

# Public Document Pack

## **General Purposes Committee**

**19<sup>th</sup> October 2020**

### SUPPLEMENTARY PACK

Item 7 – Amended versions of report and appendices A - B

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**Report of City Solicitor**

**Report to General Purposes Committee**

**Date: 19<sup>th</sup> October 2020**

**Subject: Amendments to the Constitution**

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary**

**1. Main issues**

- On 27<sup>th</sup> May 2020 the Leader confirmed her Executive Arrangements for the 2020/21 Municipal Year.
- The Leader has made amendments to those arrangements and presented details of the altered arrangements to Council on 16<sup>th</sup> September.
- Further amendments are required to the Constitution, reflecting the Leader's arrangements.

**2. Best Council Plan Implications** (see the [latest version of the Best Council Plan](#))

- The Constitution must be maintained up to date and fit for purpose in line with the Council's Corporate Governance Code and Framework in addition to furthering the Council's value of being "open, honest and trusted."

**3. Resource Implications**

- There are no implications for this report.

**Recommendations**

General Purposes Committee is requested to recommend that Council approve amendments to the constitution as detailed in this report, and set out in the appendices attached, with immediate effect in particular to:

- Article 6 (Appendix A)
- Article 12 (Appendix B)

## **1. Purpose of this report**

- 1.1 This report sets out proposed amendments to the Constitution reflecting amendments to the Leader's executive arrangements reported to Council on 16<sup>th</sup> September 2020.

## **2. Background information**

- 2.1 The Leader amended the executive arrangements to reflect minor changes in structure within Directorates, and to clearly reflect statutory roles and responsibilities.

## **3. Main issues**

### Article 6

- 3.1 Minor amendments are required to Annex 2 of Article 6 to ensure that the reporting arrangements to each Scrutiny Board reflect the delegation of executive decision making. Proposed amendments are shown at Appendix A attached.

### Article 12

- 3.2 Amendments are required to reflect the management and reporting arrangements between the City Solicitor, Chief Officer Financial Services, Director of Resources and Housing and Chief Executive.
- 3.3 Amendments also reflect that the Director of Resources and Housing has taken overarching responsibility for Access to information matters with specific areas of responsibility being addressed within his sub-delegation scheme.
- 3.4 Proposed amendments are shown at Appendix B attached.
- 3.5 The proposed amendments, in conjunction with the changes made by the Leader to her Executive Arrangements, will maintain the transparency of governance and decision making arrangements in place.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 All relevant Directors were consulted in relation to the amendments to their delegated authority.

### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 There are no implications for this report.

### **4.3 Council policies and the Best Council Plan**

4.3.1 The Constitution must be maintained up to date and fit for purpose in line with the Council's Corporate Governance Code and Framework in addition to furthering the Council's value of being "open, honest and trusted."

Climate Emergency

4.3.2 There are no implications for this report.

**4.4 Resources, procurement and value for money**

4.4.1 There are no implications for this report.

**4.5 Legal implications, access to information, and call-in**

4.5.1 There are no implications for this report.

**4.6 Risk management**

4.6.1 There are no implications for this report.

**5. Conclusions**

5.1 Amendments to the Constitution are necessary to reflect changes made by the Leader to her Executive Arrangements, and to ensure that the Council's governance and decision making arrangements are coherent and transparent.

**6. Recommendations**

6.1 General Purposes Committee is requested to recommend that Council approve amendments to the constitution as detailed in this report, and set out in the appendices attached, with immediate effect in particular to:

- Article 6 (Appendix A)
- Article 12 (Appendix B)

**7. Background documents<sup>1</sup>**

7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

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**ARTICLE 6 – SCRUTINY BOARDS**

**6.1 ROLE**

The Council will appoint Scrutiny Boards as set out in Annex 2 to this Article to exercise functions conferred by section 9F of the Local Government Act 2000 and in accordance with the National Health Service Act 2006, in accordance with their terms of reference<sup>1</sup>.

**6.2 VISION FOR SCRUTINY**

The Council has adopted a Vision for Scrutiny, which is attached at Annex 1.

