

**Appendix D****11. ARTICLE 11 – EMPLOYEES****11.1 Management structure****(a) General**

The Council may engage such staff (referred to as employees) as it considers necessary to carry out its functions. “Employees” or officers means all employees and staff employed by the Council to carry out functions. The term employee or officer covers those engaged under short term agency or other non employed situations as well as those employed on a permanent basis.

The Council will engage people for the following posts, who will be designated as Chief Officers:

<b>Post</b>	<b>Functions and areas of responsibility</b>
Chief Executive (and Head of Paid Service)	<p>Overall corporate management and operational responsibility (including overall management responsibility for all employees)</p> <p>Provision of professional advice to all parties in the decision making process</p> <p>Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council’s decisions.</p> <p>Representing the Council on partnership and external bodies (as required by statute or the Council)</p> <p>Finance and legal services</p>
Director <del>of Place Regeneration, Culture, Environment and Transformation</del> and Deputy Chief Executive	<p>Front Line Services, Physical and Cultural Regeneration <del>and Transformation</del></p> <p>To deputise for the Chief Executive as required</p>
Director of People - Children and Adults Services	Statutory Officer for Children’s Services (schools and social care) adult social care, commissioning and strategic development and inclusion and improvement (schools).
Director of Public Health	The principal adviser on all public health matters, with responsibility spanning the three domains of public health: health improvement, health protection and healthcare public health.

(b) **Head of Paid Service, Monitoring Officer and Chief Finance Officer and Scrutiny Officer**

The Council will designate the following posts as shown:

Post	Designation
Chief Executive	Head of Paid Service
Chief Finance Officer	Chief Finance Officer
Chief Legal Officer	Monitoring Officer
Head of Democratic Services	Scrutiny Officer

Such posts will have the functions described in article 11.2–11.45.

(c) **Structure**

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 employees. This is set out at chapter 7 of this Constitution.

## 11.2 Functions of the Head of Paid Service

(a) **Discharge of functions by the Council**

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

(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.

(c) **Politically restricted posts**

The Head of Paid Service will grant and supervise exemptions from political restrictions, in consultation with the Monitoring Officer.

(d) **Dispensations**

The Head of Paid Service will consider and determine written requests for dispensations when Cabinet Members are making decisions and when individual Cabinet Members are being consulted by officers over a decision being taken by either an officer or another Cabinet Member, in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012.

### 11.3 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, employees 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 Leader and Cabinet in relation to an 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 by the Council or Cabinet as appropriate.

(c) **Supporting the Councillor Conduct Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Councillor Conduct Committee.

(d) **Proper officer for access to information**

The Monitoring Officer is the Proper Officer for this purpose and will ensure 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.

(e) **Advising whether Cabinet decisions are within the budget and policy framework**

The Monitoring Officer will advise whether decisions of the Cabinet 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.

*References: (Section 5), Local Government and Housing Act 1989  
Chapters 8 and 9 DETR Guidance  
Sections 26-33 Localism Act 2011  
Section 3A Local Government and Housing Act 1989  
Section 4 (2) Local Government and Housing Act 1989  
Section 270 Local Government Act 2000*

#### **11.4 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 Leader and Cabinet 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) 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.

**(d) 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 employees in their respective roles.

**(e) Give financial information**

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

### 11.5 **Functions of the Scrutiny Officer**

The Scrutiny Officer may not be the Head of Paid Service, the Monitoring Officer or the Chief Finance Officer and will discharge the following functions:

- promote the role of the Council's Overview and Scrutiny Committees;
- provide support to the Council's Overview and Scrutiny Committees and the members of those Committees;
- provide support and guidance to Councillors, members of the Cabinet and Council officers in relation to the functions of Medway's Overview and Scrutiny Committees.

### 11.6 **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 employees, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

### 11.7 **Conduct**

Employees will comply with the employee code of conduct and the protocol on member/employee relations set out in chapter 5 of this Constitution.

### 11.8 **Employment**

The recruitment, selection and dismissal of employees will comply with the employment rules set out in chapter 4 of this Constitution.

#### *References:*

*Chapter 8 and 9 DETR Guidance*

*Section 9FB Local Government Act 2000*

