



ANNUAL COUNCIL: 22 MAY 2013

Proposed changes to the Council's Constitution

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	N/A
Is it in the Council's Forward Plan ?	N/A
Is it eligible for "call in" by Scrutiny ?	N/A
Date signed off by <u>Director</u> & name Is it signed off by the Director of Resources? Is it signed off by the Acting Assistant Director - Legal & Governance?	David Smith, Director of Resources Yes Yes - 14 May 2013
Cabinet member portfolio	Resources

Electoral [wards](#) affected: **All**
Ward councillors consulted: **N/A**

Public or private: **Public**

1. Purpose of report

The Annual Council meeting is, as usual, required to review the Constitution in the light of its operation in the current municipal year.

This report sets out all of the proposed changes that have previously been considered by Members, Officers and, where required in accordance with the Constitution, by the Corporate Governance & Audit Committee. The Key Points section below sets out the Constitutional changes proposed in response to issues which have arisen over the past year through practical problems experienced, comments by Members and/or Officers and legislative changes since the last Annual Council meeting. The Key Points also incorporate the recommendations of the Corporate Governance & Audit Committee held on 10 May 2012.

Annual Council is asked to consider and determine whether the proposed amendments to the relevant parts of the Constitution as set out below should be approved. Specific amendments to wordings are shown underlined.

Approval of the amendments referred to in paragraph 14 and approval of some of the proposed amendments referred to in paragraph 15 below are the responsibility of the Executive but details are included here for information. The Leader's approval of these proposed changes will be sought following the Annual Council meeting.

2. Key points

Proposed Changes

Council Procedure Rules

1. 1. Annual Meeting of the Council

- Include additional wording in paragraphs (g) and (l) of CPR 1(1) and insert a new paragraph (1)(m).

(1) **Timing and Business**

ELECTION OF THE EXECUTIVE

- (g) elect the Leader of the Council and determine his/her term of office (as necessary)

Reason – To reflect the change in the law brought into effect by Section 91 of the Local Government Act 2000

CONSTITUTIONAL BUSINESS

- (l) consider any other business set out in the notice convening the meeting

Reason - For clarity

- (m) no other business will be considered at the Annual Meeting other than in exceptional circumstances to be determined by the Mayor in consultation with the Chief Executive

Reason – For the avoidance of doubt

2. 5. Order of Business

- Insert a new paragraph (h) into CPR 5(1) and renumber existing paragraphs (h) to (t) inclusive as necessary

MEMBER MOTIONS

- (h) To consider motions issued under Rule 14, if any, in the order which they have been received by the Assistant Director – Legal, Governance and Monitoring.

Reason - To enable the consideration of member motions submitted under CPR 14 to be brought forward to an earlier stage in the agenda

- Amend paragraph (5) of CPR 5 to read
- (5) Any discussion falling within (p) above shall begin no later than 7:00 pm irrespective of whether the business before it on the agenda has concluded, that other business shall resume once the key discussion issue is complete.

Reason - To allow for greater flexibility in the order in which business is considered at Council meetings

3. **12. Written Questions by Members**

- Include additional wording in paragraph (7) of CPR 12 to read
- (7) The period allowed for written questions at any one meeting shall not exceed 30 minutes. A 3 minute time limit shall apply for individual responses to questions. The same time limit shall also apply to individual responses to supplementary questions, subject in both cases to the Mayor's discretion to increase the time allowed for responses in appropriate circumstances.

Reason - In the interests of the efficient running of Council meetings

- Insert a new paragraph (10) into CPR 12 and renumber existing paragraphs (10) and (11) accordingly
- (10) For the avoidance of doubt a supplementary question may still be asked in circumstances where the responding councillor has elected, pursuant to CPR 12(6)(c), to provide a written answer to a question. The supplementary question shall relate to the same topic as the original question.

Reason – For the avoidance of doubt. To ensure that elected members do not lose the opportunity publicly to hold the Executive to account at Council meetings.

4. **13. Procedure at Council Meetings in Relation to Reports and/or Minutes of Cabinet and Committees**

- Include reference to “committees” and “regional and sub-regional bodies” in paragraph 4 of CPR 13
- (4) *Questions to Chairs of Committees/Sub-Committees/Panels, Lead Members of Standing Scrutiny Panels and Spokespersons of Joint Committees and External Bodies*
- (i) Any Member may ask the Chair of the relevant Committee/Sub-Committee/Panel or the Lead Member of a Standing Scrutiny Panel a question upon any item within the Terms of Reference

of that Committee/Sub-Committee/Panel or Standing Scrutiny Panel (as applicable). Any Member may also ask a question of the relevant spokesperson for any of the Joint Committees or external bodies (including regional and sub-regional bodies) identified in Rule 13(4)(ii).

Reason - For clarity

- Substitute “West Yorkshire Police and Crime Panel” for “West Yorkshire Police Authority” in paragraph 4(ii)(e) of CPR 13

Reason – Legislative change

- Include provision for the Council’s Monitoring Officer to update the list of joint committees and external bodies included within CPR 13(4)(ii), as appropriate.