**6.3 ROLE OF SCRUTINY**

**Policy development and review**

Within their Terms of Reference all Scrutiny Boards may:

- assist the Council and the Executive in the development of the Budget and Policy Framework by in-depth analysis of policy issues;
- conduct research, community and other consultation in the analysis of policy issues and possible options;
- consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- question Members of the Executive and Directors about their views on issues and proposals affecting the area; and
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

**Scrutiny**

Within their terms of reference all Scrutiny Boards may:

- make recommendations to the Executive and/or appropriate committees and/or Council arising from the outcome of the scrutiny process;
- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Board and local people about their activities and performance; and
- question and gather evidence.

<sup>1</sup> As set out at Part 3 Section 2A of the Constitution

## Article 6 - Scrutiny Boards

### 6.4 SCRUTINY OFFICER

The Council has designated the post of Head of Democratic Services, as Scrutiny Officer<sup>2</sup>.

The functions of the Scrutiny Officer are:

- (a) to promote the role of the Scrutiny Boards;
- (b) to provide support to the Scrutiny Boards and their members<sup>3</sup>;
- (c) to provide support and guidance to Members (including Executive Members), and officers<sup>4</sup>, in relation to the Scrutiny Boards' functions;
- (d) to report to Council<sup>5</sup> annually about how the authority has carried out its overview and scrutiny functions.

### 6.5 PROCEEDINGS

Scrutiny Boards will conduct their proceedings in accordance with the Scrutiny Board Procedure Rules set out in Part 4 of this Constitution.

### 6.6 MEMBERSHIP

Members shall be appointed in accordance with the Scrutiny Board Procedure Rules.

Scrutiny Boards shall co-opt members in accordance with the Scrutiny Board Procedure Rules.

### 6.7 SCRUTINY BOARD CHAIRS

The Chair of each of the Scrutiny Boards shall be appointed in accordance with the Council Procedure Rules.

Group spokespersons shall not be appointed to Chair a Scrutiny Board which corresponds to the same portfolio.<sup>6</sup>

- The Scrutiny Board with responsibility for health shall nominate Members to any joint overview and scrutiny committee appointed by the authority.<sup>7</sup>

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<sup>2</sup> Under Section 9FB Local Government Act 2000.

<sup>3</sup> The Scrutiny Officer shall exercise overall responsibility for the finances made available to Scrutiny Boards.

<sup>4</sup> The Scrutiny Officer shall exercise overall responsibility for the work programme of the officers employed to support the work of the Scrutiny Boards.

<sup>5</sup> After consultation with the relevant Scrutiny Chairs

<sup>6</sup> This does not apply to those groups who have less than 10% of the membership of the Council

<sup>7</sup> such nominations to reflect the political balance of the Board.

### Vision for Scrutiny at Leeds

“To promote democratic engagement through the provision of an influential scrutiny function which is held in high regard by its many stakeholders and which achieves measurable service improvements which add value for the people of Leeds through a member led process of examination and review”

To achieve this Scrutiny will follow the nationally agreed ‘Four Principles of Good Scrutiny’;

1. Provide ‘critical friend’ challenge to decision makers, through holding them to account for decisions made, engaging in policy review and policy development;
2. Promote Scrutiny as a means by which the voice and concerns of the public can be heard;
3. Ensure Scrutiny is carried out by ‘independent minded’ Board members;
4. Improve public services by ensuring reviews of policy and service performance are focused.

To succeed Council recognises that the following conditions need to be present;

- Parity of esteem between the Executive and Scrutiny
- Co-operation with statutory partners
- Member leadership and engagement
- Genuine non-partisan working
- Evidence based conclusions and recommendations
- Effective dedicated officer support
- Supportive Directors and senior officer culture

***Council agrees that it is incumbent upon Scrutiny Boards to recognise that resources to support the Scrutiny function are, (like all other Council functions), under considerable pressure and that requests from Scrutiny Boards cannot always be met. Therefore Council agrees that constructive consultation should take place between the Executive and Scrutiny about the availability of resources prior to any work being undertaken.***

