

## **SECTION 12**

### 12 Officers

#### 12.1 Management Structure

##### 12.1.1 General

The Full Council may engage such staff (referred to as Officers) as it considers necessary to carry out its functions.

The Council's management structure is published on the Council's website.

##### 12.1.2 Officer delegation

The Council will engage persons for the following posts, (as set out in the table below, to be appointed as per the legislative requirements as applicable), which designation includes persons acting temporarily in such capacity. These Officers have the power to delegate further under their schemes of delegation, as detailed further in Section 14.

<b>Post</b>	<b>Responsibility</b>
Managing Director	<ul style="list-style-type: none"><li>• Head of Paid Service: to co-ordinate discharge of all functions and exercise overall managerial and operational responsibility for staff</li><li>• To lead the Senior Management Team;</li><li>• Representing the Council on partnership and external bodies (as required by statute or the Council) and Strategic Partnerships.</li><li>• Emergency Planning Officer.</li></ul>
Service Director - Customers	<ul style="list-style-type: none"><li>• Chief Information Officer / Data Controller</li><li>• Careline;</li><li>• Customer Service Centre;</li><li>• Data Protection and Freedom of Information;</li><li>• Information Technology;</li><li>• Management Support Unit;</li><li>• Print;</li><li>• Revenues and Benefits.</li></ul>
Service Director – Enterprise	<ul style="list-style-type: none"><li>• Lead officer in relation to business development and commercial operations.</li><li>• Council Director – Building Control Companies;</li><li>• Council Director – Housing/Property Development Companies;</li></ul>

Post	Responsibility
	<ul style="list-style-type: none"> <li>• Development of Commercial Operations;</li> <li>• Economic Development;</li> <li>• Estates and Asset Management;</li> <li>• Markets;</li> <li>• Museums including North Hertfordshire Museum and Hitchin Town Hall;</li> <li>• Project Support.</li> </ul>
<i>Revenues Manager</i>	<ul style="list-style-type: none"> <li>• Council's Data Protection Officer</li> </ul>
Service Director: Housing & Environmental Health	<ul style="list-style-type: none"> <li>• Community Safety;</li> <li>• Environmental Enforcement (including health and safety, food safety and hygiene, contaminated land, air quality);</li> <li>• Environmental Health;</li> <li>• Housing;</li> <li>• Licensing.</li> </ul>
Service Director – Legal and Community	<ul style="list-style-type: none"> <li>• Chief Legal Officer to the Council;</li> <li>• Monitoring Officer;</li> <li>• Community &amp; Partnership (including grants);</li> <li>• Committee, Member &amp; Scrutiny Services;</li> <li>• Elections Services;</li> <li>• Legal Services;</li> <li>• Policy and Safeguarding (including health);</li> <li>• Scrutiny support.</li> </ul>
Service Director – Place	<ul style="list-style-type: none"> <li>• Active Communities (excluding safeguarding &amp; Health);</li> <li>• Climate Change Lead Officer;</li> <li>• Grounds Maintenance;</li> <li>• Leisure development opportunities &amp; Leisure Management;</li> </ul>

<b>Post</b>	<b>Responsibility</b>
	<ul style="list-style-type: none"> <li>• Parks and Open Spaces (including Green Space Strategy);</li> <li>• Waste (including shared waste service).</li> </ul>
Service Director - Regulatory	<ul style="list-style-type: none"> <li>• Building Control (client);</li> <li>• Car Parking (including enforcement);</li> <li>• Development Management;</li> <li>• Parking and Transport Strategy;</li> <li>• Planning (local planning Authority) including Strategic Planning.</li> </ul>
Service Director - Resources	<ul style="list-style-type: none"> <li>• Chief Finance Officer – section 151</li> <li>• Anti-Money Laundering Reporting Officer</li> <li>• Building Services;</li> <li>• Emergency Planning;</li> <li>• Finance;</li> <li>• Human Resources;</li> <li>• Performance, project management, risk, audit and insurance;</li> <li>• Shared anti-fraud service;</li> <li>• Procurement.</li> </ul>

### 12.1.3 Scheme of Delegations

The Scheme of Delegations to Officers is set out in Section 14.

