

**MONITORING OFFICER AND DEPUTY MONITORING OFFICER  
FUNCTIONS DELEGATED BY THE COUNCIL**

**Monitoring Officer**

**Chief Solicitor (Litigation and Social Care)**

**Deputy Monitoring Officer**

**To be appointed as required**

The responsibilities of the Monitoring Officer, as defined by statute, are set out in the Constitution at **Articles 11 and 14**. These include maintaining and reviewing the Constitution and supporting the Audit, Pensions and Standards Committee. The specific functions in the schedule below are those delegated by the Council, including those where authorisation of expenditure is involved.

1.	<b>MONITORING OFFICER</b>	<b>PROPER OFFICER</b>
1.1	Undertake the duties of Monitoring Officer, in accordance with the Local Government and Housing Act 1989, Local Government Act 2000, the Local Authorities (Code of Conduct) (Local Determination) Regulations 2003 (as amended), The Localism Act 2011 and any subsequent legislation relating thereto.	Chief Solicitor (Litigation and Social Care)
1.2	As the Council's Monitoring Officer, to incur such expenditure as is necessary for financial, legal or other advice in meeting statutory responsibilities.	Chief Solicitor (Litigation and Social Care)
1.3	To convene meetings and hearings of the Sub Committees of the Audit, Pensions and Standards Committee, and to conduct such investigations as are necessary into written allegations of misconduct.	Chief Solicitor (Litigation and Social Care)
1.4	To make payments in settlement or remedy of complaints, in line with guidance issued by the Commission for Local Administration (the Ombudsman) up to a maximum of £12,000, any higher figure requiring consultation with the relevant Executive member.	Chief Solicitor (Litigation and Social Care)
1.5	In consultation with the Leader, Chief Whip and Opposition Whip, to make changes to the Constitution when necessary in the following cases: -  (i) to Part Three (Responsibility for Functions)	Chief Solicitor (Litigation and Social Care)

	<p>as may be necessary to reflect any decision made by a person or body with the authority to delegate or sub-delegate powers to exercise executive or non-executive functions;</p> <p>(ii) to Article 11.01 and Part 7 (Management Structure) as may be necessary to reflect any changes made in the allocation of functions to officers;</p> <p>(iii) such changes as may be necessary to comply with or give effect to any legislative requirements;</p> <p>(iv) such other changes of an editorial nature as may seem appropriate to make the Constitution internally consistent, up-to-date and readily understandable.</p> <p>Any changes made by the Monitoring Officer shall be reported to the next available Council meeting for information.</p>	
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## **ROLE AND RESPONSIBILITIES**

### **1. The Director of Law**

#### 1.1 The Director of Law shall:

- (a) take any action to implement any decision taken by or on behalf of the authority, including the signature or service of statutory and other notices and any document.
- (b) act as solicitor to the council and institute, defend, settle or participate in any legal proceedings in any case where such action is necessary, in the view of the Director of Law, to give effect to decisions of the authority or in any case where the Director of Law considers that such action is necessary to protect the authority's interests.
- (c) settle or compromise legal proceedings (including threatened proceedings, arbitrations, adjudications, public inquiries and potential Employment Tribunal matters) brought by or against the Council, including entering pleas of guilty in criminal proceedings on such terms as s/he considers appropriate.
- (d) instruct counsel, solicitors or other experts for legal proceedings, public inquiries, or other matters involving the authority.
- (e) enter objections to any proposal affecting the authority, the authority's area or the inhabitants of the authority's area.
- (f) lodge appeals against any adverse finding against the Council in any tribunal or court.
- (g) sign any document necessary to give effect to any resolution of the Council, the Cabinet, a Cabinet Member or any Committee or Sub-Committee or Corporate Leadership Team member acting within delegated power.

#### 1.2 The Chief Solicitor (Litigation and Social Care) shall:

- (a) act as the authority's Monitoring Officer under the Local Government and Housing Act 1989.
- (b) make appointments to outside bodies in accordance with the nominations made by the Party Whips.
- (c) be the proper officer in respect of matters relating to the Council's Constitution where not otherwise stated.

### **2. Functions of the Monitoring Officer**

#### **Maintaining the Constitution**

#### 2.1 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.

### **Ensuring lawfulness and fairness of decision making**

- 2.2 After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council [or to the Executive in relation to an executive function] if s/he 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.

### **Overseeing the Council's arrangements for investigating allegations of a breach of the Members' Code of Conduct**

- 2.3 The Monitoring Officer will ensure the promotion and maintenance of high standards of conduct through the Council's arrangements for investigating alleged breaches of the Members' Code of Conduct.

### **Conducting investigations**

- 2.4 The Monitoring Officer will conduct, in consultation with the Independent Persons, the investigation of complaints involving a failure to comply with the Council's Members' Code of Conduct and submit investigation reports in respect of them to the Audit, Pensions and Standards Committee.

### **Proper officer for access to information**

- 2.5 The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers, are made publicly available as soon as possible.

### **Providing advice**

- 2.6 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.

### **Restrictions on posts**

- 2.7 The Monitoring Officer cannot be the Chief Finance Officer.

#### **(i) Appointment of Deputies**

- 2.8 The Monitoring Officer may, if unable to act, nominate a Deputy to act on his or her behalf.

### 3. Statutory Officers

3.1 This section sets out those Officers who have been designated by the authority to discharge specified statutory functions:

Legislation	Function	Post
Section 4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
Section 5 Local Government and Housing Act 1989	Monitoring Officer	Chief Solicitor (Litigation and Social Care)

#### **The Local Authorities (Executive Arrangements) Access to Information (England) Regulations 2000**

#### **The Local Authorities (Executive Arrangements) (Meetings and Access to Information (England) Regulations 2012**

Regulations 3 to 10 and 12 to 21	Provisions relating to meetings and access to information	Monitoring Officer
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#### **Local Government (Committees and Political Groups) Regulations 1990**

Regulation 8	For the purposes of the composition of Committees and nominations to political groups	Monitoring Officer
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#### **Localism Act 2011**

Section 33	For the purposes of the composition of committees and nominations to political groups	Monitoring Officer
Regulations 3,4,5 and 6	Functions relating to keeping a record of Members' interests	Monitoring Officer

#### **Freedom of Information Act 2000**

Section 36	Primary qualified person for the purposes of the Act (prejudice to effective conduct of public affairs)	Monitoring Officer
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Amended - May 2012, July 2012, October 2012, March 2017