](#) (see Part B, section);
- (j) deal with any unfinished business from the last meeting;
- (k) respond to recommendations from the Cabinet;
- (l) respond to recommendations and reports from the Overview and Scrutiny Management Board;
- (m) respond to recommendations from other Committees requiring council approval;
- (n) respond to reports from the Chief Executive, Responsible Finance Officer or Monitoring Officer;
- (o) deal with [motions on notice](#) (see Appendix I section);
- (p) deal with any other agenda items;
- (q) deal with [questions by councillors](#) to the Leader, cabinet members and committee chairs about their areas of responsibility .

5.2 Council Tax Setting Meetings

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

5.3 Varying the Order of Business

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.

6. EXTRAORDINARY MEETINGS OF COUNCIL

6.1 Calling an extraordinary meeting

The following may call an Extraordinary 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 Procedures](#) in Part C section .
- (f) the Chief Executive

6.2 Business at Extraordinary meetings

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

7. 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, except for the first item at the annual meeting. Council must give its consent.

8. CHAIR OF 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.

9. QUORUM

9.1 Description

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

9.2 Lack of quorum

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.

10. DURATION OF MEETING

10.1 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. QUESTIONS BY THE PUBLIC

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.

11.2 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.

11.3 Number of questions

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

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.

11.5 Length of questions

Questions will be no more than 50 words.

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.

11.7 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.)

11.8 Discussion

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

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](#))

The Monitoring Officer will endeavour to assist members of the public to frame questions to comply with these rules; however the Monitoring Officer's decision is final.

If a question is rejected, reasons must be given.

12. QUESTIONS BY COUNCILLORS

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.

12.2 Timing

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

12.3 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.

12.4 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.

13. PRESENTATION OF MINUTES

13.1 Council Minutes will be published by Democratic Support as per their publishing protocols.

13.2 Items from Cabinet, Overview and Scrutiny Management Board and other committees which require approval or confirmation from the Council will be placed on the Council's agenda.

14. MOTIONS ON NOTICE

14.1 Giving notice of motions

Some motions may be moved without notice. (These are listed in paragraph 14.6). 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 emailed to democraticsupport@plymouth.gov.uk (separate emails must be received from both the proposer and the seconder).

14.2 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.

14.3 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.

14.4 Topic of motions

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

14.5 Rejecting motions

The Monitoring Officer can reject a motion if:

- it is not about something for which the Council is responsible or which affects the City;
- it is potentially defamatory, frivolous, trivial or offensive
- it requires the Council to make public [exempt or confidential information](#) (see Part F section)

The Monitoring Officer's decision is final.

14.6 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 Procedures](#) – see Part F section);
- give Council’s agreement when it is required by the Constitution.

15 VOTING

15.1 Majority vote

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

15.2 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.

15.3 Method of voting

Votes can be:

- by show of hands, or
- recorded – (see paragraph 15.4).

15.4 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.

15.5 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.

15.6 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.

16. MINUTES

16.1 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.

16.2 No minutes at Annual or Extraordinary meetings

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

17. RECORD OF ATTENDANCE

A record of attendance at Council meetings is kept and available for inspection, upon request.

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

18. EXCLUSION OF PUBLIC

Members of the public and press may only be excluded either in accordance with the [Access to Information Rules](#) of this Constitution (see Part F) or if they are disrupting the meeting (See paragraph 20).

19. COUNCILLORS' CONDUCT

19.1 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.

19.2 Forms of Address

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.

19.3 Chair 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.

19.4 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

19.5 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.

19.6 General disturbance

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

20. DISTURBANCE BY PUBLIC

20.1 Removal of member of the public

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.

20.2 Clearance of part of 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.

21. SUSPENSION OF COUNCIL PROCEDURE RULES

21.1 Suspension

21.1.1 All the Council Procedures in this section can be suspended except:

- 15.5 (Right to have individual vote recorded)
- 16.2 (No minutes at annual or special meetings)
- 19 (Councillors conduct) and
- 20 (General disturbance)

21.2.2 Council Rules of Procedure may be suspended by motion on notice or without notice if at least one half of the whole number of members

of the Council are present. Suspension can only be for the duration of the meeting.

22. CHANGES TO THESE PROCEDURES

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.

BUDGET AND POLICY FRAMEWORK PROCEDURE RULES

1. THE FRAMEWORK FOR CABINET DECISIONS

- 1.1** Council sets the policy framework and budget
- 1.2** The Leader, Cabinet. Committees and officers must act within it.

2. PROCESS FOR DEVELOPING THE FRAMEWORK

Timetable

- 2.1** The Forward Plan will include a timetable for any proposals affecting the policy framework and budget, and will say what consultation there will be. At the end of the consultation, the cabinet member will submit a report on the draft proposals to cabinet.
- 2.2** The relevant Cabinet member will draft the initial proposals with the advice of officers and will publish the proposals for consultation.
- 2.3** 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.
- 2.4** At the end of the consultation, the Cabinet member will submit a report on the draft proposals to cabinet.
- 2.5** 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.
- 2.6** The Cabinet's proposals will go to Council as soon as possible.
- 2.7** The Council may:
 - Adopt the report and the proposals contained in it;
 - Amend the proposals and adopt them;
 - Refer the proposals back to the Cabinet for further consideration; or
 - Substitute its own proposals for those of the Cabinet.
 - accept the cabinet's proposals
 - or refer the proposals back to the cabinet or
 - change the proposals for example by adopting proposals of its own.
- 2.8** If Council accepts the Cabinet's proposals without any changes, the decision will come into force immediately.
- 2.9** If Council changes the Cabinet's proposals, it will be an in principle decision only. The Leader will be given a copy of an in principle decision. The in

principle decision will come into force unless the Leader objects in writing to the Assistant Director for Democracy and Governance within five clear working days, giving reasons.

- 2.10 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.
- 2.11 The Council's decision will come into force immediately
- 2.12 The Council must agree and set the Level of Council Tax by the statutory deadline.
- 2.13 The decision shall be made public in accordance with the Access to Information Procedure Rules, and shall be implemented immediately.
- 2.14 In approving the Budget and Policy Framework, the Council will also specify the extent of virement within the budget and degree of in-year changes to the policy framework which may be undertaken by the Cabinet, in accordance with virement and in-year adjustments. Any other changes to the Budget and Policy Framework are reserved to the Council

3. DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

3.1 Requirement to act in accordance with the policy framework and Budget

The Cabinet, committees of Cabinet, individual members of Cabinet, committees and joint committees and any officers carrying out executive responsibilities can only take decisions if they are

- in line with the policy framework and budget, or
- [Urgent decisions](#) allowed under paragraph 4, or
- allowed under financial procedure rules, or necessary to obey the law or ministerial directions or government guidance.

Any other decisions which are not in accordance with the policy framework and budget must be recommended to Council.

- 3.2 The Cabinet and any officers carrying out executive responsibilities will seek the Monitoring Officer or Responsible Finance Officer's advice if it is unclear whether proposals are in line with the policy framework or budget

4. URGENT DECISIONS OUTSIDE THE BUDGET OR POLICY FRAMEWORK

- 4.1 The Cabinet, committees of Cabinet, individual members of Cabinet, committees and joint committees or officers carrying out executive

responsibilities can take a decision that is outside the policy framework or budget if:

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

4.2 The absence of the Chair of the Overview and Scrutiny Management Board

If the Chair of the Overview and Scrutiny Management Board is absent, the Lord Mayor agrees that the decision is urgent and, if both are absent, the Deputy Lord Mayor can give his or her agreement.

4.3 Recording Urgent decisions

The record of the decision must say:

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

5. In-year changes to policy framework

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

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

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

6. Call-in of decisions outside the budget or policy framework

- 6.1** The [Call in Procedures](#) deal with Call in of decisions outside the policy framework or budget (see Part C, section).

PLYMOUTH CITY COUNCIL CONSTITUTION

PART C

RESPONSIBILITY FOR EXECUTIVE FUNCTIONS, THE ROLE OF THE LEADER, CABINET, MEMBERS OF CABINET AND CABINET PROCEDURES

RESPONSIBILITY FOR FUNCTIONS AND PROCEDURES

1. This section of the Constitution sets out the responsibilities of the Leader, Cabinet and individual cabinet members and the Cabinet procedures.
2. The Leader is responsible for any functions which are not specifically required to be carried out by the Council under regulations.

EXECUTIVE RESPONSIBILITIES AND THE LEADER

I GENERAL

- 1.1 All the functions of the Council are executive functions except for:
- Those listed in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended); and
 - Those set out in this Constitution as being the responsibility of the Council or a body established by the Council.
- 1.2. Executive functions will be exercised by the Leader except where the matter is dealt with under joint arrangements or delegated to the Cabinet, a committee of Cabinet, an individual Cabinet member or an officer.
- 1.3. The Leader will discharge these functions in accordance with the Cabinet Procedures and the Access to Information Rules.
- 1.4 The Leader will make sure all necessary steps are taken to prepare the authority's budget, and those plans and strategies which constitute the authority's policy framework as set out in of this Constitution, prior to their final approval and adoption by the Council. He or she will undertake this work in accordance with the [Budget and Policy Framework Procedure Rules](#) (see Part B, section).

2 DELEGATION BY THE LEADER

- 2.1 If a responsibility does not have to be carried out by the cabinet or a committee or under joint arrangements 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.
- 2.4. The Leader cannot delegate to the Council.
- 2.5. 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.
- 2.6 The Leader can also decide to delegate further responsibilities to committees of the cabinet, individual cabinet members or to an officer.

Delegation by Committees

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

Officers' use of delegated powers

- 2.8** 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).

Interpreting the rules on delegation

- 2.9.** 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 Responsible Finance Officer and the Monitoring Officer.

THE CABINET

3 CABINET RESPONSIBILITIES

3.1 Unless the Cabinet chooses to authorise a committee of cabinet, an individual cabinet member or an officer to carry out these decisions on its behalf, the decisions listed below must be taken by Cabinet. The Cabinet will determine whether to:

Key Decisions:

- take decisions which 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)
- take decisions which would have a significant impact on two or more wards.

Policy decisions and Strategy:

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

Finance and contract decisions

- recommend the budget to council;
- recommend any changes to the net revenue budget to council;
- recommend the Treasury Management Strategy to council
- set the Council Tax base;
- recommend the Prudential and Treasury indicators to council;
- recommend the medium term financial strategy to council;
- recommend transfers between revenue cost centres to council;
- recommend the Corporate Asset Management Plan to council;
- recommend the Capital Programme to council;
- take decisions in accordance with the capital and revenue delegation tables in Financial Regulations;
- approve the outline business case or giving authorisation to tender for contracts with an estimated value of £2,000,000 or more;
- award contracts with a total cost of £2,000,000 or more.

Property decisions

- acquire freeholds or leaseholds with a consideration or premium over £500,000;
- acquire or dispose of leases for a term of more than 125 years – unless they are leases at Mount Edgcumbe country park and house;

- acquire or dispose of leases at Mount Edgumbe Country Park for a term of more than 10 years;
- dispose of property or leases for less than best consideration;
- make compulsory purchase orders

Decisions about services

- change eligibility for services if this will have a significant impact on two or more wards;
- designate conservation areas;
- agree local plans about civil contingencies;
- set up external partnerships, shared service arrangements and transferring services to third parties;
- choose preferred routes or options for principal routes and major transportation proposals following public consultation;
- approve the draft school organisation plan;
- make changes to the schools admissions arrangements;
- take 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 Edgumbe house and country park including the power to acquire and sell land.

4 RESPONSIBILITIES OF INDIVIDUAL CABINET MEMBERS.

- 4.1** Unless an individual cabinet member chooses to authorise an officer to carry out these decisions on his or her behalf; the following decisions must be taken by an individual cabinet member. The appropriate cabinet member will determine whether to:

Policy decisions and strategy

- set or change policy that does not have a significant impact on two or more wards.

Finance and contract decisions

- take decisions in accordance with the capital and revenue delegation tables in Financial Regulations;
- take decisions which will result in the Council spending or saving or raising/reducing annual income by more than £200,000 but not more than £500,000 unless the decision is to award a contract;
- approving the outline business case or giving authorisation to tender for contracts with an estimated value of £500,000 or more but less than £2,000,000
- award contracts with an estimated value of £500,000 or more but less than £2,000,000;

- award contracts for personal social services with an estimated value in excess of £250,000 per annum;
- set or change 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);
- agree a draft budget for consultation;
- decide applications for mandatory rate relief and discretionary non-domestic rate relief outside the approved scheme;
- agree significant variations to the scheme for financing schools;
- 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;
- decide whether to agree variations to the business plan that do not require extra spending;
- 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;
- decide whether to agree variations to the business plan that do not require extra spending.

Property decisions

- acquire freeholds or leaseholds with a consideration or premium of more than £200,000 but less than £500,000;
- acquire leaseholds for more than three years but less than 10 years;
- accept a tender which offers the best consideration.

Decisions about services

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

5. DELEGATIONS TO THE EXECUTIVES OF OTHER COUNCILS

5.1 Delegations to Birmingham City Council

Birmingham City Council has been granted funding by central government to set up a national task force to deal with illegal money lending. In view of this 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.

5.2 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.

6. DELEGATIONS TO OFFICERS

6.1 All executive responsibilities except the ones in Part C sections 3, 4, and 5, are delegated to the officers in the senior management structure.

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.

CABINET PROCEDURE RULES

I.1 Executive decisions

Executive decisions may be made by one or more of the following:

- (i) The Leader
- (ii) The Cabinet as a whole
- (iii) A committee of the Cabinet
- (iv) An individual member of the Cabinet
- (v) An officer
- (vi) Joint arrangements

I.2 Delegation by the Leader

I.2.1 There is an agreed a scheme of delegation for executive functions.

Amending the Leader's scheme of delegation

I.2.2 The scheme of delegation relating to executive functions may be amended by the Leader 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 proper officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

I.2.3 Where the Leader withdraws delegation from a committee, notice will be given to the committee's Chair, on behalf of the committee.

I.3 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this will be dealt with as set out in the Council's [Code of Conduct for Members](#).
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in the Council's [Code of Conduct for Members](#).
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, an individual member or an officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's [Code of Conduct for Members](#).

1.4 Cabinet Meetings

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

1.5 Decisions to be taken by the Cabinet

The Cabinet will take decisions at a meeting convened in accordance with the [Access to Information Rules](#) in Part F of the Constitution.

The rules applying to executive decisions taken by an individual cabinet member shall be the same as those applying to decisions taken by the Cabinet as a whole.

2. CONDUCT OF CABINET MEETINGS

2.1 Presiding Officer

The Leader will act as Chair at any meeting of the Cabinet or its committees at which he or she is present. In the Leader's absence, the Deputy Leader acts as Chair, and in the absence of both may appoint another Member to do so for that meeting only. If the Leader or the person they have appointed arrives part of the way through a meeting, the acting Chair will finish the item of business being conducted; the Leader or the person they have appointed to act as Chair will then conduct the remaining business.

2.2 Attendance at Cabinet

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 permission of the Leader or the person presiding.

2.3 Quorum

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

2.4 Vacancies on 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

2.5 Decision taking

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.

2.7 Record of voting.

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.

3. CABINET BUSINESS

3.1 The 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.

3.2 Questions from the public

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 for which the Council is responsible or which affects the City
- it is potentially defamatory, frivolous, trivial or offensive
- it requires the Cabinet to make public [exempt or confidential information](#) (see Part F sections)

The Monitoring Office will endeavour to assist members of the public to frame questions to comply with these rules.

The Monitoring Officer's decision is final.

3.3 The Cabinet agenda

3.3.1 The Leader will decide the schedule for the meetings of the Cabinet. He or she may put on the agenda of any Cabinet meeting any matter which he or she wishes, whether or not authority for that function has been delegated to the Cabinet, an individual member or committee of the Cabinet, or to any Member or officer.

- 3.3.2 The Monitoring Officer will make sure that an item is put on the agenda of the next available meeting of the Cabinet where a relevant scrutiny panel or the Council have resolved that an item be considered by the Cabinet. However, there may only be up to 6 such items on any one agenda.
- 3.3.3 There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by overview and scrutiny panels. However, there may only be up to 6 such items per Cabinet meeting.
- 3.3.4 The Chief Executive, Monitoring Officer or Responsible Finance Officer can put an item on the agenda. If the item is urgent, they can require a special meeting to consider it.
- 3.3.5 All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant scrutiny panels, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

3.4 Implementation of decisions

- 3.4.1 All cabinet decisions are subject to [call in](#) (see Part C, section) and will be recorded and published on the Friday following the decision. (Unless the decision is urgent – see paragraph 3.5).
- 3.4.2 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.

3.5 Urgent decisions

- 3.5.1 Urgent decisions can be implemented immediately (and the call in procedure does not apply).
- 3.5.2 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 or her absence the agreement of the Lord Mayor) that the decision is urgent prior to the implementation of the decision.
- 3.5.3 Where an urgent decision is taken and agreed by the chair of the Overview and Scrutiny Management Board or in his or her absence the Lord Mayor it shall be immediately implemented and the call in procedure set out below will not apply.

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

3.6 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.”

3.7 Gaps in these Procedures

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

4. CABINET MEMBER DECISION MAKING PROCEDURES

4.1 Only those persons properly appointed to make decisions under the Leaders Scheme of Delegation shall be entitled to exercise these powers.

4.2 A Cabinet Member shall have the discretion not to exercise his or her delegated powers to make a decision, choosing in preference for the matter to be considered by and subject to decision by the full Cabinet or Leader.

4.3 The exercise of delegated authority by a Cabinet member shall be carried out in the following way:

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 minutes of the decision will be taken and published.

4.4 Recording and Publication of Delegated Decisions

4.4.1 All delegated decisions taken by Cabinet members shall be recorded and published on the Friday following the decision with the Call-In by the subsequent Friday. All Cabinet members’ decisions are subject to [Call in](#) (see section) and will be recorded and published on the Friday following the decision. (Unless the decision is urgent – see section).

4.4.2 Decisions shall be recorded in writing and shall contain the following information:

- (a) Details of the decision;
- (b) The name of the cabinet member making the decision;
- (c) The decision a summary of the issues;
- (d) The reasons for the decision;
- (e) The alternative options considered and rejected;
- (f) Who was consulted before the decision was made;
- (g) The date of the decision.
- (h) 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.
- (i) Whether the decision is urgent, the reasons for the urgency and the signature of the Chair of the Overview and Scrutiny Management Board (or in his or her absence the Vice Chair of the Management Board or another member of the Management Board).
- (j) Any corporate, financial, personnel, legal and Asset Management implications; and
- (k) Background papers.

4.4.3 **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 unless it is an urgent decision.

4.4.4 **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 Lord Mayor) 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 the Lord Mayor it shall be immediately implemented and the [call in procedure](#) in section will not apply.

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

CALL IN PROCEDURE RULES

1. What decisions can be called in?

1.1 Call in is a process where the Overview and Scrutiny Management Board can recommend that an executive decision which has not yet been carried out, is reconsidered by the decision maker

1.2 The following executive decisions can be called in:

- decisions of the Leader;
- cabinet decisions;
- cabinet member decisions;
- executive decisions under joint arrangements.

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.

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 and independent members cannot call in decisions.

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 (eg 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 which took the decision and the cabinet member.

5. Where are decisions called in to?

The Overview and Scrutiny Management Board will consider all decisions which are called in.

6. What happens when a decision is called in?

The Overview and Scrutiny Management Board can decide to:

- confirm that the decision should be implemented, the decision can then be acted on immediately; or
- recommend that the decision maker should reconsider the decision in light of the comments expressed by the Management Board; or
- refer the decision to Council to consider the call in; or
- send comments to Council on any decision that recommends changing the policy framework and budget.

7. 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 may then:

- (a) implement the decision (which cannot be called in again); or
- (b) not implement the decision; or
- (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.

8. 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. Council can decide to:

- support the decision, which can then be acted on immediately; or
- 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 7 (a) to (c) above will be followed, taking the Council's views into account.

9. 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.

10 Decisions believed to be outside the budget or policy framework

- (a) The Monitoring Officer or Responsible Finance Officer 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 Council can be held, see Council Procedure Rule 6 One of the church representatives will be nominated by the Diocesan Board of Education for the Church of England diocese and the other will be nominated by the Bishop of the Roman Catholic diocese within the area.).
- (d) Council are able to:
 - 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.

11. 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 Lord Mayor (or in his or her absence the Deputy Lord Mayor) 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.

PLYMOUTH CITY COUNCIL CONSTITUTION

PART D

OVERVIEW AND SCRUTINY FUNCTIONS & PROCEDURES

OVERVIEW AND SCRUTINY FUNCTIONS

I. PRINCIPLES OF THE OVERVIEW AND SCRUTINY PROCESS

The principles of the Overview and Scrutiny Process are to:

- add value to Council business and decision-making
- hold the Cabinet to account
- monitor the budget and performance of services
- assist the Council in the development of policy and review the effectiveness of the implementation of Council policy
- Work to outcomes, which can be measured and have a positive impact on the community
- improve the quality of the scrutiny process
- exercise effective scrutiny

2. ROLE OF THE MANAGEMENT BOARD

The role of the Management Board is to

- oversee workloads, including approval of work programmes, allocate work (based on request from Panels and from the Forward Plan) and the approval of Task and Finish Groups* and to monitor the performance of Panels and Chairs;
- manage relationships between Panels, Cabinet Members, Theme Groups / Chairs and Partners and to produce relevant Protocols;
- monitor performance against Inspection Action Plans, including Access to Services and Equality Standards, and to monitor performance of Partner Organisations;
- monitor Call-ins, Councillor Call for Action and Petitions and to allocate work accordingly (Call-ins to be considered by a minimum of three Members to include the Chair of the Board and the Chair of the relevant Panel);
- receive quarterly Finance and Performance Reports, including monitoring performance towards the Corporate Priorities and to carry out the Annual Budget Scrutiny;
- agree recommendations to Cabinet / Council about partnerships;
- and to monitor progress, including presentation of a quarterly report to the Cabinet about scrutiny activities including recommendations from the panels;;
- agree appointments of Co-optees to Panels and to approve an annual Scrutiny training programme;

*The purpose of Task and Finish Groups will be to undertake pieces of scrutiny work as required by the Management Board and will be time specific. These groups will be made up of Members who have expressed an interest in the particular issue. Once the Task and Finish Group has commenced work, no substitution for Members is allowed.

Overview & Scrutiny Management Board and Panels are subject to the rules of political proportionality. In the case of the Joint Health Panel, it is not, as agreed by the Council, subject to political proportionality relating to political groups.

