

Section 4 PROPER OFFICER AND SPECIFIED OFFICER FUNCTIONS

Introduction

- (a) The law may specify that the Council must appoint one or more of its officers to be the specified or proper officer in relation to a particular function of the Council. The tables below identify the relevant legislation and the officer(s) that have been appointed to carry them out;
- (b) Any reference to “the Clerk of the Council” or “the Town Clerk of the Borough” contained in any enactment, passed before, or during, the 1971/72 sessions of Parliament (other than the Local Government Act 1972) or in any instrument made before 26th October 1972 is taken to mean the Chief Executive;
- (c) The Chief Executive may discharge any statutory function of a Proper Officer, or other specified officer, contained in any legislation, whenever made, whether or not expressly listed or delegated to any other officer(s) in this Constitution;
- (d) any new statutory function of a Proper Officer which falls to be discharged by the Chief Finance Officer or the Monitoring Officer may be discharged by them, subject to an amendment to the Constitution being reported to the next available Council meeting.
- (e) Any reference to the function of a Proper Officer in relation to any legislation is to be taken as including subordinate legislation and any enactment for the time being amending or replacing such legislation;
- (f) If the office of any of the officers referred to in this Section is vacant or the officer is absent or otherwise unable to act, his/her deputy, or, failing that deputy, the most suitable senior officer, is hereby authorised to act as the Proper Officer.

1. Head of Paid Service (Chief Executive)

The Chief Executive is appointed Proper Officer in relation to:

Local Government Act 1972	
S83 (1)-(4)	Witness and receipt of declarations of acceptance of office of Mayor, Deputy Mayor and councillors
S84 (1)	Receipt of Notice of Resignation of elected member
S88 (2)	Convening of meeting for the election of Mayor in the event of a casual vacancy
S89 (1)	Receipt of notice of casual vacancy by two local government electors

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S225	Deposit of documents relating to any enactment, instrument or parliamentary standing order
S234(1)	Authentication of documents.
Schedule 12	Provisions in relation to meetings and proceedings of the authority
Representation of the People Act 1983	
*NB The Returning Officer for Parliamentary Elections is the Mayor of the borough. This is an honorary position, with the duties of Returning Officer being performed by the Acting Returning Officer.	
S8	Electoral Registration Officer
S28	Acting Returning Officer for Parliamentary Elections
S35	Returning Officer at an election of borough councillors
s89	Receipt of election expenses declarations and making them available for public inspection
Local Authorities (Conduct of Referendums) (England) Regulations 2012	
Regulation 4	Restriction on publication of promotional material
Local Government and Housing Act 1989	
S3A	Considering exemptions from political restriction under s2
Regulation of Investigatory Powers Act 2000	
Regulation 22, 23, 23B, 28 and 29	Designated person to authorise persons to use the provisions of the Act, and to service notices to postal or telecommunications operators
Prevention of Social Housing Fraud (Power to require information) (England) Regulations 2014	
Regulation 3	Authorise officers for the purposes of the Act

In addition to the proper officer functions listed above the Chief Executive is empowered to:

- (a) Make notifications pursuant to sections 15-17 and Schedule 1 and regulations made under the Local Government and Housing Act 1989 (political balance)
- (b) To authorise any officer to attend any conference, seminar, or symposium etc. after consultation with the appropriate Cabinet member, where the conference, seminar or symposium etc. is outside Great Britain;
- (c) To authorise any member to attend any conference, seminar, symposium etc. after consultation with the Leader, where the conference, seminar or symposium etc. is outside Great Britain.

2. Chief Finance Officer

The Director of Finance is appointed Proper Officer in relation to:

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Local Government Act 1972	
S115(2)	Receipt of money due from officers
S146 (1)(a) and (b)	Declarations and certificates as to securities on alteration of local authority area or name
S234(1)	Authentication of documents
Local Government Act 1974	
S30(5)	Give notice that copies of an Ombudsman Report are available
Non domestic rating (Collection and Enforcement) (Local Lists) Regulations 1989	
Regulation 23	To certify a local non domestic rating list or extract to be used in legal proceedings
Regulation of Investigatory Powers Act 2000	
Regulation 22, 23, 23B, 28 and 29*	Designated person to authorise persons to use the provisions of the Act, and to service notices to postal or telecommunications operators
Prevention of Social Housing Fraud (Power to require information) (England) Regulations 2014	
Regulation 3	Authorise officers for the purposes of the Act

In addition to the proper officer functions listed above the interim Chief Finance Officer is empowered in relation to:

- (a) Budget calculations and budget monitoring under Part 2 of the Local Government Act 2003.

