

SECTION 11 OFFICERS

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CHAPTER 11.1 – OFFICERS – GENERAL PRINCIPLES

11.1.1 Terminology

The use of the word "Officers" means all employees and staff engaged by the Council to carry out its functions and also covers those engaged under short term, agency or other non employed situations.

11.1.2 Management Structure

Details of the Council's management structure are set out in Chapter 1.3.

11.1.2.1

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Director Children's Services	Director of Children's Services
Director Adult Services	Director of Adult Social Services
Director Resources and Assets	Chief Finance Officer
Assistant Director Governance	Monitoring Officer

In their absence, the following Officers are entitled to carry out the functions of those Officers:-

Post	Nominated Deputy(ies)
Chief Finance Officer	Assistant Director Finance
Director of Adult Social Services	Relevant Officer from Adult Services Leadership Team
Director of Children's Services	Relevant Officer from Children's Services Leadership Team
Head of Paid Service	Relevant Director
Monitoring Officer	As designated by the Monitoring Officer

Such posts will have the functions described below.

11.1.2.2

The Head of Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of Officers. This is set out in Chapter 1.3 of this Constitution.

11.1.3 Functions of the Head of Paid Service

- a) **Discharge of functions by the Council.** Overall corporate management and operational responsibility (including overall management responsibility for all 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.

11.1.4 Functions of the Monitoring Officer

- a) **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.
- b) **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 Council or to the Executive in relation to any 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) **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.
- d) **Proper Officer for access to information.** The Monitoring Officer will ensure that Executive decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- e) **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.
- f) **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 Councillors.
- g) **Restrictions on posts.** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

11.1.5 Functions of the Chief Finance Officer

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the 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 Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

- c) **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 issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- d) **Overview of work of Internal Audit.** In order to ensure that the Chief Finance Officer's statutory duties are discharged effectively, he/she will have direct input into the programme of work of Internal Audit and advise the Audit Committee of his/her opinion if the programme, quantity and quality of staff is inadequate to undertake the relevant audits.
- e) The Chief Finance Officer can enact urgent Value for Money decisions that ensure the effective financial and service operations of the Council, in consultation with the Leader, or in his/her absence, the Deputy Leader.

11.1.6 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.

11.1.7 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol on Member/Officer Relations set out in Chapters [11.4](#) and 9.3 of this Constitution.

11.1.8 Employment

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Rules and Delegated Powers relating to staffing matters set out in [Chapters 11.3](#), [11.5](#) and [11.6](#) of this Constitution.

11.1.9 Appointment of Political Assistants

11.1.9.1

Political Assistants may be appointed from time to time in accordance with the wishes of a political group qualifying in terms of Section 9 of the Local Government and Housing Act 1989.

11.1.9.2

No appointment shall be made to any post allocated to a political group until the Council has allocated a post to each of the political groups that so qualify.

11.1.9.3

No such post shall be allocated to a political group which does not qualify in terms of Section 9 of the aforementioned Act.

11.1.9.4

Not more than one such post shall be allocated to any one political group.

CHAPTER 11.2 – RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

These functions are so named because the Council can decide whether the Executive should or should not be the decision making body. The Council has therefore allocated these functions as follows:

Function	Executive or Non-Executive	Delegated to
Any function under a local Act other than a function specified or referred to in regulation 2 of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England)(Amendment) Regulations 2001	Non-executive	Chief Executive
The determination of an appeal against any decision made by or on behalf of the authority	Non-executive	Licensing and Appeals Committee
The Licensing Authority's fee setting functions as set out in the Gambling Act 2005	Non-executive	Licensing and Appeals Committee
The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to the 1998 Act (appeals against exclusion of pupils)	Non-executive	Chief Executive
The making of arrangements pursuant to section 94(1) and (4) of, and Schedule 24 to the 1998 Act (admission appeals)	Non-executive	Chief Executive
The making of arrangements pursuant to section 95(2) of, and Schedule 25 to the 1998 Act (children to whom section 87 applies; appeals by governing bodies)	Non-executive	Chief Executive
The making of arrangements under Section 20 (questions on police matters at council meetings) of the Police Act 1996 for enabling questions to be put on the discharge of the functions of a police authority	Non-executive	Chief Executive
The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996	Non-executive	Chief Executive
Any function relating to contaminated land.	Non-executive	Director Place and Growth
The discharge of any function relating to the control of pollution or the management of air quality.	Non-executive	Director Place and Growth
The service of an abatement notice in respect of a statutory nuisance.	Non-executive	Director Place and Growth
The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	Executive	Executive

The inspection of the authority's area to detect any statutory nuisance.	Non-executive	Director Place and Growth
The investigation of any complaint as to the existence of a statutory nuisance.	Non-executive	Director Place and Growth
The obtaining of any information under section 330 of the Town and Country Planning Act 1990 as to interests in land.	Non-executive	Director Place and Growth / Head of Legal
The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976.	Non-executive	All Directors
The making of agreements for the execution of highways works	Non-executive	Director Place and Growth
The appointment of any individual – a) to an office other than an office in which he is employed by the authority b) to any body other than – i) the authority; ii) a joint Committee of two or more authorities; or c) to any Committee or sub- Committee of such a body d) to a body or committee of two or more partners of the Wokingham Borough Strategic Partnership and the revocation of any such appointment.	Executive	Executive
The making of agreements with other local authorities for the placing of staff at the disposal of those other authorities.	Non-executive	Chief Executive
The authorisation of another local authority or officer(s) of another local authority under Section 101 of the Local Government Act 1972 to discharge any functions of Wokingham Borough Council which have been delegated to Directors or Monitoring Officer	Non-executive	Any Director or the Monitoring Officer

CHAPTER 11.3 - SCHEME OF DELEGATION TO OFFICERS

11.3.1 Introduction

The following section sets out the extent to which the functions and duties of the Council are delegated to the Council's Officers to carry out, the conditions and principles by which such authority will be exercised and limitations to it.

The Scheme is divided into the following sections:

- a) Proper Officer functions – functions of the Council required to be assigned to named Officers under Statute;
- b) Service specific delegations, set out by Director.

The delegations in this Scheme include the discharge of both Executive and Non-Executive functions. Non-Executive functions cannot be taken by the decision-making Executive of the Council. A list of Non-Executive functions is set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

The delegations set out in this Chapter apply to those functions which have not, by virtue of the Constitution or any other instrument, been reserved to Council, Executive or any committee / sub-committee thereof. Any functions which are not specifically discharged by Council, Executive or delegated to a committee / sub-committee are delegated to officers.

11.3.2 Principles and Conditions

The following principles and conditions shall apply where Officers exercise delegated powers:-

Any exercise of delegated powers shall comply with:

- a) any statutory restrictions;
- b) any relevant Act of Parliament as set out in [Appendix A](#). Any reference to any Act of Parliament shall be deemed to include any act, statutory instrument or regulation by which it is applied, extended, amended, consolidated or replaced;
- c) the Council's Budget and Policy Framework which includes the approved Budget;
- d) Council Rules of Procedure as set out in Chapter 4.2 of this Constitution;
- e) Financial Regulations and Procurement and Contract Rules of Procedures as set out in Chapters 12 and 13 of this Constitution;
- f) Policies and Plans approved by Full Council or the Executive in conjunction with the Council's strategic partners;
- g) Codes and Protocols; and
- h) The Officer Code of Conduct set out in [Chapter 11.4](#) of this Constitution.

Delegated powers shall be exercised within the Council's policy guidelines and the appropriate budget provision having regard to economy, efficiency, and effectiveness, ensuring compliance with the Council's objectives as set out in its Policy Framework, the highest standards of customer care and giving due consideration to the environmental implications and human rights implications of any decision taken.