Reason - To provide flexibility

5. 16. Termination and Adjournment of Meeting

- Insert additional wording into paragraph (1) of CPR 16 to read
- (1) The Mayor, in consultation with the Chief Executive, may adjourn the meeting at any time. Notwithstanding, all meetings of Council shall adjourn at 6:50 pm for 10 minutes unless the Mayor otherwise directs.

Reason - To provide an appropriate comfort break

- Amend paragraph (6) of CPR 16 to read
- (6) Where proceedings are in progress either at 9:00 pm or at a later time (specifically agreed by the Council in accordance with a motion to that effect), the provisions of Rule 24(3) as to recorded votes shall not apply.

Reason - For clarity

6. 35. Appointment of Committees, Sub-Committees and Panels

- Include additional wording in paragraph (7) of CPR 35 to read

Substitute Members

- (7) At the Annual Meeting of the Council a panel of substitute Members will be established, to be available to replace Members of Committees and Sub-Committees (except the Health and Well-being Board, the Overview and Scrutiny Management Committee, the Budget Advisory Board, the Corporate Governance and Audit Committee, the Overview and Scrutiny Panels, Area Committees, the Standards Committee and the Standards Sub-Committee) at each meeting during the municipal year as and when required. The names of those Members included on the panel of

substitutes will be placed on every notice for a relevant Committee, or Sub-Committee meeting.

Reason – For clarity and to reflect current practice

7. 36. Observer Attendance by Councillors at Committees, Sub-Committees or Panels

- Amend paragraphs (1)(b) and (4) of CPR 36 to read
- (1) (b) attend for any item of business in which he or she has a disclosable pecuniary interest as defined in the Council's Code of Conduct for Members and Co-optees ("the Code) unless an appropriate dispensation has been granted by the Council's Monitoring Officer.

Reason – To reflect the legislative changes relating to the declaration of interests brought into effect by the Localism Act 2011

8. 38. Appointment of Chairs and Deputy Chairs of Committees, Sub-Committees and Panels and Appointments to Outside Bodies, etc

- Amend the heading to read "Appointment of Chairs and Deputy Chairs of Committees and Sub-Committees/Panels, Lead Members of Scrutiny Panels and Appointments to Outside Bodies, etc"
 - Include a new paragraph (1)(ii) of CPR 38 as follows and renumber existing paragraphs (1)(ii) and (1)(iii) accordingly
- (1) (ii) appoint the Lead Members of the standing Overview and Scrutiny Panels

Reason – To reflect the provisions of Article 6 of the Constitution

- Amend paragraphs (2), (5), (6), (7), (8) and (9) of CPR 38 to read
- (2) The Council may at any other time appoint the Chairs (and if considered appropriate the Deputy Chairs of Committees) and the Lead Members of Scrutiny Panels, for the remainder of the Municipal Year.
- (5) In the absence of the Chair and Deputy Chair or Lead Member of the Scrutiny Panel, where appropriate, a Chair shall be chosen for the duration of that particular meeting or until the official Chair, Deputy or Lead Member (as recognised by Council) arrives. The Chair, Deputy Chair or Lead Member (as appropriate) will then assume the Chair when the item under discussion at the time of his or her arrival has been dealt with.

- (6) The Chair and Deputy Chair of every Committee and Sub-Committee/Panel and the Lead Member of each Scrutiny Panel shall be a Member of the Council.
- (7) A Member of a Committee, Sub-Committee, or Panel may resign membership and the Chair or Deputy Chair of a Committee, Sub-Committee/Panel or Sub-Group or the Lead Member of a Scrutiny Panel may resign office by giving notice in writing to the Chief Executive. Any such resignation shall take effect on the date of receipt of the notice.
- (8) The removal from office of the Chair or Deputy Chair of a Committee may only be agreed by the Council on the recommendation of the Corporate Governance and Audit Committee. The removal from office of the Chair of the Overview and Scrutiny Management Committee or any Lead Member of a Scrutiny Panel may only be agreed by Council on the recommendation of that Committee. Only the Committee which appointed a Sub-Committee/Panel may remove the Chair or Deputy Chair of that Sub-Committee/Panel from office.
- (9) No Member of the Cabinet may be appointed as Chair of an Appeals Panel, the Licensing and Safety Committee, a Planning Area Sub-Committee or the Overview and Scrutiny Management Committee or as Lead Member of a Scrutiny Panel.

Reason - General updating and to reflect the provisions of Article 6 of the Constitution.

9. 39. Quorum of Committees, Management Boards, Sub-Committees and Panels

- Delete paragraph (8) of CPR 39

Reason - Legislative changes brought into effect by the Localism Act 2011

Articles of the Constitution

10. Article 7 – The Executive

Amendments to this Article are dependent on the outcome of members' consideration of the recommendations set out in paragraph 2.5 of the report included within this agenda at item no. 7

11. Article 12 – Officers

- Substitute the existing Article 12 with the revised version attached as Appendix A to this report

Reason - Housekeeping to reflect changes to director titles and responsibilities and to update the functions and responsibilities of the Council's statutory officers in response to legislative and staffing changes.

