

SECTION G - OFFICER SCHEME OF DELEGATION

This part of the **Constitution** sets out the ways in which the Officers of the Council can make decisions and which decisions they have the power to make. It is called the **“The Officer Scheme of Delegation”**

It is separated into four parts:

Section G1 - Introduction to the Officer Scheme of Delegation

Section G2 - General Delegations to Designated Officers

Section G3 - Delegations to Head of Paid Service and Statutory Officers

Section G4 - Proper Officer and Specified Officer Functions

SECTION G1 - INTRODUCTION TO THE OFFICER SCHEME OF DELEGATION

- 1 “Officers” is the term used to refer to the people employed, retained or appointed by the Council to advise and support Councillors and implement their decisions. The term “Officers” in this **Constitution** includes all the people who operate in this capacity including contractors, consultants and agency staff.
- 2 The Council operates a “cascade” principle of delegation to ensure that decisions are taken at the most appropriate level closest to those who will be affected. This means that the majority of the Council's decisions and actions will fall into the category of operational day to day decisions taken by its Officers.
- 3 In order to ensure the smooth functioning of the Council and the efficient delivery of services, **Full Council** and the **Cabinet** have delegated to Officers the powers that they need to perform their roles.
- 4 Certain Officers have specific legal duties to ensure that the Council acts within the law, uses its resources wisely and exercises its powers properly. These Officers are known as “Statutory” or “Proper” Officers and some have specific legal titles in addition to their job titles.
- 5 The way the Council structures its services and its officer arrangements changes from time to time to reflect changes in service delivery and best practice. The current arrangements include a **Chief Executive** (as the most senior officer of the Council) supported by the other senior roles which are set out below and which together are referred to as the “**Senior Officers**”:
 - 5.1 **Strategic Directors** one of whom will be the **S151 Officer**;
 - 5.2 Head of Legal and Support Services (**Monitoring Officer**); and
 - 5.3 Heads of Service.
- 6 The **Head of Paid Service**, the **S151 Officer** and the **Monitoring Officer** are also called “**Statutory Officers**” (because every Council is required by statute - the law - to have these posts).
- 7 It is possible (subject to any legal restrictions) for the roles of the **S151 Officer** and/or the **Monitoring Officer** to be combined with another of the **Senior Officer** posts (or with other Officer posts in the Council).
- 8 There are also a number of formal functions which the Council has to allocate to named Officers called “**Proper Officers**”.
- 9 **Section A** of this Part 2 shows the current management structure of the Council, showing more detail about the roles and responsibilities of the **Chief Officers** and the Officers supporting them to deliver all the Council's services.

General Principles Relating to Officer Delegation

- 10 For the purposes of Officer delegated powers, both within this part and any other part of the **Constitution**, the term “**Designated Officers**” shall include the following Officers:
 - 10.1 The **Chief Executive**;
 - 10.2 The **Strategic Directors**;
 - 10.3 Head of Legal and Support Services (**Monitoring Officer**); and
 - 10.4 All **Heads of Service**.
- 11 This scheme gives the power for the **Designated Officers** to take decisions and institute any process or take any steps in relation to all the functions in their areas of responsibility except where:
 - 11.1 a matter is prohibited by law from being delegated to an **Officer**, or
 - 11.2 a matter has been specifically reserved to **Councillors** or excluded from delegation by this scheme, by a decision of the **Full Council**, the **Cabinet/Executive** or a **Committee** or **Sub-Committee**.
- 12 No Officer may take **Key Decisions** unless specifically provided for within the **Constitution** or specifically delegated by the **Leader**, the **Cabinet**, a Committee of Cabinet or a **Cabinet Member**.
- 13 The cascade principle under which this Scheme operates means that any Officer given powers under this scheme can further delegate those powers to other Officers either:
 - 13.1 through a Local Scheme of Delegation (which sets out all the standing delegations given to specific Officers in defined areas of the Council's service areas). There is a list of the Local Schemes of Delegation; or
 - 13.2 through a Specific Delegation in relation to an individual decision which must be evidenced in writing using the agreed standard form, dated and signed by the Officer delegating the power and saved on the register of Specific Delegations. A Specific Delegation does not need to be given where an Officer is given delegated powers to action a particular decision by **Council**, **Cabinet** or a Committee or Sub-Committee.
- 14 The functions delegated to the Strategic Directors under this scheme of delegation are those functions, which fall within their areas of responsibility. However, save where powers are conferred in accordance with the Strategic Directors position as section 151 officer, Strategic Directors can exercise the powers of other Strategic Directors.