Officers shall not exercise delegated powers in any case where a departure from current policy is likely to be involved, where the decision is a Key Decision as defined in Chapter 1.4 or where it is reserved to the Council or a Committee/Sub-Committee of the Council. Officers shall have the discretion not to exercise their delegated powers but to refer the matter to the Executive, Council or Committee/Sub-Committee of the Council.

Functions delegated by reference to job titles or posts which have changed will continue to be exercised by Officers whose duties include or most closely correspond to the duties of the post originally referred to.

11.3.2.1 Consultation

In exercising delegated powers, Officers shall consult other Officers as appropriate and shall have regard to any advice given. Consultation in areas of financial, legal, personnel, property and public relations will be of paramount importance, as will consultation with the Council's strategic partners.

Officers shall liaise with the relevant Executive Member on executive functions and the Chairmen of the Planning Committee, Licensing and Appeals Committee or Personnel Board, as appropriate, before exercising delegated powers in respect of matters which are likely to be regarded as politically sensitive or contentious.

Officers shall inform the local Ward Member(s) when they exercise any delegated powers affecting a particular Ward in respect of a matter which is likely to be regarded as politically sensitive or contentious.

The exercise of a power by an Officer which requires consultation with other Officers shall be dependent upon agreement being reached otherwise the matter shall be referred to the Chief Executive for determination or, if he/she considers it necessary, for reference to the Executive for consideration.

11.3.2.2 Delegations

The scheme sets out delegations to each Director, and where appropriate further delegations to other named Officers. Directors may arrange for other Officers under their control to exercise some or all of their powers, subject to:

- a) such arrangements being clearly set out within written section procedures;
- b) accountability for the actions of subordinate Officers remaining with the Director.

Any delegation to a Director or other Officer may be exercised by the Chief Executive.

11.3.3 PROPER OFFICER FUNCTIONS

11.3.3.1 Local Government Act 1972 and Any Other Amending Legislation

The following Officers have been appointed Proper Officer for the purposes of the undermentioned provisions of the Local Government Act 1972 and any other amending legislation:

Responsibility	Exercised by:	Section(s)
Registration of Local Land Charges	Head Customer Excellence	212(1) (2)
Deposit of Documents	Head of Legal Services	225(1)
Certification of photocopies of documents	Head of Legal Services	229(5)
Authentication of Documents	Chief Executive, Head of Legal Services or any solicitor, or barrister employed by the Council	234(1) (2)
Sending Bye-laws to Parishes and Town councils	Head of Legal Services	236 (9) (10)
Certification of Bye-laws	Head of Legal Services	238
Signature of summonses to Council meetings	Chief Executive	Sch. 12 Para. 4(2)(b)
Receipt of notices of addresses for summonses to Council meetings	Chief Executive	Sch. 12 para 4(3)
Functions with respect to Ordnance Survey	Director Place and Growth	191 as amended
Receipt of money due from Officers	Director Resources and Assets	115(2)
Declarations and certificates with regard to securities	Director Resources and Assets	146(1) (a) and (b)
Witness and receipt of declarations of acceptance of office	Chief Executive or Assistant Director Governance	83 (1) to (4)
Receipt of declaration of resignation from Office	Chief Executive or Assistant Director Governance	84
Convening a meeting of Council to fill casual vacancy in office of Mayor	Chief Executive or Assistant Director Governance	88(2)
Receipt of notice of casual vacancy from two local Government electors	Assistant Director Governance	89 (1)(b)
Receipt of notices of Disclosable Pecuniary Interests or any relevant Personal Interests.	Assistant Director Governance	S29-34 of the Localism Act 2011
Keeping records of Disclosable Pecuniary interests	Assistant Director Governance	S30(3) of the Localism Act

Granting of dispensations under the Localism Act 2011	Assistant Director Governance	S33 of the Localism Act
Circulation of reports and agendas	Assistant Director Governance	100B(2)
Supply of papers to the press	Assistant Director Governance	100B(7)
Summaries of Minutes	Assistant Director Governance	100C(2)
Members' right to papers	Assistant Director Governance	100F
Officer responsible for identifying background papers and compiling lists of such documents	Assistant Director Governance	100d(1) (a) and (5)(a)
Certification of Resolutions under paragraph 25 of Schedule 14	Chief Executive	Sch. 14 Para. 25(7)
Making arrangements for the proper administration of the Council's financial affairs	Director Resources and Assets	151

11.3.3.2 Other Legislation

The following Officers have been appointed Proper Officer under the terms of the following legislation:

Representation of the People Act 1983

a) Electoral Registration Officer

For the purposes of Section 8 of the Act, the Officer responsible for the compilation and maintenance of the Register of Electors and the discharge of duties contained in Parts V and VI of the Representation of the People (England and Wales) Regulations 2001;

Assistant Director Governance

b) Acting Returning Officer

For the purposes of Section 24, the Officer responsible for the discharge of the Returning Officer's functions as Acting Returning Officer;

Assistant Director Governance

c) Returning Officer

For the purposes of Section 35 of the Act, the Officer responsible for the discharge of functions of Returning Officer at an election of Borough and Town/Parish Councillors and any other relevant elections or referendums;

Assistant Director Governance

d) Emergency Re-designation of Polling Places

Emergency powers to re-designate a polling place if there is an unplanned event which makes the polling place unusable, within the period between close of nominations and polling day;

Assistant Director Governance, in consultation with the lead Executive Member and the Ward Member(s) (unless the Member is a candidate in that ward in the forthcoming election)

e) Neighbourhood Planning (Referendums)

The officer responsible for the discharge of functions of Counting officer at a Neighbourhood Plan Referendum.

Assistant Director Governance

Local Government Finance Act 1988

For the purposes of Section 114, the Officer who shall make a report on any decision or proposed decision which would incur expenditure which is unlawful

Director Resources and Assets

For the purposes of Section 116(3), the Officer who shall notify the auditor of the date, time and place of any meeting of the authority to consider a report under Section 114

Director Resources and Assets

Local Government and Housing Act 1989

For the purposes of Section 2(4), the Officer with whom the list of politically restricted postholders under Section 2(2) of the Act shall be deposited

Chief Executive

Local Government (Committees and Political Groups) Regulations 1990

The Officer who shall receive notices relating to the establishment and membership of political groups and the wishes of those groups with regard to the filling of committee seats allocated to them

Lead Specialist, Democratic and Electoral Services.

11.3.3.3 Miscellaneous

- | | |
|---|--|
| 1. Any reference to an Officer which may be interpreted as reference to the Proper Officer of the Council in any Act, Statutory Instrument or local statutory provision passed before 26 October 1972 (other than the Local Government Act 1972). | Chief Executive |
| 2. Any similar reference to 1 above which refers to the Public Health Inspector. | Director Place and Growth |
| 3. Any similar reference to 1 above which refers to the Surveyor. | Director Place and Growth |
| 4. Any similar reference to 1 above which refers to the Treasurer or Chief Finance Officer. | Director, Resources and Assets |
| 5. Any reference in Rules of Procedure, not dealt with in this document. | Chief Executive |
| 6. In relation to Adult Social Services matters. | Director, Adult Services |
| 7. In relation to Children's Services matters. | Director, Children's Services |
| 8. Alternative Proper Officer to act in the absence of the Proper Officer(s) and where urgent action is necessary. | a) in the absence of the Chief Executive, the relevant Director

b) in the absence of the relevant Director, the Chief Executive |

11.3.3.4 General Data Protection Regulation

To act as the Council's Data Protection Officer

**Assistant
Director
Governance**

11.3.4 Chief Executive

11.3.4.1

To carry out the functions of the Council as set out in [Chapter 11.1](#).

11.3.4.2.

To amend the Scheme of Delegation to Officers to enable Directors to authorise Council Officers to carry out duties in pursuance of new legislation, such power not to be exercised to carry out functions not in accordance with Council policy. Any amendments to be subsequently reported to the Council.

