

# Part 2 – Articles

## Article 12 – Officers

### Statutory Officers

12.1. The Combined Authority is required to appoint or designate the following statutory officers:

- Head of Paid Service<sup>1</sup>,
- Monitoring Officer<sup>2</sup>, and
- Section 73 Chief Finance Officer<sup>3</sup>,

12.2. By law, some functions of the Monitoring Officer and Section 73 Chief Finance Officer (apart from the administration of the financial affairs of the Combined Authority) must be carried out personally or carried out by a deputy nominated by them in cases of absence or illness<sup>4</sup>.

<b>Statutory Officer</b>	<b>Post-holder</b>	<b>Deputy</b>
Head of Paid Service	Managing Director	Director, Corporate and Commercial Services
Section 73 Chief Finance Officer	Director, Corporate and Commercial Services	Head of Finance <sup>5</sup>
Monitoring Officer	Head of Legal & Governance Services	Governance Services Manager <sup>6</sup>

<sup>1</sup> Designated under Section 4 of the Local Government and Housing Act 1989 and may be the Section 73 Chief Finance Officer if a qualified accountant

<sup>2</sup> Designated under Section 5 of the 1989 Act

<sup>3</sup> Section 73 of the Local Government Act 1985; the Section 73 Chief Finance Officer must be qualified in accordance with Section 113 of the Local Government Finance Act 1988

<sup>4</sup> Section 5(7) of the 1989 Act (Monitoring Officer) and Section 114 of the Local Government Finance Act 1988 (Section 73 Chief Finance Officer)

<sup>5</sup> Nominated by the Section 73 Chief Finance Officer under Section 114(6) of the 1988 Act

<sup>6</sup> Nominated by the Monitoring Officer under Section 5(7) of the 1989 Act

## Head of Paid Service – Statutory Functions

12.3. The Head of Paid Service, where the Head of Paid Services considers it appropriate, must prepare a report to the Combined Authority setting out their proposals in relation to:

- the manner in which the discharge by the Combined Authority of its different functions is co-ordinated,
- the number and grades of staff required by the Combined Authority for discharging its functions,
- the organisation of the Combined Authority's staff, and
- the appointment and proper management of the Combined Authority's staff.

The Combined Authority must consider any such report at a meeting within three months of the report first being sent to the Combined Authority Members<sup>7</sup>.

12.4. The Head of Paid Service shall, as soon as practicable after preparing any report relating to the Mayor's PCC Functions<sup>8</sup>, arrange for a copy of it to be sent to the Combined Authority Members (including the Mayor) and to the Police and Crime Panel.

12.5. The Head of Paid Service receives the declaration of the Mayor in relation to the duty of exercising PCC Functions for West Yorkshire<sup>9</sup>.

12.6. The Head of Paid Service must<sup>10</sup> consider any application for exemption from political restriction in respect of any post in the Combined Authority by the holder for the time being of that post, and may<sup>11</sup> give directions to the Combined Authority to include a post in the list of politically restricted posts.

## Monitoring Officer – Statutory Functions

12.7. If it appears to the Monitoring Officer that any proposal, decision or omission by the Combined Authority<sup>12</sup> would give rise to unlawfulness or to maladministration, the Monitoring Officer must send a report<sup>13</sup> to each Combined Authority Member (after consulting so far as practicable with the Head of Paid Service and Section 73 Chief Finance Officer). The Combined Authority must consider any such report at a meeting not more than 21 days after copies of the report are first sent to the Combined Authority Members. The Combined Authority must ensure that the implementation of the proposal or decision must be suspended until the report has been considered.<sup>14</sup>

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<sup>7</sup> Section 4(5) of the 1989 Act

<sup>8</sup> Section 4(4) of the 1989 Act, as modified by Paragraph 9(3) of Schedule 5 of the 2021 Order

<sup>9</sup> Section 70 of the Police Reform and Social Responsibility Act 2011

<sup>10</sup> Section 3A(1)(a) of the 1989 Act

<sup>11</sup> Section 3A(1)(b) of the 1989 Act

<sup>12</sup> Or by any committee or sub-committee, or person holding any office of employment under the Combined Authority or by any joint committee on which the Combined Authority are represented