3. ROLES OF OVERVIEW AND SCRUTINY PANELS

3.1 Developing and reviewing policy

The scrutiny panels' role is to:

- 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

3.2 Holding the cabinet to account

The scrutiny panels' role is to:

- 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

3.3 Holding others to account

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

4. THE WORK OF THE SCRUTINY PANELS IS:

Overview and Scrutiny Panel	Areas of work
Children and Young People	<ul style="list-style-type: none">• Children's Services• Lifelong learning• Learning and family support• Social Care• Child healthcare• Corporate priorities
Customers and Communities	<ul style="list-style-type: none">• Customer services• Environmental Services• Safer communities• Leisure, culture and sport• Environmental regulation• Crime and disorder• Corporate priorities
Growth and Prosperity	<ul style="list-style-type: none">• Planning

	<ul style="list-style-type: none"> • Transport • Strategic housing • Economic development
	<ul style="list-style-type: none"> • Sustainability and climate change • Corporate priorities
Health and Adult Social Care	<ul style="list-style-type: none"> • Adult social care • Public health
	<ul style="list-style-type: none"> • Independent living • Reducing inequalities • Undertaking the statutory functions in relation to the reviewing and scrutinising of local health service matters • Corporate priorities
Support Services	<ul style="list-style-type: none"> • 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	<ul style="list-style-type: none"> • Health scrutiny matters

5. WHAT POWERS DO OVERVIEW AND SCRUTINY PANELS HAVE?

5.1 Scrutiny panels are able to:

- 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 and cabinet members to attend their meetings and answer questions ;

6. MEMBERSHIP OF THE MANAGEMENT BOARD

The Management Board consists of the Chair of each of the Overview and Scrutiny Panels plus other members appointed by Council at the annual meeting.

7. MEMBERSHIP OF OVERVIEW AND SCRUTINY PANELS

Members of the Overview and Scrutiny Panels and their substitutes cannot be Cabinet Members.

OVERVIEW AND SCRUTINY PROCEDURES

8. 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. Before they leave they can make representations and answer questions or give evidence if other members of the public would also have this right.

9. 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 Council meeting.

10. 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.

11. CO-OPTED MEMBERS OF OVERVIEW AND SCRUTINY PANELS

11.1 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.

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

11.3 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). One of the church representatives will be nominated by the Diocesan Board of Education for the Church of England diocese and the other will be nominated by the Bishop of the Roman Catholic diocese within the area.

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

12. OVERVIEW AND SCRUTINY PANEL MEETINGS

12.1 The annual calendar for overview and scrutiny panel meetings is set by Council. If they need to have extra meetings, they set the dates themselves.

12.2 The Monitoring Officer or the Overview and Scrutiny Panel Chair can decide to call a special meeting.

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

13. SUBSTITUTES, QUORUM AND TRAINING

13.1 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.

13.2 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.

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

13.4 Substitutes cannot appoint substitutes of their own.

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

13.6 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 and Panels	Three	Any councillor who is not a member of the Cabinet	✓

14. CHAIRS AND VICE-CHAIRS OF OVERVIEW AND SCRUTINY PANELS

14.1 Election of chair and vice-chair

Chairs and vice-chairs are appointed at the annual meeting of Council.

14.2 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 confirmed at the panel's next ordinary meeting.

15. 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 Council.

16. 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).

17. AGENDA

17.1 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 or Board will decide what course of action, if any, to take.

Any member of a Scrutiny Panel or the Management Board who would like to recommend an item for their work programme shall submit a work request form for consideration by the Management Board.

17.2 Councillors rights

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.

17.3 Considering matters

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.

17.4 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.

17.5 Excluded matters

The following matters cannot be considered by an Overview and Scrutiny Panel:

- 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 and Chair (or Vice-Chair in the chair's absence) of the Board or Panel will determine whether a matter is an excluded matter.

18. 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.

19. POLICY REVIEW AND DEVELOPMENT

19.1 The overview and scrutiny panels' and the board's role in developing the policy framework and budget is set out in paragraph 3.1.

19.2 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.

19.3 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 which is necessary.

20. 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.

21. 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.

22. 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.

23. REPORTS ON OVERVIEW AND SCRUTINY REVIEWS

23.1. 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.

23.2. 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.

23.3. 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.

23.4 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;
- Council must, where practicable, consider it at its next ordinary meeting if it is about Council responsibilities.

24. 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.

25. OVERVIEW AND SCRUTINY MEMBERS' RIGHTS TO SEE DOCUMENTS

Overview and scrutiny members' rights to see documents are set out in [the Access to Information Rules](#) (see Part F).

26. DUTY OF CABINET MEMBERS AND OFFICERS TO ATTEND OVERVIEW AND SCRUTINY MEETINGS

26.1 Duty to attend

26.1 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

26.2 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.

26.3 Timing

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

27. WHIPPING

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

28. ORDER OF BUSINESS AT OVERVIEW AND SCRUTINY PANELS AND BOARD

28.1 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

28.2 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.

29. WITNESSES AT OVERVIEW AND SCRUTINY MEETINGS

Witnesses should be treated with politeness and respect.

30. 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).

31. 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.

32. GAPS IN THESE PROCEDURES

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

PLYMOUTH CITY COUNCIL CONSTITUTION

PART E

OTHER STATUTORY FUNCTIONS; COMMITTEES, JOINT COMMITTEES AND COMMITTEE PROCEDURE RULES

AUDIT AND THE AUDIT COMMITTEE

I. FUNCTIONS

The Council's Internal Audit functions are carried out by the Devon Audit Partnership; External Audit is carried out by the Council's External Auditor and the Audit Committee is responsible for the functions set out in section 2 below.

MATTERS SPECIFICALLY DELEGATED TO THE AUDIT COMMITTEE

2. RESPONSIBILITIES OF THE AUDIT COMMITTEE

2.1 External Audit Functions of Audit Committee

- (a) To consider the appointment of the Council's external auditor, as far as the rules permit.
- (b) To discuss with the external auditor the nature and scope of audit coverage, including Value for Money (VFM) and Best Value Work and to agree level of fees chargeable.
- (c) To review external audit reports and annual audit letters, together with management response and make recommendations to the Cabinet.
- (d) To respond to any other concerns of the external auditors.

2.2 Internal Audit Functions of the Audit Committee

- (a) To monitor the progress and performance of Internal Audit.
- (b) To review and approve the Internal Audit annual programme.
- (c) To consider significant findings of Internal Audit reviews and investigations together with management responses and monitor implementation of agreed recommendations.
- (d) To advise Council on the Internal Audit function, resourcing and standing within the authority.
- (e) To ensure co-ordination between internal and external auditors.
- (f) To consider the Chief Auditor's annual report, and comment annually on the adequacy and effectiveness of internal control systems within the Council.

2.3 Risk Management Functions of the Audit Committee

- (a) To approve, support and monitor the implementation and ongoing processes for identifying and managing key risks of the authority.
- (b) To review and advise the Cabinet and Council on the content of the corporate governance report in the annual report, and to approve the statement of accounts.
- (c) To monitor the Council's compliance with its own published standards and controls and recommend any necessary changes to Financial Regulations and Standing Orders Contracts.
- (d) To keep under review corporate policies such as Anti-fraud Strategy.

2.4 Corporate Governance

To advise Council on the promotion, maintenance and review of Code of Corporate Governance for the City Council.

3 MATTERS DELEGATED TO OFFICERS

All other non executive functions in respect of audit have been specifically delegated to the Assistant Director Finance Assets and Efficiencies.

4. GENERAL

- 4.1** Council Members may serve on both the Audit Committee and the Standards Committee
- 4.2** The independent members of Audit Committee shall not be those appointed to the Standards Committee

STANDARDS AND THE STANDARDS COMMITTEE

1. FUNCTIONS

The Council's Standards functions under the Local Government Act 2000 as amended

MATTERS SPECIFICALLY DELEGATED TO THE STANDARDS COMMITTEE

2. RESPONSIBILITIES OF THE STANDARDS COMMITTEE

The responsibilities of the Standards Committee are to:

- 2.1 Advise the Council on the adoption or revision of the Members' Code of Conduct and other regulatory codes and protocols which ensure high standards of behaviour, probity and ethical conduct in public office including the following:
 - Member and Officer Codes of Conduct
 - Protocols relating to Members and employee relations and working practices
- 2.2 Establish Sub-Committees to deal with assessment investigation and determination of allegations of breaches of the Members' Code of Conduct.
- 2.3 Appoint members to any Sub-Committee of the Standards Committee provided that they have completed the Council's prescribed training on Assessment of Standards complaints.
- 2.4 Monitor the operation of the Members' Code of Conduct and all City Council adopted regulatory codes and protocols.
- 2.5 Promote and maintain high standards of conduct by Members and Co-opted and Independent Members of the City Council.
- 2.6 Assist Councillors, Co-opted and Independent Members of the City Council to observe the Members' Code of Conduct.
- 2.7 Advise, train or arrange the training of Councillors, Co-opted and Independent Members of the Council on matters relating to the appropriate Members' Code of Conduct and other ethics and probity issues.
- 2.8 Determine any complaints of breaches of the Members' Code of Conduct that are referred to by a Sub-Committee, the Standards Board for England or the Monitoring Officer; when undertaking this function the Committee will comply with relevant legislation, Council policies and agreed procedures.
- 2.9 Consider any complaint of breaches by Members of any Member/Officer protocol, Standing Order, written Council convention or Council resolution.

- 2.10** Determine requests for dispensations from Councillors, Co-opted members and church and parent governor representatives from requirements relating to interests set out in the Member's Code of Conduct.
- 2.11** Determine requests for dispensations by staff who are in politically restricted posts.
- 2.12** Recommend to Council payments under Section 92 of the Local Government Act 2000 in respect of acts of maladministration. 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 £10,000

3. MATTERS DELEGATED TO OFFICERS

- 3.1** All other functions in respect of standards have been delegated to the Monitoring Officer.

4 GENERAL

- 4.1** The Council's established Standards Committee is comprised of:-
- five Councillors who shall not include the Leader;
 - six co-opted members who are not Councillors or officers of the Council
- 4.2** The Standards Committee when acting as a disciplinary forum must include at least one independent member who does not have a conflict of interest and one Councillor.

TAXI LICENSING AND THE TAXI LICENSING COMMITTEE

I FUNCTIONS

1.1 To carry out 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.

1.2 Policy

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

2 MATTERS DELEGATED TO THE TAXI LICENSING COMMITTEE

2 Responsibilities of the Taxi Licensing Committee:

The Taxi Licensing Committee will:

2.1 Determine and review licence fees and terms and conditions of licences for taxis, private hire vehicles and other vehicles and operators;

2.2 Determine 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;

2.3 To determine 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;

2.4 Determine whether to withdraw or suspend licences for taxis and private hire and other vehicles and their drivers and operators

4. MATTERS DELEGATED TO OFFICERS

All other functions in respect of taxi licensing have been delegated to the Assistant Director for Environmental Services.

5. GENERAL

5.1 The Council's established Taxi Licensing Committee is comprised of Seven Councillors who have received the appropriate training.

LICENSING AND THE LICENSING COMMITTEE

I. FUNCTIONS

I.1 The Councils licensing functions are:

- (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).

- 1.2** Council sets policies in respect of Licensing and Gambling on the recommendation of Cabinet.

2 MATTERS SPECIFICALLY DELEGATED TO THE LICENSING COMMITTEE

2.1 The responsibilities of the Licensing Committee

The Licensing Committee will:

- Make orders identifying a place as a designated public place in connection with police powers about alcohol consumption;
- Make or revoke orders designating a locality as an alcohol disorder zone;
- Set the terms and conditions of licences, permits or registrations payable under the Licensing Act 2003;

- Set the terms and conditions of licences, permits or registrations in connection with sex shops and sex cinemas;
- Set fees for licences and permits issued under the Gambling Act 2005;
- Set fees payable in connection with Street Trading;
- Deal with any matter that is referred to it by an officer.

3. THE LICENSING SUB-COMMITTEE

3.1 The Licensing Committee appoints a sub-committee (the Licensing Sub-committee)

The responsibilities of the Licensing Sub Committee

The Licensing Sub Committee will:

- 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;
- determine all matters set out in section 10 of the Licensing Act 2003;
- determine all matters set out in section 154(4)(a) of the Gambling Act 2005;
- determine applications for club gaming or club machine permits and cancellation of such permits when there are objections;
- determine applications for prize gaming permits when there are police objections or officers would want to refuse them;
- determine applications for 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 an officer.
- Determine anything else which needs a hearing or which cannot legally be delegated to officers.

4. MATTERS DELEGATED TO OFFICERS

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

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

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

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

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

4.6 The Assistant Director for Environmental Services deals with all other licensing responsibilities.

5. GENERAL

5.1 The Council's General Licensing Committee is comprised of 15 members.

5.2 The General Licensing Committee when acting as a quasi judicial body must comprise members who have received the relevant training.

6. PROCEDURES

6.1 When an application under the Licensing Act 2003 and the Gambling Act 2005 is being dealt with the procedure followed shall be as set out in the Regulations issued under the Acts.

6.2 When any other licensing application is being dealt with the Council Rules of Procedure apply to meetings of this committee.

6.3 Quorum

The quorum of the Licensing Committee (Miscellaneous) shall be no less than one third of the members of the full Committee and the Sub-Committee quorum shall be three members

6.4 Appointment of Substitute Members

No substitute members are allowed to sit on the Licensing Committee and Members appointed must have completed the Council's prescribed licensing training course. The Sub-Committee(s) will be made up of three members drawn from the members of the Licensing Committee.

PLANNING AND THE PLANNING COMMITTEE

I. FUNCTIONS

The relevant functions of the Council are:

I.1 Planning and Conservation

- A** All the Council's functions in relation to Town and Country Planning and Development Control as specified in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

Commons registration

- B** All the Council's functions in relation to common land or town and village greens or unclaimed common land, or unlawful works on common land and to register the variation of rights of common as set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

Highways Use and Regulation

- C** All the Council's functions in relation to the regulation of the use of highways set out in Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, as amended.

High Hedges

- D** All the Council's functions in relation to applications and complaints about high hedges under Part 8 of the Anti-Social Behaviour Act 2003.

Trees

- E** The powers 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.

I.2 Policy

The Council decides whether to adopt the Local Development Framework, on the recommendation of Cabinet.

2 MATTERS SPECIFICALLY DELEGATED TO THE PLANNING COMMITTEE

2.1 In relation to policies and strategies the Committee will:

Advise the Cabinet on the implementation of the Development Plan, Local Development Framework and other planning policies and strategies.

2.2 Within the policies laid down by the Council, the Committee will

- 2.2.1. Determine applications relating to town and country planning, commons registration, village greens, the making or confirmation of Tree Preservation Orders where there are objections that cannot be resolved and the use or regulation of highways that would have a significant impact on two or more wards of the Council.
- 2.2.2 Determine individual applications for planning permission and any other application made under planning legislation where:
- a) it is an application for 10 or more dwellings or non-residential floor space of 1000 sq m or more and more than 5 written representations raising valid planning considerations have been received during the statutory consultation period; or
 - b) the application is substantively contrary to a Local Development Framework proposal and the officer recommendation is to approve;;
 - c) the application is submitted by an employee or Member of the Council;
 - d) a Member of Council has, within 3 weeks of being sent notification of an application, written to the Assistant Director for Planning Services directing its determination by the Committee and given reasons for this ;
 - e) the matter is referred to the Committee by the Assistant Director for Planning Services under one of the following criteria:
 - there are finely balanced policy or precedent issues;
 - there are probity issues or public interest reasons for the matter to be determined by the Committee;
 - the matter is an unusual response to a particular set of issues that warrants debate by the Committee.
- 2.2.3 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.

In relation to Highways Matters the Committee will:

- 2.3.6. Determine the confirmation of Orders to create divert or stop up footpaths or bridleways.
- 2.3.7. Determine applications to modify the definitive map.
- 2.3.8. Determine applications that are referred by either the Assistant Director - Planning or the Assistant Director - Transport.

3. MATTERS DELEGATED TO OFFICERS

- 3.1** All other non executive functions in respect of planning highways and transport have been specifically delegated to the Director for Development and Regeneration.

4. GENERAL

4.1. Substitute Members

Any member of Council may act as substitute provided they have undergone the Council's prescribed Member planning training course.

- 4.2** Planning Committee Procedures are found in the Planning Committee's Code of Good Practice.

CHIEF OFFICER APPOINTMENTS, APPEALS and DISCIPLINARY PANELS

I. FUNCTIONS

1.1 Undertaking the selection process for the appointment, and formulating recommendations to the Council in relation to:

- the appointment and dismissal of the Head of the Paid Service;
- the designation of an officer to act as Monitoring Officer and Responsible Finance Officer (Section 151 Officer);
- the appointment/dismissal of Monitoring Officer and Responsible Finance Officer;

in accordance with legislation, Council policies, conditions of service and the appropriate procedures set out in the employment standing orders;

1.2 Undertaking the selection, appointment and dismissal processes for any staff where so required by law;

(It should be noted that the Chief Executive as head of paid service, or a person nominated by him, has powers to appoint all other staff).

1.3. Hearing and determining any appeals by staff under the Council's approved Human Resources policies and procedures including through any appointed Sub-Committee.

1.4 Determining terms and conditions for staff employed on the NJC terms and conditions for Chief Officers.

2. PROCEDURES

2.1 The Panels shall be politically balanced and include the relevant Cabinet member when required.

2.2 A Panel which hears an appeal will not include members of the Panel which made the original decision.

Appointment of substitute members

2.3 Any member of the Council may act as substitute on a Panel provided that they have completed the Council's relevant human resources training / briefing.

3. GENERAL

The Panels are convened from time to time as required by the Assistant Director for Human Resources & Organisational Development.

INDEPENDENT REMUNERATION PANEL

I. FUNCTIONS

The Panel carries out the Council's responsibilities under the Local Authorities (Members Allowances) Regulation 2003 as amended to convene an Independent Panel to make recommendations to the Council about the level of Members Allowances.

SPECIFIC RESPONSIBILITIES

- 2.1** Overall, to recommend the level of allowances to be paid to Members, including special responsibility allowances, pension rights for elected Members and allowances payable to co-opted members.
- 2.2** The Panel will recommend:
- (a) The amount of basic allowance that should be payable to elected Members;
 - (b) The categories of Members who should receive special responsibility allowances and the amount of such an allowance;
 - (c) The travel and subsistence scheme, the amount of the allowance and how it should be paid;
 - (d) The payment of an allowance for co-opted members and the amount of that allowance;
 - (e) The payment of an allowance in respect of arranging for the care of Members' children and other dependants, the amount of this allowance and the means by which it should be determined;
 - (f) Whether the allowances should be backdated to the beginning of the municipal year;
 - (g) Whether annual adjustments of allowance levels may be made by reference to an index, and, if so, for how long such a measure should run;
 - (h) Which Members are to be entitled to pensions in accordance with the scheme made under section 7 of the Superannuation Act 1972; and as to treating basic allowances and special responsibility allowances as amounts in respect of which such pensions are payable regarding the Local Government Pension Scheme (LGPS).

MOUNT EDGCUMBE HOUSE AND COUNTRY PARK AND THE MOUNT EDGCUMBE JOINT COMMITTEE

1. FUNCTIONS

- 1.1** 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 Edgcumbe house and country park including the power to acquire and sell land.
- 1.2.** Any revenue and capital expenditure incurred is to be defrayed and income shared by the two constituent Councils in equal portions.
- 1.3.** The Cabinet member with responsibility for the Mount Edgcumbe Country Park will decide whether to recommend that Cabinet approves in year variations to the business plan for the House and Country Park that require extra spending and propose the means of meeting any additional costs to council.
- 1.4.** The Cabinet member with responsibility for Mount Edgcumbe Country Park will decide whether to agree in year variations to the business plan for the House and Country Park that do not require extra spending

MATTERS SPECIFICALLY DELEGATED TO THE JOINT COMMITTEE

2. RESPONSIBILITIES OF THE JOINT COMMITTEE

- 2.1** 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.

3. MATTERS SPECIFICALLY DELEGATED TO OFFICERS

Following consultation with the Director for Environment, Planning and Economy of Cornwall Council, the Director for Community Services in Plymouth has delegated authority to carry out all other functions in relation to Mount Edgcumbe.

4. PROCEDURES

The Mount Edgcumbe Joint Committee Terms of Reference will apply.

TAMAR BRIDGE AND TORPOINT FERRY AND JOINT COMMITTEE

I FUNCTIONS

- I.1.** Plymouth City Council and Cornwall Council undertake the functions in relation to the Bridge and Ferry that are required by law to be carried out by the two authorities. Any revenue and capital expenditure incurred is to be defrayed and income shared by the two constituent Councils in equal portions.
- I.2** A joint committee of the Authorities has been appointed under the provisions of the Local Government Act of 1972 relating to joint committees:
- I.3** The Councils of the constituent authorities, acting together, are responsible for all the responsibilities for the Tamar Bridge and Torpoint Ferry as set out in the Tamar Bridge Acts 1957, 1979, 1998 which cannot by law be delegated to the Joint Committee. These principally are.
- (a) all matters relating to the discharge of the functions of the Authorities under the Tamar Bridge Act 1957 to 1998 shall stand referred to such joint committee for consideration; those relating to the acquisition, appropriation, leasing or disposal of land;
 - (b) there shall be delegated to such joint committee all the powers of the Tamar Bridge Act conferred upon the Authorities except: those relating to the ceasing to demand and take and recover tolls and those relating to resuming the demanding, taking and recovering of tolls
 - (c) those contained in Part VI (Finance) of the Tamar Bridge Act
- I.4** The Councils of the constituent authorities acting together may make byelaws to:
- (a) prevent injury and damage to the bridge
 - (b) regulate the conduct of all persons using the bridge
 - (c) regulate the traffic along over and under the bridge and also for regulating the use of the bridge and for prohibiting the use thereof in certain cases and by certain engines carriages vehicles and animals or other classes of traffic and for providing that the bridge may be temporarily closed to road traffic for repairs or other emergencies and for ensuring that road traffic shall not be unreasonably delayed
 - (d) prohibit the conveyance upon the bridge of any goods which may in the opinion of the Authorities be injurious to or prejudicially affect the use of the same or the traffic to be carried thereon or endanger the safety of the bridge or the passenger and other traffic carried thereon

- (e) regulate to the issue and inspection of tickets and collection of tolls
- (f) regulate and control the use of the bridge

2. MATTERS SPECIFICALLY DELEGATED TO THE JOINT COMMITTEE

The Tamar Bridge and Torpoint Ferry Joint Committee will:

- propose a business plan to Cabinet as part of the annual budget setting process;
- monitor performance of the undertaking against the business plan;
- monitor performance of the undertaking to ensure value for money is achieved;
- make sure the management of the Bridge and Ferry accords with proper financial and legal practice appropriate to local authorities;
- make sure proper audit and risk management procedures are in place;
- make sure an appropriate inspection of the Bridge and Ferry takes place on an annual basis;
- undertake appropriate consultation with key stakeholders;

3. MATTERS SPECIFICALLY DELEGATED TO OFFICERS

The Director for Development and Regeneration in Plymouth and the Director for Environment, Planning and Economy in Cornwall have delegated responsibility to do carry out all other functions in respect of the Tamar Bridge and Torpoint Ferry.

4. PROCEDURES

- 4.1** The Tamar Bridge Joint Committee procedures will apply.

DEVON AUDIT PARTNERSHIP AND JOINT COMMITTEE

1. FUNCTIONS

- 1.1** The Devon Audit Partnership comprises Plymouth City Council Devon County Council and Torbay Council.
- 1.2** The Audit Partnership provides an internal audit function for the three Councils.