11.3.4.3

Under Section 92 of the Local Government Act 2000, power to make payments or provide other benefits in cases of maladministration etc.

11.3.4.4

Ensuring compliance with the Health and Safety at Work legislation so far as it affects Council employees.

11.3.4.5

Approval of virements in accordance with the Financial Regulations as set out in Chapter 12.1.

11.3.4.6

The appointment on an interim basis of a Director who is not a statutory chief officer as an interim appointment and for a period not exceeding 12 months, pending permanent replacement.

11.3.4.7

The Chief Executive is authorised to exercise or further delegate to a named Officer the Council's functions, powers or duties related to the following areas:

- a) Human Resources, including organisational development and health and safety;
- b) Communications and marketing;
- c) Informational Management Technology – IT management, web design and digital strategy.

11.3.5 All Directors

11.3.5.1

Expenditure of a routine and recurring nature which is provided for in the current year's estimates.

11.3.5.2

Virement between budgets within the limits set out in the Financial Regulations Chapter 12.1.

11.3.5.3

Incurring expenditure not within the current year's estimates arising from an emergency as defined in the Civil Contingencies Act 2004 and any Regulations made thereunder or any local emergency that requires the activation of the Council's 'gold' team.

11.3.5.4

Acceptance of tenders and quotations subject to compliance with the Procurement and Contract Rules and Procedures set out in Chapter 13, and the ongoing management of contracts.

11.3.5.5

Making such visits on Council business and participating in inter-agency and other partnership working as are necessary.

11.3.5.6

Purchase, hire and sale of vehicles, plant, equipment and materials, in accordance with the Financial Regulations as set out in Chapter 12.1.

11.3.5.7

Issue of public advertisements for contractors in accordance with the Procurement and Contract Rules and Procedures set out in Chapter 13.

11.3.5.8

Service of Requisitions for Information under various enactments relative to the functions of the service concerned.

11.3.5.9

Making arrangements for the safety and security of all Council owned buildings within the purview of his/her service in accordance with the requirements of legislation and for insurance purposes, where relevant, having regard to the advice of the police.

11.3.5.10

Release of Section 106 funds in accordance with the Financial Regulations as set out in Chapter 12.1.

11.3.5.11

To respond to petitions in accordance with the Council's agreed Petition Protocol as set out in Chapter 3.5.

11.3.5.12

To safeguard the consistency and integrity of the Council's electronic public interface by providing editorial management and regulation of the web site.

11.3.5.13

To safeguard the consistency and integrity of the Council's internal electronic communications and information sharing by providing editorial management and regulation of the Intranet.

11.3.5.14

To authorise the right of entry onto land by contractors representing the Authority to carry out works and to seek appropriate recharge of costs.

11.3.5.15

To make service information and personal data available to Members, staff and the public within the provisions of the Data Protection Act (and the General Data Protection Regulations)

11.3.5.16

To comply with the Freedom of Information Act by making information available to Members, staff and the public within the provisions of the Act.

11.3.5.17

Approval of attendance by Members at conferences, seminars and training.

11.3.5.18

To exercise the delegated powers as set out in the Human Resources Schedule of Delegated Powers [Chapter 11.6](#).

11.3.5.19

To undertake the actions required by the Financial Regulations (see Chapter 12.1) which are necessary to assist the Chief Finance Officer in the sound management of the Council's financial affairs.

11.3.5.20

To waive Fees and Charges in accordance with the Financial Regulations as set out in Chapter 12.1.

11.3.5.21

To approve requests for purchase orders or payments in accordance with the Financial Regulations as set out in Chapter 12.1.

11.3.5.22

To take action to promote the health and welfare of young people across the Borough.

11.3.5.23

To authorise disposal of assets or write off of items, in accordance with the Financial Regulations as set out in Chapter 12.1.

11.3.5.24

To obtain specialist advice, if required. The Estates Unit Manager to be consulted on any transaction where there may be strategic asset management implications.

11.3.5.25

To make ex gratia payments in respect of claims against the Council for damage or injury, subject to the limits in the budget.

11.3.6 Director, Resources and Assets

To exercise the functions of the Chief Finance Officer as set out in [Chapter 11.1](#).

The Director Resources and Assets is authorised to exercise or further delegate to a named Officer the Council's functions, powers or duties related to the following areas:

- a) Income collection, revenues and Benefit assessments, including:

- i) action to cover arrears relating to Council Tax and National Non-Domestic Rates;
 - ii) the administration of any benefit schemes adopted by the Council, including the exercise of the discretions permitted;
 - iii) approving the write-off of irrecoverable Council Tax and NNDR debts and Housing Benefit and Council Tax Benefit overpayments in accordance with the Financial Regulations as set out in Chapter 12.1;
 - iv) the administration of debtor control and collection.
- b) Treasury Management, in accordance with the Council's policy statement, Treasury Management Practices and CIPFA's Standard of Professional Practice on Treasury Management;
- c) Effecting of all necessary insurances and settlement of claims arising therefrom;
- d) Procurement
- e) Commercial Property, including:
- i) the granting and taking of leases or licences and renewals and surrenders of up to 20 years of commercial, operational (service) and non-operational property;
 - ii) approval of Community Asset Transfers under leases of between 14-30 years following consultation with the Executive Member with responsibility for Business and Economic Development, the Executive Member with responsibility for the relevant service area and local Ward Members;
 - iii) making or granting or easements, wayleaves, and revocable licences;
 - iv) disposing of freeholds or leaseholds of small parcels of land required by statutory undertakers for their operation purposes (eg sub station sites);
 - v) in consultation with any barrister or solicitor acting on behalf of the Council taking action on breaches of lease covenants including arrears of rent;
 - vi) maintaining an Asset Register of all properties owned by the Council, for all fixed assets valued in excess of £10,000, and to ensure that assets are valued in accordance with best practice arrangements.
- f) Emergency planning;
- g) Management of the Council's sport and leisure facilities and parks and oversight of any contract with an external partner for the provisions of such facilities;
- h) Payments including ensuring a robust purchasing and payments process for Council suppliers.

- i) Authority (jointly with Director Adult Services) to add and remove services within Optalis during the term of the contract provided that in each case, up to the total value of £500k;
 - i. The budget for the costs of the services has already been approved as part of the agreed Council Budget;
 - ii. The business case has been approved by both Directors;
 - iii. The Executive Member with responsibility for Adult Services and the Executive Member with responsibility for Finance, have been consulted.

- j) in consultation with the Lead Member for Finance and the Lead Member for Leisure, to approve reductions, discounts and/or promotions for fees and charges within Sports and Leisure, up to £100 per fee or charge.

11.3.6.1 Further delegation to the Head of Legal Services

- a) institute, defend, lay information, negotiate and settle any dispute decision or any proceedings by or against the Council including taking any necessary steps in connection with such dispute decision or proceedings;
- b) instructing and obtaining the opinion of Counsel and external legal advice;
- c) the formation, negotiation and settlement of any agreement with any party that binds the Council to an obligation.

11.3.6.2 Delivery of Joint Procurements through the Director of Public Health

11.3.6.2.1

To arrange for the delivery of joint procurement with the other Berkshire Unitary Authorities through the Director of Public Health for the future provision of joint public health services and / or contracts.

11.3.6.2.2

In consultation with the Consultant in Public Health, to negotiate and conclude amendments to the inter-authority Public Health Agreement dated 10 July 2018 to provide for the administration, management and operation of future contracts for which joint procurement has been agreed.

11.3.7 Director Children's Services

To exercise the powers and duties of the Council in relation to section 18 of the Children Act 2008 and appoint and authorise Council Officers to exercise all such powers as the Council may appoint or authorise persons, Officers or inspectors to exercise, in the pursuance of the undermentioned enactments and amendments thereto and any regulations, statutory instruments, bylaws and licenses made thereunder:

- a) functions conferred on or exercisable by the Council in its capacity as Local Education Authority;
- b) functions conferred on or exercisable by the Council which are social services functions, so far as those functions relate to children;

- c) functions exercisable by the Council under Section 75 of the National Health Service Act 2006, so far as those functions relate to children;
- d) functions conferred on the Council as a children's services authority.