General limitations on exercise of powers

- 15 Any matters falling within the scope of the Scheme will be subject to any limitation, imposed by statute, by the **Full Council** or **Cabinet** and/or any duly authorised Committee. In addition, in exercising these powers each **Designated Officer**:
 - 15.1 Will comply with relevant Procedure Rules including the **Financial Procedure Rules** in **Part 3** and **Contract Procedure Rules** in **Part 3**. In the event of any inconsistency or conflict between the **Financial Procedure Rules** and/or **Contract Procedure Rules** and these delegations then the former shall prevail. In the event that the inconsistency or conflict cannot be resolved by the application of this rule then the matter shall be settled by the **Chief Executive** with advice, where necessary and appropriate, from the **S151 Officer** and/or the **Monitoring Officer**;
 - 15.2 Will not depart from any approved policies, scheme, or, any direction of the **Full Council** or **Cabinet** and/or appropriate Committee;
 - 15.3 Will have due regard to the Public Sector Equality Duty;
 - 15.4 Will consult the appropriate professional or technical Officer of the Council, in particular the **Monitoring Officer** and **S151 Officer**, in any case involving professional or technical consideration not within the capacity of the Officer concerned; and
 - 15.5 Will take account of any Council Strategy and the **Budget and Policy Framework** approved by Council in relation to the management functions for which he/she is authorised.
- 16 The exercise by Officers of the powers delegated under this **Constitution** involving the incurring of any expenditure is subject to there being sufficient approved provision within the **Budget** to cover that expenditure.
- 17 Any delegation under the Scheme will be without prejudice to the overriding right of the **Council** or **Cabinet** and any duly authorised **Committee** to withdraw or amend the powers or to decide any matter and, in particular, any **Designated Officer** may, in any case, instead of exercising their powers under the Scheme, refer any matter to the **Council**, the **Cabinet** or **Committee** for decision.
- 18 The Scheme will also be subject to the right of the **Council** or **Cabinet** and/or any duly authorised Committee to rescind the Scheme or any part or parts of the Scheme.

SECTION G2 - GENERAL DELEGATIONS TO DESIGNATED OFFICERS

1 General

- 1.1 To exercise any functions, powers and duties of the **Council** to secure the effective management of their service areas including the authorisation of any procedures or contracts within the framework of **Financial Procedure Rules in Part 3** and **Contract Procedure Rules in Part 3**, and taking and implementing decisions to maintain the operational effectiveness of their service areas where these fall within a policy decision made by the Council or **Cabinet**.
- 1.2 To implement and develop initiatives within the strategic policy framework and other Council plans and policy documents.
- 1.3 To carry out, or authorise the carrying out, of the functions of the **Proper Officer** of the Council in any legislation relating to those areas of responsibility assigned to **Designated Officers**.
- 1.4 To exercise the general power of competence under the Localism Act 2011 where appropriate.

2 Incidental powers

- 2.1 In addition to any of their general and/or specific delegated functions and powers set out below, to enter into arrangements or do anything else which is calculated to facilitate, or is conducive or incidental to, the discharge of such delegated functions.

3 Service Performance

- 3.1 To make arrangements to secure value for money in respect of their service areas, to secure continuous improvement in the way functions are exercised having regard to a combination of economy, efficiency and effectiveness, and to maximise economic, environmental and social value.
- 3.2 To arrange consultation with tax payers, non-domestic rate-payers, service users and other local representatives about fulfilment of the **Best Value** duties and to involve representatives of local persons in the exercise of Council functions.
- 3.3 To meet business critical and key performance indicator targets.
- 3.4 To enter into any agreement with any other public body for the supply of goods and/or services subject to this being in accordance with the Council's **Budget and Policy Framework**, the **Financial Procedure Rules in Part 3** and the **Contract Procedure Rules in Part 3**.
- 3.5 To make arrangements for co-ordinating the activities of the Council and those of any charity established for purposes similar or complementary to services

provided by the Council in the interests of persons who may benefit from those services or from the charity and to disclose to any such charity any information obtained in connection with the services provided by the Council.

- 3.6 To approve any severance payment to any Officer up to £20,000 in consultation with the **S151 Officer** and **Monitoring Officer**, provided that any proposed severance payment to the **Head of Paid Service** will be dealt with either by the **Investigatory Committee** or **Full Council** (dependent on the value of the proposed severance payment).

4 **Legal**

- 4.1 To recommend to the **Head of Legal and Support Services**, where it is necessary to give effect to a decision of the Council, the need to institute, prosecute, defend, conduct, participate in, withdraw or settle any legal proceedings brought by or against the Council, to make any necessary applications and to take steps to enhance or protect the Council's legal position or interest.
- 4.2 To recommend to the **Head of Legal and Support Services**, the negotiation and settling of claims and disputes without recourse to court proceedings including the use of alternative dispute resolution.
- 4.3 Subject to the agreement of the **Head of Legal and Support Services**, to authorise Officers to appear on the Council's behalf in proceedings before any Court or Tribunal.
- 4.4 To prepare, issue and serve any statutory notice, demand, certificate, order, or requisition for information in respect of functions in their area, including the authentication of such documents save that the authentication of documents necessary for any legal procedure or proceedings is reserved to the **Head of Legal and Support Services**.
- 4.5 To authorise Officers to enter and/or inspect any land or premises in respect of which the Council has a statutory power or duty to enter or inspect including the obtaining and enforcement of a search warrant.
- 4.6 To authorise any Officer exercising a power to enter and/or seize items found on premises to exercise the powers of seizure, to give the required notice and to perform the duties to return certain items seized and to secure certain items seized.
- 4.7 To apply, or to authorise other Officers to apply, to a Court for a warrant to enter any land or premises, in exercise of his/her responsibilities.
- 4.8 To certify that any document forms part of the records of the Council for the purpose of admitting that document as evidence in civil proceedings.
- 4.9 To authorise the recovery of sundry debts of any sum to which the Council is entitled.

