

Non-Executive Report of the: Council 21/09/16	 TOWER HAMLETS
Report of: Graham White, Interim Service Head – Legal Services and Deputy Monitoring Officer	Classification: Unrestricted
The Roles of the Mayor and the Chief Executive and the delegation of powers	

Originating Officer(s)	Paul Greeno
Wards affected	All wards

Summary

This report is concerned with the roles, powers and duties of the Mayor and the Chief Executive and how, in the interests of transparency, these may be clarified and where appropriate redefined. Material changes to the Constitution are necessary and approval to such changes is required by Council.

Recommendations:

Council is recommended to:

1. Note and approve the additional clarity to the roles of the Mayor and the Chief Executive;
2. Agree all the proposed constitutional changes set out in paragraphs 3.8 to 3.13 and Appendices 2 to 4 and that the Constitution be revised accordingly.

1. REASONS FOR THE DECISIONS

- 1.1 Pursuant to the Local Government Act 2000 ('the 2000 Act') as the Council is operating Executive arrangements then it must have a Constitution and also ensure that this Constitution is kept up-to-date. Pursuant to Part 2, Article 15 of the Constitution it is a Monitoring Officer role to review the Constitution.
- 1.2 The Constitution sets out how the Council operates. It describes the organisation of the Council and limitations on the functions of different services; and prescribes the extent and manner of the exercise of its functions. It sets out how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. It should also set out a clear statement of the respective roles and responsibilities of the Executive and of the Executive's members individually and the authority's approach towards putting this into practice. There must also be a clear statement of the respective roles and responsibilities of other authority members, members generally and senior officers.
- 1.3 The Commissioners have identified delegation of powers to the Chief Executive as an area requiring further progress. The Constitution has been reviewed and the general position is that all Executive decisions except "key" decisions are delegated to the Chief Executive and officers. Within that review however changes have been identified to set out the respective functions of the Chief Executive and Mayor and how they should work together in much greater detail.
- 1.4 Further following constructive discussions with the Commissioners regarding the Chief Executive taking extremely urgent decisions, further proposed revisions to the Constitution are recommended. Additionally, although there are checks and balances in the Constitution regarding implementation of decisions that are 'unlawful or unfair' or 'unlawful or lacking financial prudence', it is also intended that the Chief Executive will have the power to make a written report to Council, the Mayor or the Executive, as appropriate, upon any proposal, decision or omission which would give rise to a significant concern on the Chief Executive's behalf.

2. ALTERNATIVE OPTIONS

- 2.1 The Council could decide not to make the proposed changes.

3. DETAILS OF REPORT

Background

- 3.1 The role of the Mayor is set out in the Constitution at Article 7. The statutory functions of the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer are set out at Article 12. Article 12.01 provides that the Chief

Executive is designated as the Head of Paid Service but no reference is made to the functions of the Chief Executive other than the statutory functions of the Head of Paid Service. A copy of the current Articles 7 and 12 is at Appendix 1. This report contains proposals to define the roles of the Mayor and the Chief Executive more particularly.

- 3.2 Responsibilities for decision-making are set out at Article 13. Whilst the contents of this article are correct, the scheme of Executive decision-making is not immediately apparent from the article alone. Section 9E of the Local Government Act 2000 empowers the Mayor to discharge any Executive function personally or to delegate the discharge to the Executive (the Mayor and Cabinet), an individual member of the Executive, committee of the Executive or an officer. Executive powers have not been delegated by the Mayor to the Executive or to individual members but there has been extensive delegation to officers as referenced in the Scheme of Delegation to Officers. In Part 3 of the Constitution which details the responsibilities for functions, the decision-making capacity of officers is referenced at Paragraph 3.5.
- 3.3 Paragraph 3.5.1 provides that the Chief Executive and Chief Officers are authorised to make decisions relating to any executive function carried out by services under their management other than the taking of key decisions which are the responsibility of the Mayor unless specifically delegated to a Chief Officer.
- 3.4 Paragraph 3.5.1 also provides that the Chief Executive may exercise any functions delegated to other officers and may delegate decisions or functions to one or more officers in any of the Council's directorates.
- 3.5 Thus, the Mayor is responsible for most key decisions whilst all other executive decisions are delegated to the Chief Executive and Chief Officers but all are exercisable by the Chief Executive.
- 3.6 Article 7 provides that the (statutory) Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that the Mayor is unable to act at any one time or the office of Mayor is vacant. This is a statutory provision taken from Schedule A1 to the Local Government Act 2000.
- 3.7 The above decision-making arrangements are substantially satisfactory and in line with other authorities operating the elected mayor model of executive arrangements. In the light of experience certain improvements could be made to fill identified gaps, to maximise the efficiency of the operation of the arrangements, and for clarity.