2 RESPONSIBILITIES OF THE DEVON AUDIT PARTNERSHIP JOINT COMMITTEE

The Joint Committee will:

- 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.

3 MATTERS SPECIFICALLY DELEGATED TO OFFICERS

The Director for Corporate Support has delegated responsibility to carry out all other functions in respect of the Devon Audit Partnership.

4. PROCEDURES

The Devon County Council procedures apply to meetings of the Committee.

SOUTH WEST DEVON WASTE PARTNERSHIP JOINT COMMITTEE

I FUNCTIONS

- 1.1** The South West Devon Waste Partnership comprises Plymouth City Council, Devon County Council and Torbay Council.
- 1.2** The purpose of the three authorities in establishing the Joint Committee is to facilitate 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.
- 1.3** The functions of the Committee are set out in full in the Committee's Joint working Agreement. (The Joint working Agreement is available on request).

2. DELEGATION TO THE JOINT COMMITTEE

- 2.1** The responsibilities of the Committee are set out in full in the Committee's Joint Working Agreement which is available on request.
- 2.2** The key responsibilities of the Joint Committee are:
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.
- 2.3** 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

3. MATTERS SPECIFICALLY DELEGATED TO OFFICERS

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. PROCEDURES

- 4.1** Schedule C of the Committee's Joint Working Agreement apply. (The Joint Working Agreement is available upon request)
- 4.2** Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules
- 4.3** The Joint Committee shall operate under the Standing Orders for Contracts, Financial Regulations and Officer Employment Procedure Rules of Plymouth City Council.
- 4.4** Quorum
The quorum of the South West Devon Waste Partnership Joint Committee will be no less than three Members.

General Rules Applying to Committees

1. THE EXTENT OF THESE RULES

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

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 which carries out responsibilities under the Licensing Act 2003 and the Gambling Act 2005.

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

3. RULES OF DEBATE

The Rules of Debate used at Full Council Meetings will be used at all Council committee meetings, unless otherwise stated in this Constitution.

4. 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](#). At least five working days before a meeting, the Democratic and Member Support Manager will send a summons to every member of the committee. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

5. CHAIR OF MEETING

The person presiding at a meeting of a Council committee will exercise any power or duty of the Chair.

6. QUORUMS AND SUBSTITUTES

- 6.1** 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.
- 6.2** 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.
- 6.3** If a member wants to send a substitute, they must tell the Monitoring Officer before the meeting.
- 6.4** 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)	✓
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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	
Devon Audit Partnership	3 members including one from each partner authority	Any member.	

7 VACANCIES ON COMMITTEES

Procedure when a councillor resigns from a committee

- 7.1 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

Procedure when someone stops being a councillor

- 7.2 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.

8. CHAIR AND VICE-CHAIR

8.1 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.

The Council will elect a chair and a vice-chair for each committee at the annual meeting.

8.2 Absence of the Chair and Vice Chair

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 item of business being conducted; the Chair or Vice Chair will then conduct the remaining business.

8.3 Resignation of the Chair and 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.

9. COMMITTEE MEETINGS

9.1 Cancelling a meeting

If a committee has no business at one of its fixed meetings, the Monitoring Officer can cancel it after consulting the chair.

9.2 Extraordinary 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.

9.3 Speaking on an agenda item

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).

9.4 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.

9.5 Standards committee

9.5.1 All members of the committee can vote (including independent members)

9.5.2 The chair must be an independent member

9.6 Planning Committee

The planning committee has adopted a code of practice.

9.7 Licensing committee and licensing sub-committee

These Committees follow the procedures in the Licensing Act 2003 and the Gambling Act 2005, as amended.

9.8 Co opted members – voting rights

Co- opted members will not normally have voting rights apart from the statutory co- opted members of the Overview and Scrutiny Panels

9.9 Gaps in these procedures

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

PROPER OFFICERS AND DELEGATION OF OTHER MISCELLANEOUS FUNCTIONS

I APPOINTMENT OF PROPER OFFICERS

1.1 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.

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	Responsible Finance Officer

	Section 146(1)(a) and (b)	Making declarations and certificates about transferring securities	Responsible Finance Officer
	Section 191	Receiving applications under Section 1 of the Ordnance Survey Act	Head of Legal Services
	Section 225	Depositing documents	Head of Legal Services
	Section 228(3)	Making accounts available for councillors to look at	Responsible 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
	Schedule 14, paragraph 25	Certifying resolutions passed under this paragraph	Head of Legal Services
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
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	Responsible Finance Officer
Local government data handling guidelines under the Data Protection Act		Manage information risk within the council's risk management framework	Responsible Finance 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.

DELEGATION OF OTHER MISCELLANEOUS NON EXECUTIVE FUNCTIONS unless they are specifically delegated to Council a committee or an Officer elsewhere in this constitution

Legislation	Responsibility	Carried out by
Local Government Act 1972, Section 112	Power to appoint staff and to set their terms and conditions (including procedures for dismissing them)	The appointments panel appoints Directors and Assistant Directors and recommends the appointment of Chief Executive and designation of Head of Paid Service, Responsible 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.
Local Government Act 1972, Section 135	Power to make contract rules	Council
Local Government Act 1972, Section 151	Duty to arrange proper financial administration	Responsible Finance Officer

Local Government Act 1972, Section 270(3)	Power to appoint proper officers for the purposes of the Local Government Act 1972	Monitoring Officer (or any other officer specifically appointed in the constitution)
Local Government and Housing Act 1989, Section 4(1)	Duty to designate Head of Paid Service and provide resources	Council (but appointments committee makes a recommendation)
Local Government and Housing Act 1989, Section 5(1)	Duty to designate Monitoring Officer and provide resources	Council
Local Government Act 2000, Sections 82A(4) and (5)	Duty to provide resources to a person named by the Monitoring Officer	Council
Local Government Act 2000, paragraphs 12 and 14 of Schedule 1	Powers relating to scrutiny committees (voting rights of council-opted members)	Council
Local Government Act 2000, Section 92	Power to provide compensation when there has been maladministration	Standards Committee unless the compensation is less than £5000 when the power is delegated to officers in the senior management structure
Representation of the People Act 1983, Section 8(2)	Duty to appoint an electoral registration officer	The Chief Executive is the electoral registration officer
Representation of the People Act 1983, Section 35	Duty to appoint returning officer for local government elections	The Chief Executive is the returning officer
Local Government and Public Involvement in Health Act 2007, Sections 33(2), 38(2) and 40(2)	Duty to consult on change of scheme for elections	Council
Local Government and Public Involvement in Health Act 2007, Sections 35, 41 and 52	Duties relating to publicity	Council
Local Government and Public Involvement in Health Act 2007, Section 53	Duties relating to notice to Electoral Commission	Council

Local Government and Public Involvement in Health Act 2007, Section 59	Functions relating to change of name of an electoral area	Council
	Powers to appoint the Lord Mayor and the Deputy Lord Mayor	Council on the recommendation of the Lord Mayor's Selection Committee
All the responsibilities in Paragraph C of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Powers and responsibilities in relation to Health and Safety at Work	The Assistant Director for Environmental Services
All the responsibilities in Paragraph EB of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Functions in relation to community governance	Council
All the responsibilities in Paragraph H of Schedule I to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.	Functions in relation to pensions	The Responsible Finance Officer
All the responsibilities in the Health Act 2006 in relation to the ban on smoking in public places.	Functions in relation to the ban on smoking in public places.	The Assistant Director for Environmental Services

PLYMOUTH CITY COUNCIL CONSTITUTION

PART F

ACCESS TO INFORMATION RULES

ACCESS TO INFORMATION RULES

1. SCOPE

These rules apply to all meetings of the Council, the Cabinet and its committees including the Overview and Scrutiny Management Board and Scrutiny Committees, the Standards and Audit Committees and regulatory committees (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

3.1 The public can attend meetings, except when confidential or exempt information is being discussed, unless the law says otherwise.

4. EXCEPTIONS TO THE PUBLICS RIGHT TO ATTEND MEETINGS

4.1 Confidential information – the meeting must be held in private

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

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

4.2 Exempt Information – the meeting can be held in private

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

4.2.2 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).

4.2.3 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

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

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

4.5 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 which can be heard in private.

4.6 Reports that are expected to be heard in private

If the Monitoring Officer expects that a report will be considered in private under paragraph 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.

5. NOTICES OF MEETING

- 5.1** The Council will give at least five days’ notice of any meeting by posting details of the meeting at the Civic Centre and public libraries (the designated offices) and on the Council’s website.

6 ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

- 6.1** The Council will make copies of the agenda and reports open to the public available for inspection at the designated offices at least five clear working days before the meeting. If an item is added to the agenda later, the revised

agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda. 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.

- 6.2** 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.
- 6.3** Councillors will normally receive the papers in advance for any committee of which they are members.

7. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Monitoring Officer designates, copies of any other documents supplied to Councillors in connection with an item to any person on payment of a charge for postage and any other administration costs.

8. ACCESS TO MINUTES AFTER THE MEETING

For the six years following a meeting the Council will supply on request copies of:

- (a) the minutes of the meeting [or records of delegated decisions taken, together with reasons], excluding any part when the meeting was not open to the public or which discloses exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

9. BACKGROUND PAPERS

9.1 List of background papers

Each report will include a list of background papers. Background papers are papers which have been relied on when writing the report. They do not include published works or documents which contain exempt or confidential information

9.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

10 SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept available to the public.

11. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

11.1 Material relating to previous business

All Members will be entitled to inspect any document which is in the possession or under the control of any committee of the Council including the Cabinet and contains material relating to any business previously transacted at a meeting unless it contains confidential or exempt information.

11.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the Cabinet which relates to any key decision unless it contains confidential or exempt information.

11.3 Nature of rights

These rights of a Member are additional to any other right he/she may have.

12. OVERVIEW AND SCRUTINY MANAGEMENT BOARD AND SCRUTINY PANELS ACCESS TO DOCUMENTS

12.1 Rights to copies

Subject to Rule 12.2 below, the Overview and Scrutiny Management Board or an Overview and Scrutiny Panel (including its Select Committees/Task and Finish Groups) will be entitled to copies of any document which is in the possession or control of committees and which contains material relating to

- (a) any business transacted at a public or private meeting of that committee; or
- (b) any decision taken under delegated powers.

12.2 Limit on rights

The Overview and Scrutiny Management Board or a Scrutiny Panel will not be entitled to:

- (a) any part of a document which contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (b) the advice of a political advisor.

13. RECORD OF DECISIONS

13.1 After any meeting of the Cabinet or any of its committees, the Monitoring Officer, or designee, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

13.2 Record of individual decision under delegated powers

As soon as reasonably practicable after an executive decision has been taken by an individual member of the Cabinet or a key decision has been taken by an officer under delegated powers the person or body taking the decision will prepare, or instruct the Monitoring Officer to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8 (inspection of documents after meetings) will also apply to the making of executive decisions by individual members of the Cabinet. This does not require the disclosure of exempt or confidential information. A fuller procedure is included in the Cabinet Procedure Rules.

14. EXTRA RULES THAT APPLY TO KEY DECISIONS – THE LEADER AND THE CABINET

Extra Rules apply to Key Decisions; these will usually only be taken by the Leader or the Cabinet.

15. PROCEDURE BEFORE TAKING KEY DECISIONS

When a key decision is taken, it must first have been published in the Forward Plan unless it is urgent.

If a key decision is taken by the Leader or the Cabinet, the report must say that it is a key decision.

16. THE FORWARD PLAN

16.1 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. Upon publication, the Forward Plan will be circulated to the members of the Overview & Scrutiny Management Board.

16.2 Contents of Forward Plan

The Forward Plan will contain matters which the Cabinet has reason to believe will be subject to a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained. The Forward Plan will list any key decisions that are expected to be taken. For each decision it will say:

- (a) the matter in respect of which a decision is to be made what the decision is about;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership who will take the decision;
- (c) the date on which, or the period within which, the decision will be taken when the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision who is proposed to be consulted and how;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the Cabinet or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken how to comment and by what date; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter which documents the decision takers have been given to consider.

16.3 The Forward Plan must be published at least 14 days before the start of the period it covers. At least once a year the Assistant Director Democracy and Governance will publish a notice in at least one local newspaper saying:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a Forward Plan will be prepared each month with information about key decisions;
- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication each Forward Plan will cover the next four months;
- (d) that each plan will be available for inspection at reasonable hours, free of charge, at the Council's offices so that the public can come to the

council offices and look at the Forward Plan- there is no charge for this and they will be able to do it in office opening hours. The Forward Plan is also available on the website;

- (e) that each plan will list the documents given to the decision takers to consider about the key decisions on the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the Forward Plan is available the address where the public can see any documents that are not confidential or exempt;
- (g) that other documents may be given to decision takers;
- (h) how members of the public can ask for details of any other documents that become available; and
- (i) the dates on which each forward plan for the next year will be published and available to the public at the Council's offices.

16.4 Exempt and Confidential information

Exempt information need not be included in a forward plan and confidential information cannot be included.

17. URGENT KEY DECISIONS

- 17.1** 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.
- 17.2** Before taking a key decision that has not been included in the Forward Plan, the Monitoring Officer must inform give written notice to the Chair of the Overview and Scrutiny Management Board or, in his/her absence every member of the Board. A copy of the notice must be made available to the public at the Council's offices,
- 17.3** The decision cannot normally be taken until five clear working days after the notice is given.
- 17.4** But the decision can be taken earlier if the Chair of the Overview and Scrutiny Management Board (or in his /her absence the Lord Mayor or in the absence of both the Deputy Lord Mayor) agrees that the decision is urgent and it is not reasonable to defer it.

18. REPORTS TO COUNCIL

18.1 When a Scrutiny Panel can require a report

If the relevant Scrutiny Panel or five of its members, or its Chair, or the Overview and Scrutiny Management Board think that a key decision has been taken that was not included in the Forward Plan; it can require the Cabinet to provide a report to Council; unless the decision was :

- (a) an urgent decision ; and
- (b) the procedure in rule 15 was followed.

18.2 Cabinet report to Council

The Cabinet will prepare a report for submission to the next available Council meeting. However, if the next meeting of the Council is within 7 days of the request for Cabinet to report to Council, then the report may be submitted to the meeting after that. The report to Council will say what the decision was, who took it, and if the Cabinet is of the opinion that it was not a key decision the reasons for that opinion.

18.3 Three-monthly reports on special urgency decisions

The Leader will report to Council every three months on any urgent key decisions that have been taken during that period. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

PLYMOUTH CITY COUNCIL CONSTITUTION

PART G

CODES AND PROTOCOLS

COUNCILLORS CODE OF CONDUCT

The Model Code of Conduct

1 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.

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.

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 which leads to a criminal conviction after they are elected.

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.

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.

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

7 Impartiality of council officers

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

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

9 Disrepute

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

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.

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.

12 Publicity

The code requires councillors to take into account the [Code of Recommended Practice on Local Authority Publicity](#).

13 Advice of Monitoring Officer and Responsible Finance Officer

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

14 Giving reasons for decisions

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

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](#))

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 paragraph 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 17).

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 or the Overview and Scrutiny Management

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.

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 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 paragraph 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 which 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).

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.

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

THE MODEL CODE OF CONDUCT

Part I

General provisions

Introduction and interpretation

- 1.— (1) This Code applies to **you** as a member of an authority.
- (2) You should read this Code together with the general principles prescribed by the Secretary of State (see Annexe to this Code).
- (3) It is your responsibility to comply with the provisions of this Code.
- (4) 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.
- “member” includes a co-opted member and an appointed member.
- (5) 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 authority,
- (c) and 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.— (1) You must treat others with respect.
- (2) 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.
- (3) In relation to police authorities and the Metropolitan Police Authority, for the purposes of sub-paragraph (2)(d) those who work for, or on behalf of, an authority are deemed to include a police officer.
- 4.— (1) 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; or
 - (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 Responsible 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
 - (ii) or management and to which you are appointed or nominated by your authority;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),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

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.

Approved by Council on 6 August 2007

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.

OFFICERS' CODE OF CONDUCT

PLYMOUTH CITY COUNCIL POLICIES & PROCEDURES MANUAL

SECTION REFERENCE : 1.3 (Volume I)

TITLE OF POLICY/PROCEDURE : Code of Conduct for Employees

**APPROVED BY
PERSONNEL SUB-COMMITTEE** : 5 April 2000

RATIFIED BY FULL COUNCIL : 2 May 2000

IMPLEMENTATION DATE : 1 June 2000

PURPOSE:

The purpose of this code is to supplement the seven Principles of Public Life, to lay down guidelines to assist employees in maintaining and improving standards and protect employees from any misunderstanding or criticism.

ON CODES OF CONDUCT

Whilst this Code concentrates upon the rights and responsibilities of employees in the conduct of business, the Council equally recognises the rights of employees to be full and active participants in the life of the community and workplace. In fact, the Council encourages all citizens to participate fully in the wider community.

The Council recognises the rights afforded to employees through the Human Rights Act, its Equal Opportunities Policy and the principles of Social Inclusion. This Code will therefore be applied in the context of recognising the rights available under the Human Rights Act, and in particular the following provisions of the European Convention on Human Rights;

- The right to respect for a person's private and family life, their home and correspondence.
- The right for every person to freedom of thought, conscience and religion.
- The right to freedom of expression, including the right to hold opinions and receive and impart information and ideas.
- Everyone has the right to freedom of peaceful assembly and association with others, including the right to form and join Trade Unions for the protection of their interests.
- The right to enjoy these and all of the rights set out in the Convention without discrimination on grounds of sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

NB This right carries duties and responsibilities and as such may be subject to restrictions including the right to restrict the expression of views, which may be racially or otherwise offensive, or incite racial hatred.

The Council will similarly apply this Code so as to avoid the social exclusion of any of its employees, which can occur when individuals do not have access to social networks.

The Council will, therefore, ensure that all rights under the European Convention, but particularly those listed above, are fully taken into account in interpreting this Code and will not unnecessarily restrict or disadvantage employees from playing a full role in their community and workplace.

In particular the Council will;

- Continue to encourage active community participation amongst employees including the right to participate in community associations, governing bodies of schools, clubs and societies, campaigns etc.
- Continue to encourage employees to be active in a trade union of their choice.
- Not discourage Members and employees from being friends and good colleagues and participating in social activities.
- Not discourage employees from taking part in party political activities (subject to the restrictions that might apply under the Local Government and Housing Act 1989).

I. INTRODUCTION

Central Government takes the view that the Conduct of everyone in Local Government - Councillors and Council employees - needs to be of the highest standards. On this depends the bond of trust between Councils and their local people which is essential if Councils are to play their part in leading communities and improving people's quality of life.

Plymouth City Council agrees with this statement.

In July 1997, Lord Nolan's Committee on Standards in Public Life issued its third report dealing with Standards of Conduct in Local Government. The report made wide ranging proposals concerning the conduct of Local Government. At the moment, Central Government is finalising its plans for legislating on the proposals. The City Council does not intend to wait for this legislation; It is proposed to include Codes and guidance which address the points made by Lord Nolan without delay and to modify them as and when Statutory Provisions are introduced.

This Code provides standards of conduct for employees. It is a document which has been drawn up after consultation with Staff Representatives and thus represents a joint proposal for conduct.

I.1 The Seven Principles of Public Life

The Nolan Report sets out the Seven Principles of Public Life. These are repeated below.

The City Council endorses these principles, they form the underlying basis for its Ethical Standards.

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

1.2 The Aim of the Code

The aim of this Code is to supplement the Seven Principles of Public Life, to lay down guidelines, to assist employees in maintaining and improving standards and protect employees from any misunderstanding or criticism.

1.3 Who the Code is Aimed at

Inevitably, some of the issues covered by the Code will affect senior, managerial and professional employees more than others. Nonetheless, this Code is intended to cover all employees under a contract of employment with the City Council, including office holders such as Registrars, and also part-time and agency workers. Employees acting as members of companies or voluntary organisations under appointment from the City Council should also subject themselves to the minimum standards within this Code.

2. STANDARDS

Local Government employees are expected to give the highest possible standards of service to the public, and this means that they must bear in mind at all times the general requirements of the Seven Principles of Public Life.

Whenever called upon to do so, and where it is in-keeping with their duties, employees will be expected to give advice to colleagues and Council Members.

The Council will introduce procedures which will allow employees to bring to the attention of appropriate persons any deficiency in the level of service, or any suspicion of impropriety or breach of procedure. These opportunities will be available free of any possibility of recrimination.

By these means staff will be provided with the opportunity to take leadership in matters concerning the upholding of the Seven Principles of Public Life.

3. DISCLOSURE OF INFORMATION

The law already provides for the activities of Local Authorities to be open to public scrutiny. Certain types of information must be available to Members, auditors, services users and the public. The Council may itself take a view that certain information over and above the legal requirements should be made openly available.

This Code will be backed with guidance as to the nature of the information that is required to be disclosed by law. Employees should co-operate in ensuring that this process of open government is not interfered with in any way and should cooperate with any reasonable request for information, which should be disclosed by law to be released or made available.

In certain circumstances information which is of a commercially sensitive nature will be known to or available to employees. This will apply in cases where, for example, services, goods or works are being submitted to a tendering process (including under Best Value). In such cases the general principle of openness will give way to commercial needs and employees should not release information without the authority of their line manager.

By these means employees should be able to meet the requirements of accountability and openness as set out in the Seven Principles of Public Life.

4. POLITICAL NEUTRALITY

Employees serve the authority as a whole. It follows they must serve all Councillors and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.

The City Council takes the view that it is appropriate for employees to be asked to give briefings to political groups. However, the City Council recognises that in giving advice to political groups employees should not be expected to compromise their political neutrality. The City Council will include in a separate protocol relating to Member and employee relationships, guidance as to how both Members and employees should conduct themselves when employees are required to give advice in a political forum.

Employees, whether or not politically restricted, must follow every lawful policy of the authority and must not allow their own personal or political opinions to interfere with their work.

Political Assistants appointed on fixed term contracts in accordance with the Local Government and Housing Act 1989 are exempt from the standards set out in the preceding three paragraphs.

Employees acting in their role as Trade Union activists are similarly exempt from the provisions set out in the paragraphs above.

By these means employees should be able to meet the principles of selflessness and objectivity set out in the seven principles of public life.

5. RELATIONSHIPS

The City Council believes that the most productive form of relationship between Member and employees arises when communication can freely take place between the two at all levels of the organisation. However, the City Council also recognises that relationships between Members and employees must be based upon mutual respect and that close personal familiarity between employees and individual Councillors may damage that relationship and prove embarrassing to other employees and Councillors and should therefore be avoided. The Council will, therefore, introduce a range of guidance as to how the relationship might be managed to avoid these potential problems (see the cross reference at the end of this document).

Employees should also remember that their responsibilities are to the Council and community they serve and they should be courteous, efficient and impartial and available to all groups and individuals within the community as defined by the policies of the authority.

If an employee has relationships of a business, personal or private nature with external contractors, or potential contractors, then he or she should make them known to the appropriate Head of Service or Director and should take no further part in the matter concerned. The City Council will introduce guidance and processes to ensure that declarations of this sort are recorded and these will not be public records.

