

## Section 10 - Officers

### 1. Management structure

- 1.1 The County Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- 1.2 The County Council may engage such Chief Officers with departmental or service responsibilities as it considers necessary.
- 1.3 The County Council may from time to time add to, vary or reduce the number, designation and areas of responsibility of posts of Chief Officer.
- 1.4 The following officers are the current Chief Officers of the County Council:
  - Chief Executive and Head of Paid Service
  - Deputy Chief Executive and Director for Corporate Services
  - Director for Children and Families
  - Director for Economy, Infrastructure and Skills
  - Director of Health and Care
  - Director of Finance
- 1.5 The Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers. This is appended as Appendix 5.

### 2. Statutory Officers

- 2.1 The County Council must designate certain officers to discharge the statutory responsibilities of the Head of Paid Service, Monitoring Officer, Chief Financial Officer (Section 151 Officer), Director of Children's Services, Director of Adult Social Care, Scrutiny Officer and Director of Public Health.
- 2.2 In the event that any of the designated posts of Statutory Officer are vacant, or the post holder is absent (and in the case of the Monitoring Officer, no Deputy Monitoring Officer is appointed) the Chief Executive, or in their absence the Director of Finance and the Monitoring Officer acting together, shall, in consultation with the Chairman of the County Council, the Leaders of the Political Groups, and the other Statutory Officers (where relevant), designate another officer as an Interim



Statutory Officer pending a new appointment to the Statutory Officer post by the Council.

2.3 This does not apply to the Statutory Officer post of Director of Public Health. The rules governing the appointment of an Interim Statutory Officer pending the new appointment of the Director of Public Health are set out in the Officer Employment Procedure Rules at Appendix 4, paragraph 7 of the Constitution.

2.4 The County Council's Chief Executive is currently designated as the **Head of Paid Service**. The functions of the Head of the Paid Service are as follows:

- The Head of Paid Service will report to full Council on the way in which the discharge of the County Council's functions is managed, the number and grades of officers required for the discharge of these functions and the way in which the officers are structured into departments.
- The Head of Paid Service may not be the Monitoring Officer.

2.5 The County Council's Deputy Chief Executive and Director for Corporate Services is currently designated as the **Monitoring Officer**. The functions of the Monitoring Officer are as follows:

- Maintaining an up-to-date version of the Constitution and ensuring it is widely available for consultation by members, staff and the public.
- Ensuring that the Council's decision making is lawful and fair. After consulting the **Head of Paid Service** and the **Chief Financial Officer (Section 151 Officer)**, the Monitoring Officer will report to the full Council or to the Cabinet in relation to an executive function 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 report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- Contributing to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Standards Committee, monitoring adherence to the County Council's Members' Code of Conduct and dealing with any allegations of breaches of the code.
- Maintaining and publishing a register of elected members' Disclosable Pecuniary Interests (and any other interests defined by the County Council), including deciding on the publication of 'sensitive interests'.



- Ensuring that Cabinet decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.
- Advising whether decisions of the Cabinet are in accordance with the budget and policy framework and on whether a decision is or is not a Key Decision.
- Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all elected members.

2.6 The Monitoring Officer cannot be the Chief Financial Officer or the Head of Paid Service.

2.7 The County Council's **Director of Finance** is currently designated as the **Chief Financial Officer (Section 151 Officer)**. The functions of the Chief Financial Officer are as follows:

- Ensuring that the County Council's decision making is lawful and financially prudent. After consulting the Head of Paid Service and the Monitoring Officer, the Chief Financial Officer will report to the full Council (or to the Cabinet in relation to an executive function) 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;
- Responsibility for the proper administration of the financial affairs of the Council, under Section 151 of the Local Government Act 1972 and Section 114 of the Local Government Finance Act 1988;
- Responsibility for conducting a continuous internal audit of the financial affairs of the Council as required by the relevant Regulations from time to time in force and for maintaining an adequate and effective system of internal audit as required by those Regulations;
- Contributing to the corporate management of the County Council, in particular through the provision of professional financial advice;
- Providing advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all elected members and will support and advise elected members and officers in their respective roles;
- Providing financial information to the media, the public and the community; and
- Promoting arrangements to identify and maintain key business risks, including safeguarding assets, risk management and insurance.



