

## ARTICLE 13 – OFFICERS

### 1. MANAGEMENT STRUCTURE

#### (a) General

- 1.1 The full Council may engage such staff (referred to as 'officers') as it considers necessary to carry out its functions.

#### (b) Chief Officers

- 1.2 The Council will engage persons subject to the Officer Employment Procedure Rules for the following posts, who will be designated as chief officers:

Chief Executive  
Director of Communities  
Director of Governance  
Director of Neighbourhoods  
Director of Resources

- 1.3 The main functions and areas of responsibility of each chief officer will be as set out in the management structure chart attached as Appendix 1 to this Article, as revised from time to time.
- 1.4 The chief officers are members of the Management Board and share responsibility for the proper running of the Council.

#### (c) Statutory Officers

- 1.5 The Council will designate the following posts as statutory officers. Such posts will have the functions described in Section 2 of this Article:

Post	Designation
Chief Executive	Head of Paid Service ( <b><u>Local Government and Housing Act 1989 (Section 4)</u></b> )
Director of Governance	Monitoring Officer ( <b><u>Local Government and Housing Act 1989 (Section 4)</u></b> )
Director of Resources	Chief Finance Officer ( <b><u>Local Government Act 1972 (Section 151)</u></b> ) (also known as the <b><u>Section 151 Officer</u></b> )

- 1.6 The following restrictions apply in relation to appointment to statutory officer positions:
- (a) the Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer, if a qualified accountant; and
- (b) the Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

- 1.7 To assist the Monitoring Officer and Chief Finance Officer (Section 151 Officer), the Council will designate a Deputy Monitoring Officer and Deputy Section 151 Officer to assist with their responsibilities. **The Deputy Monitoring Officer and the Deputy Section 151 Officer will act in the absence of the Monitoring Officer and Chief Finance Officer and will be briefed on emerging issues.**
- 1.8 **The Head of Paid Service, the Monitoring Officer and the Chief Finance Officer are members of the Corporate Governance Group and share responsibility for the proper governance of the Council, including matters related to probity and finance.**

**(d) Structure**

- 1.9 The Head of Paid Service will determine and publicise a description of the overall organisational structure of the Council showing the management structure and deployment of officers.

**2. FUNCTIONS & RESPONSIBILITIES OF THE STATUTORY OFFICERS**

**Head of Paid Service**

- 2.1 **The Head of Paid Service will discharge their statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.**
- 2.2 **In general terms, the Head of Paid Service's ability to discharge the following duties and responsibilities will depend, to a large extent, on elected members and officers:**

- (a) **addressing and meeting the staffing needs of the Council; and**  
(b) **meeting the staffing needs of the Council;**  
(c) **the appointment and proper management of the staff.**

~~Having excellent working relations with members and officers will assist in the discharge of the statutory responsibilities of the Head of Paid Service. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers should, therefore, work with the Head of Paid Service to discharge the Council's statutory and discretionary responsibilities.~~

- 2.3 **The following arrangements and understandings between the Head of Paid Service, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Head of Paid Service will:**
- (a) **be alerted by Members and officers to any issue(s) that may become of concern to the Council, including the manner in which the discharge by the Council of its different functions is co-ordinated, the number and grades of staff required for the discharge of its functions, the organisation of the Council's staff and the appointment and proper management of the Council's staff;**
- (b) **have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);**

- (c) have the right to attend any meeting of the Council (including the right to be heard and report to the Executive) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Executive, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
- (d) in carrying out any investigation(s) and exercising any duties have unqualified access to any information held by the Council and to any Officer who can assist in the discharge of the functions;
- (e) ensure that other statutory officers (Chief Finance Officer and the Monitoring Officer) are kept up-to date with relevant information regarding the manner in which the Council discharges its various functions, the corporate approach of the Council, the staffing needs of the Council, the organisation of the staff and the appointment and proper management of the staff;

~~meet regularly with the Chief Finance Officer and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern described in (e) above;~~