3. **Monitoring Officer (Assistant Director of Corporate Governance)**

The Assistant Director of Corporate Governance is appointed Proper Officer in relation to:

Local Government Act 1972	
S100F and I	Decision on additional rights of access to information for councillors and whether information is exempt
S222 and 223(1)	Authorising officers to appear on behalf of the Council in proceedings before a magistrates court and country court
S234(1)	Authentication of documents
S238	Certification of by laws
County Courts Act 1984	
S60	Authorise officers to appear in court
Local Authorities (Conduct of Referendums) (England) Regulations 2012	
Regulation 16, 20	Decisions about exempt documents in relation to rights of access to documents by members of the Council
Local Authority (Contracts) Regulations 1997	

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Regulation 7	Signing on behalf of the Council to certify a contract under the Contracts Act 1997
Localism Act 2011	
S(33)(1)	Receipt of requests for dispensation for members with discloseable pecuniary interests

4. **Democratic Services Manager**

The Democratic Services Manager is appointed Proper Officer in relation to:

Local Government Act 1972	
S100 B, D	All references to proper officer in relation to admission of public and press to meetings; compiling list of background papers for reports and make copies available for public inspection
S225	Receiving and custody of documents
S229(5)	Certification of photographic copies of documents
S248	Officer keeping the roll of Freeman
Schedule 14 Para 25	Certification of Resolution concerning the Public Health Acts 1875-1925
Local Government (Miscellaneous Provisions) Act 1976	
S41	Certification of Minutes, resolutions, orders and reports of the Council
Local Government (Committees and Political Groups) Regulations 1990	
Regulation 8	To receive notice of the composition of political groups
Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012	
Regulation 7, 10, 12, 13, 14, 15,	Access to agenda and reports for meetings which is likely to be a private meeting Notices and publication in relation to key decisions to be taken under general exception Ensure record of every Executive decision Ensure record of every executive decision made by an individual Ensure records of all executive decisions are open to inspection after the meeting/decision is made Ensure all background papers listed on reports are available for public inspection
Local Authorities (Referendums) (Petitions) (England) Regulations 2011	
Regulation 4, 5, 7, 8, 11, 13, 14	To publish the verification number each year, manage petitions submitted after a referendum is called, amalgamation of petitions, manage statutory procedure for petitions, publicise petitions
Local Authorities (Standing Orders) (England) Regulations 2001	
(Sched. 1 part 2)	To receive from Staffing and Remuneration

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	Committee the recommendation to Council for the appoint of X individual as CE, and/or the intention to appoint X individual as the MO/CFO/statutory chief officers/non statutory chief officers and deputy chief officers in order to notify members of the Cabinet and receive any objections
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In addition to the proper officer functions listed above, the Democratic Services Manager is empowered:

- (a) To determine the appointment of outside members to the “pool” from which the membership of School Admissions Appeals Panels and School Exclusions Appeals Panels are drawn;
- (b) To determine the membership of individual Appeals Panels (under (a) above) and the selection of Chairs of these Panels;
- (c) To make appointments of representative School Governors as notified by the Cabinet Member for Children or the Opposition Spokesperson, as appropriate;
- (d) To make appointments to vacancies on the Standing Advisory Council on Religious Education and Conference Committees;
- (e) To make appointments to the membership of Special Licensing Sub-Committees from among the members of the Regulatory Committee;
- (f) To appoint an additional member or members to any scheduled meeting of a Licensing Sub-Committee from among the members of the Regulatory Committee whenever the appointment of a substitute member under the Committee Procedure Rules (Part 4, Section B) would be impracticable and the meeting would otherwise be inquorate;
- (g) The exercise of the delegated powers in (j) and (k) above shall be, so far as practicable, in consultation with the Chair of the Regulatory Committee and the Chief Whip of each Group and with a view to achieving political balance in the membership of Licensing Sub-Committees.
- (h) To appoint the membership of Assessment Sub-Committees, and Hearing Sub-Committees in accordance with the arrangements for dealing with allegations that a member or co-opted member has failed to comply with the Members’ Code of Conduct and the decisions of the Standards Committee and in consultation with the Chair of the Standards Committee and the Monitoring Officer.

