

## Article 13 - Officers

### 13.01 Management Structure

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Full Council will engage a person for the post of Head of the Paid Service (known as the Chief Executive) and other Chief Officers to form the Senior Leadership Board. The Council will also engage Heads of Service (or Directors). The Head of the Paid Service will maintain a description of these posts and of the overall management structure of the Council in Part 7 of this Constitution.
- (c) **Statutory Officers**

In addition to the Head of the Paid Service, the Council will designate officers, as identified in Part 7 of this Constitution, to the following posts:

- Monitoring Officer, under section 5 of the Local Government and Housing Act 1989
- Chief Finance Officer, under Section 151 of the Local Government Act 1972
- Director of Children’s Services, under section 18 of the Children Act 2004
- Director of Adult Social Services, under section 6 of the Local Authority Social Services Act 1970
- Director of Public Health, under Section 73A of the National Health Service Act 2006 (local authorities and the NHS)

### 13.02 Functions of the Head of Paid Service

#### **Discharge of functions**

The Head of the Paid Service will report to Full Council and any Committees as appropriate on the manner and the discharge of the Council’s functions, including the number and grade of officers required for the discharge of functions and the organisation of these officers.

#### **Corporate management responsibility**

The Head of the Paid Service will have overall corporate management and operational responsibility, including overall management

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responsibility for all staff.

**Providing advice**

The Head of the Paid Service will provide professional advice to all Members involved in the decision-making process.

**Service strategies**

The Head of the Paid Service will advise and assist in formulating service policies and programmes which are affordable and effective and make the best use of available resources in achieving Council priorities;

**Restrictions on functions**

The Head of the Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

**13.03 Functions of the Monitoring Officer**

**Maintaining the Constitution**

The Monitoring Officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by Councillors, officers and the public.

**Ensuring lawfulness and fairness of decision making**

After consulting with the Head of the Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council in relation to any function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

**Unlawfulness, maladministration or injustice**

The Council must, within 21 days of receiving it, consider the report of the Monitoring Officer at a meeting of the Council. The Council must ensure that no further action is taken in respect of the proposal or decision until the report has been considered and the Council has resolved:

- i) what action has been taken in response to the report;
- ii) what action the Council proposes to take in response to the report and when it proposes to take that action; and
- iii) the reasons for taking that action, or the reasons for not taking any action.

### **Members' Conduct**

The Monitoring Officer will contribute to supporting the statutory duty to promote and maintain high standards of conduct for its Elected Members under the Localism Act 2011 by maintaining the Councillor Code of Conduct and providing a process for investigating complaints under the Code.

The Monitoring Officer will also:

- (i) work closely with the Independent Persons and the Audit and Standards Committee in dealing with issues relating to Members' conduct.
- (ii) submit a bi-annual report to the Audit & Standards Committee in relation to alleged breaches of the Councillor Code of Conduct.
- (iii) provide advice to the Council and individual members in relation to standards issues.
- (iv) maintain a statutory register of Members' interests.

### **Proper Officer for access to information**

The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.

### **Advising whether committee decisions are within the Budget and Policy Framework**

The Monitoring Officer will advise whether decisions of Committees of the Council are in accordance with the Budget and Policy Framework.

### **Providing advice**

The Monitoring Officer will provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues.

### **Restrictions on posts**

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

### **Dispensations**

The Monitoring Officer or his/her Deputy can grant dispensations to participate in the business of the authority where a Member has a Disclosable Pecuniary Interest, in accordance with Section 33 of the Localism Act 2011.

### 13.04 Functions of the Chief Finance Officer

#### **Ensuring lawfulness and financial prudence of decision making**

After consulting with the Head of the Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the Full Council and to the Council's External Auditor if he or she considers that any proposal, decision or course of action will involve incurring unlawful expenditure, or is unlawful and is likely to cause a loss or deficiency or if the Council is about to enter an item of account unlawfully.

#### **Unlawful expenditure by the Council**

The Council must, within 21 days of receiving it, consider the report at a meeting where it will decide whether it agrees or disagrees with the views contained in the report and what action to take. The Council must ensure that no further action is taken on the matter in question until the working day after its meeting to consider the report and the Council will be deemed to have no authority to take such action until then. The Council must decide:

- i) what action has been taken in response to the report;
- ii) what action the Council proposes to take in response to the report and when it proposes to take that action; and
- iii) the reasons for taking that action or the reasons for not taking any action.

The Chief Finance Officer will as soon as is reasonably practicable notify the Council's External Auditor of the date, time and place of the proposed meeting. As soon as is reasonably practicable after the meeting, the Chief Finance Officer will notify its external auditor of any decision made at the meeting.

#### **Administration of financial affairs**

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

#### **Contributing to corporate management**

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

#### **Providing advice**

The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and Budget and Policy Framework issues to all

Councillors and will support and advise Councillors and officers in their respective roles.

**Provision of financial information**

The Chief Finance Officer will provide such financial information as he or she is required or considers appropriate to give to the media, members of the public and the community.

**13.05 Duty to provide sufficient resources to the Monitoring Officer and Chief Finance Officer**

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

**13.06 Functions of the Director of Children’s Services**

The Director of Children’s Services is professionally accountable for the delivery of the Council's education and social services functions for children, and any health functions for children delegated to the authority by a National Health Service body.

**13.07 Functions of the Director of Adult Social Services**

The Director of Adult Social Services is responsible for all of the Council’s social services functions, other than those for which the Council’s Director of Children’s Services is responsible.

**13.08 Conduct**

Officers will comply with the Officers’ Code of Conduct and the Protocol on Member/ Officer/ Relations set out in Part 5 of this Constitution.

**13.09 Employment**

The recruitment, selection and dismissal of officers will be carried out in compliance with the Officer Employment Procedure Rules set out in Part 4 of this Constitution.

**13.10 Proper Officers**

The Council will designate and describe in Part 7 of this Constitution officers to undertake the various statutory Proper Officers’ functions.

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