

## **Part 2 - Articles of the Constitution**

### **Article 12: Officers**

# Article 12 – Officers

## 1. Management structure

*Appointment of staff cannot be the responsibility of the Executive. Appointment of staff below Strategic Director level must be the responsibility of the Head of Paid Service or their nominee.*

- (a) **General:** The full Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Strategic Directors:** The full Council will engage persons for the following posts, who will be designated Strategic Directors:

<b>Post</b>	<b>Functions and areas of responsibility</b>
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all officers).</p> <p>Provision of professional advice to all parties in the decision making process.</p> <p>Together with the Shared Head of Corporate Services, responsibility for a system of record keeping for all the Council's decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council).</p> <p>Human Resources, and Communications.</p>
Strategic Director (Community)	Strategic Planning and Economy, Development Management, Building Control, Landscape and Leisure, Property Services, Environmental Health and Housing and Community Delivery.
Strategic Director (Resources)	Information and Communication Technology, Financial Services, Corporate Services, Customer Services, Environment Services and Salcombe Harbour.

- (c) **Head of Paid Service, Monitoring Officer and Section 151 Officer:**  
The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Chief Executive	Head of Paid Service
Shared Head of Corporate Services	Monitoring Officer
Strategic Director (Resources)	Section 151 Officer

Such posts will have the functions described in Article 12.2–12.4 below.

1. **Management structure (cont'd)**

- (d) The overall departmental structure of the Council, showing the management structure and deployment of officers, is set out at Part 7 of this Constitution.

2. **Functions of the Head of Paid Service**

- (a) **Discharge of functions by the Council:** 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.
- (b) **Restrictions on functions:** The Head of Paid Service may not be the Monitoring Officer but may hold the post of Section 151 Officer if a qualified accountant.

3. **Functions of the Monitoring Officer**

The Monitoring Officer role is a function of the Shared Head of Corporate services post.

- (a) **Maintaining the Constitution:** The Monitoring Officer will maintain an up-to-date version of this Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- (b) **Ensuring lawfulness and fairness of decision making:** After consulting with the Head of Paid Service and Section 151 Officer, the Monitoring Officer will report to the Full Council [or to the Executive 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. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Contributing to Corporate Management:** The Monitoring Officer will contribute to the corporate management of the authority in particular by acting as the Solicitor to the Council and providing professional legal advice to the Council.
- (d) **Supporting the Standards Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards Committee, will conduct investigations into matters referred by the Assessment Sub Committee or Review Sub Committee and make reports or recommendations in respect of them to the Standards Committee.
- (e) **Receiving reports:** The Monitoring Officer will receive and act on reports made by Ethical Standards Officers of the Standards Board and decisions of the case tribunals.

- (f) **Conducting investigations:** The Monitoring Officer will conduct investigations into matters referred by the Assessment Sub Committee or Review Sub Committee or by Ethical Standards Officers and make reports or recommendations in respect of them to the Standards Committee.
- (g) **Proper officer for access to information:** The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- (h) **Advising whether Executive decisions are within the budget and policy framework and the principles of decision making (set out in Article 13):** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (i) **Providing advice:** The Monitoring 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 Members.
- (j) **Restrictions on posts:** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### 4. **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 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.
- (b) **Administration of financial affairs:** The Section 151 Officer will have responsibility for the administration of the financial affairs of the Council.
- (c) **Contributing to 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 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 Members and will support and advise Members and officers in their respective roles.
- (e) **Give financial information:** The Section 151 Officer will provide financial information to the media, members of the public and the community.

5. **Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer**

The Council will provide the Monitoring Officer and Section 151 Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

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.

7. **Employment**

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