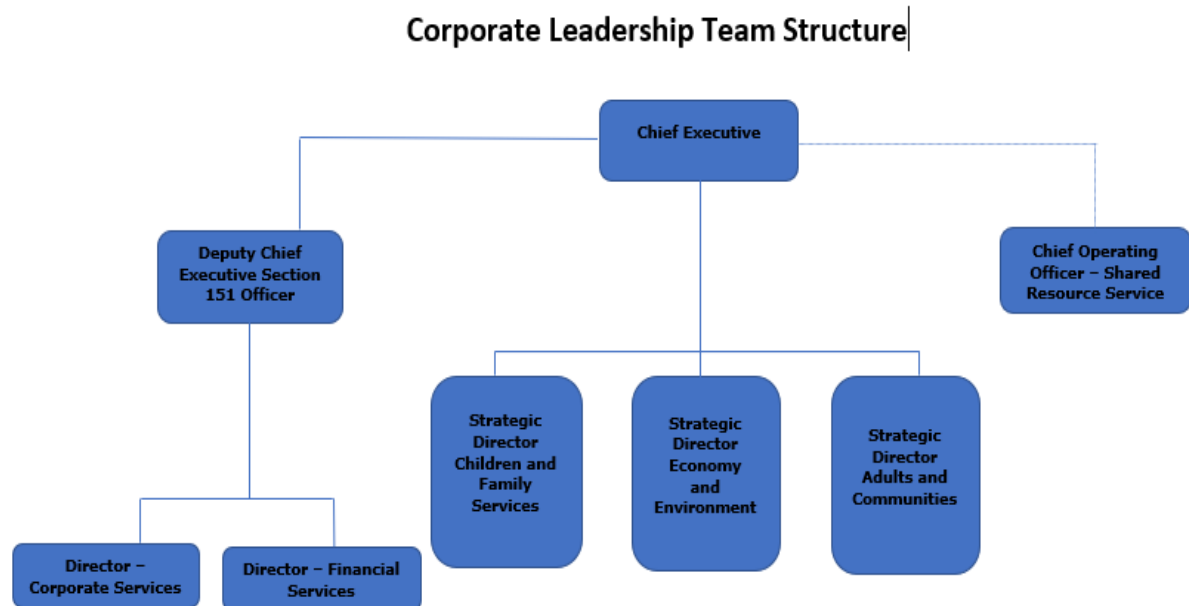


PART 11 - OFFICERS

11.1 The Officer Structure

11.1.1 The management structure of the Council is as follows:

Torfaen County Borough Council Corporate Leadership Team



11.1.2 The following post holders are classified as Strategic Director for the purposes of decision making in Torfaen

- Chief Executive
- Deputy Chief Executive
- Strategic Directors
- Deputy Strategic Directors
- Directors
- Chief Operating Officer, Shared Resource Service

11.1.3 The Deputy Chief Executive currently also holds the post of the Chief Financial Officer.

11.2 Statutory Roles

11.2.1 Functions of the Head of Paid Service

Discharge of functions by the Council

The Chief Executive will be appointed by Council and is the Head of Paid Service and will report to the Council when he or she considers it appropriate to do so 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, the organisation of the authority's staff and the appointment and proper management of those staff.

Restrictions on functions

The Head of Paid Service may not be the Monitoring Officer, but may hold the post of Chief Financial Officer if he/she is a qualified accountant.

11.2.2 Functions of the Monitoring Officer

Maintaining the Constitution

The Monitoring Officer will be appointed by Council and will maintain an up-to-date version of the Constitution and will ensure that it is available to Members, staff and the public and placed on the Council's website. He or she will keep the Constitution under review and make reports recommending changes as appropriate.

Ensuring lawfulness and fairness of decision making

After consulting with the Head of Paid Service and Chief Financial Officer, the Monitoring Officer will report to the full Council (or to the Cabinet in relation to an executive function) if he or she considers that any proposal, decision or omission has given rise to or is likely to or would give rise to a contravention of any statute, rule of law or code of practice. Where any report is prepared, the implementation of any proposal or decision to which the report relates shall be suspended until the report has been considered by Council or the Cabinet as the case may be.

Supporting the Ethics and Standards Committee

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct and support the work of the Ethics and Standards Committee.

Receiving reports

The Monitoring Officer will receive and act on any reports on the conduct of any

member by the Commissioner for Local Administration in Wales (Local Government Ombudsman) as required by Part III of the Local Government Act 2000 and regulations made under that Act.