**(NB: Corporate Governance Group meets on a monthly basis already)**

- (f) report to the Council, from time to time, on the corporate approach of the Council and any necessary or desirable changes following consultation, in particular, with the Chief Finance Officer and Monitoring Officer;
- (g) in accordance with the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources required to discharge his statutory functions;
- (h) develop a relationship based on respect and trust with the Leader, Deputy Leader and the Chairmen of the Standards, Regulatory, and Scrutiny Committees with a view to ensuring the effective and efficient discharge of Council business;
- (i) develop effective working liaison and relationship with the External Auditor;
- (j) in consultation, as necessary, with the Chairman of the Council, the Executive and the External Auditor, defer the making of a formal report under Section 4 of the Local Government and Housing Act 1989 where another investigative body is involved;
- (k) have access to an appropriate budget (whether corporate or serviced based) to address any matter concerning the Head of Paid Service's functions.

2.4 To ensure the effective and efficient discharge of the arrangements set out in Section 2.3 above, Members and Officers will report any breaches of statutory duty or Council policies or procedures and other legal or constitutional concerns to the Head of Paid Service, as soon as practicable.

2.5 The Head of Paid Service is also available for Members and Officers to consult on any issues of the corporate approach of the Council, staffing needs, appointment and management of staff.

- 2.6 **To ensure the effective and efficient discharge of this Protocol, the Head of Paid Service will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the Head of Paid Service role.**

The Head of Paid Service will record details of any advice given;

- 2.7 **In the event that the Head of Paid Service acknowledges, after taking appropriate advice, that a conflict of interest exists on a matter which requires action he or she will not be involved in the consideration of that matter and will make arrangements for the action to be taken by one of the other statutory officers or another Director;**

- 2.8 The Head of Paid Service will report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of functions and the organisation of officers; and

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

#### **Monitoring Officer**

- 2.9 **The Monitoring Officer will discharge their statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.**

- 2.10 The Monitoring Officer undertakes to discharge the responsibilities outlined in this Protocol with determination and in a manner which will enhance the reputation of the Council. In general terms the ability **of the Monitoring** Officer to discharge these duties depends on excellent working relations with colleagues and elected Members of the Council, but also on the flow of information and access to debate, particularly at early stages.

- 2.11 **The following arrangements and understandings between the Monitoring Officer and colleagues and Councillors are designed to help ensure the effective discharge of the Monitoring Officer's functions. The Monitoring Officer will:**

the Monitoring Officer will be a member of the Council's Management Board;

- (a) **be given advance notice of meetings (whether formal or informal) between Chief Officers, Committee and Sub Committee Chairmen where any procedural, vires or other constitutional issues are likely to arise;**
- (b) **have access to all meetings;**
- (c) **members of Management Board (the Chief Executive and Directors) will be responsible for alerting the Monitoring Officer to all emerging issues of concern including legality, probity, vires and constitutional issues;**
- (d) **be provided with access to all reports to Councillors;**
- (e) **develop good liaison and working relations with the Standards for England (or any successor body), its Ethical Standards Officers, the External Auditor and the Local Government Ombudsman, including giving and receiving relevant information, whether confidential or otherwise, whether requested or not;**

(f) ensure that the Head of Paid Service and the Chief Finance Officer have up-to-date information regarding emerging issues;

(g) make or commission enquiries into allegations of misconduct by Councillors;

~~the Head of Paid Service, Chief Financial Officer and Monitoring Officer will meet regularly to consider and recommend action in connection with current governance issues and other probity matters;~~

**(NB: Corporate Governance Group meets on a monthly basis already)**

(h) in carrying out any investigation, will have unqualified access to any information held by the Council and any employee who can assist in the discharge of his/her functions;

(i) have access to an appropriate budget (whether corporate or service based) sufficient to enable him/her to seek Counsel's opinion or take appropriate action on any matter concerning his/her functions;

(j) be responsible for preparing a training programme for Members of the Council on the ethical framework, for approval by the Standards Committee;