***Consequently, when establishing their work programmes Scrutiny Boards should***

- ***Seek the advice of the Scrutiny officer, the relevant Director and Executive Member about available resources***
- ***Avoid duplication by having a full appreciation of any existing forums already having oversight of, or monitoring a particular issue (e.g. Plans Panel, Housing Advisory Board, established member working groups, other Scrutiny Boards)***
- ***Ensure any Scrutiny undertaken has clarity and focus of purpose and will add value and can be delivered within an agreed time frame.***

Scrutiny Board	External oversight	Officer oversight (by reference to the Officer Delegation Scheme)	
		Council Functions	Executive Functions
<b>Strategy and Resources</b>		Chief Executive Director of Resources and Housing Chief Officer (Financial Services) City Solicitor Director of Communities and Environment	Chief Executive (1-3) Director of Resources and Housing (1-97) City Solicitor (1-3) Chief Officer (Financial Services)(1-5) Director of Communities and Environment (2, 15 – 17, 19) Director of City Development (8, 11)
<b>Infrastructure, Investment and Inclusive Growth</b>	Risk management authorities (defined by S6 Flood and Water Management Act 2010)	Director of City Development Chief Planning Officer	Chief Executive (4) Director of City Development (1, 3- 7, 9-10, 14) Chief Planning Officer (1-4) Director of Children and Families (2(e))
<b>Environment, Housing and Communities</b>	Responsible authorities (defined by S5 Crime and Disorder Act 1998)	None	Director of Communities and Environment (1, 3-14, 18) Director of Resources and Housing (10-148-12) Director of City Development ( 2)
<b>Children and Families</b>		Director of Children and Families	Director of Children and Families (1, 2(a-d & f), 3) Programme Director Strengthening Families, Protecting Children (1 – 3)
<b>Adults, Health and Active Lifestyles</b>	Relevant NHS bodies or health service providers including:- NHS England NHS Leeds Clinical Commissioning Group Local NHS Trusts and other NHS service providers Healthwatch Leeds	None	Director of Adults and Health (1 - 8) Director of Public Health (1-6) Director of City Development (12&13)

## SPECIAL RESPONSIBILITIES OF SCRUTINY BOARDS

### 1 – Flood risk Management

**The Scrutiny Board (Infrastructure, Investment and Inclusive Growth) is allocated special responsibility for flood risk management namely:-**

- To review and scrutinise the exercise by risk management authorities<sup>8</sup> of flood risk management functions<sup>9</sup> which may affect the Leeds City Council area<sup>10</sup>.

### 2 – Crime and Disorder

**The Scrutiny Board (Environment, Housing and Communities) is allocated special responsibility for crime and disorder namely:-**

- To exercise the functions of a crime and disorder committee<sup>11</sup>, including the following:
  - a) To review or scrutinise the exercise of crime and disorder functions<sup>12</sup> by responsible authorities<sup>13</sup>; and
  - b) To review or scrutinise any local crime or disorder matter<sup>14</sup> raised by a Member.

### 3 – Health

**The Scrutiny Board (Adults, Health and Active Lifestyles) is allocated special responsibility for health namely:-**

- to review and scrutinise any matter relating to the planning, provision and operation of the health service in its area and to make reports and recommendations on any such matter it has reviewed or scrutinised;
- to comment on, make recommendations about, or report to the Secretary of State in writing about such proposals as are referred to the authority by a relevant NHS body or a relevant health service provider;
- to respond to consultation by any relevant NHS body or health service provider; and

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<sup>8</sup> As defined by Section 6 Flood and Water Management Act 2010

<sup>9</sup> As defined by Section 4 Flood and Water Management Act 2010

<sup>10</sup> In accordance with Section 9FH Local Government Act 2000

<sup>11</sup> In accordance with Section 19 Police and Justice Act 2006

<sup>12</sup> As defined by Section 6 Crime and Disorder Act 1998 (formulating and implementing crime and disorder strategies)

<sup>13</sup> These are the authorities responsible for crime and disorder strategies set out in Section 5 Crime and Disorder Act 1998.

