

PART 2 – ARTICLES OF THE CONSTITUTION

Article 11 – Council Employees

11.1 Management structure

- (a) **General**
The Council may engage such employees as it considers necessary to carry out its functions.
- (b) **Head of Paid Service, Monitoring Officer and Section 151 Officer**
The Council will designate Council employees to take these statutory posts, as set out in Part 7 of this Constitution. Such posts will have the functions described in Article 11.2–11.4 below.
- (c) **Structure**
The Head of Paid Service will provide and publicise a description of the overall staffing structure of the Council showing the management structure and deployment of officers. This is set out at Part 7 of this Constitution.

11.2 Constitutional functions of the Head of Paid Service

- (a) **Discharge of functions by the Council**
The Head of Paid Service has a right to report to the Council on any matter relating to the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of employees required for the discharge of functions and the organisation of employees.
- (b) **Restrictions on functions**
The Head of Paid Service may not be the Monitoring Officer but may hold the post of the Section 151 Officer if a qualified accountant.
- (c) **The core roles of the Head of Paid Service are:**
- overall corporate management and operational responsibility (including co-ordinating the discharge of the authority's different functions and overall management responsibility for all staff);
 - the provision of professional and impartial advice to all parties in the decision making process (the Cabinet, Scrutiny Committees, full Council and other committees);
 - responsibility for a system of record keeping for all the authority's decisions;
 - representing the authority on partnership and external bodies (as required by statute or the Council); and
 - service to the whole Council, on a politically neutral basis.

11.3 Constitutional functions of the Monitoring Officer

(a) **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, employees and the public. For this purpose the Monitoring Officer has been delegated the power to amend the Constitution to give effect to any decisions of the Council or the Cabinet, and to take account of any changes of fact or law.

(b) **Ensuring lawfulness and fairness of decision making**

After consulting with the Head of Paid Service and S.151 Officer, the Monitoring Officer will report to the Council or to the Cabinet in relation to an Executive Function – if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Provided that the decision has not already been implemented such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) **Supporting the Standards & Ethics Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards & Ethics Committee.

(d) **Receiving reports**

The Monitoring Officer is responsible for receiving and where necessary co-ordinating action on reports made by the Public Services Ombudsman and decisions of the case tribunals. Any other Council Member or Officer to whom such reports may be addressed must forward them to the Monitoring Officer.

(e) **Conducting investigations**

The Monitoring Officer will conduct investigations into matters referred by the Ombudsman and make reports or recommendations in respect of them to the Standards & Ethics Committee. The Monitoring Officer shall also conduct an investigation into any allegation of misconduct by a Councillor where he/she has reason to believe that it may be appropriate for the Council to exercise its powers of self regulation, and report to the Standards and ethics Committee as appropriate.

(f) **Proper officer for access to information**

The Monitoring Officer will ensure that Executive Decisions and decisions of designated senior officers, together with the reasons for those decisions and relevant employee reports and background papers are made publicly available as soon as possible.

- (g) **Advising whether executive decisions are within the budget and policy framework**
The Monitoring Officer, in conjunction with the Section 151 Officer as appropriate, will advise whether decisions of the Cabinet or Cabinet Members are in accordance with the budget and policy framework.
- (h) **Providing advice**
The Monitoring Officer, in conjunction with the Section 151 Officer as appropriate, 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.
- (i) **Corporate management**
The Monitoring Officer will contribute to the corporate management of the authority, particularly by providing advice on constitutional issues, lawfulness and propriety.
- (j) **Restrictions on posts**
The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

11.4 Constitutional functions of the Section 151 Officer

- (a) **Ensuring lawfulness and financial prudence of decision making**
After consulting with the Head of Paid Service and the Monitoring Officer, the Section 151 Officer will report to the Council or to the Cabinet in relation to an Executive Function and the Authority'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 Authority is about to enter an item of account unlawfully.
- (b) **Administration of financial affairs**
The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Corporate management**
The Section 151 Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- (d) **Providing advice**
The Section 151 Officer, in conjunction with the Monitoring Officer as appropriate, 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 employees in their respective roles.
- (e) **Give financial information**

The Section 151 Officer will provide financial information to members of the public and the community, as necessary and appropriate.

11.5 The Statutory Officers

The Head of Paid Service, the Monitoring Officer and the Section 151 Officer shall meet together periodically with the employees responsible for human resources internal audit and the provision of legal services to the Authority to consider how the probity of the Authority's decision making processes and discharge of functions may be protected and enhanced.

11.6 Conduct

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

11.7 Employment

The recruitment, selection and dismissal of employees will comply with the Employment Procedure Rules.