11.3.7.1

The Director Children's Services is authorised to exercise or further delegate to a named Officer the Council's functions, powers or duties related to the following areas:

- a) early years;
- b) school improvement;
- c) special education needs support;
- d) safeguarding and child protection;
- e) youth services;
- f) school governor services;
- g) adoption services;
- h) fostering services;
- i) support for children, young people, looked after and care leavers,
- j) youth offending services;
- k) school admissions, including pupil place planning;
- l) school transport;
- m) adult community learning.

11.3.8 Director of Adult Services

To carry out the statutory duties of the Director of Adult Social Services as set out in Section 6(A1) Local Authority Social Services Act 1970 and in statutory guidance.

11.3.8.1

The Director of Adult Services is authorised to exercise or further delegate to a named Officer the Council's functions, powers or duties related to the following areas:

- a) safeguarding vulnerable adults;
- b) social care support for persons aged 18 or over;
- c) older people's services;
- d) services for adults with a physical or learning disability and mental illness;
- e) Public health, Community health and wellbeing development;

- f) Authority (jointly with Director Resources and Assets) to add and remove services within Optalis during the term of the contract provided that in each case, up to the total value of £500k;
 - i. The budget for the costs of the services has already been approved as part of the agreed Council Budget;
 - ii. The business case has been approved by both Directors;
 - iii. The Executive Member with responsibility for Adult Services and the Executive Member with responsibility for Finance, have been consulted.

11.3.9 Director Place and Growth

To exercise the powers and duties of the Council in relation to legislation in [Appendix A](#) that is applicable to the service area and appoint and authorise Council Officers to exercise all such powers as the Council may appoint or authorise persons, Officers or inspectors to exercise, in the pursuance of the enactments and amendments thereto and any regulations, statutory instruments, bylaws and licences made thereunder:

The Director Place and Growth is authorised to exercise or further delegate to a named Officer the Council's functions, powers or duties related to the following areas:

- a) management and operation of public car parks and parking spaces administered by the Council;
- b) street naming, subject to no objections to any proposed name being received from the Parish/Town Council, Post Office or Fire and Rescue Service and the agreement of local Members;
- c) the Council as the Highways Authority, including highway inspection, minor highway repairs, winter maintenance, gritting, gully cleansing, street lighting and asset management;
- d) waste, including refuse collection, recycling, waste disposal and abandoned vehicles;
- e) transport planning, traffic management and road safety. In relation to Traffic Regulation Orders only those where no objections have been received;
- f) Trading Standards, Environmental Health and Licensing Services;
- g) Place shaping strategies such as planning policy, including the local plans; climate emergency and economic development;
- h) planning service, including the determination of planning applications not included in the Planning Committee's Terms of Reference;
- i) building control;
- j) libraries and Information service;
- k) cultural services;

- l) community development;
- m) assets of Community Value;
- n) countryside service, including public rights of way and tree preservation orders;
- o) customer services;
- p) local land charges;
- q) sale of council houses;
- r) housing; (excluding strategic housing);
- s) provision and management of housing accommodation, including maintenance and improvement to Council dwellings, associated buildings and land;
- t) proper officer under the provisions of the Registration Act 1953;
- u) in consultation with the Head of Legal, functions in relation to Part III of the Wildlife and Countryside Act 1981
- v) Community Safety and Anti-Social Behaviour

11.3.9.1

The Director has delegated certain functions, powers, and duties in relation to Trading Standards and ancillary regulatory services to officers of West Berkshire District Council from 01 April 2022 by virtue of a delegation agreement under s113 of the Local Government Act 1972. The Director may add to or remove any delegations as they see fit and when the delegation agreement expires the delegations to officers of West Berkshire District Council will cease.

11.3.10 Assistant Director Governance

To carry out the functions of the Monitoring Officer as set out in [Chapter 11.1](#) and to act as Proper Officer for the functions set out in [Rule 11.3.3](#)

The Assistant Director Governance is authorised to exercise or further delegate to a named Officer the Council's functions, powers or duties related to the following areas:

- a) Members' Code of Conduct, including reporting breaches by Members with respect to cases involving legal proceedings;
- b) to amend the Constitution in accordance with Rule 1.1.6 of Chapter 1;
- c) Audit and Investigation Services;
- d) Democratic and Electoral Services, including making arrangements for appeals, reviews and hearings in relation school admission, school exclusion, home to school/college transport and in relation to the granting, revocation and conditions imposed under the Licensing Act 2003 and the Gambling Act 2005;

- e) Legal services;
- f) To make amendments to the Constitution in accordance with Rule 1.1.6.

11.3.10.1 Further Delegation to the Borough Solicitor

To carry out any of the functions delegated to the Head of Legal Services as set out in [Rule 11.3.6.1](#).

To carry out the role of Commons Registration Officer as set out in Chapter 8.8.

11.3.11 Assistant Director Commercial Property

The Assistant Director Commercial Property is authorised to exercise or further delegate to a named Officer the Council's functions, powers or duties related to commercial property.

11.3.12 Director of Public Health – Shared Across Berkshire West

To have responsibility for the functions of the Strategic Director of Public Health as required by section 30 and all relevant provisions of the Health and Social Care Act 2012, and all other relevant legislation, and which shall include the following:

- a) the duty imposed upon the Council to take such steps as it considers appropriate for improving the health of the people in its area;
- b) any public health functions of the Secretary of State which he/she requires local authorities to discharge on his/her behalf;
- c) dental health functions of the Council;
- d) the duty to co-operate with the prison service to secure and maintain the health of prisoners;
- e) the Council's duties set out in Schedule 1 of the National Health Act 2006, which include medical inspection of pupils, the weighing and measuring of children and sexual health services;
- f) arrangements for assessing the risks posed by violent and sexual offenders.

List of Relevant Acts/Regulations

A
<p>Access to Personal Files (Housing) Regulations 1989 – all functions under the Regulations with the exception of the hearing of appeals under Regulation 8</p> <p>Accommodation Agencies Act 1953</p> <p>Acquisition of Land Act 1981</p> <p>Administration of Justice Act 1970</p> <p>Adoption Act 2002</p> <p>Adoption Agencies Regulations 1983, 2005</p> <p>Aerosol Dispensers Regulations 2009, and those Regulations which impose a duty of enforcement upon the local weights and measures authority</p> <p>Agriculture Act 1970</p> <p>Animal Boarding Establishments Act 1963</p> <p>Animal Health Act 1981</p> <p>Animal Health and Welfare Act 1984</p> <p>Animal Welfare Act 2006</p> <p>Animals Act 1971</p> <p>Anti-Social Behaviour Act 2003</p> <p>Anti-Social Behaviour Crime and Policing Act 2014</p>
B
<p>Berkshire Act 1986</p> <p>Births and Deaths Registration Act 1953</p> <p>Breeding of Dogs Act 1973, 1991</p> <p>Building Act 1984</p> <p>Building Regulations 2010</p>
C
<p>Cancer Act 1939 (Section 4)</p> <p>Caravan Act 1968, 1985</p> <p>Caravan Sites and Control of Development Act 1960, 1985</p> <p>Care Act 2014</p> <p>Carers (Recognition and Services) Act 2000</p> <p>Charities Act 1992</p> <p>Children Act 1989</p> <p>Children and Adoption Act 2006</p> <p>Children and Families Act 2014</p> <p>Children and Social Work Act 2014</p> <p>Children and Young Persons (Protection from Tobacco) Act 1991</p> <p>Children's and Young Persons Act 1933</p> <p>Chiropractors Act 1994</p> <p>Children (Leaving Care) Act 2000</p> <p>Chronically Sick and Disabled Persons Act 1970</p> <p>Cinema Act 1968-1985</p> <p>Civil Contingencies Act 2004</p> <p>Civil Partnership Act 2004</p> <p>Civil Protection in Peacetime Act 1986</p> <p>Clean Air Acts 1956-1993</p> <p>Cleaner Neighbourhoods and Environment Act 2005</p>