<sup>14</sup> Any matter concerning –

- a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment); or
- b) the misuse of drugs, alcohol and other substances in that area

## Article 6 - Scrutiny Boards

Matters which fall within the terms of reference of this Scrutiny Board include:

- arrangements made by local NHS bodies to secure hospital and community health services to the inhabitants of the authority's area and the quality and safety of such services;
- the provision of family health services, personal medical services, personal dental services, pharmacy and NHS ophthalmic services;
- arrangements made by the authority for public health, health promotion, health improvement and for addressing health inequalities;
- the planning of health services by NHS bodies, including plans made in co-operation with local authority's Health and Wellbeing Board for improving both the health of the local population and the provision of health care to that population;
- any matter referred by Healthwatch Leeds; and
- the arrangements made by relevant NHS bodies and health service providers for consulting and involving patients and the public.

The Scrutiny Board may make recommendations to the authority, relevant NHS bodies, or relevant health service providers arising from the scrutiny process.

### **4– Residual Responsibility**

**The Scrutiny Board (Strategy and Resources) is allocated residual responsibility for any function not otherwise allocated to a Scrutiny Board.**

**ARTICLE 12 - OFFICERS**

**12.1 MANAGEMENT STRUCTURE**

• **General**

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

• **Chief Officers**

The full Council will engage persons for the following posts, who will be designated Chief Officer<sup>1</sup> and will have the functions responsibilities set out in the Officer Delegation Scheme (Council (non-executive) Functions) at Part 3 Section 2C and the Officer Delegation Scheme (Executive Functions) at Part 3 Section 3E of this Constitution.

- Chief Executive
- Director of Resources and Housing
- Chief Officer (Financial Services)
- City Solicitor
- Director of Communities and Environment
- Director of City Development
- Chief Planning Officer
- Director of Children and Families
- Director of Adults and Health
- Director of Public Health
- Programme Director Strengthening Families, Protecting Children.

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<sup>1</sup> Any reference to a Director within the constitution shall be deemed to include reference to all officers listed in this Article, except where the context requires otherwise.

Article 12 – Officers

• **Head of Paid Service, Monitoring Officer and Chief Finance Officer**

The Council will designate the following posts as shown:

<b>DESIGNATION</b>	<b>POST</b>	<b>DEPUTY</b>
Head of Paid Service <sup>2</sup>	Chief Executive	Director of Resources and Housing
Monitoring Officer <sup>3</sup>	City Solicitor	Head of Democratic Services
S151 Officer (referred to in this Constitution as Chief Finance Officer) <sup>4</sup>	Chief Officer (Financial Services)	Head of Finance – Financial Management
Director of Children’s Services <sup>5</sup>	Director of Children and Families	Deputy Director of Children and Families (Social Care)
		Deputy Director of Children and Families (Learning)
Director of Adult Social Services <sup>6</sup>	Director of Adults and Health	Deputy Director, Integrated Commissioning
		Deputy Director, Social Work and Social Care Services
		Chief Officer Resources and Strategy
		Chief Officer, Health Partnerships
		Director of Public Health
Director of Public Health <sup>7</sup>	Director of Public Health	Deputy Director of Public Health Consultant in Public Health / Medicine

By law, some functions of the Monitoring Officer and Chief Finance Officer (apart from the administration of the financial affairs of the Council) must be carried out personally, or carried out by a deputy nominated by them in cases of absence or illness<sup>8</sup>.

In addition to the functions detailed in the Officer Delegation Scheme (Council (non-executive) Functions) and the Officer Delegation Scheme (Executive Functions) such posts will have the functions described in Article 12.2–12.5 below.

<sup>2</sup> Designated under Section 4 Local Government and Housing Act 1989

<sup>3</sup> Designated under Section 5 Local Government and Housing Act 1989

<sup>4</sup> Appointed in accordance with Section 151 Local Government Act 1972

<sup>5</sup> Appointed under Section 18 Children Act 2004

<sup>6</sup> Appointed under Section 6 Local Authority Social Services Act 1970

<sup>7</sup> Appointed under Section 73A National Health Service Act 2006

<sup>8</sup> See further Section 5/5A Local Government and Housing Act 1989

## 12.2 FUNCTIONS OF THE HEAD OF PAID SERVICE

- **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.