Orders and contracts must be awarded on merit, by fair competition against other tenders, or otherwise in accordance with the Council's Standing Orders and no special favour should be shown to business run by, for example, friends, partners, or relatives. No part of the local community should be discriminated against.

Employees who in the course of their duties engage or supervise contractors, or have any other official relationship with contractors, and who have previously had or currently have a relationship in a private or domestic capacity with contractors should again make that relationship known to the appropriate Head of Service or Director.

By these means employees should be able to meet the principles of selflessness, integrity, objectivity, accountability, openness and honesty set out in the Seven Principles of Public Life.

6. APPOINTMENTS AND OTHER EMPLOYMENT MATTERS

The City Council has a Recruitment and Selection Code of Practice. Employees involved in making appointments should ensure that the Recruitment Code of Practice is applied in all relevant circumstances.

Similarly, the Council has appropriate Codes relating to Disciplinary Procedures and employees should not be involved in decisions relating to discipline, promotion or pay adjustments for any other employee who is a relative or partner.

By these means employees should be able to meet the principles of selflessness, integrity and objectivity set out in the Seven Principles of Public Life.

7. PERSONAL INTERESTS

Employees must declare to an appropriate Head of Service or Director any financial, or non-financial interests which relate to their work, as well as membership of any organisation not open to the public without formal membership and commitments of allegiance and which has secrecy about rules or membership or conduct. The Council will provide appropriate procedures for the registration of such interests in documents which will not be publicly discloseable.

By these means an employee will be able to meet the requirements of the principles of selflessness, integrity, objectivity, accountability, openness and honesty set out in the Seven Principles of Public Life.

8. OUTSIDE COMMITMENTS

Some employees have Conditions of Service which require them to obtain written consent to take any outside employment. This Code is supported by guidance as to the nature of those Terms and Conditions of Employment. All employees should ensure that they are clear about their contractual obligations and should not take outside employment which conflicts with the authority's interests.

It is line management's responsibility to ensure all staff are made aware of the Codes of Conduct and that they receive copies for which employees have signed to confirm they have read and understood the documents. Where the Council considers it appropriate it may from time to time seek to bind employees to a duty of confidentiality after they have left the employ of the Council. This will be to protect commercially sensitive information. Employees subject to such terms should make sure that they are clear as to the implications for them and their future employment.

Employees should also be aware of the law and the Council's rules relating to ownership of intellectual property or copyright created during their employment. Again, this Code is supported by guidance on this point.

The Council accepts that in certain circumstances some employees are required or appointed to provide advice to, or sit upon outside bodies by the Council. In this event the Council will provide guidance as to how employees should conduct themselves and what indemnity can be given whilst acting with or for the outside body so as not to conflict with the authority's interests. The Council will also do whatever it is legally possible to do in order to indemnify employees against any such commitments.

By these means employees should be able to meet the principles of selflessness, integrity and objectivity set out in the Seven Principles of Public Life.

9. EQUALITY ISSUES

The City Council has a very clear Policy on Equality issues. All employees should ensure that the Policies relating to Equality are complied with in addition to the requirements of the law. All members of the local community, customers and other employees have a right to be treated with fairness and equity.

In applying the Council's Equal Opportunities and other policies relating to social inclusion, employees will be fulfilling the principle of objectivity set out in the seven Principles of Public Life.

10. BEST VALUE

The City Council is committed to the pursuit of Best Value. Employees should conduct themselves in a way which does not conflict with the pursuit of Best Value. Equally, employees should ensure that insofar as it is legally possible the Council's work with partners or contractors under Best Value requires those partners or contractors to comply with the Seven Principles of Public Life.

By these means employees should be able to apply the Seven Principles of Public Life into Best Value.

11. CORRUPTION

Employees should be aware that it is a serious criminal offence for them corruptly to receive or give any gift, loan, fee, reward or advantage for doing or not doing anything, or showing favour or disfavour to any person in their official capacity.

The City Council will provide guidance relating to fraud and how to deal with it and employees should make themselves aware of its contents. Similarly, the main statutory provisions relating to fraud and corruption are repeated in guidance to this Code.

By these means employees should be able to meet the principles of selflessness and integrity set out in the Seven Principles of Public Life.

12. USE OF FINANCIAL AND OTHER RESOURCES

Employees must ensure that they use public funds or resources entrusted to them in a reasonable, responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the authority. In this context the City Council has Standing Orders and Financial Regulations dealing with the financial affairs of the City and employees should make themselves aware of those.

By these means employees should be able to satisfy the requirements of the principles of selflessness and honesty set out in the Seven Principles of Public Life.

13. HOSPITALITY

Employees should be sensitive to the possibility that they may find themselves compromised by accepting gifts or hospitality from persons who provide goods, services or works for the Council.

The principle of openness suggests that hospitality, money or gifts, if offered (and whether or not accepted) should be declared. Employees should only accept offers of hospitality if there is a genuine need to impart information, or represent the local authority in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community, or where the authority should be seen to be represented.

They should be properly authorised and recorded and for this purpose the City Council will set out guidance for Heads of Service and Directors to hold registers of such hospitality or activities. These records are not to be subject to public disclosure.

When hospitality has to be declined those making the offer should be courteously but firmly informed of the procedures and standards operating within the authority.

Employees should not accept significant personal gifts from contractors and outside suppliers, although the appropriate Head of Service or Director may allow employees to keep insignificant items of token value such as pens, diaries, etc. In all instances, however, the appropriate Head of Service or Director should be advised of the gift and a record of it should be taken in the register already referred to.

When accepting hospitality employees should be particularly sensitive as to its timing in relation to decisions which the authority may be taking affecting those providing the hospitality.

Where visits to inspect equipment, etc, are required, employees should ensure that the Council meets the cost of such visits to avoid jeopardising the integrity of any subsequent purchasing decision.

By these means employees should be able to satisfy the principles of integrity, objectivity, accountability, openness and honesty set out in the Seven Principles of Public Life.

14. SPONSORSHIP - GIVING AND RECEIVING

Where an outside organisation wishes to sponsor, or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality (whether obtained directly or indirectly) will apply. Particular care must be taken when dealing with contractors or potential contractors.

Where the authority wishes to sponsor an event or service neither an employee, nor any partner, spouse or relative, must benefit from such sponsorship in a direct way, without there being full disclosure to an appropriate manager of any such interest. Similarly, where the authority through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

By these means employees should be able to satisfy the principles of selflessness, integrity, objectivity, accountability, openness and honesty within the Seven Principles of Public Life.

15. RELATIONSHIP WITH OTHER CODES AND PROTOCOLS

The matters dealt with in this Code are also referred to in other Codes and Protocols adopted by the City Council.

National Code of Conduct for Local Government (for Members)
Protocol for Member/Employee relationships
Financial Regulations
Standing Orders for Contracts

FURTHER ADVICE ON THIS CODE MAY BE OBTAINED FROM THE ASSISTANT DIRECTOR OF DEMOCRACY AND GOVERNANCE

PROTOCOL ON MEMBER/OFFICER RELATIONS

1. Introduction

- 1.1 Councillors are democratically accountable and have political affiliations. Officers must serve the whole Council objectively. Together they must balance a complex range of obligations and competing interests. For this to be effective Members and officers must have mutual trust and respect for each other's requirements and duties.
- 1.2 Ten general principles of conduct for Members and officers, co-opted and independent members of local authorities have been prescribed by legislation. The Council has also adopted both a Member and an Officer Code of Conduct, which sets out the minimum standards Members and officers must observe. This Protocol operates within that framework and provides the Council's local ground rules.
- 1.3 Councillors, co-opted and independent members and officers agree to observe the general principals, the Code of Conduct and this Protocol and be guided by them in the interest of fair treatment and good government.
- 1.4 The Protocol is the Council's way of applying the following best principles

- **Members have a right to information and support on a “need to know” basis.**

The need is so that they can perform their role as a Councillor. It can be limited by conflict of interest, confidentiality and practicality.

- **Officers must serve the whole Council objectively.**

Officers must provide “unified advice” at all times. This advice is to be objective, consistent and point out all relevant factors. Different points of view between officers should be resolved or presented in a balanced way which helps Members choose between them.

- **Political processes and different roles of Members are a legitimate part of local democracy**

Officers' advice and support can be tailored accordingly, a party group is entitled to the confidentiality of officer advice on developing policies. The overall arrangements for officer advice must be transparent.

2. The Relationship: General Points

- 2.1 Both Members and officers are public servants and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Council. Their job is to give advice to Members and

the Council, and to carry out the Council's work under the direction and control of the Council, Cabinet, and the committees and sub-committees.

- 2.2 At the heart of the Code of Conduct and this Protocol, is the importance of mutual respect. Member/officer relationships should be conducted in a positive and constructive way. It is important that any dealings between Members 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.
- 2.3 Inappropriate relationships can be inferred from language/style. So, Members and officers should always seek to address each other with courtesy.
- 2.4 A Member should not raise matters relating to the conduct or capability of an officer in a manner that is incompatible with the objectives of this Protocol. This is a long-standing tradition in public service. An officer has no means of responding to such criticism in public. If a Member 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 Member should raise the matter with the respective Head of Service. The Head of Service will then look into the facts and report back to the Member. If the Member continues to feel concern, then he/she should report the facts to the Director who is responsible for the Directorate concerned, or if, after doing so, is still dissatisfied, 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 Procedures.
- 2.5 An officer should not raise in public with a Member matters relating to the conduct or capability of another officer or the internal management of a Section/ Division/Department/Directorate in a manner that is incompatible with the overall objectives of this Protocol. If such issues are raised by Members then the matter will be dealt with in accordance with the Officers' Code of Conduct and the Council's disciplinary Rules and Procedures. Unwarranted criticism of officers by Members should be avoided, particularly when they cannot respond on equal terms such as at public Council Meetings.
- 2.6 Where an officer feels that she/he has not been properly treated with respect and courtesy by a Member, she/he should raise the matter with his/her head of Service or Director, especially if they do not feel able to discuss it directly with the Member concerned. In these circumstances, the Head of Service or Director will take appropriate action either by approaching the individual Member and/or Group Leader. The Director will inform the Chief Executive if the party 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.

3. The Relationship-Officer Support to Members: General Points

- 3.1** Members are democratically accountable and have political affiliations. They have a clear role in providing leadership within the community and as ward Councillors, to represent their constituents. Officers are responsible for day-to-day managerial and operational decisions within Plymouth City Council and provide services to the local community.
- 3.2** Certain statutory officers – Chief Executive, Monitoring Officer and the Responsible Finance Officer (Director for Corporate Support) have specific roles. These are set out in the Constitution. Their roles need to be understood and respected by all Members.
- 3.3** The following key principles reflect the way in which officers generally relate to Members
- All officers are employed by, and accountable to Plymouth City Council as a whole:
 - Support from officers is needed for all Plymouth City Council’s functions including, Full Council, Cabinet, Overview and Scrutiny, Council Committees and individual Members representing their communities.
 - Cabinet members are responsible for providing leadership and direction on policy matters. Day-to-day managerial and operational decisions on the delivery of services should remain the responsibility of the Chief Executive and other officers.
- 3.4** On occasion, a decision may be reached which authorises named officers to take action between meetings following consultation with a Member or Members, It must be recognised that it is the officer, rather than the Member or Members, who takes the action and it is the officer who is accountable for it.
- 3.5** Officers within a Unit/Division/Department or a Directorate are accountable to their Head of Service and Director and whilst officers should always seek to assist a Member, they must not, in doing so, go beyond the bounds of whatever authority they have been given by their Head of Service or Director.

4. The Relationship - Officer Support: Members and Party Groups

- 4.1** It must be recognised by all officers and Members that in discharging their duties and responsibilities, officers serve the Council as a whole and not any political group, combination of groups, or any individual member of the Council. However, political assistants are not required to maintain political neutrality, since their role is to support the political group on whose behalf they have been engaged. Consequently, such officers may be exempted from the constraints on officer neutrality set out below
- 4.2** There is now statutory recognition for party groups and it is commonplace for such groups to give preliminary consideration to matters of council business in advance of such matters being considered by the relevant council decision-making body. Officers may properly be called upon to support and contribute to such deliberations by party groups but must at all times

maintain political neutrality. All officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.

- 4.3** the support provided by officers can take many forms. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.
- 4.4** Certain points must however, be clearly understood by all those participating in this type of process, Members and officers alike. In particular:
- 4.4.1 the observance of neutrality will be assisted if officers only attend party group meetings for specified business and officers withdraw from the meeting after briefing and any questions and before political discussion;
- 4.4.2 party group meetings, whilst they form part of the preliminaries to Council decision-making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not rank as Council decisions and it is essential that they are not interpreted or acted upon as such; and
- 4.4.3 similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant committee or sub-committee when the matter in question is considered.
- 4.5** Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting, which includes persons who are not Members of the Council. Such persons are not bound by the Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons officers must be cautious about attending and/or giving advice to such meetings.
- 4.6** Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group.
- 4.7** Any Member may ask a relevant Head of Service, Director or the Chief Executive for written, factual information about a Directorate or service, but such requests must be reasonable and not seek information relating to, for instance, casework of a confidential nature (eg Social Services, employment,). Requests will be met subject to any overriding legal considerations (to be determined by the Head of Legal or designee), or if the recipient of any request considers the cost of providing the information requested or the nature of the request to be unreasonable. If a Member requesting such information is dissatisfied by such a response, she/he should raise the matter in the first place with the relevant Director, and if still dissatisfied, should raise the issue with the Chief Executive who will discuss the issue with the relevant Group Leader(s).

4.8 In relation to budget proposals:

- (a) the Administration (ie the political party in control) shall be 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.
- (b) the opposition groups shall also be 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.

4.9 It must not be assumed by any party group or Member 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.

4.10 If any Member or officer experiences any particular case of difficulty or uncertainty in this area of officer advice to party groups they should raise the matter with the Chief Executive who will discuss those concerns with the relevant Group Leaders.

5. The Relationship - Officer Support: The Cabinet

5.1 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 Members and other party groups.

5.2 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.

5.3 Cabinet members both individually and sitting together in Cabinet have wide ranging leadership roles. They will:

- Lead the community planning process and the search for best Value, with input and advice for Scrutiny Panels other Council committees and any other person(s) as appropriate;

- Lead the preparation of the Council’s Budget and Policy Framework;
 - Take in-year decisions on resources and priorities together with other stakeholders and partners in the local community, to deliver and implement the Budget & Policy Framework adopted by the Full Council; and
 - Be the focus for forming partnerships with other local public, private, voluntary and community sector organisations to address local needs.
- 5.4** Where functions which are the responsibility of the Cabinet are delegated to officers or other structures the Cabinet will remain accountable to the Council through Overview and Scrutiny for the discharge of those functions. A Cabinet member will be held to account for both their decision to delegate a function and the way that the function is being carried out
- 5.5** Under Executive Arrangements, Individual Cabinet members are allowed to formally take decisions and they must satisfy themselves that they are clear what exactly they can and cannot do.
- 5.6** The Council has put in place mechanisms/protocols, which ensure that (as with the Council, Cabinet, committees and sub-committees) an individual Cabinet member seeks advice from the relevant officers before taking a decision within their delegated authority. This includes taking legal, financial or professional officer advice (particularly about contractual matters) as well as consulting the Monitoring Officer where there is doubt about the legality of a decision.
- 5.7** Decisions taken by individual Cabinet members give rise to legal and financial obligations in the same way as decisions taken collectively. Cabinet members should always be aware of legal and financial liabilities (consulting the Monitoring Officer and Responsible Finance Officer as appropriate) that arise from their decisions. To ensure effective leadership for the Council and its community there are arrangements to ensure co-ordination of and responsibility for Cabinet decisions including those by individuals.
- 5.8** Officers will continue to work for and serve the Council as a whole. Significant functions are not the responsibility of Cabinet members through their delegated authority and it is likely that in practice many officers will be working for Cabinet members for most of their time. Cabinet members must respect the political neutrality of officers. Officers must ensure that even when they are predominantly supporting Cabinet members or the Cabinet that their critical neutrality is not compromised.
- 5.9** In organising support for Cabinet & its members, there is a potential for tension between Chief Officers and Cabinet members. All Members and officers need to be constantly aware of the possibility of such tensions and conflicts existing or being perceived.
- 6. The Relationship - Officer Support: Overview and Scrutiny Management Board (and Overview and Scrutiny Panels)**
- 6.1** The Overview and Scrutiny function is vital for good governance of the Council and is conducted through the Overview & Scrutiny Management

Board and its Scrutiny Panels within the Council. The majority of Members sit on a panel and are entitled to receive appropriate officer support for the work they do.

6.2 The Overview and Scrutiny Management Board determines the work programme of the Management Board and its panels for scrutinising the implementation of decisions and for recommending policy changes to the Cabinet, It is expected that reports commissioned and evidence requested will:

- Avoid cutting across work in support of developing Cabinet policies
- Involve reasonable cost and use of officer time

6.3 An Overview and Scrutiny Protocol has been agreed and incorporated into the Council's Constitution. This contains clear guidelines for Members and officers in the conduct of the business of Overview and Scrutiny Management Board and panels.

7. Support Services to Members and Party Groups

7.1 The only basis on which the Council can lawfully provide support services (eg stationery, typing, printing, photocopying, transport etc) to Members is to assist them in discharging their role as members of the Council. Such Support services must only be used on Council business. They should never be used in connection with party political or campaigning activity to for private purposes.

8. Members' Access to Information and Council Documents

8.1 Members have the ability to ask for information in accordance with their legal right. This right extends to such information, explanation and advice as they may reasonably need in order to assist them in discharging their role as a Member of the Council. This can range from a request for general information about some aspect of the Council's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Head of Service or another senior officer of the Unit/Division/Department concerned. In cases of doubt, Members should approach the Head of Legal for assistance (Democratic Services).

8.2 As regards the legal rights of Members to inspect Council Documents, these are covered partly by statute and partly by common law.

8.3 Members have a statutory right to inspect any Council document *which contains material relating to any business which is to be transacted by the Council*. This right applies irrespective of whether the Member is a member of the committee, or sub-committee concerned and extends not only to reports which are submitted to the meeting but also any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear as confidential (Part II) items on the agenda for a meeting. The items in question are those which contain exempt information relating to employees, occupiers of Council property, applicants for grants and other

services, the care of children & the vulnerable, contract and industrial relations negotiations, advice from counsel and criminal investigations.

8.4 In relation to the business for the Cabinet or individual Cabinet members, by virtue of Regulation 17 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000:

- (i) where there is a Cabinet meeting and there is a document relating to the business to be conducted at that meeting, that document shall be made available for inspection;
- (ii) Where the decision is made at a private meeting by a Cabinet member or is a decision delegated to an officer and there is a document relating to that business, the document shall be available for inspection;
- (iii) the above is subject to the general rules for exempt and confidential material.

The Council's Constitution exceeds this minimum legal requirement in its provision for the publication of all proposed decisions which will set out clearly background papers which are available for inspections.

8.5 The common law rights of Members remains intact, are much broader and are based on the principle that any Member has a right to inspect Council Documents *so far as his/her access to the document is reasonably necessary to enable the Member's properly to perform his/her duties as a member of the Council*. This principle is commonly referred to as the "need to know" principle.

8.6 The exercise of this common law right depends upon an individual Member being able to demonstrate that she/he has the necessary "need to know". In this respect a Member has no right to a "roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination of the "need to know". This question must initially be determined by the particular Head of Service whose Unit/Division/Department holds the document in question (with advice from the Assistant Director of Democracy and Governance). In the event of dispute, the question falls to be determined by the Assistant Director of Democracy and Governance in association with the relevant Director.

8.7 In some circumstances (eg committee member wishing to inspect documents relating to the business of the committee) a Member's "need to know" will normally be presumed. In other circumstances (eg a Member wishing to inspect documents which contain personal information about third parties) the Member will normally be expected to justify the request in specific terms. There will be a range of documents, which because of their nature are either not accessible to Members or are accessible only by the political group forming the administration and not by other political groups; an example of the latter category would be draft documents compiled in the context of emerging council policies and draft committee reports, the disclosure of which prematurely might be against the Council's and the public interest.

8.8 Whilst the term “Council Document” is very broad and includes for example, any document produced with council resources, it is accepted by convention that a Member of one party group will not have a “need to know” and therefore, a right to inspect, a document which forms a part of the integral workings of another party.

8.9 Any Council information provided to a Member must only be used by the Member for the purpose for which it was provided, ie in connection with the proper performance of the Member’s duties as a member of the Council. Therefore, for example, early drafts of committee reports/ briefing papers are not suitable for public disclosure and should not be used other than for the purpose for which they are supplied. This point is emphasised in paragraph 4 of the Code of Local Government Conduct:

9. Correspondence

9.1 Correspondence between an individual Member and an officer should not normally be copied (by the officer) to any other Member without the consent of that Member. Correspondence includes both hard copy memoranda or letters and email.

9.2 Most official letters on behalf of the Council will normally be sent in the name of the appropriate officer rather than in the name of a Member, particularly when dealing with operational or service delivery matters. However, it will be appropriate in certain circumstances (eg representations to 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 Member should always be agreed in consultation with the Chief Executive or the relevant Director, and on legal matters on advice from the Assistant Director of Democracy and Governance.

10. Publicity and Press Releases

10.1 Local Authorities are accountable to their electorate. Accountability requires local understanding. This will be promoted by the authority, explaining its objectives and policies to the electors and ratepayers. In recent years, all Local Authorities have increasingly used publicity to keep the public informed and to encourage public participation; every Council needs to tell the public about the services it provides. Increasingly, Local Authorities see this task as an essential part of providing services. Good, effective publicity aimed to improve public awareness of the Council’s activities is to be welcomed.

10.2 Publicity is, however, a sensitive matter in any political environment because of the impact it can have. Expenditure on publicity can be significant. It is essential to ensure that the Council’s decisions on publicity are properly made in accordance with clear principles of good practice. The Government has issued a code of Recommended Practice on Local Authority Publicity. The purpose of the Code is to set out such principles. The Code affects the conventions which should apply to all publicity at public expense and which traditionally have applied in both central and local government. The Code

required that all Local Authorities shall have regard to its provisions in coming to any decision on publicity.

10.3 Officers and members of the Council will, in making decisions on publicity, take account of the provisions of this Code. If in doubt, officers and/or Members should initially seek advice from the Corporate Communications Manager who will refer the matter to the Monitoring Office if required. 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.

10.4 For the sake of clarity, the Code does not apply to press releases and publicity that Members may arrange and distribute in their individual political capacity rather than through the Council.

11. Involvement of Ward Councillors

11.1 It is a fundamental principle that ward Councillors should be consulted and provided with information on matters to enable them properly to fulfil their role in representing their constituents.

12. Conclusion

12.1 Mutual understanding, openness on these sort of sensitive issues and basic respect are the greatest safeguard of the integrity of the Council, its Members and officers.