12. Article 13 – Decision Making

13.8 Decision making by other committees and sub-committees established by the Council

- Substitute the reference to “Article 13.8” with “Article 13.9” to read

Subject to Article 13.9, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution which apply to them.

Reason - Housekeeping

13. Section G of Part 3 of the Constitution – Advisory Committees/Panels

- Include details of the Membership and Terms of Reference of the Policy Committee as follows:

Policy Committee

Membership

Policy Committee will comprise 11 members on a ratio of 5:3:2:1.

Areas of Business

Policy Committee activity will/can focus on the following areas:

- Development of new policy or reviewing existing policy having regard to the Policy Framework set out in Article 4 of the Constitution
- Executive business outside the Council’s Policy Framework commissioned by Cabinet
- Policy overview/review work as referred by Council or Overview and Scrutiny, not covered by the above arrangements

Meeting and Reporting Arrangements

Policy Committees will be time-limited and recommendations will be reported to Council. Thereafter Council will require the Cabinet, where appropriate, to develop an action plan for implementation. Where the matter of policy is referred by Cabinet the outcomes of Policy Committee work will be reported to Cabinet.

Overview and Scrutiny

Consultation will take place with the Chair of Overview and Scrutiny in respect of the areas of proposed activity in order to avoid duplication across work programmes. Policy Committees and Overview and Scrutiny should not consider the same issue in the same Municipal Year/within 12 months.

Reason - Course of action approved by Council on 5 December 2012 in response to the recommendations of the Constitutional Working Party.

14. Section C of Part 3 of the Constitution – Responsibility for Executive Functions

The Leader of the Council will report further on his proposed changes to the Cabinet Portfolios.

15. Section F of Part 3 of the Constitution – Scheme of Delegation to Officers

The Monitoring Officer will report further on these proposed changes at the Council meeting.

16. Implications for the Council

It is essential that the Council's Constitution is regularly reviewed and updated to ensure that it remains fit for purpose and to enable Council meetings to be conducted in a fair, businesslike and effective manner. It is also essential that the Constitution complies with current legislation. Failure to do so could lead to legal challenges, unnecessary procedural delays and less transparency in the Council's democratic practices.

17. Consultees and their opinions

Various officers in the Legal, Governance and Monitoring Service have been involved in discussions regarding these proposed revisions. Discussions have also taken place with the Deputy Mayor.

The proposed changes in this report were discussed with Leading Members on 30 April 2013. Their comments can be summarised as follows:

- Strong concerns expressed regarding the proposal to bring member motions forward in the Council agenda. Some Group Leaders thought that this could lead to abuse of the system. It was also considered to be unnecessary as CPRs already make provision for the order of business transacted at each Council meeting to be altered in appropriate circumstances.
- Rather than approve the inclusion of the proposed new CPR 12(10), Group Leaders thought that it would be more appropriate to delete CPR 12(6)(c) thereby removing the right for Members to provide written responses to questions. This should ensure that oral responses to all written questions are given in the Council Chamber (other than in exceptional circumstances).
- Include a reference to regional and sub-regional bodies in CPR 4(i)
- Proposed introduction of a 10 minute comfort break was opposed. This was thought to be unnecessary as the Mayor already has the power to adjourn meetings of Council as he/she sees fit.

- CPR 35(7) – substitute panel members should be permitted to replace members of the Corporate Governance and Audit Committee.

The proposed changes in this report have also been considered by members of the Corporate Governance & Audit Committee on 10 May 2013. Their comments can be summarised as follows:

- (a) The proposal to bring member motions forward in the Council agenda was rejected. The Committee considered that there was already sufficient flexibility within the Council Procedure Rules to allow for motions of particular significance or public interest to be moved higher up the agenda.
- (b) Committee agreed with the Group Leaders that, rather than approve the inclusion of the proposed new CPR 12(10), it would be more appropriate to delete CPR 12(6)(c) thereby removing the right for Members to elect to provide written responses to questions. Committee members also agreed that it is important that oral responses to all written questions are given in the Council Chamber wherever possible.
- (c) Committee agreed with the Group Leaders that the proposed introduction of a 10 minute comfort break should be rejected for the reason that the change is unnecessary as the Mayor already has the power to adjourn meetings of Council as he/she sees fit.
- (d) Committee agreed with the proposed change to CPR 35(7) that would permit members of the substitutes panel to replace members of the Corporate Governance and Audit Committee.
- (e) Committee acknowledged that any required amendments to Article 7 were dependent on Council's consideration of the recommendations set out in paragraph 2.5 of the report included within this agenda at item no. 7
- (f) In considering the proposals for the Membership and Terms of Reference of the Policy Committee, the Corporate Governance & Audit Committee had regard to the following comments received from an informal meeting of the Overview and Scrutiny Management Committee held on 9 May 2013:

“Committee concluded that it did not support the creation of Policy Committees, believing the responsibility for the development of policy lay with the Executive and Council. Scrutiny has a role in contributing to its development and where appropriate recommending changes to existing policy.

