

## 6. Officers and Scheme of Delegations

6.1 This section describes the requirements for Officers and the decision-making powers approved by Council. The use of the word “Officers” means all employees and staff engaged by the Council to carry out its functions. Appointment of staff cannot be the responsibility of the Executive.

### 6.2 Senior Leadership Team Structure

6.2.1 The Full Council may engage such Officers as it considers necessary to carry out its functions. The Full Council will engage persons for the following posts, except as otherwise delegated, who will be designated Chief Officers and their deputies who will be designated Deputy Chief Officers.

Post	Functions and Areas of Responsibility
Managing Director	<p>Overall corporate management and operational responsibility.</p> <p>Returning Officer and Electoral Registration Officer.</p> <p>Other duties as required by statute or the Council</p>
Directors (x3)	<p>Such duties as the Head of Paid Service shall determine comprising:</p> <ul style="list-style-type: none"> <li>• Director of Corporate Services (including Legal, Democratic Services, Land Charges, Payroll, Human Resources &amp; Organisational Development, Audit, Data Protection and Information Governance, Procurement, Finance, Property Assets and Services, Capital Projects, Estates, Energy Data, Markets, Play Area Projects, Green Spaces and Active Leisure Projects, Corporate Health and Safety).</li> <li>• Director of Customer Experience and Transformation (including Digital Process improvement and data, Customer Support, Revenue &amp; Benefits, Systems and Business Support, Waste, Recycling and Cleansing, Workshop and Fleet, Green Spaces, Cemeteries, Countryside and Dawlish Warren Rangers, Housing Enabling and Development, Private Sector Housing, Housing Needs, Leisure Centres and Operations, Resorts,</li> </ul>

	<p>Leisure Programmes, Marketing and Relationships).</p> <ul style="list-style-type: none"> <li>• Director of Place (including Strategy and Partnerships, Economy and Delivery, Communications and Marketing, Community Engagement, Business Transformation, Coastal and Drainage, Community Safety and Safeguarding, Corporate Policy and Strategy, Local Plan, Climate Change, Emergency Planning, Corporate Performance and Data, Neighbourhoods, ASB and Safeguarding, Parking, Planning and Housing Enforcement, Licensing, Food Health and Safety Environmental Protection, Abandoned Vehicles, Empty Homes, Building Control, Development and Support, Development Management and Planning Support.</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• Other duties as required by statute or the Council.</li> </ul>
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6.3.1 The appointment of staff below Director (Deputy Chief Officer) level must be the responsibility of the Head of Paid Service or his nominee.

6.2.3 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.

**6.3 Head of Paid Service, Monitoring Officer and Chief Finance Officer**

6.3.1 The Council designates the following posts as shown:

Post	Designation (including role and restrictions)
Managing Director	<p>Head of Paid Service (cannot be the Monitoring Officer but may hold the position of Chief Finance Officer if a qualified accountant)</p> <ul style="list-style-type: none"> <li>• To report to the full Council (via the Appointments and Remuneration Panel) 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.</li> <li>• Can act as the Proper Officer of the Council.</li> </ul>

<p>Director of Corporate Services</p>	<p>Chief Finance Officer (S151 Officer) and Deputy Managing Director (cannot be the Monitoring Officer)</p> <ul style="list-style-type: none"> <li>• After consulting with the Head of Paid Service and the Monitoring Officer, to report to full Council or to the Executive and the Council’s external auditor if they consider 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</li> <li>• To administer the financial affairs of the Council</li> <li>• To contribute to the corporate management of the Council, in particular through the provision of professional financial advice</li> <li>• To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework</li> <li>• To provide financial information to the media, members of the public and the community.</li> </ul>
<p>Monitoring Officer</p>	<p>Monitoring Officer (cannot be the Chief Finance Officer or the Head of Paid Service).</p> <ul style="list-style-type: none"> <li>• To maintain an up-to-date version of the Constitution</li> <li>• After consulting the Head of Paid Service and Chief Finance Officer, to report to full Council or to the Executive if they consider 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 suspending the proposal or decision being implemented until the report has been considered.</li> <li>• To contribute to the promotion and maintenance of high standards of conduct through provision of support to the Governance Committee.</li> <li>• To conduct investigations into matters referred by the Governance Committee and make reports or recommendations in respect of them to the Governance Committee</li> <li>• To 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.</li> <li>• To provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework.</li> <li>• To advise whether decisions of the Executive are in accordance with the budget and policy framework.</li> <li>• Can act as the Proper Officer of the Council.</li> </ul>

6.3.2 The Council is required by law to provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in the Monitoring Officer's and the Chief Finance Officer's opinion sufficient to allow their duties to be performed.

#### **6.4 Conduct and Employment**

Officers will comply with the Officers' Code of Conduct and the Protocol on Officer/Member Relations set out in Section 10 of this Constitution. The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules set out in Section 9 of this Constitution and the Appointments and Remuneration Committee.

#### **6.5 Scheme of Officer Delegations**

##### **General Principles of Officer Delegations**

6.5.1 The following general principles shall apply in respect of all Officer delegated powers.

6.5.2 All delegated decisions are to be made in accordance with or in a manner which would not conflict with:

- (a) the Constitution;
- (b) the Council's approved budget and policies; and
- (c) the law.

6.5.3 Where any legislation referred to in a delegation is amended or repealed the Schedule will be deemed to have been changed to incorporate the appropriate new or amended legislation.

6.5.4 Functions delegated are by reference to job titles or posts as at the date of adoption of this Scheme. In the event that such titles or posts are deleted or otherwise changed subsequently, the delegations will be transferred to those Council post holders whose duties include or most closely correspond to the duties of the post originally referred to.