- **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.

- **Politically restricted posts**

The Head of Paid Service will grant and supervise exemptions from political restriction<sup>9</sup>, in consultation with the Monitoring Officer.

- **Dispensations**

Following consultation with the Chair of the Standards and Conduct Committee, the Head of Paid Service will consider and determine written requests for dispensations.<sup>10</sup>

- **Chair of Leeds Safeguarding Children Partnership and Leeds Safeguarding Adults Board**

Following consultation with appropriate partners, the Head of Paid Service will appoint or dismiss and hold to account the Chairs of the LSCP<sup>11</sup> and LSAB<sup>12</sup>

- **Restrictions on functions**

The Head of Paid Service cannot be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

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<sup>9</sup> Section 3A Local Government and Housing Act 1989

<sup>10</sup> In accordance with Section 33 of the Localism Act 2011.

<sup>11</sup> Regulation 4 LSCB Regulations 2006 and "Working Together" statutory guidance March 2018

<sup>12</sup> Care Act 2014 and "The Care and Support Statutory Guidance"

## FUNCTIONS OF THE MONITORING OFFICER

- **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.

- **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 Executive in relation to an executive function, if he/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.

- **Reporting on maladministration or injustice**

The Monitoring Officer will prepare reports as required by the Local Government Act 1974 and the Local Government and Housing Act 1989 in relation to complaints which have been the subject of investigation by the Local Government Ombudsman and which have revealed maladministration, whether or not that maladministration has caused injustice.

- **Supporting the Standards and Conduct Committee**

The Monitoring Officer will contribute to the promotion and maintenance of high standards of conduct through provision of support to the Standards and Conduct Committee<sup>13</sup>.

- **Functions relating to the Members' register of interests**

The Monitoring Officer will establish, maintain and publish the register of Members' interests<sup>14</sup>.

- ~~**Proper officer for access to information.**~~

~~The Monitoring Officer will ensure that decisions, together with the reasons for those decisions and relevant officer reports and background papers are made publicly available as soon as possible.~~

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<sup>13</sup> Including any action under the procedure for considering complaints alleging a failure to comply with the Members' Code of Conduct

<sup>14</sup> In relation to Leeds City Councillors, voting co-opted Members of Leeds City Council, and Members of Parish and Town Councils in the Leeds area

## Article 12 – Officers

- **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

- **Contributing to corporate management**

The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional legal advice.

- **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 will support and advise Councillors in their respective roles. The Monitoring Officer will also advise Members on the interpretation of the Members' Code of Conduct.

- **Reporting on resources**

The Monitoring Officer will report to the Council, as necessary on the staff, accommodation and resources s/he requires to discharge his/her statutory functions.

- **Receiving copies of certificates**

The Monitoring Officer will receive copies of certificates under the Local Authorities (Contracts) Regulations 1997.

- **Restrictions on posts**

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

### 12.3 FUNCTIONS OF THE CHIEF FINANCE OFFICER

- **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 the Council's external auditor if he/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.

## Article 12 – Officers

- **Administration of financial affairs**

The Chief Finance Officer will make arrangements for the administration of the financial affairs of the Council in accordance with section 151 of the Local Government Act 1972.

- **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.

- **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.

- **Give financial information**

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

### 12.4 FUNCTIONS OF THE DIRECTOR OF PUBLIC HEALTH

- **Annual Report**

The Director of Public Health has statutory responsibility for writing the annual report on the health of the local population.