2.8 The County Council will provide the Monitoring Officer and Chief Financial Officer with such officers, accommodation and other resources required to allow their duties to be performed. Those general delegations (listed as Table 1) to all Senior Leadership Team members which relate to staffing and resources will also apply to the Director of Finance to ensure that their statutory duties are discharged effectively.

2.9 Section 18 (1) of the Children Act 2004 requires the Council to appoint a **Director of Children's Services** who is tasked with improving the well-being of all children and young people in the local area across all five Every Child Matters outcomes and ensuring that outcomes gaps between the most disadvantaged children and their peers are reduced. The County Council's Director for Children and Families is currently designated as the Director of Children's Services and the functions of the Director of Children's Services are as follows:

- Functions conferred on or exercisable by the local authority in its capacity as a local education authority;
- Social services functions as they relate to children within the meaning of the Local Authority Social Services Act 1970;
- Functions relating to persons leaving care;
- Functions in respect to the co-operation to improve well-being with partner agencies; multi agency arrangements to safeguard and promote welfare; information databases ;children and young people's plans;
- Functions under section 75 of the National Health Service Act 2006 on behalf of an NHS body, so far as those functions relate to children;
- Functions in respect to the improvement of young children's well-being; provision of child care; information, advice and assistance, and training to childcare providers;
- Such other functions conferred on or exercisable by the authority as may be prescribed by the Secretary of State by regulations.
- To promote the importance of improving outcomes for all children and young people;
- To encourage all services to contribute to improving outcomes for all children within the Children's Trust and other partnerships;
- Working with local head teachers collectively to drive up standards in schools and improve children's wellbeing;
- Championing children and young people and their families within the local area;
- Management of the local authority's children's services, with professional responsibility and accountability for their effectiveness, availability and value for money;
- Safeguarding and promoting the welfare of children



- Supporting looked after children;
- Ensuring there are effective arrangements for school improvement in the area;
- Ensuring effective delivery of the authority's responsibilities for 14-19 commissioning and provision, and all aspects of 16-19 provision;
- Promoting early intervention and prevention in delivering services for children, young people and families; and
- Emphasising and ensuring all plans and strategies reflect the importance of reducing child poverty in the area.

2.10 Section 6 of the Local Authority Social Services Act 1970 (as amended by the Children's Act 2004) requires the Council to appoint a **Director of Adult Social Services** who is accountable for the delivery of local authority social services functions listed in Schedule 1 of the Local Authority Social Services Act 1970 (as amended), other than those for which the Director of Children's Services is responsible, in respect of adults. The **Director for Health and Care** is currently designated as the Director of Adult Social Services and they are responsible for the County Council's functions in respect to adult social services including:

- Accountability for assessing local needs and ensuring availability and delivery of a full range of adult social services;
- Professional leadership, including workforce planning;
- Leading the implementation of standards;
- Safeguarding vulnerable adults;
- Promoting local access and ownership and driving partnership working; and
- Promoting social inclusion and wellbeing.

2.11 Section 30 of the Health and Social Care Act 2012 requires the Council to appoint a **Director of Public Health** who will be accountable for the delivery of the authority's duties. This is a joint appointment between the authority and the Secretary of State.

2.12 The Director of Public Health is the principal adviser on all health related matters and this role covers all three domains of public health: health improvement, health protection and healthcare public health. The Director of Public Health will also play a key role in reducing health inequalities.