PROTOCOL IN RELATION TO POLITICAL GROUP ASSISTANTS

Background

1. Political Assistants are Local Government Officers employed by the Council, and are appointed under the 1989 Local Government and Housing Act and are politically restricted. (Part 1 & Part 3 of the Local Government Officers (Political Restrictions) Regulations 1990 apply).
2. The Democratic and Member Support Manager line manages the Political Group Assistants.
3. The work of the Political Group Assistants comes directly from their political group with the Group Leader having day-to-day responsibility for their workload.

Main Duties and Responsibilities

4. To provide necessary research and support to their respective political groups, providing evaluation, information and advice services to their members.
5. Identify and advise on opportunities for policy development and research and providing information to assist their Leader, Scrutiny Members, and all Group Members in the formulation of these policies.
6. To present information in the form of briefs, reports and presentations to their Members and to liaise with local and national bodies, professional organisations and other service providers to exchange ideas and assist in developing initiatives.
7. Develop an information retrieval system for their political group to ensure efficient and effective research service and monitor publications and other media to identify areas of potential political or budgetary interest to the Group and brief the Group Leader accordingly.
8. Attend selected committee meetings of the authority, internally and externally organised conferences, seminars and other meetings and report back to the Group Leader, spokespersons, or Group Members and to liaise with the Council's Corporate Policy Advisor and other officers regarding policy development, consultations and scrutiny.
9. Prepare agendas and reports for group meetings, take notes at other meetings as directed.
10. The post holder will also undertake other duties, appropriate to the grading of the post as required.

Access to exempt information and private section of meetings

11. Political Group Assistants will not receive material or attend meetings on staffing matters concerning individuals.
12. With the agreement of Group Leaders, Political Group Assistants may attend meetings for the private section of an agenda when non-staffing items are considered.
13. In terms of the distribution of material, Political Assistants will have the same entitlement to information as their respective Members.

Access to Information

14. As an officer of the Council, Political Group Assistants have access to all public parts of the agenda and meetings. However, discretion will be applied in relation to confidential and exempt information. Attendance by Political Group Assistants at a particular meeting will generally be determined by the relevant Group Leader.
15. Officers will respond promptly to requests for information from Political Assistants and Political Assistants will bear in mind the capacity of officers in terms of speed and ability to respond to requests for information. All requests for Information shall:
 - (a) Strictly observe the distinctions between confidential or exempt and open information;
 - (b) Seek clear information from officers as to the status of the information provided;
 - (c) Specify whether the enquiry is made in confidence.
16. In their response to requests from the Political Assistants, officers shall indicate if the information provided is confidential, exempt or open and whether or not a document is in draft or is final (public).
17. All officers including Political Group Assistants will operate to the highest professional standard, building positive personal relationships, which benefit the authority through improved member/officer relations, and removing “silo” behaviours.

Access to Officers

18. Political Assistants will have access to all officers of the Council, subject to availability and work programme commitments. In the case of senior officers, it will normally be required to make an appointment in advance.
19. In the event of any tension or dispute either the Political Group Assistant or the officer shall in the first instance refer it to the Democratic and Member

Support Manager who will investigate that matter and discuss it with the relevant Group Leader

Other Provisions

- 20.** In accordance with the Access to Information rules set out in the Council's Constitution, all officers may not disclose (to persons other than Members and officers) confidential or exempt information.
- 21.** Political Group Assistants must observe any Code of Conduct for Council Officers which may be in force from time to time.
- 22.** Pending the outcome of political restrictions on Council officers, Political Assistants will adhere to the restrictions placed on them in terms of activities in accordance with the Local Government and Housing Act of 1989.
- 23.** The Political Group Assistants will operate within this protocol and the Council's Constitution and Rules of Procedure.

WHISTLEBLOWING POLICY

I. POLICY STATEMENT

This policy has been devised in accordance with the provisions of the Public Interest Disclosure Act 1998 and supports the Council's Anti Fraud and Corruption Policy.

Plymouth City Council is committed to the highest possible standards of openness, probity and accountability in all of its activities. It also expects a high standard of conduct and integrity from employees.

Any employee who has a serious concern about any aspect of the Council's work or the actions of its employees should voice their concerns through established internal channels, without fear of harassment or victimisation.

The Council aims to encourage all its employees to feel confident in raising serious concerns and provide appropriate avenues for dealing with them. It aims to ensure that employees are protected from possible reprisals or disadvantage where they have raised a concern or disclosed information in good faith.

2. AIMS AND SCOPE OF THE POLICY

2.1 This Policy aims to:

- encourage employees to feel confident in raising concerns and to question and act upon their concerns;
- provide avenues for employees to raise these concerns and receive feedback on any action taken;
- allow employees to take the matter further if they are dissatisfied with the Council's response; and
- reassure them that they will be protected from reprisals or victimisation for whistleblowing in good faith in accordance with this procedure.

In Scope

2.2 This policy applies to all employees and those contractors working for the Council. Employees include staff working for the Council on a temporary basis, casual or seasonal workers and trainees. It also covers agency workers and suppliers and those providing services under a contract with the Council in their own premises.

Out of Scope

2.3 There are existing procedures in place to allow staff to lodge a grievance relating to their own employment within the Council's Grievance Policy.

2.4 This policy is intended to cover reasonably serious concerns that fall outside the scope of other procedures. That concern may be about the following:

- A criminal offence that has been, is being, or is likely to be committed
- Fraud and Corruption
- Unauthorised use of Public Funds
- A failure to comply with a legal obligation
- A health and safety risk relating to any individual
- A miscarriage of justice
- Damage to the environment
- Actions that are contrary to the Council's Standing Orders, Financial Regulations or any other approved policies
- Actions or behaviour that falls below established standards of practice
- Abuse and welfare of clients and/or staff
- Harassment or victimisation of either staff or clients
- Any actions or concerns regarding practice that could result in a financial loss to the Authority
- The deliberate concealment of information relating to any of the above matters
- Other unethical conduct

(This list is not exhaustive)

3. SAFEGUARDS

3.1 Harassment or Victimisation

The Council recognises that the decision to report a concern can be a difficult one to make, not least because of the fear of reprisal from those responsible for, or suspected of, the malpractice. The Council will not tolerate harassment or victimisation and will take action to protect staff when they raise a concern in good faith. This does not mean that if a member of staff is already the subject of disciplinary or redundancy procedures, those procedures will be halted as a result of their 'Whistleblowing'.

3.2 Confidentiality

The Council will do its utmost to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be realised and appreciated, however, that the investigation process itself may well reveal the source of the information, and, depending on the outcome, a formal statement by the individual may be required as part of the evidence.

3.3 Anonymous Allegations

This policy is designed to encourage staff to put their names to allegations. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Council. In exercising this discretion, the factors to be taken into account would include:

- The seriousness of the issue raised
- The credibility of the concern, and
- The likelihood of confirming the allegation from attributable sources

3.4 Untrue Allegations

If an employee makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, individuals make malicious or vexatious allegations, disciplinary action may be considered and implemented.

4. RAISING A CONCERN

4.1 Employees are encouraged to report any concerns to one of the following persons. They are listed in order of preference. However, if the employee believes that any of these persons are implicated in the concern they are raising they should feel free to report to the next most preferred person:

1. Line Manager
2. Head of Service
3. Director
4. Chief Executive

4.2 Employees who are unsure about reporting or do not feel at ease raising the concern through the above route are encouraged to seek advice from one of the following:

- The Chief Auditor on 306712 or 306711
- The Assistant Director of Democracy and Governance on 306116 or 306113
- The Assistant Director for Human Resources and Organisational Development on 304890

4.3 Employees may also invite their Trade Union or professional association to raise the concern on their behalf.

4.4 Concerns are better raised in writing. The background and history of the concern, giving names, dates and places where possible, should be set out and the reason why the individual is concerned about the situation. Those who do not feel able to put their concerns in writing may raise the matter verbally with the appropriate officer.

4.5 Although staff are not expected to prove the truth of their concern, they will need to demonstrate to the person contacted that there are sufficient grounds for concern.

5. HOW THE COUNCIL WILL RESPOND

5.1 Within ten working days of a concern being received, the Council will write to the employee

- Acknowledging that the concern has been received;
- Indicating how it proposes to deal with the matter;
- Telling the employee whether any initial enquiries have been made;
- Telling the employee whether further investigations will take place, and if not, why not.

5.2 The action taken by the Council will depend on the nature of the concern.

The matters raised may:

- Be investigated internally
- Be referred to the Police
- Be referred to the External Auditors
- Form the subject of an independent inquiry by the Ombudsman

5.3 In order to protect individuals and the Council, initial enquiries will be made to decide whether an investigation is appropriate and, if so, what form it should take. Concerns or allegations which fall within the scope of other, existing, procedures (eg child protection or discrimination issues) will normally be referred for consideration under those procedures.

5.4 Some concerns may be resolved without the need for investigation. Where a formal investigation is required, it is likely to take the form of an investigation by a manager or Internal Audit. In certain cases, the matters raised may be referred to the Police or the Council's external auditors for investigation or an independent inquiry could be set up.

5.5 The amount of contact between the Managers considering the issues raised and the complainant will depend on the nature of the matters raised, the potential difficulties involved and the clarity of the information provided.

5.6 When any meeting is arranged, staff have the right, if they so wish, to be accompanied by a Union or professional association representative or a friend who is not involved in the area of work to which the concern relates.

5.7 The Council will take steps to minimise any difficulties which staff may experience as a result of raising a concern. For instance, if staff are required to give evidence in criminal or disciplinary proceedings, the Council will advise them about the procedure.

5.8 The Council accepts that staff need to be assured that the matter has been properly addressed. Thus, subject to legal constraints, members of staff will receive information about the outcomes of any investigations.

5.9 If an employee is not assured that the matter has been properly addressed, they should contact the Chief Auditor, or consider an alternative method of taking forward a complaint as per paragraph 8.1.

6. FOLLOWING UP CONCERNS RAISED

- 6.1** Whatever method of raising a concern has been chosen, effective and efficient communication and support systems are fundamental to the success of the policy and in giving employees confidence that issues which they raise will be thoroughly and conscientiously investigated.
- 6.2** Managers, Councillors or Trade Union Representatives who have concerns raised with them must notify Internal Audit immediately, if the concern / allegation involves either potential fraudulent practice or activity that could result in a financial loss to the Authority.
- 6.3** Similarly, if a concern raises issues relating to employee or client welfare, Human Resources should be notified or on issues of legality, Legal Services should be notified at the earliest possible opportunity.

7. ALTERNATIVE METHODS OF TAKING FORWARD A COMPLAINT

- 7.1** This policy is intended to provide staff with an avenue to raise concerns within the Council. If an individual feels it is right to take the matter outside this process, the following are possible contact points:
- The local Council member (if you live in the area of the Council);
 - The External Auditor;
 - Relevant professional bodies or regulatory organisations;
 - Individuals' solicitors;
 - A relevant charity or voluntary organisation; such as Public Concern at Work, who can be contacted on 0207 404 8009 or helpline@pcaw.co.uk
 - The Police.
- 7.2** If an employee does take the matter outside the Council, they need to ensure that they do not disclose confidential information or that disclosure would be privileged. This should be checked with one of the designated contact points, Internal Audit, Legal Services , Human Resources or if preferred, an outside organisation such as the Ombudsman.

8. THE RESPONSIBLE OFFICER

- 9.1** The Chief Auditor has overall responsibility for the maintenance and operation of this policy.
- 9.2** The Chief Auditor will maintain a record of concerns raised and the outcomes (in an anonymous format) and will report as necessary to the Audit Committee.

10. REVIEW AND MONITORING

This policy is to be reviewed and monitored every 2 years. The Chief Auditor will monitor this policy.

II. RELATED POLICIES AND DOCUMENTS

- Anti Fraud and Corruption Policy
- Bullying and Harassment Policy and Procedure Guide
- Code of Conduct for Employees
- Complaints Policy
- Corporate Equalities Policy
- Employee Handbook
- Public Interest Disclosure Act 1998

CODE ON COUNCILLORS USE OF ICT EQUIPMENT

1. When does this code apply?

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

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

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

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.

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

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.

7. Technical support

The council only provides technical support for its own equipment.

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.

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.

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.

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.

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 eg 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.

PETITIONS - GUIDANCE

I Plymouth City Council's Petition Scheme

1.1 Plymouth City Council welcomes petitions and understands that they are one way in which people's concerns can be expressed.

1.2 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.

1.3 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.

2 What are the guidelines for submitting a petition?

2.1 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

2.2 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.

3 When will a petition not be accepted?

3.1 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

3.2 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.

4 How will the Council respond?

4.1 The response to a petition will necessarily depend on what it is asking for and how many people have signed it, but the response may be to:

- take the action requested
- consider the petition at a council meeting
- hold an inquiry or researching the matter
- hold a public meeting or a meeting with petitioners
- hold a consultation
- refer the petition to the relevant [Scrutiny Panel](#)
- call a referendum
- write 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

5 Exclusions

5.1 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](#)

6 Debate at city council meetings (over 5,000 signatures)

6.1 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.

6.2 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](#).

7. Officer evidence (over 2,500 signatures)

- 7.1 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 (eg 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.

8. What can I do if I feel my petition has not been dealt with properly?

- 8.1 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.
- 8.2 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.

CODE OF GOOD PRACTICE FOR MEMBERS AND OFFICERS IN CONNECTION WITH THE DETERMINATION OF PLANNING AND ASSOCIATED APPLICATIONS

1.0 INTRODUCTION

- 1.1 Central Government takes the view that the conduct of both Officers and Members in Local Government needs to be of the highest standing: on this depends the bond of trust between Councils and their local people, which is essential if Councils are to play their part in leading communities and improving people's quality of life. Plymouth City Council agrees with this statement.
- 1.2 The local administration of the planning system has come under close scrutiny which has included the Nolan Committee's Third Report which investigated standards in public life, by the Local Government Act 2000 which introduced a new structure by which local authorities were to promote high standards of conduct, through a revised National Code of Conduct for Members which was introduced in 2007, and, most recently, with the 2009 updated guidance note by the Local Government Association on "Probity in Planning".
- 1.3 The Nolan Report recommended that all practices and procedures in connection with a particular process are designed so as to avoid the grounds for an accusation of malpractice arising. Clearly, the determination of planning applications is one such area and this Code proposes to offer clear guidance and advice as to procedures and practices to elected Members, Officers and members of the public in connection with the determination of planning applications. This Code will ensure that not only are the applications determined in a fair and impartial way, but also in a way which is seen to be fair and impartial. The introduction of the Local Government Act 2000 and associated legislation provides the necessary statutory framework, by which these standards may be achieved, maintained and regulated by each local authority.
- 1.4 Clearly, one of the key purposes of the planning system is to control development in the public interest. When performing this role the Local Planning Authority and elected members are making decisions that necessarily affect land and property interests, as well as the financial value and settings of land holdings. Clearly, there is a need to make decisions that are open, impartial and based on sound judgement and reason. The process of determining applications should leave no grounds for a suggestion that a decision has been impartial, biased or ill founded in any way. Decisions must always be made on planning grounds and planning grounds alone.
- 1.5 The 2009 guidance note from the Local Government Association states that "planning is moving to the heart of local authorities' place – shaping and community planning roles". It also recognises "councillors as champions of their local communities". The guidance also confirms that it is not there to suggest there is only one best way of doing things and so it is important that this Code of Practice responds to the planning and regeneration aspirations of Plymouth's growth agenda as well as the commitment to continuous improvement and move towards excellence in service delivery.
- 1.6 Furthermore, the spirit of the Local Government Act 2000 is also of vital importance, as it takes a wide view and expects that Members will appreciate that matters of probity touch upon broader matters such as relations with other Members, the public and staff; the treatment of confidential material and will, accordingly, do their utmost to set high standards in all such areas.

2.0 STATUS OF THE CODE

- 2.1 This Code shall set out the basis as to how Officers and Members should determine planning applications submitted to the City Council and ensures that conduct accords with the City Council's Codes of Conduct for Members and Officers which is contained within the City Council's Constitution.
- 2.2 This Code is referred to in the City Council's Constitution by way of a note and there is a link to the Code.
- 2.3 A breach of this Code, does not usually amount to a breach of criminal law but may adversely affect the standing of the City Council. It could result in a decision being judicially reviewed or a complaint of maladministration or allegation of a breach of the Code of Conduct made to the Local Government Ombudsman

3.0 GENERAL ROLE AND CONDUCT OF COUNCILLORS AND OFFICERS

- 3.1 Elected Members are guided by the general advice contained in the National Model Code of Conduct (Local Authorities (Model Code of Conduct) Order 2007 - SI 2007/1159). This Code is further amplified by reference to the City Council's Standing Orders in respect of general Council procedures as well as further amplification in specific Codes of Conduct such as the advice contained in this Code or guidance from the Standards Board.
- 3.2 Councillors and Officers have different but complementary roles with the determination of planning applications and it is important that an open, respectful and transparent relationship is developed based upon mutual trust and understanding of each others positions. It is important for the overall standing of the City Council and the achievement of national performance targets that they work as an effective team. The role of a Councillor when determining a planning application is to have an overriding duty to the whole community and, accordingly, in deciding the outcome of an application to make a reasoned decision taking into account the provisions of the Development Plan and all relevant material considerations. All decisions should be taken in the interests of Plymouth as a whole.
- 3.3 The basis of the planning system is that consideration is given to all development proposals and these are determined against the wider public interest. Much is often at stake in such decisions and in the process for local people and development interests, as well as for the City of Plymouth itself. Given the nature of these decisions opposing views are often held by those involved. Whilst these views must be taken into account in the determination of planning applications, as stated above, they must not favour any person, group or locality. Members must therefore take steps to ensure that in their discharge of their Planning Committee duties the distinction between this role and their role as an individual Ward Councillor is constantly made clear. If Members wish to act in the latter capacity they must make that clear at the outset. Members who do not feel that they can act in this way should consider whether they are best suited to serve on the Planning Committee, especially if they feel that they will often be placed in the position of wishing to represent constituents and wishing to speak as a Ward Member rather than a Member of the Planning Committee (See paragraph 5.4).
- 3.4 In reaching a decision Councillors should take account of the relevant material considerations connected with the application but should not favour any person, group or locality or put themselves in a position where they may appear to do so.

- 3.5 All decisions should be made in an open and transparent manner by the Members of the Planning Committee and this should not at any time be compromised in any way. Therefore, such actions as messages being passed to Members of the Planning Committee during a debate should be avoided as this could give an impression of undue influence from a third party. In the first instance in an emergency any notes should be passed to the Democratic Support Officer.
- 3.6 In order to ensure that decisions are taken on planning grounds and are sound it is incumbent on all Planning Committee Members to give full consideration to reports prepared by Officers and familiarise themselves with all relevant national planning guidance, Development Plan policies and other material considerations well in advance of the consideration of a development proposal at the Planning Committee itself.
- 3.7 The role of Officers is to advise Councillors and the City Council as a whole (through the Cabinet and relevant Portfolio Holders) and to carry out work as set out in the Corporate Plan and agreed Business Plans. Officers are employed by the City Council, not by individual councillors, and it follows that instructions to them may only be given through a decision of the City Council, the Cabinet, the relevant Portfolio Holders, or the Planning Committee.
- 3.8 The conduct of Officers who advise on the determination of planning applications is contained generally in the City Council's protocol for Member/employee relations and is supplemented by guidance from their professional bodies, such as Royal Town Planning Institute, the Law Society, and the Institute of Legal Executives. Officers may not be instructed by any Member to conduct themselves in a manner which would place them in conflict with their professional codes of conduct.
- 3.9 Officers are required to act impartially at all times in determining applications and providing advice at the Planning Committee. Officers will be expected to conduct themselves in all they say and do in a manner which totally preserves this position of impartiality.
- 3.10 During the determination of an application, it is possible that Officers and Members may be offered hospitality by an interested party. Even though this rarely occurs in Plymouth, it is important to recognise that, if at all possible, these offers should be politely declined. However, any Members receiving any gift or hospitality, in their capacity as Members, over the value of £25, should provide within 28 days of receipt, written notification of the details to the Monitoring Officer of the Council for entry into the register of gifts and hospitality which is open to public inspection and located in the Members Services Office for Members. Similarly, for Officers, in the event that the receipt of hospitality is unavoidable, they must ensure that the hospitality is of a minimal level and declare its receipt as soon as possible by completing a "Hospitality Declaration Form" and submit this to the Assistant Director of Development (Planning Services) for signature.

4.0 DECLARATION AND REGISTRATION OF MEMBERS INTEREST

- 4.1 Members are required to give a general notice of interest that they hold usually upon their election or appointment to office and are under a duty to

maintain that declaration and amend, as necessary, within 28 days of becoming aware of any such changes, throughout their term of office.

4.2 A register of Members' interests will be maintained by the City Council's Monitoring Officer and is available for public inspection.

4.3 Furthermore, Members are under a duty to declare interests as and when matters arise at Planning Committee. Guidance on these issues may be sought by Members from the Standards Board and/or the City Council's Monitoring Officer. The decision as to whether an interest ought to be declared rests with the individual Councillor involved.

4.4 There are two types of interest, 'personal' and 'prejudicial'.

4.5 In respect of a personal interest the guiding principle is:

- (1) if the matter relates to an interest in respect of which the Member has given notice in the statutory register of Member's interests; and
- (2) if a decision upon it might reasonably be regarded as affecting to a greater extent than other Council Tax payers, ratepayers or inhabitants of the Authority's area, the well being or financial position of themselves, a relative or friend or employer.

4.6 However, where a Member considers s/he has such a personal interest in a matter, s/he must always declare it; but it does not then necessarily follow that the personal interest debar the Member from participation in the discussion.

4.7 The guiding principle in deciding whether a personal interest has become a prejudicial interest is whether or not the interest is one which a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Members' judgement of the public interest. There are exceptions to this, however, in that if a discussion relates to another authority of which the Councillor is a Member; or another public authority in which the Councillor has a position of general management or control; or a body to which the Councillor has been appointed or nominated as a representative of the authority; then it may be the case that the Member would be expected to declare the interest but it may not be deemed to be prejudicial to the extent that the Member would still be permitted to participate in the determination of the application.

4.8 In respect of matters not excluded in 4.7 in which a Member has a prejudicial interest the position is straightforward, the Member should declare the interest, have the declaration recorded in the Minutes and they must not participate in any discussion on the matter.

4.9 However the Local Authorities (Model Code of Conduct) Order 2007 (SI 2007/1159) introduced a New Model Code of Conduct which came into force in Plymouth in October 2007. This new Model Code of Conduct now allows a Member with a prejudicial interest the same right to speak, as is afforded a member of the public. Therefore, a Member with such an interest is allowed five minutes, in accordance with the public speaking arrangements as set out in section 10. The Member will

speak from the speaker's chair, prior to any debate and other speakers and must immediately leave the room once finished. The Member cannot remain in the room to observe the debate or vote. This is to ensure that Members of the Planning Committee do not by their presence, influence or seek to influence the remainder of the Planning Committee.