- 4.10 To take the action necessary to comply with any court order made against the Council.
- 4.11 To appoint Officers as authorised Officers for any statutory purpose.
- 4.12 To accept, hold and administer any property on trust (in consultation with the **Head of Legal and Support Services** and **S151 Officer**).
- 4.13 To supply photocopies of documents to the general public subject to making such charges as may be agreed in an approved scheme in accordance with the provisions of the Copyright, Designs and Patents Act 1988.

5 **Administrative Matters**

- 5.1 Power to deal with requests for access to Council premises by the media.
- 5.2 Power to waive charges, where justified in exceptional circumstances and where this is legally permissible.

6 **Finance**

- 6.1 Officers are referred to the **Financial Procedure Rules** in **Part 3** of the **Constitution**.

7 **Contracts**

- 7.1 Officers are referred to the **Contract Procedure Rules** in **Part 3** of the **Constitution**.

8 **Property Matters**

- 8.1 Any decision concerning the management or use of land held for the operational requirements of the Officers of a service area, subject to the following provisions.
- 8.2 Powers to take any action or sign any document under the Land Registration Rules, including the release of mortgages or charges; and powers to give any undertaking are reserved to the **Head of Legal and Support Services**.
- 8.3 Subject to the agreement of the **S151 Officer**, the power to acquire any land or property with a capital value up to or equalling £100,000 except by use of compulsory powers is reserved to the **Chief Executive** and the **Strategic Directors** in consultation with the relevant Portfolio Holder. The power to acquire any land or property with a capital value over £100,000 is reserved to **Cabinet**.
- 8.4 Subject to the agreement of the **S151 Officer**, the power to dispose of any land or property with a capital value up to or equal to £30,000 is reserved to the **Chief Executive** and the **Strategic Directors** in consultation with the relevant

Portfolio Holder. Disposal of any land or property with a capital value over £30,000 is reserved to **Cabinet**. For clarity, this clause 8.4 does not apply to disposals under Part V Of the Housing Act or disposals made by way of lease of 7 years or greater. This is provided for under paragraph 8.6.

8.5 Subject to the agreement of the **S151 Officer**, the power to take a lease or licence of any land or property for any period where the rent is up to £100,000 per annum is reserved to the **Chief Executive** and the **Strategic Directors** in consultation with the relevant Portfolio Holder. Taking a lease or licence of any land or property for any period where the rent is over £100,000 per annum is reserved to **Cabinet**.

8.6 Subject to the agreement of the Section 151 Officer, the power to grant a lease or licence at Market Rent of any land or property that is part of the Council's Commercial Portfolio for any period up to a maximum of 15 years where the rent is up to £40,000 per annum is reserved to the Chief Executive and the Strategic Directors in consultation with the relevant Portfolio Holder.

9 **Emergencies (e.g. flooding, power failure etc.)**

9.1 Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, all **Designated Officers** may:

9.1.1 incur such expenditure as is considered necessary in taking action (either by the Council itself or jointly with any other person or body and either in their area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in the **District** or among its inhabitants the effects or potential effects of the event; and

9.1.2 make grants or loans to other persons or bodies in respect of any such action taken by those persons or bodies, subject to ratification where necessary, as soon as possible, and subject to agreement of a **Strategic Director** or the **Chief Executive**.

9.2 The preparation of Civil Emergency Plans for the Council, in consultation with all necessary outside bodies and organisations.

10 **Responding to consultations and proposals**

10.1 To respond to consultations and to make comments and representations on matters notified to the Council by third parties including (but not limited to) Government Departments, statutory undertakers and local authorities, in consultation with the relevant Strategic Director and **Portfolio Holder**.

11 **Submission of grant funding bids**

11.1 To submit bids for grant funding and/or other financial assistance to Government departments and other organisations and bodies for projects and initiatives consistent with Council policies, following consultation with the

relevant Strategic Director and **Portfolio Holder**, and to enter into any such agreements and arrangements as necessary to secure such funding, in accordance with the **Contract Procedure Rules** in **Part 3** and the **Financial Procedure Rules** in **Part 3**.