### 12.1.4 Head of Paid Service, Monitoring Officer and Chief Finance Officer

The Council will designate the following posts as shown:

<b>Post</b>	<b>Designation</b>
Managing Director	Head of Paid Service
Service Director: Legal and Community	Monitoring Officer
Service Director: Resources	Chief Finance Officer

Such posts will have the functions and responsibilities more particularly described in Sections 12.2 to 12.4 and delegations under section 14.

## 12.2 Functions of the Head of Paid Service

### 12.2.1 Discharge of Functions by the Council

The Head of Paid Service will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of Officers required for the discharge of functions and the organisation of Officers.

### 12.2.2 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.

## 12.3 Functions of the Monitoring Officer

### 12.3.1 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 Members, staff and the public.

### 12.3.2 Ensuring Lawfulness and Fairness of Decision Making

After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Full Council or to the Cabinet in relation to an Executive Function if 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 stopping the proposal or decision being implemented until the report has been considered.

### 12.3.3 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.

### 12.3.4 Receiving Complaints about Councillors

The Monitoring Officer will receive complaints of failures to comply with the Members' Code of Conduct and determine, in consultation with the Independent Person, whether a complaint requires formal investigation. The Monitoring Officer may seek to resolve a complaint informally prior to a decision on whether the complaint merits formal investigation.

### 12.3.5 Conducting Investigations

The Monitoring Officer will arrange formal investigations as appropriate into matters referred to them and make reports or recommendations in respect of them to the Standards Committee. Subject to providing a report for information to the Standards Committee, the Monitoring Officer may take no further action where a formal investigation finds no evidence of a failure to comply with the Members' Code of Conduct, or seek an informal resolution (subject to consultation with the Independent Person) where the complainant is satisfied with the outcome.

### 12.3.6 Advising whether decisions of the Cabinet are within the Budget and Policy Framework

The Monitoring Officer will, in conjunction with the Chief Finance Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

### 12.3.7 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 the Councillors.

### 12.3.8 Restrictions on Posts

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

## 12.4 Functions of the Chief Finance Officer

### 12.4.1 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 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.

### 12.4.2 Administration of Financial Affairs

The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council.

### 12.4.3 Contributing to Corporate Management

The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.

### 12.4.4 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.

### 12.4.5 Give Financial Information

The Chief Finance Officer will provide financial information to the media, members of the public and the community.

### 12.4.6 Advising whether Decisions of the Cabinet are within the Budget and Policy Framework

The Chief Finance Officer will, in conjunction with the Monitoring Officer, advise whether decisions of the Cabinet are in accordance with the Budget and Policy Framework.

## 12.5 Duty to Provide Sufficient Resources to the Monitoring Officer and Chief Finance Officer

The Council will provide the Monitoring Officer and Chief Finance Officer with such Officers, accommodation and other resources as are in the opinion of the Monitoring Officer and Chief Finance Officer sufficient to allow their duties to be performed.

## 12.6 Conduct

Officers will comply with the Officers' Code of Conduct and the Protocol for Officer/Member Relations set out in Section 18 of this Constitution.

## 12.7 Employment

### CONSTITUTION

The recruitment, selection and dismissal of Officers will comply with the Officer Employment Procedure Rules set out below.

## 12.8 Officer Employment Procedure Rules

The Council is legally obliged under the Local Government & Housing Act 1989 (the '1989 Act') and consequential Regulations to adopt mandatory Standing Orders relating to members of staff. These are contained in the Officer Employment Procedure Rules detailed under this rule 12.8.