The Committee also expressed concern about the additional officer resources that would be required to support a new committee.

When looking at the proposed terms of reference the Committee did not support the final paragraph which currently reads:

Overview and Scrutiny

Consultation will take place with the Chair of Overview and Scrutiny in respect of the areas of proposed activity in order to avoid duplication of work programmes. Policy Committees and Overview and Scrutiny should not consider the same issue in the same municipal year within 12 months.

The Committee did not feel it was appropriate to limit the remit of scrutiny within this specific area. Therefore the following amendment was recommended to the final paragraph;

Consultation will take place with the Overview and Scrutiny Management Committee in respect of the areas of proposed activity in order to avoid duplication of work programmes.”

The Corporate Governance & Audit Committee did not share the concerns of Overview and Scrutiny. Members of that Committee considered that the roles of Overview and Scrutiny and the Policy Committee would be separate and distinct, particularly as it is anticipated that Cabinet members will serve on the latter.

Members of the Corporate Governance & Audit Committee also wanted it to be made clear that there should be scope for more than one policy committee to be established and for co-optees to be invited as appropriate.

18. Officer recommendations and reasons

That Annual Council consider the proposed changes to the Constitution (apart from those that relate to executive functions) set out in the Key Points section of this report, having regard to the comments and recommendations of the Corporate Governance and Audit Committee included in paragraph 17 above, and determine which of those proposed changes should be approved. Authority also to be delegated to the Council's Monitoring Officer to make all agreed and consequential amendments to the Constitution.

19. Cabinet portfolio holder recommendation

Not applicable.

20. Next steps

The Council's Constitution will be amended in accordance with the resolution of Annual Council.

21. Contact officer and relevant papers

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Acting Assistant Director – Legal, Governance & Monitoring

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Background Papers:

Report to Corporate Governance and Audit Committee dated 10 May 2013.
Comments from the Overview and Scrutiny Management Committee dated 9 May 2013.

Appendix A

ARTICLE 12 – OFFICERS

12.1 Management Structure

- a. **General.** The council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Appointments will be made in accordance with the Officer Employment Procedure Rules in Part 4 of this Constitution.
- b. **Chief Officers.** The council will engage persons for the following posts, who will be designated chief officers. They will have the responsibilities specified, but will also have the management responsibilities set out in the management structures contained in Part 7 of this Constitution. The details of responsibilities of individual officers may be amended at any time by the Chief Executive.

Post	Functions and areas of responsibility
Chief Executive	<p>Overall corporate management and operational responsibility (and Head of Paid Service) (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 monitoring officer, responsibility for a system of record keeping for all the council's decisions</p> <p>Developing and pursuing shared priorities with local, regional and national parties</p> <p>Member/Officer relations</p> <p>The Chief Executive is also the Returning Officer for local elections and the council's Electoral Registration Officer</p> <p>Kirklees Local Strategic Partnership (together with the Director of Communities, Transformation and Change)</p>
Director of Resources	<p>Strategic financial support to the Executive and Scrutiny, including advice on budgets and issues of probity</p>

and financial accounting (and Chief Finance Officer)

Internal Audit

Financial procedures and internal control

Strategic financial planning and business advice to services

Customer services

Risk Management framework and insurance

Housing Benefits and Revenue Services

Performance management development and reporting

Budget and service planning policies

Powerhouse

Decision making processes

Democratic services to members

Information technology and information management (including appointment as the Council's Senior Information Risk Officer)

Legal Services

Senior Responsible Officer for the Regulation of Investigatory Powers Act 2000

Director for Children and Adults

The postholder is the council's statutory Director of Children's Services and statutory Director of Social Services (Adults), carrying all the responsibilities which those roles entail.

Safeguarding of children and adults including effectiveness of Safeguarding Boards

Management and commissioning of services for children and adults

Partnerships for children and adults

	Youth Offending Team
	Schools, children's centres and lifelong learning
	Health Partnerships and effectiveness of the Health and Well-being Board
	Effectiveness of commissioning across the Council and jointly with Public Health
	Implementation and management of strategies for adults, older people and children
Director for Communities, Transformation and Change	Leadership, management and workforce development
	Human Resources
Development	Learning & Organisational
	Communications and Marketing
	Employee Healthcare
	Payroll & Personnel
	Recruitment/Temp Direct
	Pensions
	Management Information
	Supporting Council activity and decision making using research, data, intelligence
	Area working and local governance
	Consulting and engaging with our communities
	Supporting partnership working and managing key partnerships
	Developing policy responses to the social, economic and political landscape, nationally and regionally
	Supporting and strengthening the voluntary and community sector
	Engaging and building capacity in our communities