<sup>13</sup> Section 5 of the 1989 Act

<sup>14</sup> Section 5(5) and (6) of the 1989 Act

- 12.8. If it appears to the Monitoring Officer that any proposal, decision or omission by the Mayor in relation to PCC Functions would give rise to unlawfulness or to maladministration, the Monitoring Officer must send a report<sup>15</sup> to the Mayor, to every other Combined Authority Member and to the Police and Crime Panel<sup>16</sup>, (after consulting so far as practicable with the Head of Paid Service and Section 73 Chief Finance Officer). The Mayor must consider the report no later than three months after the Mayor is sent a copy of the report.
- 12.9. The Monitoring Officer has a statutory role in relation to promoting and maintaining ethical standards – see further Article 9 (Audit and Ethical Arrangements).

### **Section 73 Chief Finance Officer – Statutory Functions**

- 12.10. The Section 73 Chief Finance Officer is responsible for the administration of the financial affairs of the Combined Authority, in accordance with Section 73 of the Local Government Act 1985.
- 12.11. After consulting so far as practicable with the Head of Paid Service and the Monitoring Officer, the Section 73 Chief Finance Officer must prepare a report<sup>17</sup> if it appears to the Section 73 Chief Finance Officer that the Combined Authority<sup>18</sup>
- has made or is about to make a decision which involves or will involve incurring unlawful expenditure, or
  - has taken or is about to take a course of action which would be unlawful or is likely to cause a loss or deficiency, or
  - is about to enter an item of account unlawfully.
- 12.12. The Section 73 Chief Finance Officer must also make such a report if it appears that the expenditure of the Combined Authority incurred in a financial year is likely to exceed the resources available to the Combined Authority.
- 12.13. The Section 73 Chief Finance Officer must send a copy of any such report to the Local Auditor and to each Combined Authority Member<sup>19</sup>. The Combined Authority must consider the report at a meeting not later than 21 days after the report has been sent to Combined Authority Members, and decide whether to agree or disagree with the views contained in it, and what action it proposes to take.<sup>20</sup> The Local Auditor must be notified of meeting and as soon as practicable, any decision taken at the meeting.<sup>21</sup>

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<sup>15</sup> Section 5 of the 1989 Act

<sup>16</sup> Section 5 of the 1989 Act, as amended by Paragraph 9(4) of Schedule 5 of the 2021 Order

<sup>17</sup> Section 6 of the 1989 Act

<sup>18</sup> Or a committee, a person holding any office or employment under the Combined Authority or a joint committee on which the Combined Authority is represented

<sup>19</sup> Section 114 of the 1988 Act

<sup>20</sup> Section 115 of the 1988 Act

<sup>21</sup> Section 116 of the 1988 Act

- 12.14. Where the report relates to the Mayor's PCC Functions, the report must be sent to each member of the Police and Crime Panel, and the Mayor must within 21 days consider the report, and decide whether to agree or disagree with the views contained in it, and what action (if any) they propose to take, setting this out in a report.<sup>22</sup> The Mayor must send the report to the Section 73 Chief Finance Officer, the Local Auditor and each member of the Police and Crime Panel. The Section 73 Chief Finance Officer must notify the Local Auditor of any decision taken by the Mayor<sup>23</sup>.
- 12.15. There are restrictions on the actions which may be taken during the period beginning when the report is sent and ending after the Combined Authority has considered the report.<sup>24</sup>

### **Data Protection Officer**

- 12.16. The Combined Authority is required to designate an officer as its Data Protection Officer<sup>25</sup> who is responsible for:
- informing and advising the Combined Authority and its employees about their obligations to comply with the General Data Protection Regulations (GDPR) and other data protection laws,
  - monitoring compliance with the GDPR and other data protection laws, including:
    - managing internal data protection activities,
    - advising on data protection impact assessments,
    - training staff, and
    - conducting internal audits in relation to data.
  - being the first point of contact for supervisory authorities and for individuals whose data is processed.

### **Scrutiny Officer**

- 12.17. The Combined Authority is required to designate an officer as its Scrutiny Officer - see further Article 8 (Overview and Scrutiny).