Proposals

- 3.8 Whilst the roles of the Mayor and Head of Paid Service are set out in the relevant Articles of the Constitution, those sections would benefit from expansion to identify the main and different yet complementary responsibilities of the Mayor and the Chief Executive and the relationship between the two which within the respective parameters needs to be widely appreciated.

- 3.9 It is proposed that the following addition be made to the role of the Mayor in Article 7:

The Mayor will exercise strategic political leadership by developing and communicating clearly to citizens, businesses and service users the authority's purpose and vision and its intended policy outcomes. In developing strategic policy the Mayor will work closely with the Chief Executive and have regard to advice tendered.

This reflects the arrangements which are continuing and whilst not new, it is the first time this has been reflected in the Constitution. The reworded Article 7 is attached as Appendix 2.

- 3.10 It is proposed that a new paragraph, 12.06, be inserted in the Constitution setting out the primary functions of the Chief Executive. This is attached at Appendix 3. The existing paragraph of that number will be re-numbered 12.07.
- 3.11 This paragraph also addresses omissions to the Chief Executive's functions that have been identified. There is currently no fall back power to cover an emergency or extreme urgency where it might not be possible to engage the Mayor and in such circumstances the Chief Executive should be empowered to exercise any executive function subject to the Chief Executive providing a written report to the Mayor setting out the decision taken and why, including the reasons for the emergency or extreme urgency. A similar power is required for non-executive functions.
- 3.12 There are statutory duties for the Monitoring Officer and the Chief Finance Officer to report to Council or to the Executive as appropriate if any proposal, decision or omission would give rise to unlawfulness or maladministration or to unlawful expenditure or is unlawful and likely to cause a loss or deficiency or entering an unlawful item of account. There is no provision in the Constitution enabling the Chief Executive to report to Council, the Mayor or the Executive as appropriate, upon any proposal, decision or omission which would give rise to a significant concern on the Chief Executive's behalf. It is proposed that the Chief Executive be so empowered and that such a report will have the effect of stopping the proposal or decision from being implemented until the report has been considered. The report must be considered within twenty-one (21) days at a meeting of the Council or Executive as appropriate.
- 3.13 In light of the changes referred to in paragraph 3.12 above, similar changes will be required to Articles 12.03(b) (functions of the Monitoring Officer) and 12.04(a) (functions of the Chief Finance Officer) in respect of a report being considered within 21 days and suggested amendments to the Constitution are in Appendix 4.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

4.1 There are no financial implications arising from this report.

5. LEGAL COMMENTS

5.1 Relevant comments upon the appropriate legal framework are contained in the body of the report. There are no immediate legal implications arising from this report.

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 This is a continuation of the Council's improvement to its organisational culture. Improved clarity and understanding of the formal roles and responsibilities of the Mayor and Chief Executive demonstrates a commitment for fair and transparent decision making.

6.2 These proposed revisions will lead to better clarity of roles leading to efficiency, transparency and accountability of decision making and which should help to achieve the objectives of equality and personal responsibility inherent in One Tower Hamlets.

7. BEST VALUE (BV) IMPLICATIONS

7.1 The Council has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. This is referred to as the Council's best value duty.

7.2 By virtue of Directions made by the Secretary of State on 17 March 2015 the Council was required to draw up and agree with the Commissioners a strategy and action plan for securing the Authority's compliance with the best value duty. Part of that plan included recommendations regarding Organisational Culture and as part of this, the Commissioners have identified delegation of powers to the Chief Executive as an area requiring further progress. Therefore, whilst the report does not propose any direct expenditure, it is looking to put in place arrangements in the exercise of its functions having regard to efficiency and thereby also economy and effectiveness.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no environmental implications associated with this strategy.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 These proposed revisions of the Constitution will lead to better clarity of roles leading to efficiency, transparency and accountability of decision making. The overall aim is therefore to reduce risk.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no crime and disorder reductions implications.
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Linked Reports, Appendices and Background Documents

Linked Report

NONE

Appendices

- Appendix 1: Current Part 2, Articles 7 and 12 of the Constitution
- Appendix 2: Proposed new Article 7
- Appendix 3: Proposed new paragraph, 12.06 setting out the primary functions of the Chief Executive
- Appendix 4: Proposed new paragraph 12.03(b) and 12.04(a)

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- NONE.