	Planning and managing Community Safety, particularly dealing with Anti-Social Behaviour and preventing violent extremism
	Community Cohesion and Integration Museums and Galleries
Development	Sport and Physical Activity
Development	Arts and Creative Economy
	Events, festivals and concerts
	Corporate Improvement Priorities – moved from CE
	Policy support to the Executive and Scrutiny and all political parties – moved from Resources
Director for the Economy, Investment & the Environment	Environment and low carbon
	Asset Management and Corporate Landlord
	Facilities Management
	Schools Catering and Cleaning
	Procurement
	Housing
	Health and Safety
	Highways and Streetscene
	Bereavement Services
	Building Services
	Public Protection
	Capital project review group
	Coordinated sustainable investment strategies
	Regeneration and skills strategies

	Local development framework and land use planning
	Town centre management
	Rural strategies
	Service delivery partnerships
	Transport Strategy
	Economic Strategy
Director of Public Health	The local authority's duties to take steps to improve public health
	Steps to protect the health of the population
	National Child Measurement Programme for those aged 5 and 11 (annual)
	Offer of NHS Health Check assessments for those aged 40-74 in the Council's area (once every 5 years)
	Providing public health advice to NHS CCGs in respect of health improvement and protection for the people of the Council's area.
	Producing an annual report for publication by the authority
	Dental public health
	Research, obtaining and analysing data relating to the health of the local population
	Planning for and responding to emergencies involving a risk to public health
	Emergency Planning
	Co-operating with arrangements for assessing risks posed by violent or sexual offenders

Oversight of clinical governance arrangements

Making representations as responsible authority for public health for the purposes of the Licensing Act 2003

Open access to sexual health services for all persons present in the Council's area

c. **Statutory officers**

The council will designate the following statutory officers as shown below:

Legislation	Statutory Officer	Allocated to
s.4 Local Government & Housing Act 1989	Head of Paid Service	Chief Executive
s.151 Local Government Act 1972	Chief Finance Officer	Director of Resources
s.5 Local Government & Housing Act 1989	Monitoring Officer	Assistant Director – Legal, Governance and Monitoring
s.18 Children's Act 2004	Director of Children's Services	Director for Children and Adults
s.6 Local Authority Social Services Act 1970	Director of Social Services (Adults)	Director for Children and Adults
s.12ZA Local Government Act 2000	Scrutiny Officer	Scrutiny & Governance Manager
s.31 Local Democracy Economic Development & Construction Act 2009		

d. **Proper Officers.** The Council has appointed the Proper Officers listed in the Schedule to this Article.

e. **Structure.** 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. This is set out at Part 7 of this Constitution.

12.2 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 chief finance officer if a qualified accountant.
- c. **Granting political exemptions.** The head of paid service is responsible for assessing applications for and, where appropriate, approving exemptions from political restrictions made by Kirklees Council officers in respect of their own posts, and related matters.

12.3 Functions of the monitoring officer

- a. **Ensuring lawfulness and fairness of decision making.** After consulting with the head of paid service and chief finance officer, the monitoring officer will report to the full Council, or to the Cabinet 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.
- b. **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.
- c. **Receiving reports.** The monitoring officer will receive and act on decisions and reports in respect of complaints regarding a breach of the member code of conduct.
- d. **Assessing complaints and conducting investigations.** The monitoring officer will initially assess all standards complaints and will initiate investigations into those complaints as appropriate (in accordance with the Council's approved arrangements).
- e. **Proper officer for access to information.** The monitoring officer will ensure that decisions (whether relating to Council or executive functions), together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- f. **Advising whether executive decisions are within the budget and policy framework.** The monitoring officer, with other officers, as appropriate, will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.
- g. **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 to all councillors.
- h. **Maintaining the Constitution.** The monitoring officer will maintain an up-to-date version of the Constitution and will ensure that it is widely available for consultation by members, staff and the public.

- i. **Access to meetings & papers.** For these purposes the Monitoring Officer is entitled to have access to all meetings at which Council business is carried out and to all papers relating to such business.
- j. **Restrictions on posts.** The monitoring officer cannot be the chief finance officer or the head of paid service.
- k. **Granting dispensations.** The monitoring officer is responsible for assessing requests for and, where appropriate, granting dispensations to elected members and co-optees of the Council for the purposes of section 33 of the Localism Act 2011.

12.4 Functions of the chief finance officer

- a. **Ensuring lawfulness of expenditure.** After consulting with the head of paid service and the monitoring officer, the chief finance officer will report to the full Council, or to the Cabinet 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 chief finance officer will have responsibility for the administration of the financial affairs of the council.
- c. **Contributing to corporate management.** The chief finance officer will contribute to the corporate management of the council, in particular through the provision of professional financial advice.
- d. **Providing advice.** The chief finance officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework to all councillors and will support and advise councillors and officers in their respective roles.
- e. **Give financial information.** The chief finance officer will provide financial information, as appropriate, or as required by law to the media, members of the public and the community.

12.5 Duty to provide sufficient resources to the monitoring officer and chief finance officer

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

12.6 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.