Companies Act 1985, 2006
 Companies Act 2006 (Part V)
 Community Care Assessment Directions 2004
 Community Care (Delayed Discharges etc.) Act 2003
 Community Care (Direct Payments) Act 1996
 Community Infrastructure Levy Regulations 2010 (as amended)
 Conservation of Habitats and Species Regulations 2010
 Consumer Credit Act 1974, 2006
 Consumer Protection Act 1987
 Consumer Protection from Unfair Trading Regulations 2008
 Consumer Rights Act 2015
 Control of Dogs Order 1992
 Control of Pollution Act 1974
 Control of Pollution (Amendment) Act 1989
 Controlled Waste (Registration of Carriers and Seizure of Vehicles) Regulations 1991 and 1994
 Copyright Design and Patents Act 1988
 Countryside Rights of Way Act 2000
 Courts and Legal Services Act 1990A
 Crime and Disorder Act 1998
 Criminal Attempts Act 1981
 Criminal Justice Act 1988 (Section 141A)
 Criminal Justice and Immigration Act 2008
 Criminal Justice and Police Act 2001
 Criminal Justice and Public Order Acts 1994 (Part VII)
 Criminal Law Act 1977
 Crossbows Act 1987
 Customs and Excise (Management) Act 1979
 Cycle Tracks Act 1984

D

Dangerous Dogs (Amendment) Act 1997
 Dangerous Dogs Act 1991
 Dangerous Wild Animals Act 1976
 Data Protection Act 2018
 Deer Act 1991
 Development of Tourism Act 1969
 Disabled Persons Act 1981
 Disabled Persons (Badges for Motor Vehicles)(England) Regulations 2000
 Discretionary Financial Assistance (Amendment) Regulations 2008
 Dogs Act 1871
 Dogs Act 1906
 Dogs (Fouling of Land) Act 1996
 Domestic Violence, Crime and Victims Act 2004 & 2012

E
<p>Education Act 2002 and 2011 Education Reform Act 1988 Energy Act 1976 Enterprise Act 2002 Equality Act 2010 Environment and Safety Information Act 1988 Environment Act 1995 Environmental Protection Act 1990 Estates Agents Act 1979 European Communities Act 1972 European Communities (Amendment) Act 1986 Eviction Act 1977 Explosives Act 1875, 1923 Explosives (Age of Purchase etc) Act 1976</p>
F
<p>Factories Act 1961 Fair Trading Act 1973 Family Law Reform Act 1969 Female Genital Mutilation Act 2003 Financial Services and Markets Act 2000 Fireworks Act 2003 Flood and Water Management Act 2010 Food and Environment Protection Act 1985</p>
<p>Food Safety Act 1990 Forgery and Counterfeiting Act 1981 Fraud Act 2006</p>
G
<p>Gambling Act 2005 Game Act 1831 General Data Protection Regulation 2018 Guard Dogs Act 1975</p>
H
<p>Hallmarking Act 1973 Health Act 1999 Partnership Arrangements Health Act 2006 Health and Safety at Work etc. Act 1974 Health and Social Care Acts 2001 and 2012 Hedgerow Regulations 1997 High Hedges Legislation 2004 Highways Act 1980 Home Safety Act 1961 Homelessness Act 2002 Homelessness Reduction Act 2017 House to House Collections Act 1939 Housing Acts 1957, 1985 1996 and 2004 Housing Grants, Construction and Regeneration Act 1996 Human Rights Act 1998 Hypnotism Act 1952</p>
I
<p>Immigration Act 2016</p>

J
Justice and Police Act 2001
K
Knives Act 1997
L
Land Compensation Act 1973 Land Drainage Act 1991 Landlord and Tenant Act 1985 Late Night Refreshment Houses Act 1969 Legal Aid, Sentencing and Punishment of Offenders Act 2012 Licensing Act 2003 Local Authorities Cemetery Order 1977 Local Authority Social Services Act 1970 Local Government Acts 1972, 1982, 2000 and 2003 Local Government and Housing Act 1989 Local Government Finance Act 1988 (National Non-Domestic Rate) Local Government Finance Act 1992 (Council Tax) Local Authorities (Functions and Responsibilities)(England) Regulations 2000 Local Government (Miscellaneous Provisions) Acts 1976 and 1982 Local Government Planning and Land Act 1980 Localism Act 2011
M
Malicious Communications Act 1988 Marriage Act 1949 Marriage (Approved Premises) Regulations 1995 Marriage (Same Sex Couples) Act 2013 Medicines Act 1968 Mental Capacity Act 2005 Mental Health Act 1983 and 2007 Mental Health (Patients in the Community) Act 1995 Mines and Quarries Act 1954 Motor Cycle Noise Act 1987 Motor Vehicles (Safety Equipment for Children) Act 1991
N
National Assistance Act 1948 National Assistance (Amendment) Act 1951 National Health Service Act 2006 National Health Service and Community Care Act 1990 National Lottery Act 1993 Natural Environment and Rural Communities Act 2006 New Roads and Street Works Act 1991 Noise Act 1996 Noise and Statutory Nuisance Act 1993
O
Offices, Shops and Railway Premises Act 1963 Olympic Symbol etc (Protection) Act 1995 Open Spaces Act 1906 Osteopaths Act 1993
P
Party Wall etc. Act 1996 Performing Animals (Regulation) Act 1925

Pesticides Act 1996
 Pet Animals Act 1951
 Petroleum (Consolidation) Act 1928
 Petroleum (Transfer of Licences) Act 1936
 Planning and Compensation Act 1991
 Planning and Compulsory Purchase Act 2004
 Planning (Hazardous Substances) Act 1980
 Planning (Listed Buildings and Conservation Areas) Act 1990
 Poisons Act 1972
 Police, Factories etc (Miscellaneous Provisions) Act 1916
 Pollution Prevention and Control Act 1999
 Prevention of Damage by Pests Act 1949
 Prices Act 1974
 Private Hire Vehicles (Carriage of Guide Dogs etc) Act 2000
 Proceeds of Crime Act 2002
 Protection from Harassment Act 1997
 Protection of Animals Act 1911
 Psychoactive Substances Act 2016
 Public Health (Control of Disease) Act 1984
 Public Health Act 1936, 1961 and 1984
 Public Libraries and Museums Act 1964
 Public Passenger Vehicles Act 1981

R

Radioactive Substances Act 1993
 Refuse Disposal (Amenity) Act 1978 Part II
 Registration of Births and Deaths Regulations 1987
 The Registration of Births and Deaths (Amendment) Regulations 2009
 Registration of Births, Deaths, and Marriages (Fees) Regulations 2016
 The Registration of Marriage Regulations 2015
 Registration Service Act 1953
 Regulation of Investigatory Powers Act 2000
 Regulatory Enforcement and Sanctions Act 2008
 Rent Act 1977
 Reservoirs Act 1975
 Riding Establishments Act 1964, 1970
 Road Traffic (Foreign Vehicles) Act 1972
 Road Traffic Act 1988, 1991
 Road Traffic Regulation Act 1984

S

Safeguarding Vulnerable Groups Act 2006
 Safety of Sports Grounds Act 1975
 Scotch Whisky Act 1982
 Secure Tenancies (Right to Repair Scheme) Regulations 1985
 Scrap Metal Dealers Act 2013
 Serious Organised Crime and Police Act 2005
 Slaughter of Poultry Act 1967
 Slaughterhouse Act 1974
 Solicitors Act 1974
 Sunbeds (Regulation) Act 2010
 Sunday Trading Act 1994

