

Article 12 – Staff

12.01 Terminology

- (a) **General:** The Council may engage such staff as it considers necessary to carry out its functions. All staff will work on the basis of political neutrality and service to the whole Council. Professional staff, who advise on and/or implement Council decisions, are also known as Officers.
- (b) **Chief Officers:** The full Council will engage persons for the following posts, who will be designated Chief Officers:
- ♦ Chief Executive Officer
 - ♦ Corporate Director of Health and Adult Services
 - ♦ Corporate Director of Environment
 - ♦ Corporate Director Children and Young People’s Service
 - ♦ Corporate Director of Resources
 - ♦ Corporate Director of Community Development
 - ♦ Director of Public Health for North Yorkshire.
- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer:** The Council designates the following posts as shown:
- | | |
|---------------------------|---|
| ♦ Head of Paid Service - | Chief Executive Officer |
| ♦ Chief Finance Officer - | Corporate Director of Resources |
| ♦ Monitoring Officer - | Assistant Chief Executive Legal and Democratic Services |
| ♦ Scrutiny Officer - | Head of Democratic Services and Scrutiny |

Such posts will have the functions described in Article 12.02–12.04 below.

- (d) **Proper Officer:** Certain legislation requires the Council to designate a particular officer as “Proper Officer” for the performance of certain functions. These designations are set out in Article 12.06.
- (e) **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 Officers. This is set out at Part 7 of this Constitution.
- (f) Appointment of staff below Chief Officer level will be the responsibility of the Head of Paid Service, but may be delegated by them to other staff.

12.02 Functions of the Head of Paid Service

- (a) **Management:** Overall corporate management and operational responsibility including overall management responsibility for all staff, and co-ordinating the work of the Council’s Directorates.
- (b) **Professional advice:** The provision of professional advice to all parties in the decision making process.

- (c) **Record Keeping:** Together with the Monitoring Officer, responsibility for a system of record keeping for all decisions made by or on behalf of the Council.
- (d) **Representation:** Representing the Council on partnership and external bodies as required.
- (e) **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 staff required for the discharge of functions and the organisation of staff.
- (f) **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.

12.03 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, staff and the public.
- (b) **Ensuring lawfulness and balance in 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 Executive in relation to an executive function) if the Monitoring Officer considers that any proposal, decision or omission would give rise to unlawfulness or to maladministration. Such a report will be sent to all Members of the Council and will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- (c) **Supporting the Standards and Governance Committee:** The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct and ethics through provision of support to the Standards and Governance Committee.
- (d) **Receiving complaints and reports:** The Monitoring Officer will receive and act on complaints that Members may have breached the Members' Code of Conduct and any reports made by Investigating Officers appointed by the Monitoring Officer and any determination decisions of the Standards and Governance Committee and/or its Hearings Panel.
- (e) **Assessment of complaints and conducting investigations:** The Monitoring Officer will assess complaints made, in consultation with the Independent Person for standards, and will decide whether a complaint merits formal investigation or other action. Where there is a difference of opinion between the Monitoring Officer and the Independent Person, then the allegation will be investigated by an officer nominated by the Monitoring Officer.
- (f) **Advising whether executive decisions are within the budget and policy framework:** The Monitoring Officer will advise whether decisions of the Executive are in accordance with the budget and policy framework.

- (g) **Providing advice:** The Monitoring Officer (in liaison as necessary with 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.
- (h) **Restrictions on posts:** The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

12.04 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 full Council (or to the Executive in relation to an executive function) and send a copy of the report to all Members of the Council and to the Council's external auditor if the Chief Finance Officer 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 (or the Executive) 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 (in liaison as necessary with the Monitoring Officer) will provide advice on the scope of powers and authority to take decisions, maladministration in relation to financial matters, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and staff in their respective roles.
- (e) **Give financial information:** Where required by law or authorised by the Council, the Chief Finance Officer will provide financial information to the media, members of the public and the community.

12.05 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 those Officers sufficient to allow their duties to be performed.

12.06 Proper Officer Functions

The following Officers are designated to perform the functions of Proper Officer in relation to the matters set out below:

(a) Local Government Act 1972

SECTION	DUTIES	PROPER OFFICER
13(3)	Parish Trustee where no Parish Council.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
83(1)	To receive the declaration of acceptance of office by the Chair, Vice-Chair or Councillor of the Council.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
83(3)	To witness the declaration of acceptance of office by the Chair, Vice-Chair or Councillor of the Council.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
84	To receive written notice of resignation from any office under the Local Government Act 1972.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
86	Duty to declare vacancy in office in certain cases.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
87	Duty to give public notice of a casual vacancy.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.