12.7 Employment

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

SCHEDULE OF PROPER OFFICER APPOINTMENTS

Under the terms of the Local Government Act 1972 (or other statute) a "Proper Officer" has been appointed in relation to certain statutory provisions. Where a reserve is specified they shall act in the absence of the specified Proper Officer.

LOCAL GOVERNMENT ACT 1972

LEGISLATION	BRIEF DETAILS OF RESPONSIBILITY	PROPER OFFICER
Section 83	To witness and receive declarations of acceptance of office by the: Mayor Deputy Mayor Councillors	Chief Executive (Deputy – Council Director) Assistant Director – Legal, Governance & Monitoring Assistant Director – Legal, Governance & Monitoring
Section 84	To accept written notice of resignations from persons holding office as Mayor, Deputy Mayor or Councillor	Chief Executive (Deputy – Assistant Director – Legal, Governance & Monitoring)
Section 88(2)	Convening meeting of the Council to fill casual vacancy in office of Mayor	Assistant Director – Legal, Governance & Monitoring
Section 89 (1)(b)	To accept written notice from two local government electors requiring election to fill casual vacancy on Council	Chief Executive
Section 100B(2)	Exclusion from public inspection of reports (or parts of reports) likely to be taken in absence of public	Assistant Director – Legal, Governance & Monitoring
Section 100B(7)(c)	Making available to the	Assistant Director –

	Press other documents already supplied to Members	Legal, Governance & Monitoring
Section 100C(2)	Making of written summary in lieu of confidential minutes	Assistant Director – Legal, Governance & Monitoring
Section 100D(1)(a)	Compilation of list of background papers to a report	Director responsible for the Service from which the report originated (in the case of a joint report the first-named Director; in the case of a report issued on behalf of all Directors - the Chief Executive)
Section 100D(5)	Identification of the background papers on which a report is based which have been relied on in preparing the report	Director responsible for the Service from which the report originated (in the case of a joint report the first-named Director; in the case of a report issued on behalf of all Directors - the Chief Executive)
Section 100F(2)	Identification of documents not open to inspection by Members under Section 100F(1)	Assistant Director – Legal, Governance & Monitoring
Section 115(2)	Person to whom all officers (and former officers) shall pay monies received by them and due to the local authority	Assistant Director – Customer and Exchequer Service
Section 146(1)(a)	Statutory declarations in relation to securities on change of name of authority	Director of Resources (Deputy – Assistant Director of Finance, Risk & Performance)
Section 151	Officer designated as being responsible for the administration of the financial affairs of the Council	Director of Resources (Deputy - Assistant Director of Finance, Risk & Performance)
Section 191	Receipt of notices from Ordnance Survey in	Geographic Research & Information Team

	relation to ascertaining or locating local authority boundaries	Manager
Section 225(1)	To receive and give receipt for any document required to be formally deposited	Assistant Director – Legal, Governance & Monitoring
Section 229(5)	Certification of photographic copies of documents for use in legal proceedings	Assistant Director – Legal, Governance & Monitoring
Section 234(1) & (2)	<p>The signing of formal notices, orders or other documents made or issued by the Council other than those under seal and other than those specifically delegated to another officer:</p> <p>Any document relating to electoral registration or any Parliamentary or Local Election</p> <p>All documents or categories of document for which provision is not made in relation to any other officer</p> <p>Any document authorising the payment or receipt of any sum of money</p> <p>The granting or refusal of planning permission, and other documents or notices relating to building control or planning (other than enforcement and stop notices)</p> <p>Any document relating to housing including notices pursuant to relevant statutory provisions</p>	<p>Chief Executive</p> <p>Assistant Director – Legal, Governance & Monitoring</p> <p>Assistant Director – Customer and Exchequer Service</p> <p>Director of Economy, Skills and the Environment</p> <p>(Deputy - Assistant Director of Investment and Regeneration)</p> <p>Assistant Director – Streetscene & Housing (Deputy – Head of Housing Services)</p>

	<p>Any document relating to environmental or public health including notices pursuant to relevant statutory provisions</p> <p>Any document relating to a matter which is, or is likely to be, legally contentious or any statutory notice (including enforcement or stop notices) where specific provision is not made elsewhere in the delegation scheme</p> <p>Any document of a category not specifically referred to above</p>	<p>Head of Environmental Health</p> <p>Assistant Director – Legal, Governance & Monitoring</p> <p>The Director responsible for the Service in question, or in default, the Assistant Director – Legal, Governance & Monitoring</p>
Section 236(9)	Duty to send copies of all byelaws made by the Council to parish and community councils to which they apply	Assistant Director – Legal, Governance & Monitoring
Section 238	Certifying printed copies of byelaws	Assistant Director – Legal, Governance & Monitoring
Section 248 – Local Government Act 1972	Duty to keep a Roll of the Freemen of the Borough	Chief Executive
Schedule 12 para 4(2)(b)	<p>Issue of service of summons to all meetings of Council except for Full Council and Annual Council</p> <p>Issue of service of summons to meetings of Full Council and Annual Council</p>	<p>Assistant Director – Legal, Governance & Monitoring</p> <p>Chief Executive</p>
Schedule 12 para 4(3)	Receipt of formal notification from	Assistant Director – Legal, Governance &

	councillors of alternative address for the service of summonses to attend meetings of Council	Monitoring
Schedule 14 para 25(7)	Certification of copy resolutions under para 25 of Schedule 14 of the Local Government Act 1972	Assistant Director – Legal, Governance & Monitoring

