

# 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.
- (b) The Council will engage persons for the posts as outlined in Part 7 (Management Structure). All of these officers are shared appointments with West Devon Borough Council.
- (c) For the purposes of the functions described in Article 12.2–12.4 below and the Officer Employment Procedure Rules (in Part 4), the Council designates the following posts as shown:

Post	Designation
Executive Director (Communities)	Head of Paid Service
Head of Corporate Services	Returning Officer <u>and Electoral Registration Officer</u>
Head of Finance & Audit	Section 151 Officer
<del>Monitoring Officer</del> <u>Council Solicitor</u>	Monitoring Officer
Executive Director (Resources)	Non-Statutory Chief Officer
Heads of Service	Deputy Chief Officers

Formatted: Line spacing: single

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

### 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 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.

### 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 Corporate Performance and Resources 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 Corporate Performance and Resources Scrutiny Panel and make reports or recommendations in respect of them to the Panel.
- (g) **Advising 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.

#### 10.5 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.

#### 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.