6.5.5 Any function delegated to a specified officer may also be exercised:

- (a) by any Officer who has been so authorised in writing by the officer to whom the function is delegated; or
- (b) their relevant Strategic Leadership Team ("**SLT**") officer.

6.5.6 The powers delegated to SLT officers may be exercised by any other SLT Officer in his absence.

6.5.7 Functions which have been delegated to:

- (a) a committee may be delegated to an Officer or sub-committee

- (b) a sub-committee may be delegated to an Officer
- (c) the Executive may be delegated to an Executive Member, an Officer or committee of the Executive.

6.5.8 Each SLT officer should maintain a separate record of Officer on going sub-delegations pertaining to their service areas and provide copies to the Monitoring Officer for record keeping.

6.5.9 In cases where individual Officers are appointed as Proper Officers, the appointee may not sub-delegate that appointment.

### **Cross Service Delegations**

6.5.10 Senior Management Team (SMT) officers may make decisions on the **management and administration of the services** for which they are responsible subject to such decisions being within approved budget and policy and other relevant provisions in the Constitution.

6.5.11 SLT officers are authorised to:

- (a) **appoint staff;**
- (b) **submit applications for planning** consent under the Town and Country Planning General Regulations 1992;
- (c) **submit applications for planning consent;**
- (d) grant permission for the **suspension of normal closing hours** in respect of any towns in the District over the Christmas period;
- (e) determine any matter of **urgency** falling within the function of the Council or the Executive which in the interests of the Council cannot await the next relevant meeting subject to (when possible) consultation with:
  - i) The Chair and Vice Chair in the case of Council matters; and
  - ii) The Leader and the Deputy Leader in the case of Executive matters.

6.5.12 The Council's **Financial Rules** which also form part of the Constitution also contain a number of powers delegated to specified officers.

6.5.13 **Cautions for breaches of criminal law** may, after consultation with the most relevant Executive Member, be undertaken by the relevant member of SLT.

6.5.14 The Managing Director and Monitoring Officer or any officer appointed by them shall be designated "**the Proper Officer**" for the purposes of all **statutory notices** and other Officers to whom a particular function is delegated shall also be designated as the Proper Officer for the purposes of relevant statutory notices. For the avoidance of doubt, such delegations shall include power to issue, sign and serve such notices.

6.5.15 SMT officers shall be authorised so far as their area of responsibility applies and where legislation permits to:

- (a) Grant **power of entry** to specified officers
- (b) Obtain **particulars of persons** interested in land pursuant to Section 16 Local Government Miscellaneous Provisions) Act 1976
- (c) Obtain information pursuant to Town and Country Planning Act 1990 Section 330 regarding **interests in land**.

## **6.6 Legal Proceedings**

- 6.6.1 Legal proceedings by the Council may be initiated and conducted by the Council's Solicitor(s) or persons authorised by the Head of Legal and Democratic Services.
- 6.6.2 The Head of Legal and Democratic Services and those persons authorised by them are authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council or in any case where the Head of Legal and Democratic considers that such action is necessary to protect the Council's interests.

### **Authentication of Documents**

- 6.6.3 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Head of Legal and Democratic Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person.
- 6.6.4 Any contract entered into on behalf of the Council in the course of the discharge of an Executive function shall be made in writing. Such contracts must either be signed by at least two officers of the authority or made accordance with the Financial Regulations set out in Section 7.

### **Seal of the Council**

- 6.6.5 The Common Seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed.
- 6.6.6 The affixing of the Common Seal will be attested by the Head of Legal and Democratic Services or such other person authorised by them in writing

### **Signing of documents**

- 6.6.7 The Head of Legal and Democratic Services can sign any document necessary to carry out the Council's decisions or protect its interests including certificates given under the Local Government (Contracts) Act 1997.
- 6.6.8 The Managing Director, Monitoring Officer and members of the Senior Leadership Team (Director of Corporate and Section 151 Officer, Director of

Place and Director of Customer Experience and Transformation) may sign documents on behalf of the Council or delegate in writing such authority to authorise officers whom they manage and in accordance with delegated powers stated under the Council Constitution to sign documents on behalf of the Council if:

- the document is about a function which they or an officer who reports to them has budgetary or management responsibility for and
- the constitution or the law does not require the document to be signed by someone else and
- they have had regard to any advice from the Chief Finance Officer and/or Monitoring Officer

**Execution of the deeds**

6.6.9 The common seal of the Council will be kept in a safe place in the custody of the Head of Legal and Democratic Services. It will be attested by the Head of Democratic Legal Services, or an officer nominated by them in writing. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Head of Legal and Democratic Services should be sealed. The Council will keep a book recording when the common seal is used. The book will be signed by the officer who attests the seal. The deed will be validly executed if:

- 1) the Common Seal has been affixed; and
- 2) the deed has been signed by the Head of Legal Democratic Services or in their absence any member of the Senior Leadership Team; and
- 3) the signature has been witnessed in the presence of the Council’s officer; and reference is made to the resolution [including its date] authorising such execution.

**6.7 Service Area Delegation**

6.7.1 The following schedules of the Constitution set out the delegations to the specified post holders with reference to service areas within which they sit the Council’s organisational structure. These delegations are additional to the cross service delegations above (see 6.5.10 to 6.5.16).

Schedule 1	Managing Director / Head of Paid / Returning Officer Service Operational Responsibilities.
Schedule 2	Corporate Services
Schedule 3	Customer Experience and Transformation
Schedule 4	Place

6.7.2 Schedule 5 sets out the Planning Call-in Rules which apply to delegation reference 5E1 (see Schedule 5).