

PART 2 – ARTICLES OF THE CONSTITUTION

Article 11 – Council Employees

11.1 Management structure

- (a) **General**
The Council may engage such ~~employees staff~~ as it considers necessary to carry out its functions.
- (b) ~~Head of Paid Service~~ **Chief Executive, Monitoring Officer, and Section 151 Officer and Head of Democratic Services**
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 11.2–11.45 below.
- (c) **Structure**
The ~~Head of Paid Service~~ **Chief Executive** 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~~ **Chief Executive**

- (a) **Discharge of functions by the Council**
The ~~Head of Paid Service~~ **Chief Executive** ~~has a right to report to the Council on any matter relating to~~ must keep the following matters under review:
- (i) ~~the manner in which the discharge of the Council's functions is co-ordinated;~~
 - (ii) ~~the Council's arrangements in relation to financial planning, asset management and risk management;~~
 - (iii) ~~the number and grade of employees staff required for the discharge of functions; and~~
 - (iv) ~~and the organisation, appointment and arrangements for management of employees~~ the Council's staff (including arrangements for training and development).

Where the Chief Executive considers it appropriate to do so, he/she must make a report to the Council setting out his/her proposals in respect of any of the above matters; which must be considered by a meeting of the full Council held within 3 months from receipt of the report.

- (b) **Restrictions on ~~functions~~ posts**
The ~~Head of Paid Service~~ **Chief Executive** may not be the Monitoring Officer or the Head of Democratic Services, but may hold the post of the Section 151 Officer if a qualified accountant.
- (c) **The core roles of the ~~Head of Paid Service~~ **Chief Executive** are:**

Commented [AK1]: This reflects amendments to the Chief Executive's statutory functions made by s.54 of the 2021 Act, taking effect from May 2022

- 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~~ ~~staff~~ 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~~ ~~Chief Executive~~ 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 ~~for Wales~~ 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 ~~e~~ 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 ~~E~~ethics Committee as appropriate.

- (f) **Proper ~~O~~fficer 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~~Chief Executive.

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~~Chief Executive 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.

(f) **Advising whether executive decisions are within the budget and policy Framework**

The Section 151 Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet or Cabinet members are in accordance with the budget and policy framework.

(g) **Restrictions on posts**

The Section 151 Officer cannot be the Monitoring Officer or the Head of Democratic Services.

Commented [AK2]: Suggested for consistency with the provisions above.

11.4A Constitutional functions of the Head of Democratic Services

(a) **Support and advice**

The Head of Democratic Services will provide support and advice to the authority in relation to its meetings; to committees of the authority and the members of those committees; to any joint committee which a local authority is responsible for organising and the members of that committee; and to each member of the authority in carrying out the role of member of the authority (but excluding a member's role as a Cabinet member).

(b) **Democratic Services Committee**

The Head of Democratic Services will provide support and advice to the Democratic Services Committee and its members.

(c) **Scrutiny**

The Head of Democratic Services will promote the role of the authority's Scrutiny Committees; provide support and advice to Scrutiny Committees; and Provide support and advice in relation to the functions of the authority's scrutiny committees, to members of the authority, members of the Cabinet and officers;

(d) **Reports and recommendations**

The Head of Democratic Services will make reports and recommendations to Council in respect of the number and grades of staff required to discharge the

Council's democratic services functions; and the appointment, organisation and proper management of staff required to discharge these functions.

(e) Restrictions on posts

The Head of Democratic Services cannot be the Chief Executive or the Section 151 Officer.

Commented [AK3]: The 2021 Act removes the restriction in respect of the post of MO, with effect from May 2022. See section 8(4)(b) of the Measure, repealed by Local Government and Elections (Wales) Act 2021 Pt 9 section 161(2)(a).

Commented [AK4]: The updated model constitution includes the HoDS in the constitution list of statutory officers. I've summarised the key duties rather than replicating all the detail set out in the legislation (sections 8 and 9 of the LG Measure 2011), for consistency with the provisions above.

Commented [AK5]: I haven't added the HoDS here. Please let me know if we should.

11.5 The Statutory Officers

The Head of Paid Service Chief Executive, 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.

The Council must provide the Chief Executive, the Monitoring Officer, the Section 151 Officer and the Head of Democratic Services with the officers, accommodation and other resources they require to perform their statutory duties.

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.