12 **Complaints**

12.1 To take action regarding complaints received.

12.2 To settle any Ombudsman / Complaint Cases:

12.2.1 cases of alleged maladministration where there has not been a finding of maladministration by the Ombudsman; and

12.2.2 complaints that have been brought against the Council under any of its internal complaints procedures in conjunction with the **Head of Legal and Support Services**.

12.3 To approve compensation payments to remedy complaints in accordance with the Council's Complaints Procedure and **Financial Procedure Rules** in **Part 3**.

13 **Attestation of the Common Seal of the Council**

13.1 A decision of the **Council, Cabinet**, a Committee or any Officer with delegated authority, will be sufficient authority for sealing any document necessary to give effect to the decision.

13.2 The Common Seal will be affixed to those documents which in the opinion of the **Head of Legal and Support Services** should be sealed or where required by the **Contract Procedure Rules** in **Part 3**.

13.3 The affixing of the Seal on documents shall be attested by the **Head of Legal and Support Services** or any Officer authorised by him/her.

SECTION G3 - DELEGATIONS TO THE HEAD OF PAID SERVICE AND STATUTORY OFFICERS

The Council is required to designate a number of Officers to discharge statutory functions. The legal provisions and the Officer designated by the Council to discharge each function are listed in the table below. Further detail about the responsibilities of the **Head of Paid Service** and each **statutory Officer** then follows.

A table of designated **Proper Officers** is set out below:

Legislative Provision	Statutory Power the Council Must Delegate to an Officer	Officer Designated as the Statutory Officer
S4 Local Government and Housing Act 1989	Designate one of their Officers as the Head of Paid Service	Chief Executive
S151 Local Government Act 1972	Appoint an Officer responsible for the administration of the authority's financial affairs	Strategic Director for Resources
S5 Local Government and Housing Act 1989	Designate one of their Officers as the Monitoring Officer	Head of Legal and Support Services
S36 Freedom of Information Act 2000	Qualified person in relation to s36 of the Act	Head of Legal and Support Services

1 **Functions delegated to the Head of Paid Service (Chief Executive)**

- 1.1 To act as the Council's statutory Head of Paid Service pursuant to section 4 of the Local Government and Housing Act 1989 and carry out the responsibilities assigned to the Head of Paid Service under the **Constitution** generally.
- 1.2 Where he/she considers it appropriate to do so, to prepare a report to the Council setting out their proposals as to:
 - 1.2.1 the manner in which the discharge by the Council of their different functions is co-ordinated;
 - 1.2.2 the number and grades of staff required by the Council for the discharge of their functions;
 - 1.2.3 the organisation of the Council's staff;
 - 1.2.4 the appointment and proper management of the Council's staff.

- 1.3 To be responsible for and take action in relation to corporate strategy, policy initiatives and integrated planning and service delivery.
- 1.4 The corporate management of the Council and, specifically:
 - 1.4.1 Advice to the Council on the **Policy Framework**;
 - 1.4.2 Preparation of, and consultation on, the draft of the **Executive Decision Notice** on a monthly basis;
 - 1.4.3 The responsibility for the discharge of the Council's functions in implementation of statutory and non-statutory plans including the modernisation, collation, indexation and publication of policies and practices of the Council within the evolving Policy Framework as the **Full Council** and the **Executive** shall determine.
- 1.5 As required to exercise any function delegated to any other Officer of the Council, with the exception of those functions delegated exclusively to the Council's **S151 Officer** or the **Monitoring Officer**. Further, in the event of any dispute or doubt as to the delegated powers of any other **Designated Officer**, the **Chief Executive** shall have the authority to determine which **Designated Officer** is to exercise that power.
- 1.6 To provide the 'certificate of opinion' for an employee making an application to the **Audit and Governance Committee** for exemption of his/her post from political restriction under section 3 of the Local Government and Housing Act 1989 (opinion as to whether the duties of the post involve regularly giving advice to **Councillors** or speaking to journalists/broadcasters).
- 1.7 The power to determine that an emergency has occurred, namely, an event or situation which threatens serious damage to human welfare or to the environment in the **District** or war or terrorism which threatens serious damage to the security of the United Kingdom.
- 1.8 The power to incur expenditure and take any necessary action within local authority statutory functions, including jointly with other authorities, in the event of an emergency or where urgent action is needed to enable the Council to fulfil its functions.
- 1.9 To nominate other **Senior Officers** of the **Council**, whether orally or in writing, to take administrative decisions in the event of an emergency.
- 1.10 In the event that the **Chief Executive** is absent or unable to act for any reason, the **Strategic Directors** may exercise these powers. In the event that the Strategic Directors are absent or unable to act for any reason, the powers in paragraphs 1.8, 1.9 and 1.10 above may be exercised by any other **Chief Officer** who is available to act.
- 1.11 To take urgent **Key Decisions** in place of the **Executive** in accordance with the **Cabinet (Executive) Procedure Rules** in **Part 3**.