REPRESENTATION OF THE PEOPLE ACT 1983

Section 8	To act as Registration Officer for the registration of Parliamentary and Local Government Electors	Chief Executive (Deputy – Electoral Services Manager)
Section 28	To act as Acting Returning Officer at Parliamentary Elections	Chief Executive (Deputy – Electoral Services Manager)
Section 35	To act as Returning Officer for the election of councillors of the district and for the election of councillors of parishes within the district	Chief Executive (Deputy – Electoral Services Manager)

BUILDING ACT 1984

Section 35A	To certify that evidence is sufficient to justify legal proceedings and the date on which the evidence was considered sufficient	Head of Building Control & Licensing
Section 78	To take emergency action in relation to dangerous buildings and structures	Head of Building Control & Licensing

LOCAL GOVERNMENT FINANCE ACT 1988

Section 114	Duty to make a public report in cases of actual or anticipated financial misconduct	Director of Resources
Section 116	Notification to auditor of date, time and place of meeting to consider Section 114 report and of decision made at	Director of Resources

	such meeting	
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LOCAL GOVERNMENT AND HOUSING ACT 1989

Section 2(4)	Officer with whom the list of politically restricted posts shall be deposited	Assistant Director – Support Services
Section 4	Head of Paid Service	Chief Executive
Section 5	Monitoring Officer	Assistant Director – Legal, Governance and Monitoring
Section 15, 16 and 17	To undertake all matters relating to the formal establishment of political groups within the membership of the Council	Head of Governance and Democratic Services

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Section 41	Certifying copy resolutions, orders, reports and minutes and copy instruments appointing officers to perform certain functions	Assistant Director – Legal, Governance and Monitoring
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HOUSING ACT 2004

Section 4	Receive complaints about the condition of residential premises and to carry out inspections of the premises or area	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)
Section 239(2) and (3)	To enter premises for the purpose of carrying out a survey or examination	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)
Section 249	To certify copies of designations under Sections 56 and 80 which purport to be made by the local housing authority	Assistant Director – Streetscene & Housing (Deputy – Head of Housing)

HIGHWAYS ACT 1980

Section 37	Officer with whom a certificate or copy order relating to the dedication of highways maintainable at the public expense shall be	Head of Strategy and Design – Investment and Regeneration
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	deposited	
Section 205	Officer responsible for preparing the specification, plans, sections, estimate and provisional apportionment of expenses relating to street works in private streets	Head of Strategy and Design – Investment and Regeneration
Section 210	To certify proposed amendments to estimates and provisional appointments relating to street works in private streets	Head of Strategy and Design – Investment and Regeneration
Section 212	Officer responsible for determining the final appointment of expenses relating to street works in private streets	Head of Strategy and Design – Investment and Regeneration
Section 216	Officer responsible for settling the proportion of expenses to be paid by owners (other than railway and canal undertakers) within the final apportionment under the private street works code	Head of Strategy and Design – Investment and Regeneration
Section 295	Service of notice requiring owners of premises within a street to remove materials	Head of Strategy and Design – Investment and Regeneration

**LOCAL GOVERNMENT ACT 2000
SECTIONS 9G, 9GA AND 105 – ACCESS TO INFORMATION ETC
LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND
ACCESS TO INFORMATION (ENGLAND) REGULATIONS 2012**

Regulation 7	Exclusion of whole or part of any report to the executive where meeting is likely not to be open to the public	Assistant Director – Legal, Governance & Monitoring
Regulation 10	Informing the Chair of Overview and Scrutiny Committee, by notice in writing, of a key decision to be made where publication of the intention to make a key	Head of Governance & Democratic Services

	decision under Regulation 9 is impracticable	
Regulation 12	Producing a written statement of executive decisions made at meetings	Head of Governance & Democratic Services
Regulation 13	Producing a written statement of executive decisions made by individual members	Head of Governance & Democratic Services
Regulation 14	Ensuring that copies of records of executive decisions made and reports considered are made available for public inspection at the Council's offices and on the website	Assistant Director – Legal, Governance & Monitoring
Regulation 15	Making available for public inspection, at the Council's offices and on the website, a list of background papers and a copy of each of the documents in that list	Assistant Director – Legal, Governance & Monitoring
Regulation 16(5)	Determining whether documents contain exempt information	Assistant Director – Legal, Governance & Monitoring
Regulation 16(7)	Determining whether compliance with the duty to make documents available for inspection by members will involve the disclosure of advice provided by a political adviser or assistant	Assistant Director – Legal, Governance & Monitoring
Regulation 20(2)(a)	Determining whether documents to be disclosed or made available for public inspection contain confidential information	Assistant Director – Legal, Governance & Monitoring
Regulation 20(2)(b)	Determining whether documents to be disclosed or made available for public inspection are likely to contain exempt information or the advice of a political adviser or assistant	Assistant Director – Legal, Governance & Monitoring