T
<p>Tattooing of Minors Act 1969 Telecommunications Act 1984 Theatres Act 1968 Theft Act 1968, 1978 Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010 Tobacco Advertising and Promotion Act 2002 Tobacco Products Duty Act 1979 Town and Country Planning Act 1990 Town and Country Planning (Control of Advertisements) Regulations 2007 Town and Country Planning General Regulations 1992 Town Police Clauses Act 1847, 1889 Trade Descriptions Act 1968 Trade in Animals and Related Products Regulations 2011 Trade Marks Act 1994 Trading Schemes Act 1996 Traffic Management Act 2004 Transport Act 1968, 1985 and 2000</p>
U
<p>Unsolicited Goods and Services Act 1971, 1975 Unsolicited Goods and Services (Amendment) Act 1975</p>
V
<p>Vehicles (Crime) Act 2001 Video Recordings Act 1984, 2010 Video Recordings Act 1993 Violent Crime Reduction Act 2006</p>
W
<p>Waste (England and Wales) Regulations 2011 Water Acts 1945-1989 Water Industry Act 1991 Weights and Measures Act 1985 Welfare Reform Act 2012 Wildlife and Countryside Act 1981 Working Together to Safeguard Children 2018</p>
Z
<p>Zoo Licensing Act 1981</p>

CHAPTER 11.4 - OFFICERS' CODE OF CONDUCT

11.4.1 Policy Statement

The Council believes that it is essential for standards of conduct at work to be maintained to ensure delivery of quality services and also to protect the well-being of all its employees and clients/customers/service users. The following policy will make sure that all employees are aware of the standards set by the Council. The Council is committed to carry out its business in a fair, open and honest way

11.4.1.1

Full details are described in the Conduct Policy. Managers also need to make employees aware of additional policy and guidance within their departments. This policy does not include the Code of Conduct for Members.

11.4.2 Purpose

The purpose of this policy is to establish, and encourage all employees to achieve, high standards of conduct at work, and to help provide a fair and consistent way of dealing with alleged failures to observe them.

11.4.2.1

All employees of Wokingham Borough Council are expected to give the highest possible standard of service to the public. Employees should conduct themselves with integrity, impartiality and honesty. They should give honest and impartial advice to councillors, fellow employees and customers/clients. Breaches of conduct and personal behaviour will be dealt with under the Discipline Policy and Procedure.

11.4.3 Scope

The policy applies to all employees and temporary/casual workers of Wokingham Borough Council, Contractors, agency workers and volunteers with the exception of staff employed in schools (teaching and non-teaching). These latter staff are covered by a separate procedure.

11.4.4 Equal Opportunities

Our Equal Opportunity Policy reflects one of the Council's core values. All employees are entitled to fair treatment by others, and to be treated with respect and dignity. In return, they are expected to treat others in this way.

11.4.5 Procedure Description

The policy and procedure for conduct consists of the following components:

- a) confidentiality
- b) political neutrality;
- c) additional activities;
- d) conflict of interest;
- e) gifts and hospitality; and
- f) personal behaviour.

11.4.6 Confidentiality

In the course of their work, employees will have access to and be entrusted with confidential information in respect of the clients, business and finances of the Council and their dealings, transactions and affairs. Employees shall keep all such “confidential information” strictly private and confidential and under the terms of their contract shall not during or after the period of their employment, divulge to any person whatever or otherwise make use of, any such confidential information except:

- a) in the proper course of their duties, or
- b) unless the Council has decided to carry out the defence on their behalf, as necessary to defend an employee in any claim, suit or proceeding brought against them with respect to, arising out of, in consequence of, or in any way related to their employment, or
- c) In the event a court, litigant or governmental body requests or requires disclosure of anything protected by this sub paragraph, the employee from whom disclosure is sought shall immediately give written notice to the Council.

11.4.7 Political Neutrality

Employees provide a service to the Council as a whole. It follows they must treat all Councillors equally and not just those of the controlling group, and must ensure that the individual rights of all Councillors are respected.

11.4.8 Additional Activities

Employees who have more than one employment (either inside or outside the Council) should seek approval before undertaking another job, employees must also inform their “primary” manager of other work undertaken so that the total level of work undertaken can be monitored. The policy does not bar all outside work, however, all employees must be clear about their contractual obligations and must not take outside employment that conflicts with or damages the Council’s interests or reputation

11.4.9 Conflict of Interest

The Council expects its employees to give the highest possible standard of service to the public and to avoid any situation where private and Council interests may conflict. Employees must declare in writing to their line manager any financial and/or non-financial interest that may potentially conflict or be seen to conflict with the Council’s interests.

11.4.10 Gifts and Hospitality

Employees must not accept any gift, inducement or reward, including hospitality, for showing favour or disfavour to any person or other organisation. It is the responsibility of the person receiving the favour to prove that it was not received dishonestly. All offers whether or not approved to be accepted must be recorded. Under the Bribery Act (2010) it is an offence to offer or receive bribes or improper inducements for any purpose.

11.4.10.1 The Council defines bribery as ‘an inducement or reward offered, promised or provided to gain personal, commercial, regulatory or contractual advantage’. An offer of a bribe or commission made by contractors, their agents or by a member of the public must be reported to the line manager and Audit. Hospitality from contractors should also be avoided where employees/team are singled out for example Christmas lunch etc, this may be perceived as preferential treatment.

However, managers may wish to allow employees to keep insignificant items of token value such as pens, diaries, etc not exceeding the value of £25.

It is important that all offers are recorded including those that are offered and not accepted.

11.4.11 Personal Behaviour

This policy is fundamental to the conduct of employees in the course of their duties. It is the Council's policy that any employee who fails to observe the expected standards of behaviour and who impedes the service to our customers or brings the Council into disrepute may be liable to disciplinary action.

11.4.11.1

The Policy and Guidance for Discipline will be initiated where any employee is found to be in breach of this Policy. If an employee is found guilty of gross misconduct he or she may face dismissal. Expectations with regard to personal behaviour are detailed in the policy.

CHAPTER 11.5 – OFFICER EMPLOYMENT PROCEDURE RULES

11.5.1 Recruitment and Appointment

Declarations

- a) The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or Officer of the Council; or of the partner of such persons.
- b) No candidate so related to a Councillor or an Officer will be appointed without the authority of the relevant Director or an Officer nominated by him/her.

11.5.1.1

Seeking support for appointment.

- a) The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- b) No Councillor will seek support for any person for any appointment with the Council.

11.5.2 Recruitment of Head of Paid Service, Directors, S151 Officer Monitoring Officer and Permanent Assistant Directors

Where the Council proposes to appoint any of the aforementioned and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- a) draw up a job description and person specification:
- b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and
- c) make arrangements for a copy of the job description and person specification to be sent to any person on request.

11.5.3 Permanent or Interim Appointment of Head of Paid Service, S151 Officer, and Monitoring Officer

- a) Executive members will be informed of Personnel Board's decision and given an opportunity to make a well-founded objection to the appointment then:
- b) Subject to the majority of Executive Members not objecting, Personnel Board make the recommendation to approve the appointment to Council

11.5.4 Permanent Appointment of other Directors and Assistant Directors (excluding S151 Officer)

- a) Executive members will be informed of Personnel Board's decision and given an opportunity to make a well-founded objection to the appointment then:
- b) Subject to the majority of Executive Members not objecting, Personnel Board to make the appointment.

11.5.5 Interim Appointment of Directors (excluding Statutory Chief Officers)

The Head of Paid Service in consultation with the Leader, relevant Executive Member(s) and Chairman of the Personnel Board will appoint on an interim basis a Director for a period not exceeding 12 months, pending permanent replacement. Subject to agreement of the Chairman of Personnel Board this period can be further extended as required.