SECTION	DUTIES	PROPER OFFICER
88(2)	To convene a meeting of the Council for the election of Chair of the Council on a casual vacancy occurring.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
89(1)(b)	To receive written notice of a casual vacancy in the office of a Councillor from two local Government electors.	Assistant Chief Executive Legal and Democratic Services or, in their absence, the Head of Democratic Services and Scrutiny.
146(1)(a) (re: transfer of securities of a company in the name of a local authority)	To make statutory declarations as to the securities and the change of name and identity of an authority on the transfer of those securities into the new name of the authority.	Assistant Chief Executive Legal and Democratic Services or, in their absence a Principal Lawyer.
146(1)(b) (re: transfer of securities of a company in the name of a local authority)	To give a certificate confirming that a local authority has become entitled to securities, dividends or interest standing in the name of another local authority.	Assistant Chief Executive Legal and Democratic Services or, in their absence a Principal Lawyer.
191(2)	To receive applications concerning surveying under Section 1 of the Ordnance Survey Act 1841.	Corporate Director of Environment.
204(3)	To receive notice of an application for Justices Licence under Schedule 2 Licensing Act 1964.	Corporate Director of Environment.
210(6) and (7)	Duties related to charities.	Corporate Director of Resources.
225(1)	To receive and retain such documents as are specified by the Standing Orders of the House of Commons, or any enactment or instrument, in the manner and for the purposes directed and to make such notes and endorsements thereon and to give such acknowledgements and receipts in respect thereof as may be so directed.	Assistant Chief Executive Legal and Democratic Services.

SECTION	DUTIES	PROPER OFFICER
229(5)	To give a certificate in legal proceedings that a document is a photographic copy of a document or of any part of a document which is in the custody of, or has been destroyed while in the custody of a local authority.	Assistant Chief Executive Legal and Democratic Services.
234(1)	To sign on behalf of the authority any notice, order or other document which the authority is authorised or required to give, make or issue.	Assistant Chief Executive Legal and Democratic Services.
238	To sign a certificate endorsed on a printed copy of any byelaws (relating to the authenticity of the byelaw).	Assistant Chief Executive Legal and Democratic Services.
Schedule 12 para 4(2)(b)	To sign summons (to every Member of the Council) to attend a meeting of the Council, specifying the business proposed to be transacted.	Assistant Chief Executive Legal and Democratic Services.
Schedule 12 para 4(3)	To receive written notice from a Member that the summons to attend meetings of the Council shall be sent to some other address than his place of residence.	Assistant Chief Executive Legal and Democratic Services.
Schedule 14 Part II Para 25	To certify resolutions of the Council.	Assistant Chief Executive Legal and Democratic Services.
Schedule 16(28)	To receive on deposit lists of buildings of special architectural or historic interest under Section 54(4) of the Town and Country Planning Act.	Head of Service, Heritage Unit.
Schedule 29 para 41(5)	Section 20(b) of Registration Service Act 1953 – prescription of duties, in Regulations of Clerks of County Council under Registration Acts.	Corporate Director of Environment
100B(2)	Excluding from inspection by members of the public the whole or part of any report which, in his opinion, is not likely to be considered in public at a Council, Committee or Sub-Committee meeting.	Assistant Chief Executive Legal and Democratic Services.

SECTION	DUTIES	PROPER OFFICER
100B(7)	Deciding whether or not a newspaper should be supplied with copies of any documents supplied to Members of the Council other than agenda, reports and statements or particulars indicating the nature of agenda items.	Assistant Chief Executive Legal and Democratic Services.
100C(2)	Making (without disclosing exempt information) a written summary to provide members of the public with a reasonably fair and coherent record of the whole or part of proceedings where part of the Minutes of a meeting are not open to inspection by members of the public because they disclose exempt information.	Assistant Chief Executive Legal and Democratic Services.
100(D)(1)	The compilation of a list of background papers.	Assistant Chief Executive Legal and Democratic Services.
100D(5)	Definition of background papers – opinion of proper officer.	Assistant Chief Executive Legal and Democratic Services.
100F(2)	To determine whether a document does not require to be open to inspection.	Assistant Chief Executive Legal and Democratic Services.