2.13 The **Director for Health and Care** is currently designated as the Director of Public Health and they are responsible for the County Council's functions in respect of Public Health including:



- All of the local authority's duties to take appropriate steps to improve public health of the people who live in the area (this is known as the Public Health Improvement duty);
- Any of the Secretary of State's public health protection or health improvement functions that are delegated to the local authority, either by arrangement or under regulations – these include services mandated by regulations made under section 6C of the NHS Act 2006, inserted by section 18 of the Health and Social Care Act 2012;
- Exercising the local authority's functions in planning for and responding to emergencies that present a risk to public health;
- The local authority's role in co-operating with the police, the probation service and the prison service to assess the risk posed by violent or sexual offenders;
- To sit as a statutory member of the local authority's Health and Wellbeing Board;
- To write an annual report on the health of the local population;
- To have responsibility for the local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications<sup>1</sup>;
- Responsibility for providing Healthy Start Vitamins if the local authority provides (or commissions) a maternity or child health clinic; and
- Such other public health functions as the Secretary of State specifies in regulations.

2.14 Chapter 2, Section 9FB of the Local Government Act 2000 requires the Council to appoint a **Scrutiny Officer**. The **Scrutiny and Support Manager** is currently designated as the Scrutiny Officer and the functions of the Scrutiny Officer are as follows:

- To promote the role of the authority's scrutiny function and committees;
- To provide support to the scrutiny committees and members of those committees; and
- To provide support and guidance to members, Cabinet Members and officers of the authority in relation to the functions of the authority's scrutiny committees.

2.15 The Scrutiny Officer post cannot be held by the Head of Paid Service, Chief Financial Officer or Monitoring Officer.

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<sup>1</sup> This function is given to local authorities by s5(3), 13(4) 69(4) and 172(B) of the Licensing Act, as amended by Schedule 5 of the 2012 Act



## **Conduct**

- 2.16 Officers will comply with the Officers' Code of Conduct in Appendix 2 and the Protocol on Officer/Member Relations in Section 3.

## **3. Employment**

- 3.2 Subject to Paragraph 3.3 below, the recruitment and selection, dismissal of and the taking of disciplinary action against, an officer of the Council shall be discharged by the Chief Executive as Head of the Paid Service or by a Chief Officer or other officer nominated by the Chief Executive exercising delegated powers in accordance with, and subject to, the Officer Employment Procedure Rules in Appendix 4.

- 3.3 The taking of personnel decisions will comply with the Officer Employment Procedure Rules in Appendix 4.

- 3.4 The recruitment and selection, dismissal of and taking of disciplinary action against, the following officers will be undertaken in accordance with, and subject to the specific provisions in the Officer Employment Procedure Rules:

- The officer designated as the Head of the Paid Service;
- The officer designated as the Monitoring Officer;
- The officer designated as the Chief Financial Officer;
- The officer designated as the Director of Children's Services;
- The officer designated as the Director of Adult Social Care;
- The officer designated as the Director of Public Health;
- Other officers included in the Senior Leadership Team;
- Officers included in the Wider Leadership Team; and
- A person appointed in pursuance of section 9 of the Local Government and Housing Act 1989 (assistants to political groups)

- 3.5 The recruitment, selection and dismissal procedure outlined at paragraph 3.1 above, does not apply to the officer designated as the Director of Public Health. However, the taking of disciplinary action against the Director of Public Health will be in accordance with Section 10 (Officers) paragraphs 3.1, 3.2 and 3.3 of the Constitution.

Specific provisions in respect of recruitment, selection and dismissal apply to the Director of Public Health and are set out in the Officer Employment Procedure Rules at Appendix 4, Paragraph 7 of the Constitution.



#### **4. Powers Exercisable by Officers**

- 4.1 Officers may exercise functions of the Council, the Cabinet and committees of the Council to the extent and subject to the conditions specified in the Scheme of Delegation to officers set out in Appendix 1.
- 4.2 The Chief Executive's, Directors' and other officers' powers conferred by this Section and its Appendices, including any proper officer functions, may be exercised by other officers designated in writing by the Chief Executive, relevant Director or other officer, either generally or in specific circumstances.

#### **5. Financial Management**

- 5.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Regulations set out in Section 13 (Financial Regulations) of this Constitution.

#### **6. Contracts**

- 6.1 Every contract made by the Council will comply with the Council's Contract Standing Orders (referred to as the Procurement Regulations) set out in Section 14 of this Constitution.