11.5.6 Other Appointments

Officers below Assistant Director

Appointment of Officers below Assistant Director is the responsibility of the Head of Paid Service or his/her nominee, and may not be made by Councillors. The exception to this are;

- a) **Assistants to Political Groups** - appointment of an assistant to a political group shall be made in accordance with the Council's recruitment procedure and involve that political group in the selection process and decision.

11.5.7 Disciplinary Process to be Followed for the Head of Paid Service, Monitoring Officer and Section 151 Officer

The full Disciplinary Process for the Head of Paid Service, Monitoring Officer and Section 151 Officer are outlined in the Council's disciplinary, capability and related procedures, as adopted from time to time. The discretions and delegations that are in place are:

11.5.7.1 Suspension

The Head of Paid Service, Monitoring Officer and S151 Officer may be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and be regularly reviewed, lasting no longer than necessary. The decision to suspend will be taken by the Leader of the Council, the Chair of the Personnel Board and the remaining Statutory Officers with advice from the Lead Specialist, Human Resources. If no consensus then the Chair of the Personnel Board has the casting vote.

11.5.7.2 Final Decision

A final decision on the disciplinary action is dependent on the sanction:

- a) **Action short of dismissal** The Investigating and Disciplinary Committee may agree to impose no sanction, or take action short of dismissal, in which case the Committee will impose an appropriate penalty / take other appropriate action;
- b) **Dismissal** The Investigating and Disciplinary Committee will inform the Officer and put the proposal to the Independent Panel. When this is concluded the Full Council will consider the recommendation and must take into account

- i) any advice, views or recommendations from an Independent Panel;
- ii) the conclusions of any investigation into the proposed dismissal; and
- ii) any representations from the Officer concerned.

11.5.7.3 Independent Panel

An Independent Panel will be set up at least 20 working days prior to the relevant full Council meeting to consider the allegation and associated representations and to offer advice, views or recommendations on the proposal for dismissal it wishes to present to Full council. Independent persons who have been appointed for the purposes of the Members' conduct regime under section 28(7) of the Localism Act 2011 will be invited to form an Independent Panel. The Independent Panel will be formed if two or more independent persons accept the invitations which should be issued in accordance with the following priority order:

- a) an Independent Person who has been appointed by the Council and who is a local government elector;
- b) any other Independent Person who has been appointed by the Council; and
- c) an Independent Person who has been appointed by another council or councils.

11.5.8 Disciplinary Process to be followed for Other Director Level Positions (excluding S151 officer)

The full Disciplinary Process for other Director level positions is outlined in the Council's disciplinary, capability and related procedures, as adopted from time to time. The discretions and delegations that are in place are:

11.5.8.1 Suspension

Other Directors may also be suspended whilst an investigation takes place into alleged misconduct. That suspension will be on full pay and be regularly reviewed, lasting no long than necessary. The decision to suspend will be taken by the Chief Executive, the most relevant Lead Member for that Directorate, in consultation with the S151 and Monitoring Officer and with advice from the Lead Specialist, Human Resources. The Chief Executive has the casting vote and will inform the Leader of Council.

11.8.5.2 Final Decision

A final decision on whether or not to approve a proposal to dismiss the relevant Officer will be taken by Personnel Board who must consider:

- a) any advice, views or recommendations from the Investigating Officer;
- b) the conclusions of any investigation into the proposed dismissal; and
- c) any representations from the Officer concerned.

11.8.5.3 Investigation

Where the allegation is in relation to performance or behaviour, an independent investigator will be appointed to conduct the investigation. If the allegation is in relation to financial or operational irregularities, Internal Audit will lead the investigation.

11.5.9 Disciplinary Action for Positions Below Director Level (excluding Monitoring Officer)

Councillors will not be involved in the disciplinary action against any Officer below Director level except where such involvement is necessary for any investigation or inquiry into alleged misconduct, through the Council's disciplinary, capability and related procedures, as adopted from time to time

CHAPTER 11.6 – DELEGATED POWERS RELATING TO STAFFING MATTERS

All the following delegated powers are subject to, and are exercised in accordance with the Council's Rules of Procedure and Contract and Financial Regulations and within the Council's policies and procedures and agreed budgets. This document applies to all non-schools Services.

Officers occupying a post with specific delegation as outlined below must decide to what extent they will assign in writing the powers delegated to them to another responsible Officer for whom they will always be accountable.

Any delegation made to a Director may also be exercised by the Chief Executive.

11.6.1 Directors

The term "Director" relates to Officers who report directly to the Chief Executive.

11.6.2 Assistant Director

The term "Assistant Director" (3rd tier) relates to Officers who report directly to Directors.

11.6.3 Budget Manager

The Budget Manager has approval for staffing matters within budget.

11.6.4 Transacting Delegations

11.6.4.1

In all cases in the event the Lead Specialist, Human Resources is not available a nominated Human Resources Senior Specialist will substitute.

11.6.4.2

Once a decision has been made in line with the appropriate delegation the decision should be transacted in accordance with the current procedures.

11.6.4.3

Any decisions that result in additional expenditure that exceeds currently agreed budgets has to be agreed by Executive via a Supplementary Estimate.

11.6.5 Delegations

All the delegations below are subject to being used in line with the relevant policy.

SUBJECT	LEVEL	RESPONSIBILITY / DELEGATED POWER
11.6.5.1 Terms & Conditions of employment	To determine changes to terms and conditions of employment of all non-teaching staff	Personnel Board – recommendations are in consultation with Chief Executive and Section 151 Officer
		Recommendation must be made to Executive where there are budget implications
		Process managed by Assistant Director, HR and OD
11.6.5.2 HR Policy	New or revised policy with significant staff impact and/or budgetary implications	Personnel Board Recommendation must be made to Executive where there are budget implications Process managed by Assistant Director, HR and OD
	New or revised policy due to statutory requirement	Chief Executive Inform Personnel Board Process managed by Assistant Director, HR and OD
	Revised policy to reflect best practice and/or process improvement with little or no staff impact and no additional cost	Director, Corporate Services Process managed by Assistant Director, HR and OD
	11.6.5.3 Appointment	Permanent and Interim appointment of Head of Paid Service (Chief Executive), Section 151 Officer and Monitoring Officer

	Directors (excluding S151 Officer)	<p>Personnel Board</p> <p>Executive Members will be informed of Personnel Board's decision and given opportunity to object to the appointment.</p> <p>Subject to the majority of Executive Members not objecting, Personnel Board to make the appointment.</p> <p>Process managed by Assistant Director, HR and OD</p>
	Interim Appointment of Directors (excluding Statutory Chief Officers)	<p>The Head of Paid Service in consultation with the Leader, relevant Executive Member(s) and the Chairman of Personnel Board will appoint on an interim basis a Director for a period not exceeding 12 months, pending permanent replacement. Subject to the agreement of the Chairman of Personnel Board and the Leader this period can be further extended as required.</p> <p>Process managed by Assistant Director, HR and OD</p>
	Interim Appointment of Assistant Directors (excluding Statutory Chief Officers)	<p>The Director in consultation with the Leader, relevant Executive Member(s) and the Chairman of Personnel Board will appoint on an interim basis an Assistant Director for a period not exceeding 12 months, pending permanent replacement. Subject to the agreement of the Chairman of Personnel Board and the Leader this period can be further extended as required.</p>
	All other Employees (excluding Monitoring Officer)	<p>Budget manager - agree the recruitment and appointment of staff within budget and to create delete or change posts within budget and in line with HR Policy.</p>
11.6.5.4 Appraisals	Chief Executive	Leader of the Council
	All other Employees	Line Manager
11.6.5.5 Deciding whether to instigate formal	Head of Paid Service, S151 or Monitoring Officer	<p>Leader of the Council, the Chair of Personnel Board and the remaining 2 Statutory Officers with advice from Lead Specialist Human Resources. The Chair of Personnel Board has the casting vote.</p>
		<p>Investigated by: Independent Investigator</p>

