

# CONSTITUTION







# **PLYMOUTH CITY COUNCIL CONSTITUTION**

## **PART H**

### **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, Organisational Development and ICT 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, Organisational Development and ICT 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, Organisational Development and ICT 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, Organisational Development and ICT 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, Organisational Development and ICT 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, Organisational Development and ICT 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 e.g. starting defending, withdrawing, or settling 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 City Council Investment 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 City Council Investment 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](#):

<b>Cabinet responsibilities Cabinet will determine whether to</b>	<b>Full Council responsibilities Council will determine whether to</b>
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 £100,000	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 and amended 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 or the Leader
Above £500,000	Council or the Leader

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

Type of Transfer	Who can Approve it?
<b>Within A Directorate</b>	
Up to £200,000	Responsible Finance Officer in consultation with the Director, City Council Investment Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet or the Leader

<b>Between Directorates</b>	
Up to £200,000	Responsible Finance Officer in consultation with the Director, City Council Investment Board and relevant Cabinet Member(s)
Up to £500,000	Cabinet or the Leader

**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:

<b>Existing Scheme Additional Costs</b>	<b>Who can Approve it?</b>
£200,000 or 10% of original contract sum (whichever is lowest)	Responsible Finance Officer in consultation with the Director, City Council Investment Board and relevant Cabinet Member(s)
£500,000 or 25% of original contract sum (whichever is lowest)	Cabinet or the Leader
More than 25% of original sum or £500,000	Council or the Leader

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

<b>Existing Scheme Additional Costs</b>	<b>Who can Approve it?</b>
Up to £200,000	Responsible Finance Officer in consultation with the Director, City Council Investment Board and relevant Cabinet Member(s)
£200,000 to £500,000	Cabinet or the Leader
Above £500,000	Council or the Leader

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 City Council Investment 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 or the Leader on the recommendation of the Responsible Finance Officer in consultation with the City Council Investment 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 or the Leader may make the decision.

### **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](#) (see Standing Orders 17 - 21).

## **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 Finance has overall responsibility for the Council's computer systems. The Assistant Director for Finance 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 Financial Regulation 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, Organisational Development and ICT 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 those officers who order and pay for goods have been properly trained and that responsibility 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 Strategic 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 £5,000,000
Assistant Directors	Up to £1,000,000
Heads of Service (Team Plymouth)	Up to £500,000
4 <sup>th</sup> Tier Officers and below:*	
Grades H to I	Up to £50,000
Grades F to G	Up to £2,500

Officers below F Grades will not be able to authorise orders.

\*Any exceptions to these parameters will be subject to approval by the Strategic Director of Corporate Services (or his/her 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:

<b><u>Purchase Card Limits</u></b>	<b>Maximum transaction limit</b>	<b>Maximum Authorised Card limit</b>
	£	£
Chief Officer	10,000	50,000
Buyer/Procurement Officer	5,000	50,000
Emergency Planning Officer	20,000	100,000
Standard PCC Employee	500	2,000

Approval in excess of these limits may be given by the 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 the Strategic Director of Corporate Services
Up to £10,000	School principal and/or governors (schools debt)
Up to £100,000	Responsible Finance Officer
Up to £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/her 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 can 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:

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- 2 Other relevant guidance, rules and law
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## **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 of the Constitution)
  - the policy framework and budget procedures (see part B of the Constitution)
  - the 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 of the Constitution](#)). 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 they have declared an interest in; or advise council or the cabinet or a committee on something 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 (e.g. 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 e.g. 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 £100,000 on the Council's procurement portal ([www.devontenders.gov.uk](http://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.
- 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 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 £100,000 must be in a form approved by the Head of Legal Services.
- 9.4 Contracts over £100,000 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 £100,000;
  - contracts relating solely to disposal or acquisition of an interest in land, 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 Chief Finance Officer in respect of dealing in the money market or obtaining finance for the Council;

- contracts offered by the Head of Legal Services for the appointment of counsel;
- contracts where a sole supplier has exclusive rights (e.g. 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 £100,000 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, two of which shall be from local suppliers 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 £100,000 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 £100,000 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 £100,000, approval must be obtained for both the evaluation criteria and award of contract in accordance with the table in 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 (i.e. new procurements) Business case approval must be sought in accordance with the table of authorisation detailed in 19.
- 18.4 Any contract that 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 £100,000 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 i.e. open, restricted, competitive dialogue, negotiated or predetermined framework agreement (information on these procedures are detailed below (see sections 22 to 26).
- 20.3 For procurements valued above £100,000 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 that constitute a key decision or are above £500,000, decisions to approve the business case must be taken by either the cabinet member or cabinet as detailed in table 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 2012 that will apply to the 31st December 2013 are:

	Supplies	Services	Works
Value at which a Contract/Order must be put through the EU process	£173,934	£173,934	£4,348,350

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 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](http://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 £100,000. Any other process can only be used if the relevant officers have agreed to waive this rule and have signed the necessary forms – see section 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](http://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 At 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](http://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 section 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;
  - vii. whether the Council is of the view that the Transfer of Undertakings Protection of Employment (TUPE) regulations may apply;
  - viii. form and content of method statements to be provided;
  - ix. a requirement for tenderers to declare that the tender content, price, or any other particulars concerning the tender have not been unnecessarily disclosed to any other party;
  - x. any further information which will inform or assist tenderers in preparing tenders;
  - xi. a statement that the Council is not obliged to accept the lowest or any tender and that the tenderers are responsible for their own costs with regard to the tender;
  - xii. the address for the return of a hard copy tender must be:  
Plymouth City Council  
Strategic Procurement Department  
Ballard House  
West Hoe Road  
Plymouth  
PL1 3BJ

Electronic tenders should be uploaded onto [www.devontenders.gov.uk](http://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 £100,000, 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 (e.g. 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 section 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 section 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 £100,000.

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 In 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 for 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.

## **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 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 (e.g. the assessment of schemes at expression of interest or formal tender stage) will occasionally be necessary but this should only be in the format of proper meetings and presentations organised in consultation with the cabinet member and head of service. Such meetings must be recorded and noted on the file. Where a third party attempts to involve a Councillor in negotiations, the Councillor will refer the same to the Monitoring Officer and will have no further part in the transaction concerned.
- 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 Partnerships and Operations, 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 Partnerships and Operations 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 Partnerships and Operations 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 Partnerships and Operations 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 Partnerships and Operations 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 Partnerships and Operations and/or Assistant Director for 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 Partnerships and Operations and/or Assistant Director for 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 Partnerships and Operations and/or Assistant Director for 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 Partnerships and Operations 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.

## **PROPER OFFICERS AND DELEGATION OF OTHER MISCELLANEOUS FUNCTIONS**

### **I APPOINTMENT OF PROPER OFFICERS**

- I.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.

<b>Legislation</b>		<b>Responsibility</b>	<b>Proper officer</b>
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
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	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	Strategic 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 Street 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, Organisational Development and ICT
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, Organisational Development and ICT
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	Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Public Health Act 1936	Section 85(2)	Cleansing of filthy and verminous persons and their clothing	Director of Public Health  Consultant in

			Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Public Health Act 1961	Section 37	Controlling verminous things	Assistant Director for Street Services
Public Health (Aircraft) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		
Public Health (Ships) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit (as Medical Officer of Health)
Public Health (Control of Disease Act) 1984 as amended	Section 61 and 62	Powers to enter premises for health protection purposes, and supplementary powers of entry	Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall

			<p>and Somerset Public Health England Centre or by any successor agency or unit</p> <p>Environmental Health Practitioners employed within Public Protection Service</p>
Public Health (Control of Disease Act) 1984 as amended	Section 48	Certification for removal of bodies to mortuary or for burial.	<p>Director of Public Health</p> <p>Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit</p>
Health Protection (Local Authority Powers) Regulations 2010	Regulations 8 (1) and 8 (2)		<p>Director of Public Health</p> <p>Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit</p>
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	<p>Director of Public Health</p> <p>Consultant in Communicable Disease Control (CCDC), and any</p>

			equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit Assistant Director for Environmental Services
Health Protection (Part 2A Orders) regulations 2010		Preparation of application for Part 2A Order	Director of Public Health
National Assistance Act 1948	Section 47	Taking people in need of care and attention to a suitable place	Head of Strategic Co-operative Commissioning
National Assistance (Amendment) Act 1951	Section 1	Certifying the need for immediate action	Head of Strategic Co-operative Commissioning
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 for People

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)	<p>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.</p> <p>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.</p> <p>(Council has delegated the function of appointing and dismissing staff who report direct to the Director of Public Health, to the Director of Public Health.)</p>
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
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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	If the compensation is less than £5000 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	Functions relating to	Council



Public Involvement in Health Act 2007, Section 59	change of name of an electoral area	
	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 Street 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 Street Services