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5. **Business Manager, Legal Services**

The Business Manager Legal Services is appointed Proper Officer in relation to:

Registration Services Act 1953	
Ss 6, 8,13,14	Appointment of registrars and deputy registrars, functions relating to making of local schemes

6. **Director of Housing, Regeneration and Planning**

The Director of Housing, Regeneration, Planning is appointed Proper Officer in relation to:

Local Government Act 1972	
S191	Officer to whom an application under s1 of the Ordnance Survey Act 1841 will be sent
Highways Act 1980	
S205	Certification of proposed works, estimated costs and provisional apportionment under the private street works code

7. **Director for Commercial and Operations Environment and Neighbourhoods**

The Director for **Commercial and Operations** Environment and Neighbourhoods is appointed Proper Officer in relation to:

Public Health (Control of Disease) Act 1984	
	Any proper officer function listed within the Act
Health Protection (Notification) Regulations 2010	
Regulation 2, 3 and 6	to receive notifications of notifiable diseases, or infections or contaminations that could significantly harm human health, and make specific notifications
Food Safety Act 1990	
S49(3)(a)	Authentication of documents required under the Act
Environmental Protection Act 1990	
S149	To appoint an officer for the purpose of discharging functions for dealing with stray dogs found in the area of the authority
Regulation of Investigatory Powers Act 2000	
Regulation 22, 23, 23B, 28 and 29	Designated person to use the provisions of the Act, and to service notices to postal or telecommunications operators

8. Head of Building Control

The Head of Building Control is appointed Proper Officer in relation to:

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Building Act 1984	
S93	Authentication of documents

9. Head of ~~People~~ Human Resources and Organisational Development

The Head of Human Resources and Organisational Development is appointed Proper Officer in relation to:

The Local Government and Housing Act 1989	
S 2*	Maintain the list of politically restricted posts

In addition to the proper officer functions listed above, the Head of Human Resources and Organisational Development is empowered:

to amend, following consultation with the Chair of the Staffing and Remuneration Committee, with the Chief Executive, the Monitoring Officer and 151 Officer, any guidance relating to employment not previously agreed by members.

10. Head of Community Safety and Enforcement

The Head of Community Safety and Enforcement is appointed Proper Officer in relation to:

Regulation of Investigatory Powers Act 2000	
Regulation 22, 23, 23B, 28 and 29*	Designated person to authorise persons to use the provisions of the Act, and to service notices to postal or telecommunications operators

11. Investigation Officer (Audit and Risk Management)

The Investigation Officer (Audit and Risk Management) is appointed Proper Officer in relation to:

Prevention of Social Housing Fraud (power to require information) (England) Regulations 2014	
Regulation 4	Power to require information

12. Regulatory Services Manager

The Regulatory Services Manager is appointed Proper Officer in relation to:

Public Health (Control of Disease) Act 1984	
	Any proper officer function listed within the Act
Health Protection (Notification) Regulations 2010	
Regulation 2,	to receive notifications of notifiable diseases, or infections

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3 and 6	or contaminations that could significantly harm human health, and make specific notifications
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13. The Consultants in Communicable Disease Control (CCDCs)

The Consultants in Communicable Disease Control (CCDCs) and other equivalently medically qualified deputising Officers are appointed Proper Officers in relation to:

Public Health (Control of Disease) Act 1984	
	Any proper officer function listed within the Act
Health Protection (Notification) Regulations 2010	
Regulation 2, 3 and 6	to receive notifications of notifiable diseases, or infections or contaminations that could significantly harm human health, and make specific notifications

14. General Provisions

All Directors have been appointed Proper Officers in relation to the functions of their respective enactment), save that the authentication of documents necessary for any legal procedure or proceedings is reserved to the Assistant Director of Corporate Governance in accordance with Article 14.04.

15. Attestation of Seal

The Seal on documents shall be attested by any one of the following officers:

Chief Executive, Director of Finance, Assistant Director of Corporate Governance, Assistant Head of Legal Services or any officer authorised by the Assistant Director of Corporate Governance either in relation to a specific document or particular categories of documents.