(k) report to the Council from time to time on the Constitution and any necessary or desirable changes following consultation, in particular with the Head of Paid Service and the Chief Finance Officer;

(l) defer (if required) the making of a formal report under Section 5 of the Local Government and Housing Act 1989 where another investigative body is involved;

(m) make (if required) an annual report to the Council on the staff, accommodation and resources required to discharge his/her functions;

~~the Monitoring Officer will appoint a deputy to act in his/her absence and will ensure that he/she is briefed on emerging issues;~~

(n) make arrangements to ensure good communication with the Clerks to the Town and Parish Councils in the District;

(o) be the primary qualified person in respect of advice on the application of Section 36 of the Freedom of Information Act 2000 in accordance with the Secretary of State's decision of December 2004. Where the Monitoring Officer is absent responsibility for carrying out the functions of the qualified person will fall to the Deputy Monitoring Officer, subject to consultation with the Chief Executive.

#### **Summary of Other Monitoring Officer Functions**

**NB: Is this table required? Relevant matters transferred to (a)-(z) list.**

<b>Description</b>	<b>Source</b>
1. Report on contraventions or likely contraventions of any enactment or rule of law <b>(Covered elsewhere)</b>	Section 5, Local Government and Housing Act 1989

2.	Report on any maladministration or injustice where Ombudsman has carried out an investigation (Covered elsewhere)	Section 5, Local Government and Housing Act 1989
3.	Personal appointment of Deputy (Covered elsewhere)	Section 5, Local Government and Housing Act 1989
4.	Report on resources (Chief Finance Officer?)	Section 5, Local Government and Housing Act 1989
5.	Investigate misconduct in compliance with regulations made and directions of Ethical Standards Officers (Ethical Standards Officers no longer exist)	Regulations when made. Directions when made in individual cases. LGA 2000 Section 66 (1) + 66 (6)
6.	Establish and maintain registers of Members' interests and gifts and hospitality (Covered elsewhere)	Section 81 LGA 2000 and Model Code of Local Government Conduct
7.	Advice to Members on the interpretation of the Code of Conduct and Local Protocols (Covered elsewhere)	Model Code and title of Regulations
8.	Key role in promoting and maintaining high standards of conduct through support to Standards for England (Standards Board abolished 31 March 2012)	Statutory Guidance, paragraph 8.20
9.	Liaison with Standards for England and Ethical Standards Officers (Standards Board abolished 31 March 2012)	New ethical framework, practical implications
10.	New ethical framework functions in relation to Town and Parish Councils (Covered elsewhere)	Section 83 (12) LGA 2000
11.	Power to make payments or provide other benefit as compensation for maladministration (Covered elsewhere)	Section 92 LGA 2000
12.	Advice on vices issues, maladministration, financial impropriety, probity and policy framework and budget issues to all elected Members (Covered elsewhere)	DETR guidance; Council Constitution 2007

### **Maintaining the Constitution**

- (p) maintain an up-to-date version of the Constitution and ensure that it is widely available for consultation by members, staff and the public;

### **Ensuring Lawfulness and Fairness of Decision-Making**

- (q) after consulting with the Head of Paid Service and Chief Finance Officer, report to the full Council or to the Executive in relation to an executive function if he/she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered;

### **Supporting the Standards Committee**

- (r) contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee;

#### **Receiving Reports**

- (s) receive and act on reports made by ethical Standards Officers and decisions of case tribunals in relation to standards matters;

**(NB: Ethical Standards Officers no longer exist?)**

#### **Conducting Investigations**

- (t) conduct investigations into standards matters referred by ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee;

**(NB: Ethical Standards Officers no longer exist?)**

- (u) ensure that executive 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 Executive Decisions are within the Budget and Policy Framework~~**

- (v) advise whether decisions of the Executive are in accordance with the budget and policy framework;

#### **Providing Advice**

- (w) Report on contraventions or likely contraventions of any enactment of rule of law;
- (x) Report on any maladministration or injustice where Ombudsman has carried out an investigation;
- (y) 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;
- (z) establish and maintain registers of Members' interests and gifts and hospitality; and
- (aa) make payments or provide other benefit as compensation for maladministration.

