

# Part 2

## Articles of the Constitution



### Article 10: Officers

#### 10.1 Management structure

- (a) The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. All of these officers are shared appointments with West Devon Borough Council.
- (b) For the purposes of the functions described in Article 10.2–10.4 below and the Officer Employment Procedure Rules (in Part 4), the Council designates the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service Returning Officer & Electoral Registration Officer
Head of Strategic Finance	Section 151 Officer (Chief Finance Officer)
Group Manager - Support Services and Customer First (Deputy Chief Executive)	Electoral Registration Officer Deputy Chief Officer
Head of Legal Practice	Monitoring Officer
Group Managers	Deputy Chief Officers

#### 10.2 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 coordinated, 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.

### 10.3 Functions of the Monitoring Officer

- (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) **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.
- (d) **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.
- (e) **Supporting the Overview & Scrutiny Panel in respect of Code of Conduct matters:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct of Members of the Council by providing support to the Panel when required, contributing to the training of Members and the provision of advice for them. The Monitoring Officer will make decisions on standards complaints in accordance with the 'Dealing with Complaints' procedure and Hearing procedure.
- (f) **Conducting investigations into alleged breaches of the Member Code of Conduct:** The Monitoring Officer will arrange for the conduct of investigations into, and take other action upon, matters referred by the Monitoring Officer and/or Overview & Scrutiny Panel. .
- (g) **Advising with the Section 151 Officer whether Executive decisions are within the budget and policy framework and the principles of decision making (set out in Article 11):** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.
- (h) **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.

- (i) **Restrictions on posts:** The Monitoring Officer cannot be the Section 151 Officer or the Head of Paid Service.

#### 10.4 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; or
  - is likely to cause a loss or deficiency; or
  - involve the Council entering 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.
- (f) **Advising with the Monitoring Officer** whether Executive decisions are within the budget and policy framework and the principles of decision making (set out in Article 11): The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

#### 10.5 Duty to provide sufficient resources to the Monitoring Officer and Section 151 Officer

The Council will provide the Head of Paid Service, 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.

#### 10.6 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.

#### 10.7 Employment

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

## 10.8 Senior Leadership Team

The responsibilities of the Senior Leadership Team (SLT) shall be:

- a) to keep under constant review the work of the Council and to accordingly advise the Council;
- b) to assist the Council in the formulation and regular review of the Policy Framework and other policies based on assessed needs and defined objectives through the project management process;
- c) to co-ordinate the efficient implementation of the programmes and policies determined by the Council;
- d) to provide the Council and its Committees (and other bodies) with the views of SLT on all matters of importance affecting the Council.
- e) to request advice as appropriate from the Monitoring Officer and Section 151 Officer
- f) The Senior Leadership Team Comprises:
  - The Chief Executive
  - 4 Directors / Group Leaders

Each member of SLT shall be entitled to give or be called upon to give individual advice to the Council or its Committees on any matter involving his/her own professional knowledge or opinion and on any matter which materially affects the control or administration of any Service, employee, property or equipment under his/her jurisdiction.

## 10.9 Professional Indemnity to Officers

The Council will indemnify all its employees accordance with the resolution by Council and in accordance with and subject to section 111 Local Government Act 1972 and the Local Authorities (Indemnities for Members and Officers) Order 2004 (SI 2004/3082 (or as amended form time to time).