

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 ~~and specified 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

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

	government electors
S225	Deposit of documents relating to any enactment, instrument or parliamentary standing order
S234(1)	Authentication of documents. This authorises the Chief Executive to sign any notices or other documents which the council is statutorily empowered to give, make or issue. This delegation is in addition to, and does not reduce, the power of individual senior officers to sign such notices or other documents, as provided for elsewhere in this Constitution.
Schedule 12	Provisions in relation to notices relating to Members and meetings and proceedings of the authority
Representation of the People Act 1983	
<u>*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</u>	
S8	<u>Electoral Registration Officer</u>
S28	<u>Acting Returning Officer for Parliamentary Elections</u>
S35	Returning Officer at an election of <u>borough</u> councillors
s89	<u>Receipt of election expenses declarations and making them available for public inspection</u>
<u>Local Authorities (Conduct of Referendums) (England) Regulations 2012</u>	
<u>Regulation 4</u>	<u>Restriction on publication of promotional material</u>
<u>Local Government and Housing Act 1989</u>	
S3A	<u>Considering exemptions from political restriction under s2</u>
Regulation of Investigatory Powers Act 2000	
Regulation 22, 23, 23B, 28 and 29	Designated person to exercise powers to authorise directed surveillance or the conduct and use of covert human intelligence source for the purpose of preventing or detecting crime <u>persons to use the provisions of the Act, and to service notices to postal or telecommunications operators</u>
<u>Prevention of Social Housing Fraud (Power to require information) (England) Regulations 2014</u>	
<u>Regulation 3</u>	<u>Authorise officers for the purposes of the Act</u>

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

- (a) ~~The Local Government and Housing Act 1989, Section 4 (Head of paid Service), and~~ Make notifications pursuant to sections 15-17 and Schedule 1 and regulations made under the Local Government and Housing Act 1989 (political balance)

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

- (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.

1.2 ~~Deputy Chief Executive~~

~~The Deputy Chief executive is designated as the ‘scrutiny officer’ under section 21ZA of the Local Government Act 2000.~~

2. Chief Finance Officer (Deputy Chief Executive)

The Deputy Chief Executive Finance Officer is appointed Proper Officer ~~and specified officer~~ in relation to:

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
<u>S234(1)</u>	<u>Authentication of documents</u>
<u>Local Government Act 1974</u>	
<u>S30(5)</u>	<u>Give notice that copies of an Ombudsman Report are available</u>
<u>Non domestic rating (Collection and Enforcement) (Local Lists) Regulations 1989</u>	
<u>Regulation 23</u>	<u>To certify a local non domestic rating list or extract to be used in legal proceedings</u>
Regulation of Investigatory Powers Act 2000	
<u>Regulation 22, 23, 23B, 28 and 29*</u>	<u>Designated person is empowered to exercise powers to authorise directed surveillance or the conduct and use of a covert human intelligence source for the purpose of preventing or detecting crime persons to use the provisions of the Act, and to service notices to postal or telecommunications operators</u>
<u>Prevention of Social Housing Fraud (Power to require information) (England) Regulations 2014</u>	
<u>Regulation 3</u>	<u>Authorise officers for the purposes of the Act</u>

~~(a) the proper administration of the Council’s financial affairs under s151 of the Local Government Act 1972;~~

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

~~(c) Part VIII (sections 111 to 116) of the Local Government Finance Act 1988 (Financial administration and the duty to report to Cabinet/Council on any unlawful expenditure);~~

In addition to the proper officer functions listed above the Chief Finance Officer (Deputy Chief Executive) is empowered in relation to:

- ~~(a) Responsibility for the overall management of the internal audit function in accordance with the Accounts and Audit (England) Regulations 2011;~~
- (b) 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 and ~~specified officer~~ in relation to:

Local Government Act 1972	
<u>S100F and I</u>	<u>Decision on additional rights of access to information for councillors and whether information is exempt</u>
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
<u>Local Authorities (Conduct of Referendums) (England) Regulations 2012</u>	
<u>Regulation 16, 20</u>	<u>Decisions about exempt documents in relation to rights of access to documents by members of the Council</u>
Local Authority (Contracts) Regulations 1997	
Regulation 7	Signing on behalf of the Council to certify a contract under the Contracts Act 1997
<u>Localism Act 2011</u>	
<u>S(33)(1)</u>	<u>Receipt of requests for dispensation for members with discloseable pecuniary interests</u>

~~(a) section 229 certification of documents~~

~~(c) Section 30(5) of the Local Government Act 1974 (public notice of Ombudsman's reports);~~

~~(f) the functions of the Monitoring Officer under sections 5 and 5A of the local Government and Housing Act 1989 and Part 3 of the local Government Act 2000 or other legislation relating to Local Government and Regulations~~

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

~~made under the above,~~

~~(g) determining whether the public interest requires information to be treated as 'exempt information' in any report or related background paper and whether any meeting of the Council or a Council body is likely not to be open to the public because of the risk of disclosure of confidential or exempt information or the advice of a political assistant under Part VA and Schedule 12A of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (access to Information)~~

~~(h) determining whether the public interest in maintaining the exemption of information, or the exclusion of the duty to confirm or deny, outweighs the public interest in disclosure in relation to any request for information, or to any internal review after the refusal of a request, under section 2 and Part 2 of the Freedom of Information Act 2000;~~

~~(i) being the 'qualified person' to form a reasonable opinion as to whether disclosure of information would be likely to inhibit the free and frank provision of advice or exchange of views or would be likely otherwise to prejudice the effective conduct of public affairs under section 36 of the freedom of Information Act~~