- 4.10 If a Member is aware of such a prejudicial interest prior to the Planning Committee then the Democratic Support Section should be notified at least two days before the meeting. Further, confirmation should be given as to whether the Member will be using their right to speak. However, if a Member only becomes aware of the prejudicial interest during the Planning Committee meeting then they must immediately declare it and state whether they wish to speak. If they wish to speak then they will move to sit in the speaker's chair and then leave the room once they have finished.
- 4.11 As the public are allowed to speak at a Planning Committee a Member with a prejudicial interest is also provided with the same opportunity. The Member will be permitted to speak for five minutes but must immediately leave the room once finished. The Member cannot remain in the room to observe the debate or vote. This avoids any issues of improperly influencing a decision of the Planning Committee.
- 4.12 Member should also not give grounds for a suspicion that any such interests may arise and have not been declared.
- 4.13 When an application is to be determined, there is an expectation that it will be dealt with transparently, openly and in a fair way. Members of the Planning Committee will be expected to take account of all relevant evidence and give it appropriate weight in the decision making process and arrive at a reasoned sound decision.
- 4.14 A situation can arise when a Member of the Planning Committee represents a Ward within which a contentious application is lodged. If, prior to the matter being considered by the Planning Committee, that Member decides to make a public statement, and either supports or opposes the application, it will be difficult for that Member to be seen to subsequently determine the application transparently, openly and fairly. Accordingly, it is suggested that, in those circumstances, the Member should make an open declaration, in relation to his or her position and not vote on the determination of the application at Planning Committee. The open declaration should be noted in the Planning Committee minutes. The Member will also be required to vacate their seat within the Planning Committee and to sit within the public gallery for the duration of the consideration of the item, and where they have exercised their right to speak as a Ward member, they can address the Planning Committee at the appropriate time in accordance with the Ward Member speaking arrangements (see section 10).
- 4.15 An alternative approach may be for the Planning Committee Member to refrain from making any public statement on an application and to invite another Ward Member to attend the Planning Committee to speak on the local ward issues and for the Member of the Planning Committee, if s/he has not made a public statement in support of or against the application, to confine his/her comments to the relevant planning issues, taking into account the interests of the City as a whole.

5.0 PREDETERMINATION, PREDISPOSITION OR BIAS

- 5.1 In addition to any declaration of personal or prejudicial interests, Members of the Planning Committee need to avoid any appearance of bias or of having predetermined their views before taking a decision on a planning application. The Standards Board for England has provided guidance on predetermination, predisposition and bias.
- 5.2 A distinction is drawn by the courts between a Member having clearly expressed an intention to vote in a particular way before a meeting (predetermination) and a predisposition to an initial view, but where the member is clear they are willing to listen to all the material considerations presented at the Planning Committee before deciding on how to exercise their vote on behalf of the community. In the latter case there is no predetermination.
- 5.3 If a Planning Committee Member has been lobbied by friends or others and wishes to predetermine their position to promote or oppose a planning application they will need to consider whether this has become a personal interest or not. Whether or not it is a personal interest, they need to consider if their view is likely to be regarded as predetermined and against the fair determination of the application. If they have predetermined their position, they should avoid being part of the Planning Committee when that planning application is considered.
- 5.4 A Ward Member who is also a Member of the Planning Committee wishing to campaign for or against a proposal could speak at a Planning Committee on behalf of their constituents, having declared their predetermined position. The Member can continue to represent those ward interests as a spokesperson for their local community, notwithstanding their normal Planning Committee membership. However, they would have to declare their position and not take part in the vote to avoid accusations of bias.
- 5.5 It will be evident from paragraphs 5.1 – 5.3 that the appropriate action is not clear cut and will depend on the circumstances of a particular case and application. Planning Committee members need to avoid bias and predetermination and take account of the general public's (and the Ombudsman's) expectation that a planning application will be processed and determined in an open and fair manner. To do this Members taking the decision on an application must take account of all the evidence presented before arriving at a decision, and should avoid committing themselves one way or another before hearing all the arguments.
- 5.6 Ultimately it is the responsibility of the individual member to ensure that their role on the Planning Committee is not compromised and it is also for them to strike the balance that may need to be made between ward and other interests and the requirements of the Planning Committee.

6.0 DEVELOPMENT PROPOSALS SUBMITTED BY MEMBERS, OFFICERS AND THE COUNCIL

- 6.1 In accordance with the City Council's Officer Code of Conduct (June 2000), employees must declare any financial or non-financial interests which relate to their work to the appropriate Director, Assistant Director, or Head of Service, including membership of any organisation not open to the public without formal membership and commitments of allegiance. Such declarations will be maintained in documents which will not be publicly disclosable.

- 6.2 Such declarations can be made on a regular basis without any known future applications coming forward. In such situations, planning and other associated applications will not be allocated to that employee to deal with.
- 6.3 However, it will sometimes occur that an employee only identifies a conflict of interest in the course of determining an application. At this point it is the responsibility of the employee to immediately raise the declaration with the Director, Assistant Director, or Head of Service and for the employee to take no further action in the determination of the case. Again, a record of the declaration will be maintained in documents which will not be publicly disclosable.
- 6.4 In all instances where there is a conflict of interest the appropriate procedure would be for that Officer to notify the Director, Assistant Director, or Head of Service of that conflict and to have no further part in the determination of the application.
- 6.5 Any proposals submitted by Members and Officers shall be dealt with so as to give no grounds for accusations of favouritism or lack of impartiality in accordance with the following procedure:
- It is the responsibility of all Members and Officers when making a planning application to identify themselves as an Officer or Member of the City Council on a form to be submitted with the planning application;
 - Assistant Director of Development (Planning Services) (or a designated representative) shall identify any such application;
 - The City Council's Monitoring Officer shall be notified of any such proposals;
 - The application shall be allocated for determination to an Officer who is unknown to or has no regular contact with the Member/Officer;
 - The proposal shall be determined by a report to the Planning Committee and not determined under delegated powers;
 - The Member/Officer shall take no part in the processing of the application.
- 6.6 Any application submitted by Plymouth City Council shall be processed in the same transparent and impartial manner as for any other applicant.

7.0 LOBBYING

- 7.1 It is recognised that lobbying is a normal and perfectly legitimate element of the process of considering planning applications. If a Member, who is not on the Planning Committee to determine an application, wishes to support a particular viewpoint then that Member has a right to appear at Planning Committee and seek permission to address the meeting.
- 7.2 Lobbying can, however, lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved. Therefore, if a Member of the Planning Committee determining the application is lobbied then there are two courses of action open to that Member:
- (a) to adopt the approach set out in Section 4.14 or 4.15 of this Code;
 - (b) to restrict him or herself to give merely procedural advice, and to direct the person who is lobbying to the Officer who is dealing with the application, so

that their opinions may be included in the Officer's report to the Planning Committee. If that Member expresses an opinion it should be made clear that such an opinion is expressed at that time and that he or she would only be in a position to make a decision after having considered all the relevant material considerations giving those considerations the appropriate weight and reached a reasoned decision.

7.3 Any political meeting prior to the Planning Committee meeting should not be used to decide how Councillors should vote. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.

7.4 Members should refrain from seeking to influence the outcome of the officer's decision or recommendations and should generally avoid organising support for or against a planning application.

8.0 PRE-APPLICATION DISCUSSIONS

8.1 The use of pre-application discussions is recognised as a legitimate way to obtain informal views as to the merits of a development proposal.

8.2 It is recommended that pre-application discussions between Officers and prospective applicants take place in accordance with the following guidelines:

- it should be made clear that the advice and discussions will not bind the formal determination by the Local Planning Authority of any subsequent planning application, and that any views expressed represent provisional professional officer views only;
- advice should be given in a consistent and impartial way based on the provisions of the Development Plan and other relevant material considerations;
- Officers should make it clear whether or not they will be the decision maker (i.e. it is an application that falls within the Scheme of Delegation for Officers to determine) or that they are the advisor to the decision maker (i.e. it is an application that falls within the Terms of Reference for the Planning Committee who will make the decision)
- notes of meetings and telephone calls to confirm the discussions which took place should be kept on file;
- at least one officer from the Planning Service should attend meetings;
- a follow-up letter is advisable when documentary material has been left with the City Council.

8.3 In exceptional cases it may be appropriate for Members of the Planning Committee and/or the Cabinet or Ward Members to receive presentations arising from pre-application discussions prior to the submission of a planning application. In such circumstances it will be made clear at the outset that no Planning Committee Members present will offer any view or comment (other than questions of clarification) although Ward Members and Members of the Cabinet are at liberty to express opinions in support or opposition for the proposals as they will not be part of the Planning Committee vote on the proposals when they are reported to the Planning Committee in due course.

8.4 In no circumstances should ANY Member of the City Council meet with a developer without the presence of an Officer.

9.0 ORDER OF PLANNING COMMITTEE CONSIDERATIONS

- 9.1 All decisions that are to be made by the Planning Committee will be based upon comprehensive written reports by Officers supplemented, where necessary, by an oral presentation which will include a site plan, an aerial photograph of the site, photographs of the site, key application plans and drawings, and other relevant material that the Officer considers will assist the Planning Committee in the consideration of the proposal.
- 9.2 All reports to the Planning Committee will include the following information:
- Site Description
 - Proposal Description
 - Relevant Planning History
 - Consultation Responses
 - Representations
 - Analysis of Issues
 - Equality and Diversity Issues
 - Planning Obligations
 - Conclusions
 - Recommendations
 - Conditions
 - Statement of Reasons for Approval/Refusal
 - Relevant Policies
- 9.3 In most cases the Assistant Director of Development (Planning Services) will make a recommendation to the Planning Committee to either refuse planning permission, with reasons, or to approve planning permission, with conditions. In exceptional circumstances the Assistant Director of Development (Planning Services) may not be in a position to make a recommendation to the Planning Committee through the main report, or may need to report updates on specific aspects of the proposal. Where this is necessary reasons will be given as part of the Officer presentation to the Planning Committee. In order to ensure efficient and effective decision making there may be occasions when the Assistant Director of Development (Planning Services) seeks from the Planning Committee delegated authority to determine a planning application after the expiry of an advertisement period, or upon receipt of additional details, or will seek delegated authority to refuse permission where a Section 106 agreement linked to a resolution to grant consent is not, in his/her opinion, being expedited with sufficient speed by the applicant or will seek to defer to the Assistant Director for further negotiations in consultation with Chair, Vice Chair, Lead Opposition Group Member for Planning.
- 9.4 Where further detail and clarification on a published report is required, this will be provided in the form of a written addendum report, to be made public no later than 5.00 p.m. the day prior to the Planning Committee meeting. Officers will always seek to ensure that the use of addendum reports is kept to the absolute minimum.
- 9.5 In exceptional circumstances, a further oral report may need to be provided at the Planning Committee meeting itself.
- 9.6 The order for consideration of all planning applications will be as follows:
1. Planning Officer Oral Presentation
 2. Any Planning Committee Member(s) with a prejudicial interest who wish to speak for or against a proposal (who will then leave the room).
 3. Any Ward Councillor(s) who wish to speak for or against the proposal.
 4. Any Public Speaker who wishes to speak against the proposal.
 5. Any Public Speaker who wishes to speak in favour of the proposal.

6. Questions to the Planning Officer by Planning Committee Members.
7. Planning Committee Members debate and consider the proposal.
8. Planning Committee Members move and debate any alternative motions to the recommendation and the Chair puts these to the vote as appropriate.
9. Chair of Planning Committee puts the original recommendation to the vote, if necessary
10. Formal Decision of Planning Committee on the proposal.

10.0 WARD MEMBERS SPEAKING AT PLANNING COMMITTEE

- 10.1 Once the Planning Committee agenda and accompanying papers are made available to the public five days prior to the Planning Committee meeting, a Ward Member must notify the City Council's Democratic Support Section, details of which will be on the agenda papers, that they wish to speak and give details of the item upon which they wish to speak under Part 1. Notification by either telephone, fax, letter or e-mail must be received by no later than 4.30 p.m. two weekdays before the Planning Committee meeting.
- 10.2 The Ward Member who has notified that they wish to speak needs to attend the Planning Committee at least quarter of an hour before the start of the meeting and should register their details with the Democratic Support Clerk. They will need to provide their name and ward, the application they are to speak on, and whether they are an objector or supporter of the proposal.
- 10.3 The Ward Member will be allowed to speak for up to a maximum of five minutes and must do so from the speaker's chair. The Ward Member will speak third, after the Officer presentation and after any Planning Committee Members with a prejudicial interest. This is an opportunity for the Member to put their case either in support or in objection to the planning application in order to help inform the Planning Committee debate. After speaking the Ward Member must return to the public gallery and there will be no further involvement of the Ward Member in the deliberations of the Planning Committee.
- 10.4 Ward Members will not be permitted to address questions to the Planning Committee or Planning Officers.
- 10.5 Ward Members will not be permitted to distribute papers, plans or other material at the Planning Committee meeting and will not be allowed to use slides, overheads, videos or other means of visual aids. Documents not previously submitted will not be circulated as not all parties will have had sufficient time to react to the submissions and the Planning Committee will not have proper time to consider them. In the event of material being circulated it will be disregarded by the Planning Committee.
- 10.6 Ward Members should not interrupt other speakers or interrupt the Planning Committee debate. Under no circumstances should they approach Members of the Planning Committee during the meeting as this could give the impression of undue or inappropriate influence.
- 10.7 Ward Members are advised not to make slanderous statements or any other racial motivated, discriminatory or inflammatory remarks.
- 10.8 The Chair of Planning Committee can suspend the right to the Ward Members speaking in relation to an individual item or the whole Planning Committee if he/she considers it necessary to maintain order at the meeting.

10.9 The Chair of Planning Committee can also require a Ward Member to cease speaking and leave the meeting if in the opinion of the Chair the speaker's statement falls within 10.7 above.

10.10 There is no limit on the number of Ward Councillors who can speak at the Planning Committee meeting on a development proposal.

11.0 PUBLIC SPEAKING AT PLANNING COMMITTEE

11.1 Once the Planning Committee agenda and accompanying papers are made available to the public five days prior to the Planning Committee meeting, a member of the public, applicant or agent must notify the City Council's Democratic Support Section, details of which will be on the agenda papers, that they wish to speak and give details of the item that they wish to speak on. Notification by either telephone, fax, letter or e-mail must be received by no later than 4.30 p.m. two weekdays before the Planning Committee meeting.

11.2 The only participants allowed to publically speak at the Planning Committee will be the applicant or agent and/or third party objectors and supporters. In the case of third parties only those who have made written representations in time on the planning application will be eligible to speak. In the case of Public Rights of Way applications there will also be a further participant, the landowner, who will be allowed to speak after the Officer presentation, and any Members, objectors and supporters have spoken.

11.3 In all circumstances the maximum number of public speakers will be one objector and one in support of the development proposal. If there are several persons wishing to speak (whether objectors or supporters) it will be necessary for them to nominate a representative to speak on their behalf.

11.4 Once a representative has been nominated that person will also be the one to speak if the application should be deferred for any reason and need to return to the Planning Committee for a decision. In the event an application is deferred all speakers will be given the opportunity to address the Planning Committee for a second time when the planning application returns to Planning Committee for decision.

11.5 Any person nominated as a spokesperson for a group of objectors or supporters must notify the Democratic Support Section by 4.30 p.m. on the day before the Planning Committee.

11.6 If in circumstances where a nominated representative cannot be agreed upon, the City Council will allocate the speaking allocation to the first registered person wanting to speak.

11.7 All speakers need to attend the Planning Committee at least half an hour before the start and should register their details with the Democratic Support clerk. They will need to provide their name and address, the application they are to speak on and whether they are the applicant, agent, landowner or an objector or supporter of the proposal.

11.8 Third parties who wish to speak against a proposal will be the fourth to address the Planning Committee in accordance with the order set out in paragraph 9.6. Third parties (including the applicant or agent) who wish to speak in favour of a proposal will be fifth to address the Planning Committee as set out in paragraph 9.6.

- 11.9 Each person will be allowed to speak up to a maximum of five minutes and must do so from the speaker's chair. The purpose is to provide an opportunity for applicants, landowners and third parties to put their case and inform the Planning Committee debate. After speaking the speaker must return to the public gallery and there will be no further involvement of the speaker in the deliberations of the Planning Committee.
- 11.10 Speakers will not be permitted to address questions to the Planning Committee or Officers during the consideration of a proposal. If a resident wishes to ask questions then they may do so through the "Elector's Question" procedure.
- 11.11 Speakers will not be permitted to distribute papers, plans or other material at the Planning Committee and will not be allowed to use slides, overheads, videos or other means of visual aids. Documents not previously submitted will not be circulated as not all parties will have sufficient time to react to the submissions and the Planning Committee will not have proper time to consider them. In the event of material being circulated it will be disregarded by the Planning Committee.
- 11.12 Speakers should not interrupt other speakers or interrupt the Planning Committee debate.
- 11.13 Speakers are advised not to make slanderous statements or any other racial motivated, discriminatory or inflammatory remarks.
- 11.14 The Chair can suspend the right to public speaking in relation to an individual item or the whole Planning Committee if he/she considers it necessary to maintain order at the meeting.
- 11.15 The Chair can also require a speaker to cease speaking and leave the meeting if in the opinion of the Chair the speaker's statement falls within 11.12 or 11.13 above.
- 11.16 The Chair of Planning Committee at any time may adjourn the Planning Committee and ask for the public gallery to be cleared to maintain order at the meeting if there is any activity or behaviour which, in his/her opinion, is disrupting the proper consideration of a planning application and/or the conduct of the business of the Planning Committee.

12.0 SITE VISITS

- 12.1 As part of agreeing the programme of Planning Committee meetings, dates will also be programmed in advance for Planning Committee site visits before every meeting. Members and Officers will be expected to give priority to these dates in relation to other commitments in order not to disrupt unduly the conduct of business for the Planning Committee. Planning Committee site visits can be very useful for Members to assess the planning issues arising from a development proposal by looking at these issues on the ground.
- 12.2 If, prior to a Planning Committee meeting, a Member considers that additional illustrative material would assist the Planning Committee to visualise the impact of the proposed development (over and above the planning application drawings and plans and the material forming part of the Officers' presentation to the Planning Committee) they should advise the Assistant Director of Development (Planning Services) at least three working days before the Planning Committee meeting clearly specifying what additional material is needed and why.
- 12.3 On occasions, Officers will recommend a site visit ahead of any formal recommendation. However, the frequency of site visits needs to be balanced with

the need for expediency in the planning process and where necessary to meet national and local performance targets. Excessive deferral of proposals to undertake site visits could not only affect the reputation of the Planning Committee and therefore the City Council but also unduly delay the processing of planning applications.

- 12.4 If a Member of Planning Committee moves a resolution for a site visit at a Planning Committee meeting not having attended the scheduled visit under paragraph 12.1 or not having made requests in time under the procedure set out in paragraph 12.2, Planning Committee will exercise a strong presumption against agreeing to defer the planning application for a further site visit.
- 12.5 If a site visit is to be made by the Planning Committee it will consist of an inspection of the site (and adjoining sites and buildings as necessary) with the assistance of Officers. The purpose of the site visit is to assess the site and surroundings in the context of the development proposals under consideration, relevant development plan policies and proposals, and identified material considerations.
- 12.6 Site visits conducted by the Planning Committee will normally be unaccompanied (by third parties). As such there is no obligation on the City Council to notify the applicant or objectors of the arrangements for a site visit. However, where access is needed to a development site by the applicant and/or landowner and/or adjacent sites accompanied site visits are necessary. Before Members enter the site(s) or building(s) a senior Officer will explain to any applicants, objectors, or supporters in attendance the procedure for the conduct of the visit.
- 12.7 Under no circumstances are Members of the Committee or Officers to enter into any discussions with Ward Members, applicants, supporters or objectors on the site visit regarding the merits or demerits of the proposal. During the site visit Members and Officers should avoid comments that could be interpreted as deliberations on the proposal itself, restricting themselves to questions of clarification or observations of fact. If, in the opinion of the Chair of the Planning Committee, the conduct of Members, Officers or third parties is of such a nature as to be potentially in conflict with any of these requirements, or the safety of the Members or Officers is in question, he/she will immediately suspend the site visit. If the Chair of the Planning Committee does suspend a site visit the application will be determined by a subsequent Planning Committee without further recourse to a site visit (even if a further request is made by a Member).
- 12.8 Ward Members may be present at a site visit but this is only to accompany the Planning Committee members, it is not an opportunity for the Ward Members to put forward any case for or against the proposal. The Ward Member is only present to assist with any clarification that may be required in connection with local area issues.
- 12.9 All site visits will commence with the Chair of the Planning Committee making a statement to all in attendance regarding site visit procedures. The statement is as follows:

“May I remind Members of the Planning Committee that the purpose of this site visit is solely to familiarise your selves with the site and its surroundings and the location of relevant parts of the proposal. This may or may not involve visiting third party premises which will be my decision and mine alone. The case officer(s) will be responsible for providing factual information to Members regarding the site and the proposed development.

The applicant or their agent may be present on the site, either to enable access or to ensure health and safety procedures are followed. They are not permitted to present their case. If Members wish to gain access to other parts of the site or to seek clarification on detail these must be put to me and I will ask the case officer to deal with these issues without further involvement of the Members and who will report back to the Chair.

Ward Members may be present to accompany the Members but this is not an opportunity for the Ward Member to put forward any case for or against the proposal. The Ward Member is only there to assist with any clarification that may be required in connection with local area issues.

Neighbours may be present outside the site and may be asked by the Chair to allow access to their premises as appropriate. Similarly they are not permitted to present a case or answer questions. At no time during this site visit should Members engage in debate or offer recommendations either to each other, Ward Members, the applicant or third parties as this may be seen as pre-determination and prevent that Member from debating and voting upon the scheme when considered at a future planning committee meeting.

As Chair of the Planning Committee, and as set out in the code of Good Practice, I am able to suspend a site visit if they are not conducted in an appropriate manner or there are health and safety issues”.

13.0 DECISIONS CONTRARY TO THE DEVELOPMENT PLAN

13.1 The general principle in planning is that where the Development Plan is up to date and relevant, planning applications should be determined in accordance with it unless material considerations indicate otherwise.

13.2 All applications must be assessed in accordance with Section 38(6) of the Planning and Compensation Act 2004.

14.0 DECISIONS CONTRARY TO OFFICER RECOMMENDATION

14.1 Department of Communities and Local Government Circular 03/09 advises that the most common cause for costs being awarded against a Local Planning Authority is where there are unsubstantiated reasons for refusal. However, the circular recognises that planning can often involve judgements concerning the character and appearance of a local area and the precise interpretation and application of development plan policy requirements. As such the circular states:

“Planning Authorities are not bound to accept the recommendations of their officers. However, if officers’ professional and technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so costs may be awarded against the authority”. (DCLG Circular 03/09, paragraph B20, April 2009).

14.2 Planning applications can also give rise to local controversy and sustained opposition, leading to Members being actively lobbied (see Section 7). However as Government guidance states:

“...local opposition or support for a proposal is not, in itself, a ground for refusing or granting planning permission, unless it is founded upon valid planning reasons”. (“The Planning System: General Principles”, February 2004).

Planning authorities will be at risk of costs for unsubstantiated reasons for refusal that rely almost exclusively on local opposition for their justification.