### 12.5 DUTY TO PROVIDE SUFFICIENT RESOURCES

The Council will provide all Statutory Officers with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

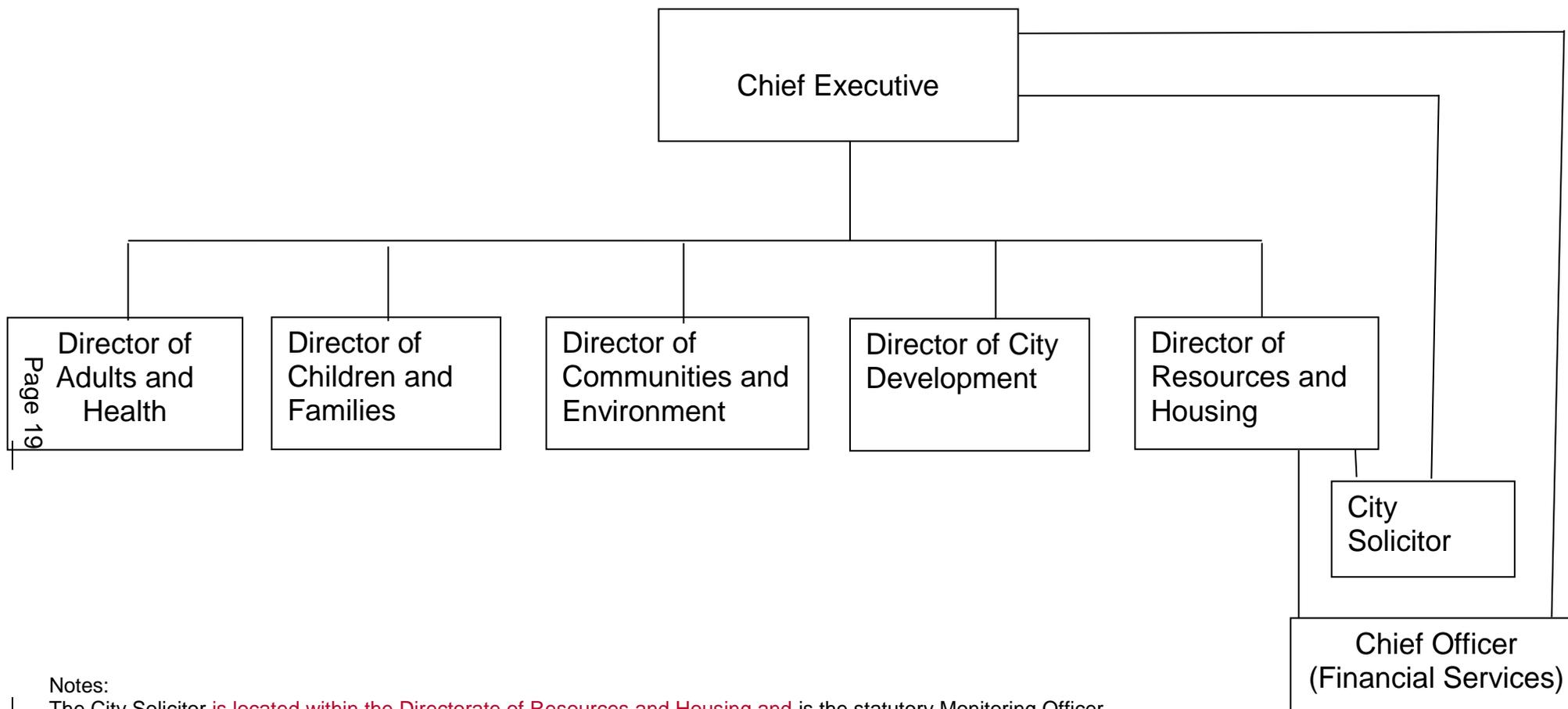
### 12.7 CONDUCT

Officers will comply with the codes of conduct and protocols set out in Part 5 of this Constitution.

### 12.8 EMPLOYMENT

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

## MANAGEMENT STRUCTURE



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Notes:

The City Solicitor **is located within the Directorate of Resources and Housing and** is the statutory Monitoring Officer

The Chief Officer (Financial Services) is located within the Directorate of Resources and Housing and is the statutory Chief Finance Officer / S151 Officer

The Director of Adults and Health is the statutory Director of Adult Social Services

The Director of Children and Families is the statutory Director of Children's Services

The Director of Public Health is located within the Directorate of Adults and Health is the statutory Director of Public Health

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