### **Proper Officers**

- 12.18. The Combined Authority appoints Proper Officers<sup>26</sup> to discharge specific functions.
- 12.19. The Proper Officers for the Combined Authority are set out in the Officer Delegation Scheme in Section 4 of Part 3 (Responsibility for Functions) of the Constitution.

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<sup>22</sup> Section 115(1B) of the 1988 Act

<sup>24</sup> Section 155 of the 1988 Act

<sup>25</sup> Section 69 of the Data Protection Act 2018

<sup>26</sup> Section 270(3) of the 1972 Act

## **Duty to Provide Sufficient Resources**

12.20. The Combined Authority provides the Head of Paid Service, Monitoring Officer, Section 73 Chief Finance Officer<sup>27</sup> and Data Protection Officer with such officers, accommodation and other resources as are in the opinion of the officer sufficient to allow their duties to be performed.

## **Political Restrictions**

12.21. The following are regarded as holding politically restricted posts under the Combined Authority<sup>28</sup>:

- specified senior officers, and
- every member of staff of the Combined Authority deployed predominantly in relation to the Mayor's PCC Functions<sup>29</sup>, and
- the Mayor's Political Advisor.<sup>30</sup>

12.22. The Combined Authority also maintains a list of other posts which are politically restricted.

12.23. Requirements for restricting political activities apply to these postholders.

## **Delegation to Officers**

12.24. **Non-Mayoral Functions** may be exercised by an officer with delegated authority – see further Article 2 (the Combined Authority) and the Officer Scheme of Delegation in Part 3 of the Constitution.

12.25. **Mayoral Functions** (Mayoral General Functions and PCC Functions) may be exercised by an officer in accordance with arrangements made by the Mayor - see further Articles 4 (the Mayor) and 5 (PCC Functions) and the Officer Scheme of Delegation in Part 3 of the Constitution.

12.26. Officers must comply with Article 13 (Decision-making) when exercising authority delegated to them.

## **Conduct**

12.27. An officer must comply with any applicable Officer Code of Conduct and protocol or policy relating to ethical standards - see further Article 9 (Audit and Ethical Standards) and Part 5 of the Constitution.

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<sup>27</sup> Section 114 of the Local Government Finance Act 1988

<sup>28</sup> Sections 1 and 2 of the Local Government and Housing Act 1989

<sup>29</sup> Excluding the Deputy Mayor for Policing and Crime.

<sup>30</sup> Article 4 of the 2021 Order

## Employment

12.28. The Combined Authority shall not appoint as an officer any person who is:

- the operator of any public passenger transport services,
- director of any company or an employee of any company or other person who is such an operator, or
- a director or employee of any company which is a member of a group of inter-connected bodies corporate any one or more of which is such an operator,

and any officer who subsequently becomes such an operator, director partner or employee shall immediately vacate their office or employment with the Combined Authority.<sup>31</sup>

12.29. A Combined Authority Member is disqualified from being appointed as an officer<sup>32</sup>.

### **Appointment: Canvassing of and Recommendations by Members**

12.30. Any candidate who canvasses any Combined Authority Member (directly or indirectly) for any appointment under the control of the Combined Authority will be disqualified from appointment.

12.31. A Combined Authority Member shall not solicit any person for any appointment under the control of the Combined Authority, but this shall not preclude a member from giving a written testimonial of a candidate's ability, experience or character for the candidate to submit to the Combined Authority with an application for employment.

### **Appointment: Relatives of Members or Officers**

12.32. A candidate for any appointment under the control of the Combined Authority who is related to any officer or Combined Authority Member shall, when making application, disclose that relationship to the Head of Paid Service<sup>3</sup>. A candidate who fails to disclose such relationship will be:

- disqualified from appointment, or
- if appointed, liable to dismissal without notice.

12.33. A Combined Authority Member or officer shall disclose to the Head of Paid Service any relationship known to exist between the Combined Authority Member or officer and any person who is a candidate for appointment with the Combined Authority. The Head of Paid Service shall report any such disclosure to the Combined Authority.

12.34. No candidate so related to a Combined Authority Member or officer will be appointed without the approval of the relevant officer with delegated authority identified for those purposes in the Officer Delegation Scheme.

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<sup>31</sup> In accordance with S9A(8) Transport Act 1968.

<sup>32</sup> Section 116 of the 1972 Act

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