Conducting investigations

The Monitoring Officer will conduct investigations into matters referred to him or her for investigation by the Commissioner for Local Administration in Wales and make reports following completion of those investigations to the Ethics and Standards Committee.

Proper Officer under the Constitution and for access to information

The Monitoring Officer will ensure that Council, Executive, scrutiny and regulatory decisions together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible and is a Proper Officer under this Constitution.

Advising whether executive decisions are within the Budget and Policy Framework

The Monitoring Officer will advise whether decisions of Cabinet and Strategic Directors are in accordance with the Budget and Policy Framework and may refer any matter to Council where he or she considers that any Executive decision is contrary to the Budget and Policy Framework and the conditions for urgent decisions set out in paragraph 5.10.2 are not satisfied.

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 and Strategic Directors.

Restrictions on posts

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

Monitoring Officer Protocol

A Protocol describing the principal functions of the Monitoring Officer and the manner in which the Council expects him/her to discharge those functions is set out in Appendix 22 of this Constitution.

11.2.3 Functions of the Chief Financial Officer

Administration of financial affairs

The Chief Financial Officer will be appointed by Council and is the person

having responsibility for the financial affairs of the authority under section 151 of the Local Government Act 1982.

Ensuring lawfulness and financial prudence of decision making

After consulting with 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 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.

Contributing to corporate management

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

Providing advice

The Chief Financial 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 Strategic Directors and will support and advise Councillors and officers in their respective roles.

Giving financial information

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

11.3 Recruitment, Appointment, Dismissal and Disciplinary Processes

11.3.1 The Appointments Committee will be responsible for appointing the Deputy Chief Executive, and Strategic Directors responsible for Neighbourhoods, Social Care and Housing and Education.

11.3.2 Only full Council shall appoint the Head of Paid Service, s151 role, Monitoring Officer role, Head of Democratic Services role and any other statutory roles assigned to appropriate posts/officers.

11.3.3 Appointments to all other posts shall be in accordance with the process determined by the Head of Paid Service.

11.3.4 Any decision to dismiss or otherwise discipline the Chief Executive, Monitoring Officer, Head of Democratic Services or Chief Financial Officer must be taken by Full Council in accordance with the procedure set out in 10.4

11.3.5 The Chief Executive shall have delegated authority to take disciplinary action against other Strategic Directors.

11.3.6 Strategic Directors shall have responsibility for disciplinary matters within their Departments in consultation with the Head of Human Resources.

11.3.7 Recruitment of the Chief Executive and Strategic Directors shall follow the procedures set out in Appendix 20.

11.4 The Employee Code of Conduct

11.4.1 The current version of the Employee Code of Conduct is set out in Appendix 15. The Local Protocol and Procedure in Appendix 21 sets up a framework for good working relationships between Councillors and Officers.

11.5 Delegations to Officers

General delegation: Chief Executive

11.5.1 The Chief Executive shall, without prejudice to the general delegation to the Chief Executive Strategic Directors as set out below, be authorised to act on behalf of the Council in relation to any matter and consider and determine within the overall policies of the Council any matter except those matters reserved to the Council by Statute, subject to (except in an emergency) consultation with the Leader, the Cabinet or Executive Member for that portfolio in respect of matters for which they have respectively been allocated responsibility.

11.5.2 Where an appointment is required (other than on an annual basis at the Annual meeting of the Council) the Leader and Chief Executive acting jointly will have the authority to make and give effect to appointments to bodies to exercise advisory and other functions on the Council's behalf, and make appointments to outside bodies.

Delegations to Strategic Directors

11.5.3 The Chief Executive, Monitoring Officer, Chief Financial Officer and Strategic Directors shall as and when required (after consulting the Executive Member, Chair of any relevant Committee or the Cabinet as appropriate) take all necessary steps for protecting the interests or advancing the business of the Council.

11.5.4 The Chief Executive and each Strategic Director, as set out in paragraph 11.1 is authorised to act on behalf of the Council in relation to any matters within the service area for which he/she is responsible subject to the overriding provision in paragraph 11.5.5.

11.5.5 Any action by a Strategic Director under delegated powers shall be in accordance with:

- The overall policies approved by the Council, the Cabinet or the relevant Executive Member;

- The requirements of this Constitution including financial and contract rules.

