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## Article 10 – Designation of scrutiny officer Constitutional amendments

### Article 10 – Officers

#### 10.1 Management structure

- a) **General.** The council may engage such staff (referred to as officers), as it considers necessary to carry out its functions.
- b) **Chief officers.** The council will engage, on the advice of the head of paid service, persons for the posts designated as chief officers for prescribed service portfolios. The head of paid service will determine and publicise a description of the overall departmental structure of the council showing the management structure and deployment of officers.
- c) **Head of paid service, monitoring officer, and chief finance officer and scrutiny officer.** . The council assembly will designate the following posts as shown:

Post	Designation
Chief executive	Head of paid service
Strategic director of communities, law & governance	Monitoring officer
Finance director	Chief finance officer
<u>Head of overview and scrutiny</u>	<u>Scrutiny officer</u>

Such posts will have the functions described in article 10.02 – 10.04 below.

#### 10.2 Functions of the head of paid service

- a) **Undertaking duties of head of paid service.** The head of paid service shall undertake all duties designated under section 4 of the Local Government and Housing Act 1989. These are personal functions and must be undertaken by the head of paid service personally. Where the head of paid service is also the chief executive he/she may delegate other functions that are not included in section 4.

- b) **Discharge of functions by the council.** The head of paid service will report to council assembly 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.
- c) **Restrictions on functions.** The head of paid service may not be the monitoring officer but may hold the post of finance director if a qualified accountant.

### 10.3 Functions of the monitoring officer

- a) **Legal proceedings.** The monitoring officer is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the council or in any case where he/she considers that such action is necessary to protect the council's interests.
- b) **Maintaining the constitution.** The monitoring officer will maintain an up-to-date version of the constitution and will ensure that it is available for consultation by members, staff and the public.
- c) **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and finance director, the monitoring officer will report to the council assembly (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.
- 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.
- e) **Receiving reports.** The monitoring officer will receive and act on reports made by ethical standards officers and decisions of the case tribunals.
- f) **Conducting investigations.** The monitoring officer will arrange for investigations into matters referred by the Standards Board for England and make reports or recommendations in respect of them to the standards committee.
- g) **Advising whether executive decisions are within the budget and policy framework.** 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, impropriety, probity, and budget and policy framework issues to all councillors and to officers. The monitoring officer shall also provide advice to officers and members in relation to personal and prejudicial interests.

- i) **Appointment of a deputy.** The monitoring officer shall appoint a deputy to act in his/her absence and when the monitoring officer is unable to act as defined in section 5 of the Local Government and Housing Act 1989.
- j) **Restrictions on posts.** The monitoring officer cannot be the finance director or the head of paid service.
- k) **Proper officer for freedom of information.** The monitoring officer will act as the “qualified person” for the purposes of freedom of information requests and application of the public interest tests.

#### 10.4 **Functions of the finance director**

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the head of paid service and the monitoring officer, the finance director will report to the council assembly or to the executive in relation to an executive function and the council’s external auditor if he/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 finance director will have responsibility for the administration of the financial affairs of the council.
- c) **Contributing to corporate management.** The finance director will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The finance director 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 officers in their respective roles.
- e) **Give financial information.** The finance director will provide financial information to the media, members of the public and the community.

#### 10.5 **Functions of the scrutiny officer**

- a) To promote the role of the authority's overview and scrutiny committee or committees.
- b) To provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees.
- c) To provide support and guidance to:
  - members of the authority,
  - members of the executive of the authority, and

- officers of the authority,

in relation to the functions of the authority's overview and scrutiny committee or committees

- d) **Restrictions on functions.** The scrutiny officer may not be the head of paid service, monitoring officer or finance director.

10.6 **Duty to provide sufficient resources to the monitoring officer and finance director**

The council will provide the monitoring officer and director of finance with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.