- 1.12 In the event that all **Cabinet Members** are removed from office, to exercise all **Executive Functions** in consultation with the **Chair of the Council** until a new **Cabinet** has been appointed.
- 1.13 To discharge the functions of Electoral Registration Officer and to appoint Deputy Electoral Registration Officers.
- 1.14 To act as Returning Officer, Local, Acting or Deputy Returning Officer in local elections, parliamentary elections, police and crime commissioners' elections and referenda.
- 1.15 The review of electoral arrangements and **District** boundaries.
- 1.16 To carry out all activities in connection with the Council's Human Resources function including:
 - 1.16.1 To determine all staffing matters in accordance with the **Officer Employment Procedure Rules** in **Part 3**. This includes determining matters relating to structure (additions, reductions and other changes to the establishment) as he/she considers appropriate following consultation with the Leader and Deputy Leader.
 - 1.16.2 The appointment, dismissal or discipline of staff, except in relation to those posts listed in paragraph 1.2 of the said Rules.
 - 1.16.3 Where the decision of the Head of Paid Service taken under (a) above requires consideration of the financial/budgetary implications and a decision in that respect only, then the matter will be referred to the **Cabinet**, provided that the remit of the Cabinet shall be limited to decisions on financial matters only.
 - 1.16.4 To approve any severance payment to any Officer between £20,000 and £100,000 with the agreement of the **Leader** and in consultation with the **S151 Officer** and **Monitoring Officer**, provided that any proposed severance payment to the Head of Paid Service will be dealt with either by the **Investigatory Committee** or **Full Council** (dependent on the value of the proposed severance payment).
 - 1.16.5 The Head of Paid Service may delegate the discharge of this function to another Officer.
- 1.17 To co-ordinate, direct and monitor the Council's initiatives to achieve **Best Value** in the delivery of its functions.
- 1.18 To be responsible for performance review issues.
- 1.19 To suspend the Strategic Directors where their continued presence at work may prejudice an investigation or where there is a prima facie case of gross misconduct (**Cabinet** to be notified as soon as possible after the action is taken in accordance with the Employment Procedure Rules contained in the

Constitution).

- 1.20 To make interim appointments to fill vacancies, and to make interim designations as **S151 Officer** and **Monitoring Officer** where a vacancy arises in such position, the term of each such appointment or designation not to extend beyond 18 months without the confirmation of the **Appointments Committee**.
- 1.21 To make agreements with other local authorities and external agencies in compliance with the **Contract Procedure Rules** in **Part 3** for the placing of staff and joint working arrangements (including committing expenditure within authorised budgets).
- 1.22 To authorise the use of juveniles and vulnerable adults as covert human intelligence sources under the Regulation of Investigatory Powers Act 2000.

2 Functions delegated to the S151 Officer (Strategic Director for Resources)

- 2.1 To act as the Council's statutory chief finance Officer pursuant to section 114A Local Government Finance Act 1988 and carry out the responsibilities assigned to the S151 Officer under the Council's **Financial Procedure Rules** in **Part 3** and under the **Constitution** generally, including carrying out all **Treasury Management** functions and activities in accordance with the approved **Treasury Management Strategy**.
- 2.2 To make arrangements for the proper administration of the Council's financial affairs in accordance with section 151 of the Local Government Act 1972.
- 2.3 To contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- 2.4 Maintaining strong financial management underpinned by effective financial controls by:
 - 2.4.1 Advising on effective systems of internal management and financial control;
 - 2.4.2 Ensuring that financial management arrangements are sound and effective;
 - 2.4.3 Ensuring a prudential financial framework is in place;
 - 2.4.4 Ensuring that any partnership arrangements (or other innovative structures for service delivery) are underpinned by clear and well documented internal financial controls;
 - 2.4.5 Securing effective arrangements for prudential borrowing, **Treasury Management**, pensions and trust funds;
 - 2.4.6 Ensuring there is an effective internal audit function and assisting management in providing effective arrangements for financial scrutiny;