(b) Highways Act 1980

SECTION	DUTIES	PROPER OFFICER
205(5) (re: private street works)	To certify a copy of the resolution of the local authority approving the specifications and estimates and apportionment and a copy of those documents for keeping on deposit open to public inspection.	Assistant Chief Executive Legal and Democratic Services.
210(2) (re private street works)	To certify a document giving details of the amendment of any estimate and consequential amendment of any apportionment for keeping on deposit open to public inspection.	Assistant Chief Executive Legal and Democratic Services.

(c) Local Government and Housing Act 1989

SECTION	DUTIES	PROPER OFFICER
15	To receive notification from Members of the formation of, and changes to, political groups.	Assistant Chief Executive Legal and Democratic Services.
19	Receiving information concerning Members' interests, and keeping that information up to date.	Assistant Chief Executive Legal and Democratic Services.

(d) Representation of the People Act 1983

SECTION	DUTIES	PROPER OFFICER
8	To be the Electoral Registration Officer.	Chief Executive Officer.
	To be the Deputy Electoral Registration Officer.	Assistant Chief Executive Legal and Democratic Services.
35	To be the Returning Officer for elections of Councillors of the County.	Chief Executive Officer.
39(4)	Powers in respect of holding elections.	Chief Executive Officer.

(e) Localism Act 2011

SECTION	DUTIES	PROPER OFFICER
33(1)	To be the Proper Officer for receiving written requests for dispensations from Members and voting co-opted Members from either or both of the restrictions in section 31(4) of the Act.	Assistant Chief Executive Legal and Democratic Services and Monitoring Officer.

(f) Local Government Finance Act 1988

SECTION	DUTIES	PROPER OFFICER
116	To be the Proper Officer that informs the Council's external auditor of the date, time place and outcome of any meetings held under Section 115 of the Act.	Corporate Director of Resources.

(g) Public Health Legislation

SECTION	DUTIES	PROPER OFFICER
National Assistance Act 1948 Section 47	To initiate action for removal of persons in need of care and attention.	Director of Public Health or their nominee.
Public Health (Control of Disease) Act 1984 Section 48	To issue certificates relative to the removal of bodies to mortuaries or for immediate burial.	Director of Public Health or their nominee.
The Health Protection (Notification) Regulations 2010 Regulations 2, 3 and 6	To receive and forward information about notifications.	Director of Public Health or their nominee.
Public Health Act 1936 Sections 84 and 85	To deal with verminous persons, clothing or articles and any enactments amending or replacing sections 84 and 85 of the Public Health Act 1936.	Director of Public Health or their nominee.

(h) Registration legislation

Registration Service Act 1953

SECTION	DUTIES	PROPER OFFICER
Section 9(1)	The determination of a deputy to become interim Superintendent Registrar or interim Registrar of Births and Deaths if the latter ceases to hold office.	Corporate Director of Environment or nominated officer.
Section 9(2)	The appointment of interim Superintendent Registrar or Registrar of Births and Deaths where no deputy.	Corporate Director of Environment or nominated officer.
Section 13(2)(h)	Details of running of service hours-in-business Superintendent Registrars.	Corporate Director of Environment or nominated officer.
Section 13(3)(b)	General supervisory powers over administration of Registration Service Act.	Corporate Director of Environment or nominated officer.

(i) Counter-fraud legislation

The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017

SECTION	DUTIES	PROPER OFFICER
	To act as, and exercise the functions of, the Money Laundering Compliance Officer.	Assistant Chief Executive Legal and Democratic Services and Monitoring Officer.
	To act as, and exercise the functions of, the Money Laundering Reporting Officer (MLRO).	Head of Internal Audit.
	To act as, and exercise <u>the</u> functions of, the Deputy Money Laundering Reporting Officer (Deputy MLRO).	Internal Audit Officer.

(j) the Building Act 1984

SECTION	DUTIES	PROPER OFFICER
	The Proper Officer functions set out in the Building Act 1984.	Corporate Director of Community Development.

Where any other legislation enables or requires the Council to appoint a Proper Officer for any purpose or function, the Assistant Chief Executive Legal and Democratic Services is the designated Proper Officer.

12.07 Conduct

Staff will comply with the Employees' Standards of Conduct Policy (Code of Conduct) published on the Council's Intranet and the Protocol for Member/Employee Relations set out in Part 5 of this Constitution.

12.08 Employment

The recruitment, selection and dismissal of staff will comply with the Staff Employment Procedure Rules set out in Part 4 of this Constitution.