- 14.3 If a decision is to be made contrary to the Assistant Director of Development (Planning) recommendation, then the Planning Committee must give full reasons for the decision, which shall be minuted. Circular 03/09 makes it explicit that the authority will be expected to show clearly why the development cannot be permitted. The Officer shall be given an opportunity to advise Members of the possible implications of such a decision with particular reference to national planning guidance and case law and to assist if additional conditions or reasons for refusal are required to be imposed on an application.
- 14.4 If the Planning Committee intend to make a decision contrary to the officer recommendation, whether a refusal or approval, a detailed minute of the Planning Committee's reasons will be made and placed on the application file.
- 14.5 In the event that the Planning Committee are minded to grant an application contrary to Officers recommendation then they must provide:
- (i) full conditions and relevant informatives;
 - (ii) full statement of reasons for approval (as defined in Town & Country Planning (General Development Procedure) (England) (Amendment) Order 2003);
 - (iii) relevant Local Plan and Local Development Framework policies and proposals.
- 14.6 Where a Member of the Planning Committee moves a motion to refuse an application contrary to the Officers' recommendation then the Member moving the motion MUST provide:
- (i) full reasons for refusal, which must include a statement as to demonstrable harm caused and a list of the relevant plan and policies which the application is in conflict with;
 - (ii) statement of other policies relevant to the decision.

In the event of a Member motion to refuse, which is seconded, the Chair will if necessary adjourn the meeting for a few minutes to allow Officers to advise of any other relevant planning issues to assist them with their reasons. Vague, generalised or inaccurate assertions about a proposals' impact, which are unsupported by an objective analysis, are more likely to result in a costs award.

If the Member moving the motion does not meet the requirements of (i) and (ii) above the motion shall be not be deemed to have been properly made.

- 14.7 If, in the opinion of the Assistant Director of Development (Planning Services) the possible decision of the Planning Committee to refuse planning permission would carry a high risk of an award of costs against the Local Planning Authority, he/she shall formally ask the Planning Committee to defer a decision. The purpose of the deferral shall be to provide time for a full consideration by officers of the Planning Committee's concerns about the application, such that officers may advise of grounds of refusal, should the Planning Committee remain minded to refuse the application. In making an assessment about the level of risk of a cost award, the Assistant Director of Development (Planning Services) shall have regard to:
- The application's level of compliance with the Local Development Framework and other adopted policies

- The robustness of the evidence that can be cited to support a refusal of planning permission
- All other material considerations

14.8 Any decision made during the Planning Committee forms the full and final decision of the City Council (subject to agreed matters for deferral and final ratification) and it is therefore essential that both Members and Officers carefully follow the above procedure in order to provide a legally binding decision.

15.0 LEGAL AND OTHER OFFICER ATTENDANCE

15.1 A senior Legal Officer will always attend the Planning Committee meeting to ensure that the proceedings have been properly conducted in accordance with all relevant policies and procedures. A senior Legal Officer will attend site visits as and when required.

16.2 Occasionally specialist officers from other City Council services will need to attend the Planning Committee meeting. Very exceptionally officers from other statutory organisations who can provide specialist technical advice to assist the Planning Committee in the determination of planning applications may attend the meeting.

16.0 APPEALS AND INQUIRIES

16.1 In the event that planning permission is refused either under delegated powers conferred on the Assistant Director of Development (Planning Services) or by the Planning Committee, an applicant may exercise his/her right of appeal. Officers are responsible for preparing the City Council's evidence for these appeals, and the vast majority of these are dealt with by written representations involving an exchange of statements. On occasions specialist Counsel and consultant support is needed to supplement the evidence of Officers.

16.2 In the case of an applicant exercising his/her right to an informal hearing or a Public Inquiry Officers will be responsible for presenting the City Council's evidence and attending to present that evidence. Members are at liberty to attend in their capacity as Ward Members and may be called to give evidence as a Ward Member. Members of the Planning Committee will not normally be required to attend to present the Council's case.

16.3 In the case where the Planning Committee has refused planning permission contrary to Officer's recommendations Officer's will normally prepare and present the evidence in their role as employee of the Local Planning Authority. It will be for the Assistant Director (Planning Services) to identify the officers to prepare and present the evidence.

16.4 It should not be necessary for Members of the Planning Committee to become involved in preparing and presenting the case at appeal on an overturn decision, because the reasons for refusal and statements on relevant policies put forward by the Members in reaching their decision should be sufficient to defend the case. However, there may be some situations where in an inquiry a Member involvement as a relevant witness is necessary in order to provide a full and accurate case. In circumstances where the Assistant Director of Development (Planning Services) considers this to be the case the Member will be expected to attend any Informal Hearing or Public Inquiry in support of the City Council's case.

16.5 In exceptional circumstances the Assistant Director (Planning Services) may not be able to prepare the City Council's evidence to the hearing or inquiry because the

Officer's earlier recommendation on the grounds of refusal is so prejudiced by the earlier advice given. In these circumstances a nominated Member of the Planning Committee together with an externally appointed consultant will need to present the Council's evidence.

17.0 PERFORMANCE

- 17.1 The responsibility to meet performance targets, whether set locally or nationally, is shared by both Officers and Members. Unnecessary delay at any point in the process of determining an application can result in targets not being met, but more importantly delays can damage the reputation of the organisation and the realisation of the regeneration of the City.
- 17.2 Therefore when making decisions as to the most appropriate course of action Members and Officers need to ensure primarily that a fair and reasonable planning decision is made, but that in so doing account must also be taken of the performance implications.

18.0 MONITORING AND REVIEW OF DECISIONS

- 18.1 Members should also play an active part in regularly reviewing the outcome of planning decisions so that lessons can be learned and the future consideration and determination of planning application proposals can be improved as part of a broader commitment to continuous improvement.
- 18.2 Every year the Planning Committee will undertake an Annual Site Visit to review completed projects and look at key regeneration sites that form part of the Local Development Framework. There may also be the need for review site visits during the determination stage of planning applications.
- 18.3 The Assistant Director of Development (Planning Services) will present the Annual Monitoring Report describing development activity within the city to the Planning Committee each year.
- 18.4 Members of Planning Committee should assist in the preparation of the Local Development Framework by engaging in key consultation stages and discussing with Officers the application of key policies. The Chair of Planning Committee will also meet regularly with the relevant Portfolio Holder to discuss the interrelationships between policy development and policy application.
- 18.5 Members of the Planning Committee should therefore ensure that they are available for review visits as and when necessary throughout the year and for a whole day of visits to completed projects for the Annual Site Visit.

19.0 TRAINING

- 19.1 No Member may sit at a Planning Committee meeting without first having received the full Planning Committee Induction training. This training will expire if the Member has not sat on the Planning Committee within 12 months of receiving the training, or has had a gap of at least 6 months from the Planning Committee.
- 19.2 Given the complex legislative framework for determining planning applications and the constant reforms and changes to procedure within the planning system, the Assistant Director of Development (Planning Services) will provide a Planning Committee Training Programme comprising regular sessions covering:

- Induction

- Training Workshops
- Annual Monitoring Report
- Annual Site Visit
- Annual Public Rights of Way Workshop

19.3 Officers will offer the opportunity once a year for a training session on planning issues for all Members of the City Council.

19.4 Members will be expected to make themselves available to attend these training sessions in order to keep up to date on the latest planning and development issues. It will be the responsibility of each individual Member to ensure that they have had at least the Induction training in order to be able to sit at a Planning Committee meeting. The Assistant Director of Development (Planning Services) will maintain a register of Member training. Training will be provided using a range of training methods.

20.0 COMPLAINTS

20.1 A complaint that a Member or Officer has breached this code should be made in writing to the Head of Legal Services and would be referred to the Standards Committee or Monitoring Officer for investigation and determination.

20.2 A complaint made in writing regarding the determination of a planning application or a related planning matter would be investigated by the Assistant Director of Development (Planning Services) and/or a Member of the Planning Service Management Team) under the Council's complaints procedure.

20.3 A complaint may be made to the Local Government Ombudsman in the event that a complainant was not satisfied with the result of an investigation under the Council's complaints procedure. This must be made on the appropriate prescribed form and submitted direct to the Local Government Ombudsman.

PLYMOUTH CITY COUNCIL CONSTITUTION

**STANDING ORDERS AND
REGULATIONS**

EMPLOYMENT STANDING ORDERS

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 whom the Appointments Panel wants to appoint and anything else which 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.

2. Appointing the Directors, Assistant Directors and Heads of Service

Directors and Assistant Directors are appointed by the Appointments Panel, At least one member of the Cabinet must be a member of the Appointments Panel.

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 whom the Appointments Panel wants to appoint and anything else which 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.

3. Dismissing the Chief Executive, Directors and Heads of Service

The Chief Executive, Directors and Assistant Directors are dismissed by the Chief Officers' Investigating 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 whom the Panel wants to dismiss and anything else which is 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.

4. Appointing Political Assistants

Appointments of Political Assistants will follow the wishes of their political groups.

5. 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, Directors, Assistant Directors and Political Assistants. Other officers are appointed and dismissed by their Assistant Directors or their nominees. All Officers except Political Assistants must be appointed on merit.

6. Disciplining the Head of Paid Service, Responsible Finance Officer and Monitoring Officer

The Head of Paid Service, Responsible 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.

6. Recruitment and selection procedure

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

7. Advertising the positions of Chief Executive, Directors and Assistant Directors

When the Council wants to appoint a Chief Executive, Director or Assistant Director (and it is not proposed that the appointment be made exclusively from the existing officers), it will produce a statement specifying the duties of the post and any qualifications or qualities to be sought in the person to be appointed and send them to anyone who asks. The post will be advertised in a way which will bring it to the attention of suitable applicants.

8. Relationships with councillors and officers

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

If a candidate declares a relationship with a councillor, 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).

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.

LEGAL STANDING ORDERS

1. Legal action

The Monitoring Officer can take any legal action necessary to carry out the Council's decisions or protect its interests eg starting defending, withdrawing, or setting any claims or legal proceedings.

All officers in the [senior management structure](#) 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 which 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

2. Signing of documents

The Monitoring Officer 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](#) may sign documents on behalf of the Council or authorise officers whom they manage to sign documents on behalf of the Council if:

- the document is about a function which 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 Responsible Finance Officer and Monitoring Officer

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.

FINANCIAL REGULATIONS

1. Scope

- 1.1** 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.
- 1.2** These Financial Regulations 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 Responsible Finance Officer and the chair of the audit committee deem that it is appropriate.
- 1.3** Failure to comply with the requirements of these Financial Regulations and any associated guidance could be considered a potential act of gross misconduct.
- 1.4** Further advice and guidance is given in the documents listed at Regulation 33. These documents describe "processes and procedures" that show users "how to" deliver the requirements of the Financial Regulations at a working level.
- 1.5** All of these documents' require specific approval of Audit Committee, and once adopted carry the same status as the Financial Regulations themselves.

2 Responsibilities under the Financial Regulations

2.1 Responsibilities of the Responsible Finance Officer

2.1.1 The Responsible 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.

2.1.2 The Responsible Finance Officer has a legal duty to make sure the Council keeps to the highest financial standards. Other officers with responsibilities under the Financial Regulations are using powers delegated by the Responsible Finance Officer.

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

2.2 Responsibilities of Directors

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

2.3 Responsibilities of Assistant Directors

Assistant Directors must:

- deliver services in compliance with these Financial Regulations and their service budget allocations;
- make sure staff within their departments comply with these Financial Regulations 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 Responsible 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 Responsible Finance Officer on any report with financial implications;
- consult with, and seek agreement of, the Responsible Finance Officer where it is apparent that new written processes and procedures are required.

2.4 Departmental Section 151 Responsibilities

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

2.5 Governing Bodies

School governing bodies shall conduct their affairs in accordance with these Financial Regulations, 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 Financial Regulations and that they have adequate written guidance on financial procedures and system working practices, and
- ensuring that staff comply with this written guidance.

2.6 Responsibilities of all Officers

- 2.6.1 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.
- 2.6.2 Officers must be familiar with these Financial Regulations and must understand the ones which 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.
- 2.6.3 Officers must make sure they are using the latest version of these rules. This will always be in the constitution.
- 2.6.4 Officers must show the highest standards of financial probity. As well as following these rules, they must use their common sense and judgement.

3 Audit

3.1 Internal audit

- 3.1.1 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.
- 3.1.2 Auditors have the right to see the records and to ask for information and explanations. Officers must co-operate with them fully.

3.2 External audit

- 3.2.1 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.
- 3.2.2 The Responsible Finance Officer has overall responsibility for co operating fully with the external auditors.

4 If the Financial Regulations have been broken

- 4.1 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).
- 4.2 The Council's [Whistleblowing policy](#) (see Part G) has guidance on what to do if a line manager is involved.
- 4.3 If the Financial Regulations have been broken, the Responsible Finance Officer must be told in writing. The Responsible Finance Officer will decide what needs to be done and whether councillors need to be told.

5 Combating fraud and corruption

- 5.1** 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.
- 5.2** 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.

6 Information and records

- 6.1** The Responsible 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)
- 6.2** Assistant Directors will arrange suitable training for their staff in keeping accounting records. The content of the training must be approved by the Responsible Finance Officer.

7 Financial Systems and Procedures

- 7.1** The Responsible Finance Officer must ensure that the council's financial systems are sound and operate efficiently.
- 7.2** Assistant directors must seek the prior approval of the Responsible 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.
- 7.3** Assistant Directors must also seek the prior approval of the Responsible 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.

8 VAT and tax

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

8.2 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 which have tax implications.

9 Outside bodies

9.1 The Responsible 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.

9.2 The Responsible 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 Financial Regulations and the Contract Standing Orders.

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

10 Medium-term financial planning

The Responsible 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.

11 Responsibility for budget decisions

Responsibilities for budget decisions are shown in the table below, subject to the permitted changes shown in [Financial Regulation 13](#):

Cabinet responsibilities Cabinet will determine whether to	Full council responsibilities Council will determine whether to
Recommend the budget to council	Agree the budget
Recommend any changes to the net revenue budget to council	Approve any changes to the net revenue budget
Recommend the Treasury Management Strategy	Agree or change the Treasury Management Strategy
Set the Council Tax base	
	Setting the Council Tax
Recommend the Prudential and Treasury indicators to Council	Agree or change the Prudential and Treasury Indicators
Recommend the medium term financial strategy to council	Agree or change the medium-term financial strategy
Agree the Risk Management Strategy	
	Agree or change the capital budget

Recommend the Corporate Asset Management Plan to council	Agree the Corporate Asset Management Plan
Recommend the Capital Programme to council	Agree the capital programme

Audit Committee

The Audit Committee will scrutinise the Treasury Management Strategy before it goes to Council.

12 Emergency spending

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

13 Moving money between cost centres

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

Amount to be moved	Who can approve it?
Up to £20,000	Service Head (Team Plymouth)
Up to £50,000	Assistant Director
Up to £200,000	Director (with notification to Responsible 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

13.2 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 £200,000	Responsible Finance Officer in consultation with the Director and relevant cabinet member(s)
Between £200,000 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 £200,000	Responsible Finance Officer in consultation with the Director, Capital Delivery Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet
Between Directorates	
Up to £200,000	Responsible 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?
£200,000 or 10% of original contract sum (whichever is lowest)	Responsible 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

13.3 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 £200,000	Responsible 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.

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

13.5 Requests for transfers must be in a format agreed by the Responsible 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.

14 Budgetary control

14.1 Council's reserves

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

14.2 Monitoring budgets

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

14.3 Responsibilities of the Responsible Finance Officer

The Responsible 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.

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 Responsible Finance Officer

- make sure staff keep all financial records, particularly the supporting papers for grant claims

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 Responsible 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).

16 Capital strategy

The Responsible 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

17 Project approval

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).

17.2 Who approves projects?

Projects that are not already in the capital programme with an estimated cost of more than £200,000 but less than £500,000 need approval of Cabinet on the recommendation of the Responsible Finance Officer in consultation with the Capital Delivery Board. Projects that are not already in the capital programme with an estimated cost of more than £500,000 require approval of Council on the recommendation of cabinet.

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

17.4 Key decisions

If project approvals are key decisions, the [Access to Information Rules](#) (see Part F) and [Cabinet Key Decision Procedures](#) (see Part C) apply.

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 Standing Orders](#) rules (see Standing Order)

19 Treasury management

19.1 Treasury Management Strategy

The Responsible 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.

19.2 Day-to-day treasury management

The Responsible 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 Responsible 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

19.3 Bank accounts

Only the Responsible Finance Officer can open a bank or building society account on behalf of the council. The Responsible Finance Officer is responsible for managing all accounts.

20 Asset Management

20.1 Responsibilities of Responsible Finance Officer

The Responsible 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

20.2 Register of fixed assets

The Responsible Finance Officer will keep a register of all fixed assets worth more than a sum which is decided from time to time by the Responsible Finance Officer. Assistant Directors must report any acquisitions or disposals so that this can be kept up-to-date. Every year the Responsible 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.

20.3 Disposing of assets (except land)

All staff should follow the Responsible 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 Responsible 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 Responsible 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.

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 Responsible 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 Responsible Finance Officer for the preparation of the statutory accounts.

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.

20.6 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 Standing Order 27](#)).

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.

21 Intellectual property

Intellectual property is a generic term which 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.

22 Risk management

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.

22.2 Responsibilities of the Responsible Finance Officer

The Responsible 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.

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 Responsible Finance Officer of any risks that could result in losses or claims against the council

23 Wages, salaries and pensions

23.1 The Responsible Finance Officer is responsible for paying all wages and expenses, including councillors' allowances.

23.2 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.

23.3 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.

23.4 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 Ordering and paying for goods and service

24.1 Role of Responsible Finance Officer

The Responsible 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 Responsible Finance Officer.

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.

24.3 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 Responsible 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 Responsible 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 Responsible Finance Officer and fixed within the Purchasing system are as follows:

<u>Purchase Order Authorisation Limits</u>	
Directors	Above £200,000
Assistant Directors	£100,000 to £200,000
Heads of Service (Team Plymouth)	£10,000 to £100,000
4 th Tier Officers and below:*	
Grades H to I	£2,000 to £10,000
Grades F to G	£0 - £2000

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 Responsible Finance Officer and will be subject to the following limits:

<u>Purchase Card Limits</u>	Maximum transaction limit	Maximum Authorised Card limit
	£	£
Director	2,000	10,000
Assistant Director	1000	5,000
Service Head (Team Plymouth)	1000	5,000
Head Teacher	1,000	10,000
Stores Purchase Officer	10,000	100,000
Departmental Nominated Purchase Officer	10,000	10,000
Emergency Planning Officer	20,000	100,000
Senior Officer from Finance Department (for Emergency response purposes)	20,000	100,000

Approval in excess of these limits may be given by Responsible Finance Officer in exceptional cases, for example Lodge Cards.

24.4 Unusual terms and conditions

Officers should check with the Head of Legal Services before accepting any unusual terms or conditions.

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 Responsible Finance Officer will give detailed guidance on petty cash.

26 Income

26.1 Responsibilities of Responsible Finance Officer

The Responsible Finance Officer will ensure that systems exist for all income to be identified, collected, receipted and promptly banked.

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 Responsible 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 Responsible Finance Officer.

26.3 Invoices

The format of invoices must be approved by the Responsible Finance Officer. Invoices must make it clear that payment should be made to Plymouth City Council.

27 Debt

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

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 £40	Nominated recovery officers
Up to £200	Nominated recovery officers (Grade E and above)
Up to £1,000	Nominated Officers (Grade H and above)
Up to £10,000	Heads of Service and other nominated officers of Director of Corporate Support
Up to £10,000	School principal and/or governors (schools debt)

Up to £100,000	Responsible Finance Officer
Between £100,000 and £200,000	Cabinet Member
All debt over £200,000 unless covered by below exception	Cabinet
Unlimited in the case of bankruptcy or liquidation/CVA/death/no assets/no trace	Responsible Finance Officer or other senior finance officer nominated by him.

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 Responsible Finance Officer or his nominated Officer.

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.

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 which be taken in any one transaction is £9,000.

30 External Funding

The Responsible 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.

31 Work for Third Parties

The Responsible 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.

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 Responsible Finance Officer and Head of Legal Services.

33 Supplementary governance document

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.

33.1 The Financial Regulations 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

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

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

Contract Standing Orders

In this section:

- 1 When do these standing orders apply?
- 2 Other relevant guidance, rules and law
- 3 Responsibility to follow these standing orders and relevant law
- 4 Interests of councillors and officers in contracts
- 5 Gifts and hospitality
- 6 Procurement advertisements
- 7 Before a contract is procured
- 8 Estimating the total contract value
- 9 Format of contracts
- 10 Contract terms and conditions
- 11 When is there no need to seek quotes or tenders?
- 12 Purchasing Card Procurement
- 13 13. Table of purchase card **limits**
- 14 Lodge Cards
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- 17 Low risk/Low Value Procurement
- 18 High Value/High Risk Procurements
- 19 Who can authorise **contracts?**
- 20 High value/high risk procurement process
- 21 Application of the regulations
- 22 Restricted Procedure
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- 25 Competitive Dialogue Procedure
- 26 Predetermined Framework Agreements
- 27 Pre-qualification
- 28 The Invitation to Tender
- 29 Submission and Opening of Tenders
- 30 Electronic Tendering
- 31 Tender Evaluation
- 32 Evaluation Team
- 33 Bonds, Guarantees and Insurance
- 34 Award of Contract
- 35 Debriefing
- 36 Contract Award Notice
- 37 Copies of tenders and contracts and register of contracts
- 38 Keeping a register of contracts
- 39 What will the register record
- 40 Joint Procurement
- 41 Consultants
- 42 Statistical Returns
- 43 Contract Extension and Variation
- 44 4 Termination of **Contracts**
- 45 Review and amendment of Contract Standing Orders
- 46 Interpreting contract standing orders

1. When do these standing orders apply?

1.1 These standing orders apply when the council expects to spend money or provide other value for goods, works or services. They do not apply to contracts of employment with the Council. They apply to both capital and revenue and cover:

- contracts for goods, works or services
- acquisitions and disposals of land or buildings

1.2 The officers named in [Standing Order 11.1](#) have authority to waive the requirements of any of these rules (but they must always comply with national and EU law.)

2. Other relevant guidance, rules and law

2.1 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 [Financial Regulations](#) (see Part G, section)
- the [policy framework and budget procedures](#) (see Part B, section)
- this Constitution.

2.2 Officers must consider the requirements of the Constitution and legal issues when entering contracts and must ensure the risks are fully assessed.

3. Responsibility to follow these standing orders and relevant law

3.1 These standing orders apply to all officers. It is the responsibility of the relevant Assistant Director to make sure that their staff follow standing orders.

3.2 The Council may take disciplinary and/or legal action against anyone who breaks these rules or the relevant national or EU law.

4 Interests of councillors and officers in contracts

4.1 Requirement to Avoid 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.

4.2 Councillors' interests

Councillors must follow the [Councillors Code of Conduct](#) (see Part G). In addition it is a criminal offence for a councillor not to declare a financial interest in a contract.