- 2.4.7 Advising on anti-fraud and anti-corruption strategies and measures;
 - 2.4.8 Securing effective systems of financial administration; and
 - 2.4.9 Ensuring that statutory and other accounts and associated claims and returns in respect of grants are prepared.
- 2.5 To approve the detailed format of the financial plan and the **Budget** prior to approval by the **Full Council**.
 - 2.6 To approve the annual calculation of the Council's council tax requirement in accordance with section 31A Local Government Finance Act 1992 prior to approval by the **Full Council**.
 - 2.7 To report annually to Council on the robustness of the **Budget** and adequacy of reserves as required by section 25 Local Government Act 2003.
 - 2.8 To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and **Budget and Policy Framework** issues to Council Officers and **Councillors**.
 - 2.9 To report to Councillors, in consultation with the **Monitoring Officer**, if there is or there is likely to be unlawful expenditure or an unbalanced **Budget** as required by sections 111-116 Local Government Finance Act 1988.
 - 2.10 To establish and maintain the general fund and collection fund of the Council in accordance with the provisions of the Local Government Act 1988.
 - 2.11 To manage the capital programme flexibly and to make adjustments to the phasing of approved projects within the limits of available capital resources.
 - 2.12 To approve the draft Council's Accounts and Accounting Policies each year in accordance with the Accounts and Audit (England) Regulations 2015.
 - 2.13 To approve the terms of release of staff aged 55 or over and made redundant or retired early with a claim on the pension scheme, in accordance with agreed procedures, save in relation to **Chief Officers** which is reserved to the Independent Remuneration Panel.
 - 2.14 To write off uncollectible debts relating to the management of tenanted properties, up to the level equivalent to four months' rent. All debts written off this way would be reported to **Cabinet** for information through the quarterly reporting procedures.
 - 2.15 To provide financial information to the media, members of the public and the community.

3 **Functions delegated to the Monitoring Officer (Head of Legal and Support Services)**

- 3.1 To act as the Council's statutory **Monitoring Officer** pursuant to section 5 and 5A Local Government and Housing Act 1989 and carry out the responsibilities assigned to the Monitoring Officer under the **Constitution** generally.
- 3.2 To ensure that the Council, its Officers and its elected **Councillors** maintain the highest standards of conduct.
- 3.3 To contribute to the corporate management of the Council, in particular through the provision of professional legal advice.
- 3.4 To establish and maintain the **Councillors' Code of Conduct** in **Part 4** to address the conduct that is expected of **Councillors** and co-opted members of the Council when they are acting in that capacity.
- 3.5 To establish and maintain a register of interests of Councillors and co-opted members of the Council in accordance with the provisions of the Localism Act 2011.
- 3.6 To contribute to the promotion and maintenance of high standards of conduct through provision of support to the **Audit and Governance Committee**.
- 3.7 To receive and act on reports made by the **Audit and Governance Committee**.
- 3.8 To consider complaints against **Councillors** including conducting investigations into matters as appropriate and the making of reports or recommendations in respect of them to **Sub- Committees** of the **Audit and Governance Committee**.
- 3.9 To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and **Budget and Policy Framework** issues to Council Officers and **Councillors**.
- 3.10 To report to **Councillors** on any actual or potential breaches of the law or maladministration as required by section 5 Local Government Housing Act 1989.
- 3.11 To advise whether decisions of the **Cabinet** are in accordance with the **Budget and Policy Framework**.
- 3.12 To be responsible for the maintenance and operation of the **Constitution**. The **Monitoring Officer** has authority to make minor amendments and corrections to the Constitution to ensure that:
 - 3.12.1 legislative references are updated;
 - 3.12.2 it reflects the Council's structures and decision-making requirements;

3.12.3 consequential amendments are made as a result of Council, Executive (**Leader, Cabinet, Cabinet Member**) and Committee decisions; and

3.12.4 it is clear and unambiguous and maintains efficiency of operations.

- 3.13 To advise and assist the Democratic and Support Services **Team Manager** with the proper performance of the **Access to Information Procedure Rules** in **Part 3**.
- 3.14 To fulfil the requirements of the 'qualified person' in relation to section 36 of the Freedom of Information Act 2000.
- 3.15 To designate "Proper Officers" for the purpose of particular statutory functions and to make any changes needed to the table at 1.5 in Section G4 of this Part of the **Constitution**.
- 3.16 After consultation with the **Chair** of the **Audit and Governance Committee**, to make compensation payments of up to £500 to victims of maladministration.
- 3.17 To instruct Counsel and to retain the services of costs specialists, parliamentary agents or outside solicitors and to obtain expert advice on any matter affecting or likely to affect the interests of the Council.
- 3.18 Authority to sign any document necessary in legal proceedings on behalf of the Council and authority to sign informations and complaints, and lay them on behalf of the Council for the purpose of Magistrates Court proceedings unless Statute provides otherwise.
- 3.19 May grant dispensations to **Councillors** who require such dispensations for one meeting or on one occasion from requirements relating to interests set out in the **Councillors' Code of Conduct** in **Part 4** as appropriate.