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

**2.12** If any member of the Council has concerns about any conflict of interest concerning the duties of the Monitoring Officer, they shall raise those concerns with the Head of Paid Service or with the Monitoring Officer directly.

**2.13** The Monitoring Officer will undertake to review the issue (if necessary taking advice of the Corporate Governance Group) and respond to the concerns with action proposed. Such

concerns about possible conflicts of interest shall be expressed on the understanding that it is for the Monitoring Officer to determine whether a conflict of interest exists and that such concerns should not be raised in formal meetings of the authority without prior consultation with the Monitoring Officer.

- 2.14 In the event that the Monitoring Officer acknowledges that a conflict of interest exists he/she will make arrangements for the matter concerned to be undertaken by the Deputy Monitoring Officer, if necessary after discussion with the Corporate Governance Group.

### **Chief Finance Officer**

**2.15 The Chief Finance Officer will discharge their statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council.**

~~The current responsibilities of the Chief Finance Officer role rest with the Director of Finance and ICT, who undertakes to discharge these statutory responsibilities in a positive way and in a manner that enhances the overall reputation of the Council. In doing so, the Chief Finance Officer will also safeguard, so far as is possible, elected members and officers whilst acting in their official capacities, from financial difficulties.~~

- 2.16 ~~A summary list of the statutory responsibilities appears in the table annexed to this document. In general terms, the ability of the Chief Finance Officer to discharge these duties and responsibilities will depend, to a large extent, on members and officers:~~

- ~~(a) complying with the Council's financial procedures;~~
- ~~(b) making lawful payments; and~~
- ~~(c) not taking action that would result in unlawful payments or unlawful action.~~

~~Having good working relations with Members and Officers will assist in the discharge of the statutory responsibilities of the Chief Finance Officer. Equally, a speedy flow of relevant information and access to debate (particularly at the early stages of any decision-making by the Council) will assist in fulfilling those responsibilities. Members and officers should, therefore, work with the Chief Finance Officer to discharge the Council's statutory and discretionary responsibilities.~~

- 2.17 The following arrangements and understandings between the Chief Finance Officer, Members and Directors are designed to ensure the effective discharge of the Council's business and functions. The Chief Finance Officer will:

- (a) be alerted by Members and Officers to any issue(s) that may become of concern to the Council, including in particular, issues concerning financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;
- (b) have advance notice (including receiving agendas, minutes, reports and related papers) of all relevant meetings of the Council particularly those at which a decision may be made (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and Sub-Committee meetings (or equivalent arrangements);
- (c) have the right to attend any meeting of the Council (including the right to be heard and report to the Cabinet) before any decision is taken (including a failure to take a decision where one should have been taken) at or before the Council, Cabinet, Committee meetings and Sub-Committee meetings (or equivalent arrangements);



- (d) in carrying out any investigation(s) and excising any fiduciary duties, have unqualified access to any information held by the Council and to any officer who can assist in the discharge of his/her functions;
- (e) ensure the other statutory officers (Head of Paid Service and the Monitoring Officer) are kept up-to-date with relevant information regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;

~~meet regularly with the Head of Paid Service and the Monitoring Officer to consider and recommend action in connection with Corporate Governance issues and other matters of concern regarding any financial management, accounts and audit regulations, proposed expenditure or proposed actions which might lead to a loss or deficit;~~