4.3 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).

4.4 Directors are responsible for recording officers' financial interests in a register that is kept in the department.

4.5 Officers should not write reports on something in which they have declared an interest; or advise council or the cabinet or a committee on something in which they have declared an interest.

5 Gifts and hospitality

5.1 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.

5.2 "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 (eg a working lunch).

5.3 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.

5.4 Directors must immediately enter in a register, particulars of:

- any gift (including how it has been returned to the giver or otherwise disposed of eg donated to the Lord Mayor for charitable purposes); and
- any hospitality.

6. Procurement advertisements

The Council will publish all procurement opportunities and contract awards over £75,000 on the Council's procurement portal (www.devontenders.gov.uk).

7. Before a contract is procured

Before undertaking a 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 capital programme governance document (section)
- consider whether there is an appropriate framework agreement or Office of Corporate Governance(OGC) contract that could be used)
- consider the Council's procurement business plan as appropriate
- choose a course of action which represents best value for money for the council

8 Estimating the total contract value

8.1 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 any non-monetary consideration or benefit the Council is giving to the supplier
- 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).

8.2 If the length of a contract is uncertain and the value cannot be reasonably estimated, its total value will be its estimated monthly value times 48.

8.3 A single contract must not be split into smaller contracts to get around these contract standing orders or the law, and goods, services or works must not be split to get around these contract standing orders or the law.

8.4 The contract must be treated as a high value procurement where there is a transfer of staff.

9 Format of contracts

9.1 Council contracts must be in writing.

9.2 Contracts must be executed as a deed (sealed) 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.

- 9.3** Contracts over £75,000 must be in a form approved by the Head of Legal Services.
- 9.4** Contracts over £75,000 must be signed by two authorised officers or sealed; contracts for a lesser sum must be signed by one authorised officer or sealed.
- 9.5** Contracts over the EU threshold must comply with relevant EU procurement law.
- 9.6** 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.

10 Contract terms and conditions

- 10.1** 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.
- 10.2** 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).
- 10.3** The standard terms and conditions of the council are available on the [website](#).

11 When is there no need to seek quotes or tenders?

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.

11.2 Exempt contracts

The following contracts are exempt from the requirements to obtain tenders 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), 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;
- contracts for individual personal care services;

- transactions conducted by the Responsible 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;
- contracts where a sole supplier has exclusive rights (eg alterations to statutory undertakers apparatus).

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.

12 Purchasing Card Procurement

12.1 Purchasing cards are badged charge cards, issued to an individual for the express function of purchasing one off requirements or low value, low risk goods and services for the authority which are not available as a catalogue item on the CIVICA purchasing system.

12.2 Only the person whose name appears on the card is authorised to use the card up to the maximum transaction value as detailed in table 13.

12.3 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.

12.4 Purchasing cards shall only be used in accordance with the Purchasing Card Cardholder User Guide which is available on the document library.

12.5 The application for a Purchase Card is available on the document library.

13. Table of purchase card limits

	Maximum transaction limit	Maximum authorised card limit
Director	£2,000	£10,000
Head of Service	£1,000	£5,000
3rd Tier Manager	£1,000	£5,000
Head Teacher	£1,000	£10,000
Departmental Nominated Purchase Officer	£10,000	£20,000

Emergency Planning Officer	£20,000	£100,000
Senior Officer from Finance Department (for Emergency response purposes)	£20,000	£100,000

14. Lodge Cards

14.1 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.

14.2 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.

15 Fuel Cards

15.1 Fuel cards are a type of credit card used solely to purchase fuel; they can be used in all of the major UK filling stations.

15.2 There are three different types of cards: -

- **Person Card**
This card is assigned to a specific person and can only be utilised by that person when using a hire car or a fleet vehicle which is utilised by a number of people. This card cannot be used for casual and essential users.
- **Vehicle Card**
This card is utilised for our fleet vehicles and is allocated to a specific registration
- **Bearer Card**
Bearer cards are not assigned to either an individual or specific vehicle they are assigned to a department for all to use. These cards offer a high risk of fraudulent use, therefore, the issuing and management of the card has to be done in a controlled manner as detailed in the instructions for use (available on the document library).

15.3 Application forms for any of the above fuel cards are available from strategic procurement.

15.4 Fuel cards shall only be used in accordance with the Fuel Card Cardholder User Guide (available on the document library).

16 Contract Procurement – existing and corporate contracts

- 16.1** Competitive quotations and tenders are not required if there is a contract already in place. The contract register detailing the list of contracts is available on the document library.
- 16.2** Many of the corporate contracts are set up as catalogue items available to purchase using the CIVICA purchasing system. Anyone with access to the system can place a purchase order for catalogued goods and services by [Finding a Product](#) in the Civica Purchasing system.

17 Low Value/Low Risk Procurements

- 17.1** For goods and services procurements valued below £75,000 and for non-technical works procurements valued below £200,000 a purchase requisition (available on the document library) will need to be completed detailing the full specification including manufacturers part number (if applicable), quantity, delivery date and charge codes and sent to the procurement mailbox. The operational procurement team will source at least three written quotations, one of which shall be from a local supplier where possible, utilising the chosen portal, Sell 2 Plymouth, before a formal purchase order is issued specifying the goods or services to be provided and setting out the price and terms of purchase. Faxed or e-mailed quotations are acceptable for these purposes.
- 17.2** For technical procurements valued below £75,000 and for technical works procurements which are valued below £200,000 a detailed specification will need to be completed including evaluation criteria, plus for works the chosen terms and conditions and sent to the procurement mailbox. The strategic procurement department will support this procurement.
- 17.3** To avoid unnecessary risk, only Council approved purchasing suppliers should be used.
- 17.4** Approved suppliers are those who have registered and have been green flagged on the Council's Sell 2 Plymouth vendor management portal. <http://www.sell2plymouth.co.uk>

18 High Value/High Risk Procurements

- 18.1** 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 department.
- 18.2** For all procurements above £75,000, approval must be obtained for both the evaluation criteria and award of contract in accordance with the table in [Standing Order 19](#).

18.3 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 (ie new procurements) Business case approval must be sought in accordance with the table of authorisation detailed in section 19.

18.4 Any contract which is funded by capital funds can only be approved if it is on the capital programme.

19 Who can authorise contracts?

Contract Value	Who can authorise the outline business case or tender?	Who can agree 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	Assistant Director	Assistant Director	N/A (unless it constitutes a key decision)	Contract Award Report	Assistant Director
Over £500,000 and less than £2,000,000	Cabinet Member	Assistant Director	N/A (unless it constitutes a key decision)	Contract Award Report and Delegated Decision Report	Cabinet Member
Over £2,000,000 or a key decision	Cabinet	Assistant Director	Yes	Contract Award Report and Cabinet Report	Cabinet

20 High value/high risk procurement process

20.1 Prior to the commencement of procurement the Authorised Officer will develop the procurement approach.

20.2 One of five procurement procedures must be used as appropriate for the particular procurement ie open, restricted, competitive dialogue, negotiated or predetermined framework agreement (information on these procedures are detailed below [\(see Standing Orders 22 to 26\)](#))

20.3 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.

20.4 For procurements which 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 [Standing Order 19](#) above 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.

21 Application of the Regulations

21.1 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.

21.2 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	£3,927,260

21.3 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.

21.4 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.

21.5 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.

21.6 The Regulations set out the minimum timescales for receipt of expressions of interest and tenders. 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.

21.7 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 Invitation to Tender("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.

- 21.8** 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.

22 Restricted Procedure

- 22.1** The Authorised Officer must publish an advertisement:

- in OJEU (if required by the Regulations)
- on the council's procurement portal (www.devontenders.gov.uk)

- 22.2** Only those suppliers selected by the Council may be invited to tender. Suppliers will be selected on the basis of published pre-qualification criteria.

- 22.3** 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.

- 22.4** The Restricted Procedure is the Council's chosen standard process for procurements above the £75,000. Any other process can only be used if the relevant officers have agreed to waive this rule and have signed the necessary forms ([see Standing Order 11.3](#)).

- 22.5** If the regulations do not apply, tender timescales can be amended accordingly.

23 Open Procedure

- 23.1** The Authorised Officer must publish an advertisement in:

- OJEU (if required by the Regulations)
- on the council's procurement portal (www.devontenders.gov.uk)

- 23.2** 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.

- 23.3** 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.

24 Negotiated Procedure

- 24.1** 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.

- 24.2** 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.
- 24.3** A minimum of three suppliers should be invited to negotiate following publication of a notice.
- 24.4** A minimum of 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.
- 24.5** The authorised officer must keep proper records of all negotiations and these will be signed as such by all participants.
- 24.6** At all times during the negotiations, the council will consider and implement the principles of non-discrimination, equal treatment and transparency.

25 Competitive Dialogue Procedure

- 25.1** 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.
- 25.2** 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.
- 25.3** 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.
- 25.4** The Authorised Officer must publish an advertisement in:
- OJEU (if required by the Regulations)
 - on the council's procurement portal (www.devontenders.gov.uk).
- 25.5** 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.

26 Predetermined Framework Agreements

- 26.1** Framework agreements set up by third party organisations may be used after consultation with the strategic procurement manager and head of legal services.
- 26.2** Framework agreements established by the Council will be procured in accordance with the regulations.
- 26.3** 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.
- 26.4** Call-offs under the framework agreement should be awarded within the terms laid down in the agreement.
- 26.5** Arrangements to enter into a contract through a call-off agreement will still require appropriate authorisations as shown in the table of authorisation in [Standing Order 19](#).

27 Pre-qualification

- 27.1** 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.
- 27.2** Technical ability includes the supplier's quality management systems including human resources, health and safety, equality and diversity provisions and environmental management systems where relevant to the performance of the contract.
- 27.3** The Council's standard pre-qualification questionnaire template document is available on the document library.

28 The Invitation to Tender

- 28.1** The invitation to tender ("ITT") will include details of the Council's requirements for the particular contract including:
- (i) a description of the goods, services 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;
- (vii) 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

28.2 The council's standard tender template document is available on the document library and also on the procurement website.

28.3 The requirements of 28.1 may be varied as appropriate for procurements falling under section 24 (negotiated procedure), 25 (competitive dialogue procedure) and 26 (predetermined frameworks)

29 Submission and Opening of Tenders

29.1 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.

29.2 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.

29.3 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.

30 Electronic Tendering

30.1 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.

31 Tender Evaluation

31.1 Tenders will be evaluated in accordance with the weighted evaluation criteria which must be detailed in the ITT.

31.2 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.

31.3 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.

32 Evaluation Team

32.1 An evaluation team will need to be formed for each procurement subject to the Regulations or for goods and services valued above £75,000, or for works procurements valued above £200,000.

32.2 the evaluation team should include but not be limited to the authorised officer, strategic procurement, legal & finance.

32.3 It is the responsibility of strategic procurement and/or finance to evaluate the commercial element of the tender.

33 Bonds, Guarantees and Insurance

33.1 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.

33.2 The evaluation team must also consider the appropriate type and level of insurance requirements for each contract (eg employer liability, public liability, professional indemnity, etc.).

34 Award of Contract

34.1 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 [Standing Order 19](#) which demonstrates the decision levels within the council).

34.2 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.

35 Debriefing

35.1 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.

35.2 Should the unsuccessful tenderer request a further debrief after receipt of the feedback detailed in standing order 35.1 it is the responsibility of the authorised officer to do so. The standard agenda for the debriefing is available on the document library.

36 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.

37 Copies of tenders and contracts and register of contracts

Keeping copies of old tenders and contracts

37.1 The Authorised Officer in respect of a particular procurement must maintain a list of all tenders received.

37.2 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.

38 Keeping a register of contracts

38.1 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.

38.2 Each chief officer will maintain their own register of all other contracts entered into by their department.

38.3 At the end of each quarter the chief officer will send their register to the strategic procurement team for publication in accordance with the Local Transparency – A Practitioners Guide to Publishing New Contracts and Tenders Data, November 2010.

39 What will the register record?

39.1 For each contract, the register will record:

- what the contract is for;
- the total contract value;
- contract reference number;
- OJEU details (if applicable);
- The council officer name & contact details;
- the name, address & contact details 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;
- For the full list, the contract register is available on the document library.

40 Joint Procurement

40.1 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.

40.2 Approval will only be given where the joint procurement arrangement assures compliance with the regulations.

41 Consultants

41.1 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.

41.2 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.

41.3 No consultant may make any decision on whether to award a contract or who a contract should be awarded to.

42 Statistical Returns

42.1 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.

42.2 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.

43 Contract Extension and Variation

43.1 Any contract may be extended or varied in accordance with its terms. 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.

43.2 Other contracts may be extended only where authorisation has been agreed and a suitable contract extension/exemption form has been completed and duly authorised. The authorised officer must always be satisfied that extension will achieve best value for money and is reasonable in all the relevant circumstances.

44 Termination of Contracts

44.1 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.

45 Review and Amendment of Contract Standing Orders

45.1 These contract rules will be reviewed and updated on a regular basis by the strategic procurement manager.

45.2 The strategic procurement manager will produce guidance to the use of contract rules.

46 Interpreting Contract Standing Orders

Questions about the contract standing orders and any related guidance will be dealt with by the Strategic Procurement Manager or Head of Legal Services. Their interpretation will be final.

RULES APPLYING TO THE DISPOSAL OF LAND AND PROPERTY

I When do the land and property disposal rules apply?

- 1.1** 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
- 1.2** The rules aim to generate additional capital receipts, relating to property transactions.
- 1.3** 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 Standing Orders](#) in relation to works contracts also apply. (See Part G section)

2 Need to follow these rules

- 2.1** 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
- 2.2** 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.
- 2.3** 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.
- 2.4** 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.

3 Tenders

3.1 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

3.2 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.

4 Use of select list tenders

4.1 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.

4.2 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.

4.3 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

4.4 The closing date for deposit of submissions to the council shall be stipulated in the particulars.

4.5 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 Responsible Finance Officer.

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.

5.2 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.

5.3 that any indication on the envelope identifying the tenderer will invalidate the tender.

6 Receipt of tenders

6.1 All tenders will remain in the custody of the head of legal services until the time appointed for their opening.

6.2 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.

7 Opening of tenders

7.1 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.

7.2 The representative of the head of legal services will list the names of the tenderers and where practicable the respective amount thereof.

7.3 The assistant director for economic development will initial the tenders and arrange for their immediate tabulation and any necessary further negotiation and checking.

7.4 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.

8 Acceptance of tenders

8.1 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.

8.2 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.

9 Informal and negotiated tenders

9.1 The preceding paragraphs will apply to informal and negotiated tenders unless they are inconsistent with this paragraph.

9.2 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.

9.3 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).

9.4 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.

9.5 Notes of meetings and telephone calls should be recorded at the time on the file.

9.6 Where external consultants have been appointed to advise the Council, these rules apply equally to the external consultants as they would to Council officers.

10 Councillors role in land and property transactions

10.1 Councillors should not be involved in negotiations on land and property transactions with third parties. Councillor involvement in the discussion of initial scheme proposals (eg 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.

10.2 No councillor shall issue any order in respect of works required on any council site or property.

- 10.3** 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.
- 10.4** 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.’
- 10.5** The Leader, cabinet and cabinet members will take executive decisions about land and property transactions based on written reports from officers.

11. Surplus Property Procedures

What are the procedures which 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 £200,000 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 Part C).

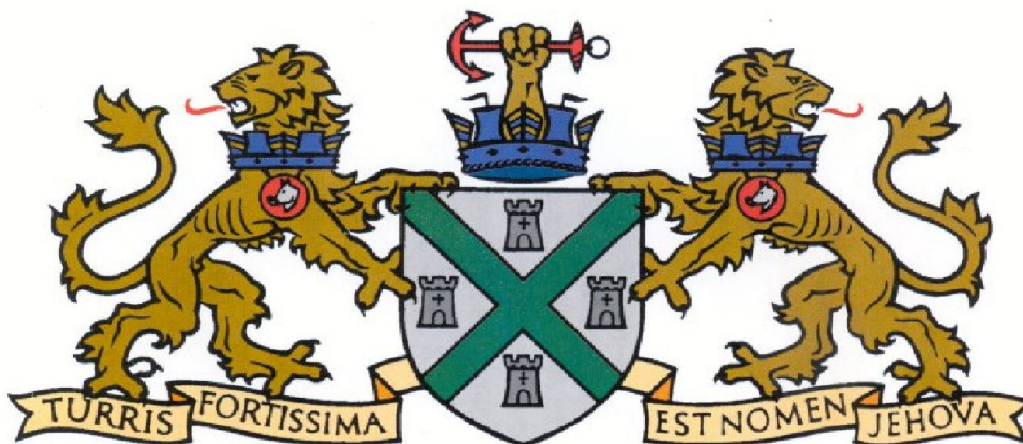
L Investment properties (including employment land)

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.

PLYMOUTH CITY COUNCIL CONSTITUTION

APPENDIX ONE MEMBERS ALLOWANCE SCHEME POLICY FRAMEWORK AND RULES OF DEBATE



APPENDIX ONE (I)

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 Chair of Planning Chair of Licensing (Misc) Chair of Licensing (Hackney Carriage) Leader of the largest minority party	£10,044.84	£10,044.84	£20,089.68
Band Four			
Overview and Scrutiny Management Board members Chair of Audit Leader of other minority parties Deputy Leader of largest minority party Vice chair of Planning	£10,044.84	£5,022.36	£15,067.20
Band Five			
Chair of Standards (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. (Please note that in 2009/2010 and 2010/2011, Members' allowances were not increased)

* Scheme originally approved by Plymouth City Council 4 February 2008
(Note: Members did not receive any increase in allowances in the 2009/2010 financial year)

APPENDIX ONE (2)

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
- Licensing Policy and Taxi Licensing Policy
- Plymouth Economic Strategy
- Waste Management Strategy

APPENDIX ONE (3)

NEIGHBOURHOOD WORKING

1. GENERAL

1. Neighbourhoods are designated within wards in order to reflect local community identity and to encourage the active involvement of citizens.
- 1.2. The objectives of neighbourhood working are to:
 - Enable residents to influence and challenge service delivery;
 - Make services provided by different agencies and Council departments more 'joined up';
 - Improve councillor involvement;
 - Reduce inequalities between communities;
 - Focus money and staff more effectively;
 - Improve the sharing and use of information;
 - Monitor service provision more effectively;
 - Meet agreed local and national targets.

2. THE ROLE OF COUNCILLORS IN NEIGHBOURHOOD WORKING

- 2.1 As part of their role as representatives of their constituents, councillors are encouraged to participate in neighbourhood meetings and related activities held within their wards. This engagement, in partnership with other agencies, helps identify and respond to residents' priorities.
- 2.2 Councillors will be supported in this role by officers of the Council, nominated to the ward or neighbourhood. Councillors and officers involved in neighbourhood working remain accountable to the public for their actions and the manner in which they carry out their responsibilities, as per Part 6 of the Constitution.

3. MEETINGS

Neighbourhood meetings are public meetings, run on an informal basis and have no decision making powers. Council Rules of Procedure do not apply, although advice is available to assist the running and record keeping of meetings.

APPENDIX ONE (4)

RULES OF DEBATE

The Rules of Debate are designed to facilitate debate in Council and Committee Meetings in an organised and orderly manner. (Also see the chart below)

1. What is a Motion

- 1.1 A motion is a proposal at a meeting that certain action is taken or certain views about a subject are expressed by the Council.
- 1.2 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.
- 1.3 A motion cannot be proposed when another motion is under consideration.
- 1.4 Any motion requires a seconder, can be debated and can be amended.

2. No speeches until motion or amendment moved and seconded

- 2.1 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.

3. Secunder's speech

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

4. Content and length of speeches

- 4.1 Speeches [except for [points of intervention](#) (see Rule 13) and [points of order](#) (see Rule 12)] must be about the item being discussed.
- 4.2 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.

5. When a councillor can speak again

- 5.1 A councillor who has already spoken in a debate cannot speak again except to:
 - exercise their [right of reply](#) (see Rule 9)
 - make a [point of order](#) – (see Rule 12)

- make a [point of intervention](#) (see Rule 13)
- speak on an [amendment](#) (see Rule 6)
- move a further amendment.

6 Amendments to motions

6.1 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.

6.2 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

6.3 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.

6.4 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

7. Debate on amendments

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

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

8. Withdrawing a motion

8.1 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.

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

9. Right of reply

9.1 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.

9.2 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.

10. 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 Procedures](#) – see Part F section))
- to limit or extend the debate (i.e. that the meeting continues beyond 7:30pm)

11. Motions to end or postpone the debate

- 11.1 After a speaker has finished speaking, any councillor having been called to speak by the Lord Mayor can propose to move to a vote or adjourn the debate or meeting. They must do this without comment.
- 11.2 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.
- 11.3 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.

12. Points of order

- 12.1 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.
- 12.2 Any member making a point of order may not speak on the matter under discussion during the point of order.

13. Points of intervention

- 13.1 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.

14. Motion to overturn a previous decision

A motion or amendment to overturn a decision made by 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.

16. Motion similar to one previously rejected

A motion or amendment similar to one that has been rejected by 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.

MOTION	SECOND?	INTERRUPT THE SPEAKER?	DEBATE?	AMENDABLE?	VOTE NEEDED?		NOTICE REQUIRED?
Main Motion	Yes	No	Yes	Yes	Simple Majority		No
Motion on Notice	Yes	No	Yes	Yes	Simple Majority		Yes
Withdraw a Motion*	*	*	No	No	N/A		No
That the vote be taken	Yes	No	No	No	Simple Majority		No
Amend a Motion	Yes	No	Yes	Yes	Simple Majority		No
Adjourn a Meeting	Yes	No	No	No	Simple Majority		No
Limit or extend debate (i.e. past 7.30 pm)	Yes	No	No	Yes	Simple Majority		No
Refer to Committee	Yes	No	Yes	Yes	Simple Majority		No
Point of Order	No	Yes	No	No	N/A	Chair grants	No
Point of Intervention	No	Yes	No	No	N/A	Speaker decides if he/she will accept the intervention;	No
Suspend the Rules	Yes	No	No	No	2/3		No
Rescind	Yes	No	Yes	Yes	Simple Majority	Signed by 10 members	Yes
Similar to one previously rejected	Yes	No	Yes	Yes	Simple Majority	Signed by 10 members	Yes

Glossary

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
Budget and policy framework	the council's overall budget and policies
Call in a decision	have a decision sent to another body to be looked at again
Case tribunals	tribunals to hear complaints that are about councillors and that have been referred by the Standards Board
Development control	system for dealing with planning applications
Ethical standards officer	a person the Standards Board appoints to investigate a complaint that a councillor has broken the councillors' code of conduct
General fund	the fund for the council's finances in most areas (but not council housing finance)
Housing revenue account	the fund for council housing finance
Local development framework	documents that show how land in the city can be used and that guide decisions on planning applications
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
Policy framework	the council's overall policies
Political assistant	officer who does political work for a political group on the council
Proper officer	officer given a responsibility that the law requires to be done by a specified post holder
Securities	stocks, shares, bonds or anything else that pays interest or dividends
Vires	legal power to do something