For the purpose of carrying out these functions, the **Monitoring Officer** shall be provided with the following resources:

- 3.20 The right of access to all documents and information held by or on behalf of the Council, including documents and information held by any Officer or **Councillor** of the Council. For the purpose of clarification, this right does not extend to documents and information held by or on behalf of any political group represented on the Council;
- 3.21 The right of access to any meetings of Officers or **Councillors** (or both) of the Council, whether or not such meetings include any other persons. For the purpose of clarification, this right does not extend to any meetings held by or on behalf of any political party represented on the Council;
- 3.22 The right to require any Officer or **Councillor** of the Council, or any contractor of the Council, to provide an explanation of any matter under investigation;

- 3.23 A right to report to the **Full Council**, the **Audit and Governance Committee**, and to the **Cabinet**, including a right to present a written report and to attend and advise verbally;
- 3.24 The right to require the assistance of any Officer of the Council in carrying out an investigation and to delegate to that Officer any of the powers of the post of Monitoring Officer;
- 3.25 A power to mediate a local resolution to any complaint of breach of the **Councillors' Code of Conduct** in **Part 4**, in accordance with the **Council's** relevant procedures;
- 3.26 The right of access to the **Head of Paid Service/Chief Executive, Strategic Directors** and the **S151 Officer**; and
- 3.27 The right, after consultation with the **Head of Paid Service/Chief Executive** and/or the **S151 Officer** where appropriate to notify the Police, the Council's auditors and other regulatory agencies of his/her concerns in respect of any matter and to provide them with information and documents in order to assist them with their statutory functions.

SECTION G4 - PROPER OFFICER AND SPECIFIED OFFICER FUNCTIONS

- 1.1 Many legislative provisions require the appointment of a "**Proper Officer**" or "Specified Officer" to undertake formal responsibilities on behalf of the Council.
- 1.2 Statutory provisions and regulations are from time to time amended, replaced or re-enacted. When a statutory provision or regulation is amended, replaced or re-enacted, the appointments in the table below shall be effective in relation to the corresponding new provision.
- 1.3 Substitutes are identified to act where the Proper Officer is absent or otherwise unable to act.
- 1.4 The **Chief Executive/Head of Paid Service** shall be the **Proper Officer** of the Council for the purposes of the Local Government Act 1972, the Local Government Act 2000 and for all other statutory purposes unless:
- 1.4.1 such designation is given by the Council to any other Officer or
- 1.4.2 the **Chief Executive/Head of Paid Service**, exercising the powers given to him/her by this **Constitution**, appoints another Officer of the Council to be the **Proper Officer** for a specific service area or function.

SPECIFIED OFFICERS

Statutory Requirement	Allocated to	Substitute
Local Government and Housing Act 1989 Section 4 Head of Paid Service	Chief Executive	Strategic Directors
Representation of the People Act 1983 Section 8 Electoral Registration Officer	Chief Executive	A deputy, as appointed by the Electoral Registration Officer
Representation of the People Act 1983 Section 28 Acting Returning Officer (Parliamentary)	Chief Executive	As appointed by the Acting Returning Officer
Representation of the People Act 1983 Section 35 Returning Officer (Local Elections)	Chief Executive	As appointed by the Returning Officer

Local Government and Housing Act 1989 Section 5 Monitoring Officer	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Local Government Act 1972 Section 151 Chief Finance Officer	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer

1.5 A table of designated **Proper Officers** is set out below:

Section of the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 13 To act as a Parish Trustee	Chief Executive	Strategic Directors
Section 83 (1) to (4) Witness and receipt of Declarations of Acceptance of Office	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 84 Receipt of Declaration of Resignation of Office	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 86 Declare any vacancy in office	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 88 (2) Convening of meeting of Council to fill casual vacancy in the office of Chair	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 89 (1) (b) Receipt of notice of casual vacancy from two local government electors	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section 99 Signature of summons to council meetings	Chief Executive	Head of Legal and Support Services (Monitoring Officer)

<p>Section 100B Exclusion of reports, etc. from inspection</p>	<p>Head of Legal and Support Services (Monitoring Officer)</p>	<p>Legal Team Manager and Deputy Monitoring Officer</p>
<p>Section 100C Written Summary where minutes would disclose exempt information</p>	<p>Head of Legal and Support Services (Monitoring Officer)</p>	<p>Legal Team Manager and Deputy Monitoring Officer</p>
<p>Section 100D Compilation of list of background papers</p>	<p>Head of Legal and Support Services (Monitoring Officer)</p>	<p>Legal Team Manager and Deputy Monitoring Officer</p>
<p>Section 100F Exclusion from production to Councillors of documents disclosing exempt information</p>	<p>Head of Legal and Support Services (Monitoring Officer)</p>	<p>Legal Team Manager and Deputy Monitoring Officer</p>
<p>Section 115 (2) Receipt of money due from Officers</p>	<p>Strategic Director for Resources (S151 Officer)</p>	<p>Head of Finance and Deputy S151 Officer</p>
<p>Section 146 (1) (a) and (b) Declarations and service with regard to securities</p>	<p>Strategic Director for Resources (S151 Officer)</p>	<p>Head of Finance and Deputy S151 Officer</p>
<p>Section 191 Functions with respect to Ordnance Survey</p>	<p>Head of Legal and Support Services (Monitoring Officer)</p>	<p>Strategic Directors</p>
<p>Section 210 (6) and (7) Charity functions of holders of offices with existing authorities transferred to holders of equivalent offices with new authorities or, if there is no such office, to Proper Officer</p>	<p>Chief Executive</p>	<p>Strategic Directors</p>
<p>Section 223 Authorise Officers to appear in legal proceedings</p>	<p>Head of Legal and Support Services (Monitoring Officer)</p>	<p>Legal Team Manager and Deputy Monitoring Officer</p>