#### **7. Legal Proceedings**

- 7.1 A Chief Officer is authorised to:
- a. To take all steps as may be required to maintain the operation and effectiveness of services; such steps to include:

Following consultation with the County Solicitor, to instruct the County Solicitor to:

- issue or instigate, prosecute, defend, withdraw, appeal or compromise any claims or legal proceedings (civil or criminal) connected with any function or service for which the Senior Leadership Team member is responsible
- commence criminal proceedings for any breach of any law/by-law within the services and functions for which the Senior Leadership Team member is responsible
- pursue the recovery of costs incurred by the County Council as part of any legal proceedings





- The exercise of statutory powers to enter land or premises and/or carry out inspections for the purposes connected with the services or functions for which the Senior Leadership Team member is responsible
- The exercise the County Council's statutory powers to require information as to the ownership, occupation or use of land or premises or otherwise

## **8. Authentication of documents**

8.1 Where any document is necessary to any legal procedure or proceedings on behalf of the County Council, it will be signed by the Deputy Chief Executive and Director for Corporate Services or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given delegated authority to some other person.

## **9. Entry on to land or premises**

9.1 A Chief Officer may exercise any statutory power conferred on the County Council to enter land or premises for purposes connected with the service or function for which the Chief Officer is responsible and may authorise named officers to do so on the Chief Officer's behalf.

## **10. Information about interests in land**

10.1 A Chief Officer may exercise any statutory power conferred on the County Council to require information as to interests in land and may authorise named officers to do so on the Chief Officer's behalf.

## **11. Common Seal of the County Council**

11.1 The affixation of a Common Seal of the County Council shall be attested by the Authorised Signatory who shall be the Chief Executive or the Deputy Chief Executive and Director for Corporate Services or an appropriate officer or officers nominated in writing by the Deputy Chief Executive and Director for Corporate Services.

11.2 Both Common Seals of the County Council shall be kept in the custody of the Deputy Chief Executive and Director for Corporate Services and secured by lock and key.

11.3 Any resolution or decision of the Council (or of the Cabinet in respect of the discharge of executive functions, or of a Committee or Sub-Committee or officer acting under powers delegated in accordance with



this Constitution) authorising the acceptance of any tender; the purchase, sale, letting or taking of any property; the issue of any stock; the presentation of any petition, memorial, or address; the making of any contract; or the doing of any other thing, shall be sufficient authority for sealing any documents necessary to give effect to that resolution or decision.

- 11.4 Details of every deed and other document to which the Common Seal is to be affixed shall be entered prior to the time of its sealing or as soon as practicable thereafter by the Deputy Chief Executive and Director for Corporate Services in a central register to be provided for that purpose and the register will record the person attesting the affixation of the Common Seal.



## Appendix 1 - Scheme of Delegation to Officers

### 1. Introduction

- 1.1 In order to support the day to day running of the County Council and its services, Senior Leadership Team members have been given delegated powers to exercise some of the County Council's functions and services. Powers are delegated by the Council under the provisions of the Local Government Act 1972 (Section 101) and by the Executive under the Local Government Act 2000 (section 15)
- 1.2 Subject to certain conditions<sup>2</sup> Cabinet members have delegated powers to take decisions on any matter which falls within their portfolio and which is not delegated to officers under this scheme of delegation.
- 1.3 Because this scheme of delegation does not itemise every type of decision which officers can take there will be occasions when responsibility for decision making could rest with either the cabinet member or the officer.
- 1.4 The following criteria are suggested to help distinguish between cabinet member and officer level decisions.

**NOTE** these criteria are intended to provide a guide and are not exhaustive:

<b>Officer Decision</b>	Uncontroversial
	Related to 'internal' matter
	Covered by Scheme of Delegation to Officers
	In accordance with agreed policy and budget provision
	Related to current / existing service provision
<b>Member Decision (this could mean Cabinet Member or individual local member)</b>	Controversial
	Direct impact on 'residents, communities and service users'
	Politically sensitive
	Not covered by policy or budget provision
	Related to new service provision / innovation

- 1.5 Table 1 of this Appendix sets out the general powers delegated to all Senior Leadership Team members.