Officer contact details for documents:

- N/A

APPENDIX 1
CURRENT EXTRACT OF PART 2, ARTICLES 7 AND 12 OF THE CONSTITUTION

Article 7 - The Mayor and the Executive

7.01 The Role of the Executive

The Executive will carry out all the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

7.02 Form and Composition

The Executive will consist of the Mayor and between two and nine Councillors appointed by the Mayor, called Cabinet Members. One of the Cabinet Members will be appointed by the Mayor as the Deputy Mayor. When the Mayor and Cabinet Members meet together in Committee this is known as a meeting of the Cabinet.

7.03 Mayor and Deputy Mayor

The Mayor

The Mayor will be a person elected to that position by the electors of the borough in the Mayoral election. In the event that a serving Councillor of the London Borough of Tower Hamlets is elected as Mayor, a vacancy shall be declared in that person's Council seat and a by-election shall be held (if required) in accordance with the relevant legislation.

The term of office of the Mayor will normally be four years. S/he will take office on the fourth day after his/her election and will continue in office until the fourth day after his/her successor is elected, unless s/he dies, is disqualified or resigns.

The Deputy Mayor

The Deputy Mayor will be a Councillor appointed to that position by the Mayor from among the Cabinet members.

The Mayor may replace the Deputy Mayor at any time but otherwise the Deputy Mayor shall remain in post for the duration of the Mayor's term of office, unless:

- a) s/he resigns from office; or
- b) s/he is no longer a Councillor

The Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that the Mayor is unable to act at any time.

7.04 Other Executive Members

The Mayor shall appoint between two and nine Councillors to be members of the Executive (Cabinet Members) alongside the Mayor him/herself. All of the Cabinet Members must be serving Councillors of the authority. The Mayor may allocate to each Cabinet Member a portfolio of responsibility for Council business relating to their role as an Executive Member (see 7.05 below).

The Mayor must appoint one of the Cabinet Members as the Deputy Mayor.

The Mayor may replace or remove a Cabinet Member, and/or may vary or delete their portfolio responsibilities, at any time.

Executive Members shall hold office until:

- (a) They are removed or replaced by the Mayor;
- (b) They resign from office; or
- (c) They are no longer a Councillor.

In the case of a vacancy arising in any post of Cabinet Member the Mayor may appoint a Councillor to the vacant post at his/her discretion.

7.05 Cabinet Responsibilities

The Executive Members will have portfolios as set out in the Executive Scheme of Delegation at Part 4.4 of this Constitution.

The portfolios may be subject to change from time to time at the discretion of the Mayor and will be updated by the Monitoring Officer as soon as reasonably practicable when so advised by the Mayor.

7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 4 of the Constitution.

7.07 Responsibility for Functions

The Monitoring Officer will maintain a list as part of this Constitution, setting out which individual Cabinet Members or Committees of the Executive, officers or joint arrangements (see Article 11) are responsible for the exercise of particular executive functions.

Article 12 - Officers

12.01 Appointments

- (a) **General.** The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions.
- (b) **Chief Officers.** The Council will engage persons for the following posts who will be designated chief officers.

Chief Executive
Corporate Director, Development and Renewal
Corporate Director, Communities Localities and Culture
Corporate Director, Education, Social Care and Wellbeing
Corporate Director, Resources
Director of Law, Probity and Governance

The above posts may be subject to change from time to time in which case this Constitution will be updated as soon as reasonably practicable to reflect any change in the designated chief officers.

- (c) **Head of Paid Service, Monitoring Officer and Chief Finance Officer.** The Council has designated the following posts as shown:

Chief Executive	Head of Paid Service
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[Note: The Council has appointed the Corporate Director, Communities, Localities and Culture to act as the Head of Paid Service until 31st October 2014.]

Corporate Director, Resources	Chief Finance Officer
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Director of Law, Probity and Governance	Monitoring Officer
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Such posts will have the functions described in Articles 12.02 – 12.04 below.

- (d) **The Management Structure.** The Head of the Paid Service will determine and publicise a description of the overall structure of the Council showing the management structure and deployment of officers. This is set out in Part 7 of this Constitution.

12.02 Functions of the Head of the Paid Service

- (a) **Discharge of functions by the Council.** The Head of Paid Service will report, as required, 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 the officer structure.

- (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.