~~(j) in addition the Assistant Director of Corporate Governance is empowered to exercise powers to authorise directed surveillance of the conduct and use of a covert human intelligence source for the purpose of preventing or detecting crime pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000.~~

4. Democratic Services Manager

The Democratic Services Manager is appointed Proper Officer and ~~specified officer~~ in relation to:

~~(d) section 8 of the Representation of the People Act 1983 (the officer who will act as Deputy to the Electoral Registration Officer in the event of the latter's incapacity or vacancy arising).~~

~~(e) section 2(2) of the Local Government and Housing Act 1989 (maintenance of the list of politically restricted posts)~~

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
<u>S248</u>	<u>Officer keeping the roll of Freeman</u>

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

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
<u>Local Government (Committees and Political Groups) Regulations 1990</u>	
<u>Regulation 8</u>	<u>To receive notice of the composition of political groups</u>
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
<u>Local Authorities (Referendums) (Petitions) (England) Regulations 2011</u>	
<u>Regulation 4, 5, 7, 8, 11, 13, 14</u>	<u>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</u>
<u>Local Authorities (Standing Orders)(England) Regulations 2001</u>	
<u>(Sched. 1 part 2)</u>	To receive from Staffing and Remuneration 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

~~(b) section 191 of the Local Government Act 1972 (providing information to assist the Ordnance Survey)~~

In addition to the proper officer functions listed above, the Democratic Services Manager is empowered:

- (f) 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;
- (g) To determine the membership of individual Appeals Panels (under (f) above) and the selection of Chairs of these Panels;

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

- (h) To make appointments of representative School Governors as notified by the Cabinet Member for Children or the Opposition Spokesperson, as appropriate;
- (i) To make appointments to vacancies on the Standing Advisory Council on Religious Education and Conference Committees;
- (j) To make appointments to the membership of Special Licensing Sub-Committees from among the members of the Regulatory Committee;
- (k) 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;
- (l) 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.
- (m) 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.

5. Business Manager, Legal Services

The Business Manager Legal Services is appointed Proper Officer and ~~specified 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 Regeneration, Planning and Development

The Director of Regeneration, Planning and Development is appointed Proper Officer and ~~specified officer~~ in relation to:

Local Government Act 1972	
S191	Officer to whom an application under s1 of the

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

	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

~~(c) in addition the Director of Regeneration, Planning and Development is empowered to exercise powers to authorise directed surveillance of the conduct and use of a covert human intelligence source for the purpose of preventing or detecting crime pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000.~~

~~1.9 **Director of Children's Services, Director of Adult Social Services, Director of Public Health and the Head of Audit and Risk Management**~~

~~in addition the Director of Children's Services, Director of Adult Social Services, Director of Public Health and the head of Audit and Risk Management are empowered to exercise powers to authorise directed surveillance of the conduct and use of a covert human intelligence source for the purpose of preventing or detecting crime pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000.~~

~~7. **Assistant Director for Environmental Services and Community Safety Commercial and Operations**~~

~~*The Assistant Director for Environmental Services and Community Safety Commercial and Operations is appointed Proper Officer and in relation to:*~~

<u>Public Health (Control of Disease) Act 1984</u>	
	<u>Any proper officer function listed within the Act</u>
<u>Health Protection (Notification) Regulations 2010</u>	
<u>Regulation 2, 3 and 6</u>	<u>to receive notifications of notifiable diseases, or infections or contaminations that could significantly harm human health, and make specific notifications</u>
<u>Food Safety Act 1990</u>	
<u>S49(3)(a)</u>	<u>Authentication of documents required under the Act</u>
<u>Environmental Protection Act 1990</u>	
<u>S149</u>	<u>To appoint an officer for the purpose of discharging functions for dealing with stray dogs found in the area of the authority</u>
<u>Regulation of Investigatory Powers Act 2000</u>	
<u>Sections 24 to 25</u> <u>Regulation 22, 23, 23B, 28 and 29</u>	<u>To exercise powers to authorise the obtaining and disclosure of communications data. <u>Designated person to use the provisions of the Act, and to service notices to postal or telecommunications operators</u></u>

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

~~(a) section 72(1)(a) Weights and Measures Act 1985 as the Council's Chief Inspector of Weights and Measures~~

8. Head of Building Control

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

<u>Building Act 1984</u>	
<u>S93</u>	<u>Authentication of documents</u>

9. ~~Assistant Director for Human Resources~~ Head of People and Change

The Head of People and Change is appointed Proper Officer in relation to:

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

~~The Assistant Director for Human resources is authorised to provide the 'certificate of opinion' for an employee on SCP44 or above making application to the Standards Committee for exemption of his/her post from political restriction under section 3 of the Local Government and Housing Act 1989 (opinion as to whether the duties of the post involve regularly giving advice to Members or speaking to journalists/broadcasters).~~

In addition to the proper officer functions listed above, the Head of People and Change 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:

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

11. Investigation Officer (Audit and Risk Management)

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

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

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

12. Regulatory Services Manager

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

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

13. The Medical Consultants in Communicable Disease Control (CCDCs)

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

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

14. General Provisions

All Directors have been appointed Proper Officers in relation to the functions of their respective Services for the purposes of section 234 of the Local Government Act 1972 (signing or authenticating any notice, order or other document which the Council are authorised or required to issue under any 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:

Section E – Scheme of Delegation – Section 4 Proper Officer and Specified Officer Functions

Chief Executive, Chief Finance Officer (Deputy Chief Executive), 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.