### 12.8.1 Introduction

- (a) The functions of appointment and dismissal and taking disciplinary action against a member of staff must be discharged on behalf of the Council by the Head of Paid Service (Managing Director) or an Officer nominated by them. Save for as provided for in these rules this means that the appointment, dismissal or disciplinary action for staff (other than political assistants) must be dealt with by the Managing Director or their nominee, without any participation by Members.
- (b) Nothing in 12.8.1 and 12.8.6 (a) shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by—
  - (i) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
  - (ii) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.
- (c) In paragraph 12.8.1-12.8.4 'Chief Officer' means the Head of Paid Service, the Monitoring Officer, the Chief Finance Officer, all Service Directors.<sup>33</sup>

### 12.8.2 Recruitment and Appointment

- (a) Declarations
  - (i) The Council has drawn up at statement requiring any candidate for an appointment as an officer to state in writing whether they are the parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor or officer of the Council, or the partner of such persons.
  - (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant Chief Officer or an officer nominated by them.
- (b) Seeking Support for Appointment
  - (i) Subject to paragraph (iii), 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.
  - (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
  - (iii) Nothing in paragraphs (i) and (ii) above will preclude a Councillor from giving a written reference for a candidate for submission with an application for appointment.

<sup>33</sup> The procedures in paragraph 12.8.3 shall not apply to any other non-statutory Chief Officer, that would otherwise fall within the statutory definition pursuant to the provisions of the Local Authorities (Standing Orders) Regulations 1993 Paragraph 3 of Part II of Schedule 1. Section 2(7) Local Government Act 1989 defines non-statutory Chief Officer

### 12.8.3 Recruitment of Chief Officers

12.8.3.1 Where the Council proposes to appoint a Chief Officer and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will:

- (a) draw up a statement including the following:
  - (i) the duties of the Officer concerned; and
  - (iii) any qualifications or qualities to be sought in the person to be appointed;
- (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 procedures mentioned in paragraph 12.8.3(a) to be sent to any person on request.

12.8.3.2 Where a post has been advertised as provided for in 12.8.3.1, the Council shall–

- (a) interview all qualified applicants for the post, or
- (b) select a short list of such qualified applicants and interview those included on the short list.

12.8.3.3 Where a post has been advertised as provided for in 12.8.3.1 and no qualified person has applied, the Council shall make further arrangements for advertisement in accordance with standing order 12.8.3.1

### 12.8.4 Appointment of Head of Paid Service (Managing Director)

- (a) The Full Council shall decide whether to approve the appointment of the Head of Paid Service, following the recommendation of the Employment Committee and before the offer of appointment is made.
- (b) The Full Council may only approve the appointment of the Head of Paid Service where no well-founded objection has been made by any member of the Cabinet (via the procedure set out in 12.8.5 below).

12.8.5 Appointments and Dismissals of Chief Officers any Chief officers that fall outside of the section 12.8.1 (c) provision and Deputy Chief Officers.

In this paragraph:

“the appointor”

means the relevant decision making body or officer as per the Terms of Reference or delegation to Full Council, Committee or the Head of Paid Service, or as in the case of the initial notification to the Proper Officer – on behalf of;

“dismissor”

means the relevant decision-making body or officer as per the terms of reference or delegation to Full Council, Committee or the Head of Paid Service and

“the Proper Officer” means the Service Director: Legal and Community Services.

- (a) Where the appointor or dismissor is proposing to appoint or dismiss the Head of Paid Service, Chief Finance Officer or Monitoring Officer, the Council must approve that appointment before the offer of appointment is made or must approve that dismissal before notice of dismissal is given.
- (b) The appointor shall not make an offer of appointment in relation to the Head of Paid Service, any Chief Officer or Deputy Chief Officer until:
  - (i) the appointor has notified the Proper Officer of the name of the person they wish to make the offer and any other particulars considered to be relevant to the appointment;
  - (ii) the Proper Officer has notified every member of the Cabinet of:
    - A. the name of the person to whom the appointor wishes to make the offer;
    - B. any other particulars relevant to the appointment which have been notified to the Proper Officer; and
    - C. the period within which any objection to the making of the offer is to be made by the Leader on behalf of the Cabinet to the Proper Officer; andeither:
    - D. the Leader has, within the period specified, notified the appointor that neither they nor any other member of the Cabinet has any objection to the making of the offer;
    - E. the Proper Officer has notified the appointor that no objection was received by them within that period from the Leader; or
    - F. the appointor is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