12.03 Functions of the Monitoring Officer

- (a) **Maintaining and monitoring 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 fairness of decision making.** After consulting with the Head of the Paid Service and Chief Finance Officer, the Monitoring Officer will report to the full Council, or to the Mayor or Cabinet in relation to an executive function, if s/he 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.
- (a) **Supporting the Standards Advisory Committee.** The Monitoring Officer will contribute to the promotion and maintenance of high standards of ethical conduct through the provision of support to the Standards Advisory Committee.
- (b) **Receiving reports.** The Monitoring Officer will receive and have regard to recommendations from the Standards Advisory Committee and/or decisions of Case Tribunals regarding Member conduct.
- (c) **Conducting investigations.** Where an investigation is required in accordance with the agreed arrangements for dealing with an alleged breach of the Code of Conduct by a Member, the Monitoring Officer will conduct or arrange for that investigation to be carried out and make reports or recommendations in respect of them to the Standards Advisory Committee or its sub-committee as appropriate.
- (d) **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.
- (e) **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 Mayor and all Councillors.
- (f) **Restrictions on post.** 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 Mayor or Cabinet in relation to an executive function, and the Council's external auditor if s/he 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 proper 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, financial impropriety, probity (and budget and policy framework issues) to the Mayor and all Councillors and will support and advise the Mayor and Councillors and officers in their respective roles.
- (e) **Giving financial information.** 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 their opinion sufficient to allow their duties to be performed.

12.06 Conduct

Officers will comply with the Employees' Code of Conduct and the Member/Officer Protocol set out in Part 5 of this Constitution.

APPENDIX 2 PROPOSED NEW ARTICLE 7

Article 7 - The Mayor and the Executive

7.01 The Role of the Executive

The Executive will carry out all the local authority's functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.

7.02 Form and Composition

The Executive will consist of the Mayor and between two and nine Councillors appointed by the Mayor, called Cabinet Members. One of the Cabinet Members will be appointed by the Mayor as the Statutory Deputy Mayor. When the Mayor and Cabinet Members meet together in Committee this is known as a meeting of the Cabinet.

7.03 Mayor and Statutory Deputy Mayor

The Mayor

The Mayor will exercise strategic political leadership by developing and communicating clearly to citizens, businesses and service users the authority's purpose and vision and its intended policy outcomes. In developing strategic policy the Mayor will work closely with the Chief Executive and have regard to advice tendered.

The Mayor will be a person elected to that position by the electors of the borough in the Mayoral election. In the event that a serving Councillor of the London Borough of Tower Hamlets is elected as Mayor, a vacancy shall be declared in that person's Council seat and a by-election shall be held (if required) in accordance with the relevant legislation.

The term of office of the Mayor will normally be four years. S/he will take office on the fourth day after his/her election and will continue in office until the fourth day after his/her successor is elected, unless s/he dies, is disqualified or resigns.

The Statutory Deputy Mayor

The Statutory Deputy Mayor will be a Councillor appointed to that position by the Mayor from among the Cabinet members.

The Mayor may replace the Statutory Deputy Mayor at any time but otherwise the Statutory Deputy Mayor shall remain in post for the duration of the Mayor's term of office, unless:

- (a) s/he resigns from office; or
- (b) s/he is no longer a Councillor

The Statutory Deputy Mayor shall have authority to exercise the Mayor's powers only in the event that the Mayor is unable to act at any time.

7.04 Other Executive Members

The Mayor shall appoint between two and nine Councillors to be members of the Executive (Cabinet Members) alongside the Mayor him/herself. All of the Cabinet Members must be serving Councillors of the authority. The Mayor may allocate to each Cabinet Member a portfolio of responsibility for Council business relating to their role as an Executive Member (see 7.05 below).

The Mayor must appoint one of the Cabinet Members as the Statutory Deputy Mayor.

The Mayor may replace or remove a Cabinet Member, and/or may vary or delete their portfolio responsibilities, at any time.

Executive Members shall hold office until:

- (a) They are removed or replaced by the Mayor;
- (b) They resign from office; or
- (c) They are no longer a Councillor.

In the case of a vacancy arising in any post of Cabinet Member the Mayor may appoint a Councillor to the vacant post at his/her discretion.

7.05 Cabinet Responsibilities

The Executive Members will have portfolios as set out in the Executive Scheme of Delegation at Part 4.4 of this Constitution.

The portfolios may be subject to change from time to time at the discretion of the Mayor and will be updated by the Monitoring Officer as soon as reasonably practicable when so advised by the Mayor.