LOCALISM ACT 2011

Section 28(6)	Receiving and dealing with complaints regarding member conduct	Assistant Director – Legal, Governance & Monitoring
Section 33	Granting dispensations to relieve members and co-optees from the restrictions in section 31(4)	Assistant Director – Legal, Governance & Monitoring

PUBLIC HEALTH ACT 1925

Section 8	Receipt of notice in writing of appeal and grounds of appeal to petty sessional court against a notice, direction, requirement, order or intended order	Assistant Director – Legal, Governance & Monitoring
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PUBLIC HEALTH ACT 1936

Section 79	Service of notice on owner or occupier of premises requiring removal of noxious matter	Head of Environmental Health
Section 84	Certification in relation to the cleansing or destruction of filthy or verminous articles	Head of Environmental Health
Section 85	Providing reports that persons and/or their clothing are verminous	Head of Environmental Health
Section 284	Authentication of documents	Assistant Director – Legal, Governance & Monitoring
Section 285	Accepting service on behalf of the local authority of notices, orders, consents, demands or other documents	Head of Environmental Health

PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984

Section 48	Certifying to a justice of the peace that the retention of a dead body in any premises would endanger the health of	Head of Environmental Health
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	inmates of that building or an adjoining or neighbouring property	
Section 60	Accepting service on behalf of the local authority of notices, orders and other documents	Head of Environmental Health

**PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984
HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010**

Regulation 2	Officer to be notified of suspected disease, infection or contamination in patients	Consultant in Communicable Diseases
Regulation 3	Officer to be notified of suspected disease, infection or contamination in dead persons	Consultant in Communicable Diseases
Regulation 6	Duty to disclose notification to others eg. Health Protection Agency	Consultant in Communicable Diseases

**LOCAL GOVERNMENT ACT 2000
LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS) (ENGLAND)
REGULATIONS 2011**

Regulation 4(1)	Publication of verification number of local government electors for determining validity of petitions	Chief Executive
Regulation 4(5)	Power to require Electoral Registration Officer to provide information relevant to the verification number	Electoral Services Manager
Regulation 7(2)	Notifying post-announcement petition organiser of information	Chief Executive
Regulation 8(2)	Decisions to amalgamate petitions	Chief Executive
Regulation 8(3)	Decisions that petitions shall not be amalgamated	Chief Executive
Regulation 11	Responsibility for procedural requirements on receipt of petitions	Chief Executive
Regulation 13	Notifying petition	Chief Executive

	organiser of validity of petition and that referendum will be held	
Regulation 14	Notifying petition organiser that petition is invalid and reasons	Chief Executive

**LOCAL GOVERNMENT ACT 2000
LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND)
REGULATIONS 2012**

Regulation 4(1)	Responsibility for publishing information and notices relating to the holding of a referendum	Chief Executive
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**TOWN AND COUNTRY PLANNING ACT 1990
PLANNING AND COMPULSORY PURCHASE ACT 2004
NEIGHBOURHOOD PLANNING (REFERENDUMS) REGULATIONS 2012**

Regulation 4(1)	Responsibility for ensuring that information is made available in relation to referendums	Chief Executive
Regulation 10	Determining publicity arrangements for cross-boundary referendum areas	Chief Executive

**REPRESENTATION OF THE PEOPLE ACT 1983
LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES)
RULES 2006**

Rule 50	Officer to be notified by Returning Officer of declaration of result	Head of Governance and Democratic Services
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**TRANSPORT ACT 2000
BUS LANE CONTRAVENTIONS (PENALTY CHARGES, ADJUDICATION
AND ENFORCEMENT) (ENGLAND) REGULATIONS 2005**

Regulation 11(1)(c)	Proper Officer for the purposes of the 2005 Regulations	Head of Strategy and Design – Investment and Regeneration
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FREEDOM OF INFORMATION ACT 2000

Section 36	Application of Exemption from disclosure	Assistant Director – Legal, Governance & Monitoring
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**LOCAL GOVERNMENT AND HOUSING ACT 1989
 LOCAL GOVERNMENT ACT 1992
 LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND)
 REGULATIONS 2001**

Schedule 1 Part II	Notifications to the Executive concerning appointments and dismissals	Assistant Director – Support Services
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REGULATION OF INVESTIGATORY POWERS ACT 2000

Sections 27, 28 and 29	Senior Responsible Officer for the purposes of RIPA (Officers empowered to authorise surveillance are specified in the Council's RIPA Policy)	Director of Resources
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ANTI – SOCIAL BEHAVIOUR ACT 2003

Part 1A	Premise Closure Orders	Assistant Director – Legal, Governance & Monitoring
Section 40	Closure of noisy premises	Chief Executive