11.5.6 Where the exercise of a delegated power is likely to affect more than one service area, consultation shall take place with any other Strategic Director whose service area is likely to be affected.

11.5.7 A Strategic Director is expected to:

- Maintain a close liaison with the appropriate Executive Member and Overview and Scrutiny Committee;
- Ensure that the Councillor for the local electoral ward is consulted on or advised of the exercise of delegated powers;
- Consult the Monitoring Officer and Chief Financial Officer where any matter has legal or financial implications;
- Consult the Head of Human Resources on any matter which has human resources implications
- Ensure that the Chief Executive is consulted or informed where appropriate.

11.5.8 Any power conferred upon a Strategic Director may be exercised by an authorised officer in his/her absence or at other times in accordance with any specific or general directions or scheme of delegation approved by the Strategic Director.

General Delegations: Personnel

11.5.9 Delegations relating to the recruitment, appointment, dismissal and discipline of staff are detailed in paragraphs 10.3 and 10.4. For all other employment matters each Strategic Director in consultation with the Head of Strategic Human Resources or his or her staff, is authorised to act, within their sphere of responsibility, within the adopted employment policies of the Council.

11.5.10 Each Strategic Director may authorise staff to exercise such powers of entry, inspection and survey of land, buildings or premises and may issue any necessary evidence or authority as may be appropriate to the execution of their duties and in respect of which the Council has statutory powers.

General Delegations: Property

11.5.11 A Strategic Director may declare land surplus to the requirements of the Department concerned.

11.5.12 In accordance with the Scheme of delegation the Chief Legal Officer may authorise and approve the disposal of land and the granting, or variation in granting, of leases, licences, dedications of or over any land subject to any

policy approved by the Cabinet.

11.5.13 A Strategic Director may arrange for sessional lettings of premises for periods of less than 24 hours.

General Delegations: Legal and Procedural

11.5.14 The Chief Legal Officer is authorised to serve statutory notices to ascertain the legal interest of any person in land.

11.5.15 The Chief Legal Officer is authorised to institute, defend or settle legal proceedings (either in the name of the Council or an individual Officer of the Council) at Common Law or under any enactment, statutory instrument, order or byelaw conferring functions upon the Council or in respect of functions undertaken by them and to lodge an appeal against any such decision. For the avoidance of doubt this authority shall extend to the taking of all procedural steps, including the service of notices, statutory or otherwise, counter notices, and Notices to Quit.

11.5.16 The Chief Legal Officer may authorise officers of the Council to prosecute or defend or appear in any legal proceedings by virtue of the provisions of Section 223 of the Local Government Act 1972.

11.5.17 The Common Seal of the Council shall be kept in a safe place by the Chief Legal Officer. The Common Seal of the Council shall not be affixed to any document unless the sealing has been authorised by some person or body authorised to do so but the decision authorising the action shall be sufficient authority for sealing any document necessary to give effect to the decision of the Council, Cabinet, Planning or Licensing Committee or a Strategic Director.

11.5.18 The seal, and any associated documents shall be signed by, the Chief Legal Officer or an Authorised Officer and an entry of every sealing or signing of a document shall be made and consecutively numbered in the book to be provided for the purpose and kept under the control of the person who shall have attested the seal or signed any associated documents.

11.5.19 Where any document will be a necessary step in legal proceedings or shall be a legal agreement, contract, notice or order under hand on behalf of the Council, it shall, unless any enactment otherwise requires or authorises, or the Council or Chief Legal Officer shall have given the necessary authority to some other person for the purpose of such proceedings, be signed by the Chief Legal Officer.

General Delegations: Contracts

11.5.20 Strategic Directors' authority in respect of letting contracts is contained in the Council's Contract Standing Orders as set out at Appendix 16.

General Delegations: Financial matters

11.5.21 The powers of Strategic Directors in relation to financial matters are set out in the Financial Regulations in Appendix 17.

11.6 Confidential Reporting Procedure

11.6.1 The Confidential Reporting Procedure for employees is attached as Appendix 18.

Statutory Provisions:

Section 101 of the Local Government Act 1972

Part VA, section 99 and Schedule 12 of the Local Government Act 1972

The Public Interest Disclosure Act 1998

Part I of the Local Government and Housing Act 1989

Section 82 of the Local Government Act 2000

The Code of Conduct (Qualifying Local Government Employees) (Wales) Regulations 2001

End of Part Eleven