**(NB: Corporate Governance Group meets on a monthly basis already)**

- (f) report to the Council, from time to time, on Financial Regulations and any necessary or desirable changes following consultation, in particular with the Head of Paid Service and the Monitoring Officer;
- (g) ~~as per the statutory requirements, make a report to the Council, as necessary, on the staff, accommodation and resources required to discharge his statutory functions;~~
- (h) develop effective working liaison and relationship with the External Auditor (including having the authority, on behalf of the Council, to complain to the same, refer any breaches to the same or give and receive any relevant information, whether confidential or otherwise, through appropriate protocols, if necessary);
- (i) in consultation, as necessary, with the Chairman of the Council, the Executive and the External Auditor, defer the making of a formal report under Section 114, 115 and 116 of the Local Government and Finance Act 1988 where another investigative body is involved;
- (j) have access to sufficient resources from within corporate or service budgets to carry out the responsibilities of the Chief Finance Officer's functions but without a designated budget being provided; and

~~nominate a suitably qualified deputy and keep the deputy briefed on any relevant issues that the deputy may be required to deal with in the absence of the Chief Finance Officer;~~

- (k) appoint an appropriate adviser in cases where the Chief Finance Officer is precluded from offering advice and the deputy is unable to advise; and

~~the Council shall appoint a suitably qualified officer to act as Deputy Chief Finance Officer.~~

**2.18** To ensure the effective and efficient discharge of the arrangements set out above, members and officers will report any breaches of statutory duty or of Council policies or procedures and other legal or constitutional concerns to the Chief Finance Officer, as soon as practicable.

- 2.19 The Chief Finance Officer ~~is also~~ **will** be available for members and officers to consult on any issues relating to the Council's financial powers, possible unlawful payments, or general advice on the financial arrangements.
- 2.20 To ensure the effective and efficient discharge of ~~this Protocol~~ **their duties and responsibilities**, the Chief Finance Officer will ensure adequate insurance and indemnity arrangements are in place for the same to protect and safeguard the interests of the Council and the proper discharge of the role of the Chief Finance Officer.

~~The Chief Finance Officer or deputy will record details of any advice given.~~

#### **~~CONFLICTS OF INTEREST~~**

- 2.21 If any member of the Council has concerns about any conflict of interest concerning the duties of the Chief Finance Officer they shall raise those concerns with the Head of Paid Service or with the Chief Finance Officer directly.
- 2.22 The Chief Finance Officer will undertake to review the issue (if necessary taking advice of the Corporate Governance Group) and respond to the concerns with action proposed. Such concerns about possible conflicts of interest shall be expressed on the understanding that it is for the Chief Finance Officer to determine whether a conflict of interest exists and that such concerns should not be raised in formal meetings of the authority without prior consultation with the Chief Finance Officer.
- 2.23 In the event that the Chief Finance Officer acknowledges that a conflict of interest exists he/she will make arrangements for the matter concerned to be undertaken by the Deputy Chief Finance Officer, if necessary after discussion with the Corporate Governance Group.

#### **~~Ensuring Lawfulness and Financial Prudence of Decision-making~~**

- 2.24 After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council or to the Executive in relation to an executive function and 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. Such a report will have the effect of stopping the proposal, decision or course of action being implemented until the first business day after the report has been considered.

#### **~~Proper Administration of Financial Affairs~~**

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

#### **~~Contributing to Corporate Management~~**

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

#### **~~Providing Advice~~**

- 2.27 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 the Elected Mayor~~ and will support and advise

Councillors and Officers in their respective roles. **The Chief Finance Officer will record details of any advice given.**

### **Provision of Financial Information**

**2.28** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

### **3. DUTY TO PROVIDE SUFFICIENT RESOURCES TO THE MONITORING OFFICER AND CHIEF FINANCE OFFICER**

3.1 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.

### **4. CONDUCT**

4.1 All officers will comply with the Council's Officers' Code of Conduct.

### **5. EMPLOYMENT AND DISMISSAL OF STAFF**

5.1 The recruitment, selection and dismissal of officers will comply with the Council's Officer Employment Rules set out elsewhere in this Constitution, supplemented where appropriate by the Council's ~~personnel~~ **human resources** policies and procedures.

### **6. DELEGATION TO OFFICERS**

6.1 The delegation of powers to chief officers is set out in Part 3 of this constitution.

## APPENDIX 1

### MANAGEMENT STRUCTURE

Management structure chart to be added here.

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