Notice of the dismissal of the Head of Paid Service, Chief Officer or Deputy Chief Officer must not be given by the dismissor until:

- (iii) the dismissor has notified the Proper Officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
- (iv) the Proper Officer has notified every member of the Cabinet of:
  - A. the name of the person who the dismissor wishes to dismiss;
  - B. any other particulars relevant to the dismissal which the dismissor has notified to the Proper Officer; and
  - C. the period within which any objection to the dismissal is to be made by the Leader on behalf of the Cabinet to the Proper Officer; and



either:

- D. the Leader has, within the period specified, notified the dismissor that neither they nor any other member of the Cabinet has any objection to the dismissal;
- E. the Proper Officer has notified the Committee that no objection was received by them within that period from the Leader; or
- F. the Committee (or, in the case of the proposed dismissal of the Head of Paid Service, the Full Council) is satisfied that any objection received from the Leader within that period is not material or is not well-founded;

#### 12.8.6 Other Officers

- (a) Appointment and dismissal and taking disciplinary action against a member of staff below Chief Officer as defined in section 12.8.1 (c) (other than political assistant) is the responsibility of the Head of Paid Service or his nominee, and may not be undertaken by councillors.
- (b) The appointment of an assistant to a political group shall be made in accordance with the wishes of that political group. [Please note – the Council does not currently employ any assistants to political groups]
- (c) The Council’s policies in relation to recruitment, selection, appointment, disciplinary action and dismissal shall otherwise apply.

#### Disciplinary Action - Statutory Officers

12.8.7 The Local Authorities (Standing Orders) (England) Regulations 2001(as amended) (the “Regulations”) sets out the legal requirement for an authority to incorporate these provisions on disciplinary action in their standing order relating to certain “relevant officers” (defined below) They set out the basis of how disciplinary action is taken against these relevant officers. The Employment Panel is the relevant Committee for the purposes of the Regulations. When interpreting 12.8.7 -12.8.15:

“the 2011 Act” means the Localism Act 2011;

“chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001;

“independent person” means any person appointed under section 28(7) of the 2011 Act; by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

“local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;

“the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority, in this authority the Panel;

“relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and

“relevant officer” means the Head of the authority’s paid service, Chief Finance Officer or Monitoring Officer, as the case may be.

- 12.8.8 A relevant officer may not be dismissed by the authority unless the procedure set out in the following Rules is complied with.
- 12.8.9 The authority must invite relevant independent persons to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
- 12.8.10 Subject to Rule 12.8.11, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with Rule 12.8.9 in accordance with the following priority order—
- (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
  - (b) any other relevant independent person who has been appointed by the authority;
  - (c) a relevant independent person who has been appointed by another authority or authorities.
- 12.8.11 An authority is not required to appoint more than two relevant independent persons in accordance with 12.8.10 but may do so.
- 12.8.12 The authority must appoint any Panel at least 20 working days before the relevant meeting.
- 12.8.13 Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular—
- (a) any advice, views or recommendations of the Panel;
  - (b) the conclusions of any investigation into the proposed dismissal; and
  - (c) any representations from the relevant officer.
- 12.8.14 Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person’s role as independent person under the 2011 Act.
- 12.8.15 Councillors will not be involved in the dismissal of or disciplinary action against any Officer below the level of Chief Officer, except as set out in 12.8.1(b) and where such involvement is necessary for an investigation or inquiry into alleged misconduct, through the Council’s adopted disciplinary procedure, by way of an appeal to the Employment Appeals Committee in respect of disciplinary action.