Disciplinary procedure and Suspension	Directors (excluding S151 Officer)	Chief Executive and the most relevant Lead Member for that Directorate in consultation with the S151 and Monitoring Officer and advice from Lead Specialist, Human Resources. The Chief Executive has the casting vote.	
		Investigated by: Independent Investigator if conduct or behaviour related.	
		Investigated by: Internal Audit if financial, legal or operational irregularities	
	Assistant Directors (excluding Monitoring Officer)	Director Investigated by: Internal Audit	
11.6.5.6 Dismissal (excluding redundancy)	Head of Paid Service, Monitoring Officer and S151 Officer	Investigating and Disciplinary Committee make the recommendation to dismiss, and recommendation reviewed by Independent Panel Full Council must approve dismissal and after representation from the Officer being dismissed which will constitute the appeal. Advice provided by Assistant Director, HR and OD	
		Directors (excluding S151 Officer)	Delegated to Personnel Board. HR inform Executive to give them opportunity to object to dismissal. This is subject to the majority of Executive Members not objecting. Appeal heard by the Appeal Committee. Members with previous involvement must not be part of this committee, except to give evidence.
			Assistant Directors (excluding Monitoring Officer)
	All Other Employees	Hearing and Dismissal: Hearing to be conducted by manager two levels above employee and decision to be agreed by appropriate Head of Service if not involved in hearing with advice from HR Specialist. Appeal: Director with advice from a different HR Specialist	
11.6.5.7 Grievance (raising)	Chief Executive	Can only raise grievance(s) against members. Receiving Officer – Monitoring Officer. Recommendations to Standards Committee Appeal: Standards Committee Advice: Lead Specialists, Legal and Human Resources	

	S 151 Officer and Monitoring Officer	Receiving Officer: Chief Executive (see Rule 11.6.5.8 if against Chief Executive) Hearing: Grievance Committee Appeal: Personnel Board Appeals Sub Committee Advice: Lead Specialists: Legal and Human Resources
	Directors (Excluding S151 Officer)	Receiving Officer: Chief Executive (see Rule 11.6.5.8 if against Chief Executive, S151 or Monitoring Officer)
		Hearing: Chief Executive (see Rule 11.6.5.8 if against Chief Executive, S151 or Monitoring Officer) Appeal: Appeal Panel
	All Other employees (excluding the Monitoring Officer)	In accordance with the Grievance Procedure
11.6.5.8 Grievance (against)	Chief Executive, S151 Officer and Monitoring Officer	Raises to Leader, who identifies an appropriate 'Receiving Officer' (as laid down in the procedures) with the support of Lead Specialist, Human Resources
		Investigated by: Independent Investigator
		Hearing: Grievance Committee Appeal: Personnel Board Appeals Sub Committee
	Directors (excluding S151 Officer)	Raises to and responsible for investigation: Chief Executive, with the support of Lead Specialist, Human Resources
		Investigated by: Independent Investigator
		Hearing: Chief Executive Appeal: Leader who will send to Personnel Board for determination
All other employees (excluding Monitoring Officer)	In accordance with the Grievance Procedure	
11.6.5.9 Redundancy	Directors and Monitoring Officer	Chief Executive following consultation with Personnel Board and S151 Officer.
		Director at risk of redundancy has right to make representation to Personnel Board as part of consultation
		Advice: Lead Specialist, Human Resources
	All other employees	5 or less within budget Jointly agreed by S151 Officer and appropriate Director

		<p>Above 5 within budget As above plus in consultation with Lead Member for Human Resources / Chair of Personnel Board Advice from HR Specialist</p> <p>Outside of budget As above plus refer to Rule 11.6.4.3 Advice from HR Specialist</p>
11.6.5.10 Early Retirement Discretions	Use of employer discretions where there are no enhancements under the LGPS Regulations 2013 and organisational Change Policy	<p>S151 Officer and Director of appropriate Service Advice from HR Specialist</p>
	Recommendations on augmentation of payments	<p>Within budget Personnel Board</p> <p>Outside budget Personnel Board make a recommendation to Executive where there are budget implications. A supplementary estimate must be made by the relevant budget manager. Advice from HR Specialist</p>
	Flexible Early Retirement	<p>With no additional cost in line with policy Budget Manager in consultation with Director of Service</p>

		<p>With additional cost still in line with policy Budget Manager in consultation with Director of Service and S151 Officer.</p> <p>Advice from HR Specialist</p> <p>HR must inform Personnel Board</p>
<p>11.6.5.11 Structures</p> <p><i>Where this relates to a reduction in staffing numbers please see rule 11.6.5.9</i></p>	To approve overall strategy for organisation and Tier 1 and 2 structure.	Chief Executive and Lead Member in consultation with Executive and Directors
	To approve organisation structure at Tier 3 and 4	Chief Executive, Relevant Director in Consultation with the other Directors
	To approve organisation structure below Tier 4	Advice from Assistant Director HR and OD
		Director of Service

11.6.5.12 Pay progression	Chief Executive	Recommendation: Leader of the Council
		Approval: Personnel Board
		Advice from Assistant Director HR and OD
	Directors and Monitoring Officer	Recommendation: Chief Executive
		Approval: Personnel Board
		Advice from Assistant Director HR and OD
	Pay policy for Chief Executive, Directors & Monitoring Officer	Personnel Board with advice from Assistant Director HR and OD
	Dealing with salary and pay progression outside of the published pay scales	Chief Executive, appropriate Director and Section 151 Officer. Advice from Lead Specialist, Human Resources
	Dealing with salary and pay progression in line with published pay scales	In line with relevant policies
Honorariums, Acting Up payments, High Mileage Allowance and Market Supplements	In line with relevant policies	
To accelerate salary increments within budget or withhold salary increments	Budget Manager	
Performance Related Pay	Refer to current scheme guidance	
11.6.5.13 Sick Pay	Agree conversion of any period of sick pay entitlement from half to full pay.	Budget Manager in consultation with Director
	Agree the extension of sick pay beyond the aggregate of full and half pay.	Budget Manager in consultation with Director
	Agree recovery of sick pay where employee has been off sick due to their own misconduct	Budget Manager in consultation with Director

11.6.5.14 Leave	Annual Leave Carry over leave in excess of 5 days	Line Manager, subject to compliance with Working Time Directive
	Pay in lieu of leave instead of carry over	Budget Manager and Director, subject to compliance with Working Time Directive
	To authorise payment of outstanding leave on termination	Budget Manager
	Compassionate Leave Compassionate leave beyond provisions of policy	Budget Manager in consultation with Director
	Sabbatical (unpaid leave up to 12 months for personal/ professional development)	Budget Manager in consultation with Director
	Career Break (unpaid leave for 1 – 3 years).	Budget Manager in consultation with Director
	Other shorter periods of Unpaid leave	Budget Manager in consultation with Director
	Other Unpaid Leave	Line Manager
11.6.5.15 Secondments	To agree secondments outside and into WBC	Assistant Director
	To agree secondments within WBC	Budget Manager
11.6.5.16 Political Activity	To authorise “Political Activity” for post holders in politically restricted posts	Standards Committee
11.6.5.17 Health & Safety	To ensure compliance with Health and Safety at Work Regulations and other legislation.	Head of Paid Service and Directors
11.6.5.18 Flexible Working Arrangements	Head of Paid Service	Recommendation: Leader of the Council
		Approval: Personnel Board
		Advice from Lead Specialist, Human Resources
	Directors and Monitoring Officer	Recommendation: Head of Paid Service
		Approval: Personnel Board
		Advice from Lead Specialist, Human Resources

Assistant Director (Excluding Monitoring Officer)	Director in Consultation with the Head of Paid Service
All Other Employees	Line Manager in Consultation with the Assistant Director

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