7.06 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 4 of the Constitution.

7.07 Responsibility for Functions

The Monitoring Officer will maintain a list as part of this Constitution, setting out which individual Cabinet Members or Committees of the Executive, officers or joint arrangements (see Article 11) are responsible for the exercise of particular executive functions.

APPENDIX 3
PROPOSED NEW PARAGRAPH 12.06 SETTING OUT THE FUNCTIONS OF THE
CHIEF EXECUTIVE

Article 12 – Officers

12.06 Functions of the Chief Executive

(a) Overriding Responsibility.

The Chief Executive is an employee of the Council as a whole and his/ her overriding responsibility is to the Council and not to the Mayor, any party political group, or other grouping of Members. His/ her political neutrality must be respected at all times. The Chief Executive is the Council's statutory Head of Paid Service.

(b) Working with the Mayor.

The Chief Executive works closely with the Mayor to assist in the development of the Mayor's strategic policy and to ensure that such is then put into practice and, in that regard, to provide:

- (i) **Strategic direction.** The Chief Executive will ensure that the Mayor and Council's priorities and goals can be implemented in a timely, efficient and innovative way through focused strategies, projects and programmes.
- (ii) **Policy advice.** The Chief Executive will act as the principal policy adviser to the Mayor and Members and will secure the best professional advice on all relevant matters in respect of the Council's functions and services.
- (iii) **Partnerships (internal).** The Chief Executive will develop a professional partnership with the Mayor and Members to ensure that the Council's vision, goals and core values are made reality and to provide a clear sense of direction, optimism and purpose and marshal the resources of the whole organisation to this end.
- (iv) **Partnerships (external).** The Chief Executive will assist the Mayor in partnership working by taking the lead in developing effective partnerships at management level with other public agencies, private companies and local community organisations to achieve better public services and improved results for local people.

c) Emergency or Extreme Urgency

- (i) The Chief Executive may exercise any executive function in cases of emergency or extreme urgency whether or not reserved to the Mayor and following the exercise of such power the Chief Executive will provide a

written report to the Mayor setting out the decision taken and the reason for it including the reasons for emergency or extreme urgency.

- (ii) The Chief Executive may exercise any non-executive function in cases of emergency or extreme urgency whether or not reserved to the Council and following the exercise of such power the Chief Executive will provide a written report to the Council setting out the decision taken and the reasons for it including the reasons for emergency or extreme urgency.

d) Ensuring overall correctness of decision making.

If the Chief Executive considers that any proposal, decision or omission would give rise to a significant concern on his/her behalf and which goes beyond either:

- (i) (unlawfulness or if any decision or omission has given rise to maladministration (the responsibility of the Monitoring Officer); or
- (ii) 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 (the responsibility of the Chief Finance Officer);

then the Chief Executive will report in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function and such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The report must be considered within twenty-one (21) days at a meeting of either Council or the Executive as appropriate.

As soon as practicable after either the Council or the Mayor and/or the Executive has considered the Chief Executive's report, it shall prepare and publish a report that will include;

- (i) what action it has taken in response to the report;
- (ii) what action it proposes to take in response to the report and when it proposes to take that action;
- (iii) the reasons for taking that action, or the reason for not taking any action;

APPENDIX 4
PROPOSED REVISIONS TO 12.03(B) AND 12.04(A)

Article 12 – Officers

12.03 Functions of the Monitoring Officer

- (b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of the Paid Service and Chief Finance Officer, the Monitoring Officer will report in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function, if s/he 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. The report must be considered within twenty-one (21) days at a meeting of either Council or the Executive as appropriate.

As soon as practicable after either the Council or the Mayor and/or the Executive has considered the Monitoring Officer’s report, it shall prepare and publish a report that will include:

- (i) what action it has taken in response to the report;
- (ii) what action it proposes to take in response to the report and when it proposes to take that action;
- (iii) the reasons for taking that action, or the reasons for not taking any action.

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 in writing to the Mayor in relation to an executive function or to the Council in relation to a non-executive function, and to the Council’s external auditor if s/he 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. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered. The report must be considered within twenty-one (21) days at a meeting of either Council or the Executive as appropriate.

As soon as practicable after either the Council or the Mayor and/or the Executive has considered the Chief Finance Officer’s report, it shall prepare and publish a report that will include:

- (i) what action it has taken in response to the report;
- (ii) what action it proposes to take in response to the report and when it proposes to take that action;
- (iii) the reasons for taking that action, or the reasons for not taking any action.