Section 225 (1) Receipt and retention of documents deposited with the Authority	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 228 (3) Making accounts open to inspection by any Councillor of the Authority	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer
Section 229 (5) Certification of Photographic copies of Documents	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 234 Authentication of Documents	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 234 Officer authorised to sign forms of notice to give effect to planning applications	Head of Planning and Regeneration	Planning and Development Team Manager
Section 236 (9) and (10) To send copies of byelaws to Parish Council	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 238 Certification of byelaws	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 248 Officer who will keep the Roll of Freemen	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Schedule 12, Para 4 (2) (b) Signature of summonses to Council Meetings	Chief Executive	Head of Legal and Support Services (Monitoring Officer)

Schedule 12, Para 4 (3) Receipt of notice regarding address to which summonses to meetings are to be sent	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Schedule 14, Para 25 (7) Certifying resolutions applying or dis-applying provisions of Public Health Acts 1875-1961	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Local Government Act 1974	Proper Officer	Alternative Proper Officer
Section 30(5) To give notice that copies of an Ombudsman's report are available	Chief Executive	Head of Legal and Support Services (Monitoring Officer)
Section of the Local Government (Access to Information) Act 1985 amending the Local Government Act 1972 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 100B (2) Exclusion of whole or part of reports from public inspection	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 100B (5) Withholding of reports containing exempt information	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 100B (7) (c) Supply of papers to press	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 100C (2) Summaries of Minutes	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section 100D Inspection of background papers	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors

Section 100F Councillors' right to papers	Head of Legal and Support Services (Monitoring Officer)	Strategic Directors
Section of the Local Government Finance Act 1988 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 114 Duty to report etc	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer
Section of the Local Government and Housing Act 1989 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Part 1 (s.2.4, 3, 4, 5, 15) and regulations made thereunder	Chief Executive	Strategic Directors
Section 2 and Section 3 Preparation and deposit of politically restricted posts and issue of certificate in respect of politically restricted posts	Chief Executive	Strategic Directors
Section of the Party Wall etc Act 1996 and Proper Officer's Functions	Proper Officer	Alternative Proper Officer
Section 10(8) Appointing Officer	Chief Executive	Strategic Directors
Section of the Public Health Act 1936 and the Public Health Act 1961	Proper Officer	Alternative Proper Officer
Sections 84 and 85 of the Public Health Act 1936 Proper Officer functions	Strategic Directors	Head of Community Services
Section of the Food Safety Act 1990	Proper Officer	Alternative Proper Officer
Section 5 Authorised Officer to act in matters arising under the Act	Strategic Directors	Head of Community Services

Section 27 Nomination of a Public Analyst	Strategic Directors	Head of Community Services
Section 49 Signature on documents authorised or required under the Act	Strategic Directors	Head of Community Services
Local Government Act 2000 and Regulations made thereunder and Proper Officer functions	Proper Officer	Alternative Proper Officer
Proper Officer functions	Chief Executive	Strategic Directors
Section of the Freedom of Information Act 2000 and Proper Officer Functions	Proper Officer	Alternative Proper Officer
Section 36 the “qualified person”	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section of the Regulation of Investigatory Powers Act 2000 and Proper Officer Functions	Proper Officer	Alternative Proper Officer
Part II Authorised Officers who may authorise, review or cancel the carrying out of directed surveillance or the use of covert human intelligence sources	Chief Executive Strategic Directors	Heads of Service
Part II Senior Responsible Officer	Chief Executive	Strategic Directors

Miscellaneous: Statutory Provision and Proper Officer Functions	Proper Officer	Alternative Proper Officer
Section 41 Local Government (Miscellaneous Provisions) Act 1976 Certifying true copies of minutes	Head of Legal and Support Services (Monitoring Officer)	Legal Team Manager and Deputy Monitoring Officer
Section 321 (3) Highways Act 1980 Certifying copies of approved plans	Chief Executive	Strategic Directors
Section 61 Building Act 1984 Receive notification of and having free access to repairs of drains	Strategic Directors	As delegated by the Strategic Directors
Section 149 Environmental Protection Act 1990 Discharging functions relating to stray dogs	Head of Community Services	Environmental Health Team Manager
Section 2 Planning (Listed Buildings and Conservation Areas) Act 1990 Lists of protected buildings	Strategic Directors	Head of Planning and Regeneration
Proceeds of Crime Act 2002 Part 7 Nominated Officer to receive disclosures of suspected Money Laundering	Strategic Director for Resources (S151 Officer)	Head of Finance and Deputy S151 Officer