<sup>2</sup> For a detailed explanation of Cabinet Member delegated powers see Section 6 of this Constitution



- 1.6 Tables 2 to 7 set out the specific delegations to individual Senior Leadership Team members relating to their areas of responsibility.
- 1.7 The following matters may not be delegated to a Senior Leadership Team member:
- Any matter reserved to the full Council;
  - Any matter which by law may not be delegated to an officer;
  - Any matter reserved to the Cabinet or a Committee or Panel;
  - Any matter which constitutes a key decision;
  - Any power to make a formal response on behalf of the County Council to any White Paper, Green Paper, Government Consultation Paper or draft European Union Directive without reference first to the relevant Cabinet Member, Leader of the Council or the Chairman of the Committee concerned, except where timescales do not allow it, when the Chief Executive is authorised to respond after discussion with them.
- 1.8 All Senior Leadership Team members (or any successors appointed under any re-organisation) are authorised to exercise the powers of the Council (both Executive and Non-Executive) relating to their areas of responsibility including professional and managerial functions relating to their service subject to the limitations and reservations of the scheme.
- 1.9 In the event of the relevant Senior Leadership Team member not being available for any reason their Deputy or the next most appropriate senior officer included in the Wider Leadership Team shall be authorised to exercise the delegated powers.
- 1.10 Every Senior Leadership Team member may authorise officers in their department/service area to exercise on their behalf functions delegated to them, provided the delegate holds any qualifications necessary for the exercise of the power. The Senior Leadership Team member shall remain accountable and responsible for any decisions taken in their name. All Sub-Delegation schemes shall be in writing, with copies deposited with the Monitoring Officer.
- 1.11 At the total discretion of the relevant Senior Leadership Team member any officer may have the delegated authority suspended, reviewed or limited in specific circumstances (i.e. a specific exclusion) (NB this is not to be considered as a disciplinary matter).
- 1.12 When exercising delegated powers, Senior Leadership Team members must ensure that any actions are in accordance with the policies and



decisions of the County Council, this Constitution, Financial Regulations and Procurement Regulations and not outside the powers and duties of the Council under law.

- 1.13 When exercising delegated powers, Senior Leadership Team members are delegated to consult such other officers and/or the Chief Executive, the Deputy Chief Executive and Director for Corporate Services and the Director of Finance as may be appropriate in the circumstances and shall have regard to any advice given.
- 1.14 Senior Leadership Team members may consult the appropriate Cabinet Member, Cabinet or a Committee before exercising delegated powers and, following this consultation, elect not to exercise their delegated powers.
- 1.15 Senior Leadership Team members must consult the local member(s) for an area affected by a proposed decision prior to making that decision.
- 1.16 Senior Leadership Team members must keep Local members informed of events being organised in their area in connection with the exercise of their delegated powers (e.g. Public meetings, meetings with campaign groups) before taking any decisions officers are under a duty to satisfy themselves that they have delegated power to do so and that they have undertaken appropriate consultation.
- 1.17 The Cabinet and Committees and Panels of the Council reserve the right to take decisions on any matter delegated to an officer, provided that the subject matter is within their area of responsibility.
- 1.18 The advice of the Deputy Chief Executive and Director for Corporate Services and the Director of Finance must be sought when a Senior Leadership Team member proposes to exercise delegated powers on behalf of the Cabinet if there is doubt as to whether the proposed exercise is contrary to the policy framework or contrary to or not wholly in accordance with the budget.
- 1.19 Where a Senior Leadership Team member is of the opinion that any matter delegated to them may involve the payment of compensation for which no specific budgetary provision has been made no decision shall be made without reference to, and approval by, the Cabinet or a Committee (as appropriate) subject to a *de minimis* limit of £3000.



- 1.20 The Senior Leadership Team member must ensure that decisions made under this Scheme are supported by relevant documentation and evidence.
- 1.21 Where the delegated power specifies whether the function is an Executive responsibility, Non-Executive (i.e. Council) or a Local Choice function; any misattribution of a function shall not prevent the exercise of the delegated power.
- 1.22 In addition to the delegations set out in this scheme, the Council or Cabinet can arrange for specific delegations on a particular matter.

