

Officer delegations and Proper Officer Functions

Part A - Officer Delegations

1. General Principles of Officer Delegations

- 1.1 The delegations set out below apply both Executive functions and non Executive functions.
- 1.2 Functions delegated to officers are to be exercised in compliance with other parts of the Constitution (including the restrictions on use of delegated powers set out in section 9 of this part of the Constitution) and in accordance with the budget and policy framework.
- 1.3 Functions delegated to officers shall also be exercised having full regard to:
 - Any advice given by the Chief Executive,
 - Any financial advice given by the Director of Customer and Business Support Services,
 - Any legal advice given by the Monitoring Officer, and
 - Any statutory codes or guidance, and any policies or protocols as may be approved by the Council and Executive.
- 1.4 “Function” is to be construed broadly and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions.
- 1.5 A Director is not required to exercise all delegations personally and may authorise officers of suitable experience and seniority to exercise delegated powers on his/her behalf. A Director must maintain a list of all such authorisations, as part of a comprehensive Directorate Scheme of Delegation.

- 1.6 The fact that a function is delegated to a Director under this scheme does not preclude the Executive or an Executive Member (for Executive functions) or the Council or a Committee (for non-executive functions) from exercising the function in question
- 1.7 A Director may refer any matter to Full Council, the Executive, the appropriate Committee of the Council or the Executive Member for decision at their discretion. A Director should exercise this discretion if in his or her opinion:
- the matter is of significant political impact and where Members might be expected to be accountable to the electorate for the decision;
 - it is a matter of substance relating to a key or significant project;
 - where significant risks have been identified in proceeding with the issue;
 - where there is a significant deviation from the original intention of a proposal previously reported to Members
 - the decision could have significant consequences for another directorate.
- 1.8 Directors have responsibility to report to Council, Executive, the appropriate Committee or Committee Chair or appropriate Ward Members matters that are of particular significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.
- 1.9 Functions delegated by reference to job titles or posts which have changed will continue in force and shall be exercised by officers whose duties include or most closely correspond to the duties of the post originally referred to (including those holding the post on an acting or interim basis).
- 1.10 In the absence or the unavailability of an officer, any function delegated to that officer may be exercised by an Officer acting as their deputy either generally or in relation to a particular service area.

2. Powers of the Chief Executive

- 2.1 The Chief Executive is the Head of Paid Service and has authority over all Chief Officers.
- 2.2 To exercise the powers delegated to any Director or other members of staff so far as the law allows.
- 2.3 To take such immediate action as he/she considers necessary to implement the Council's peace time emergency planning scheme
- 2.4 To undertake any other functions necessary for the carrying out of the role of the Chief Executive.
- 2.5 To act as the Council's Returning Officer and Electoral Registration Officer
- 2.6 The Chief Executive or his/her nominated deputy has the power to take any decision, including a key decision, in a situation where the matter is so urgent that it does not allow time for a report to be considered by Council, the Executive, the relevant Executive Member or the appropriate Committee. Wherever possible, in the case of any key decisions, such decisions shall be made in consultation with the Leader or the Deputy Leader. The decision shall be reported to the next appropriate and available meeting.

3. Deputy Chief Executive

- 3.1 The Council will designate one of the Directors as the Deputy Chief Executive for the time being. Such designation shall carry with it the delegation to exercise all and any of the Chief Executive's specific delegated functions, during any period where the Chief Executive is absent in the sense that he/she is not in a position to exercise the powers of Chief Executive, for example due to sickness, incapacity, or being out of contact in the case of emergency.

4. Powers of the Directors

- 4.1 Details of the Council's Directors indicating their general areas of responsibility will be recorded in this Constitution.

- 4.2 All Directors have the power to take decisions in relation to the discharge of the Council's and the Executive's functions within their area of responsibility and which have not been reserved to Council, the Executive and Executive Member or a Committee.

Note that this delegation is subject to the general provisions and limitations set out in this Constitution.

- 4.3 Each Director shall have all the powers and duties delegated other staff within his/her portfolio so far as is legally permissible.

5. Powers of Staff

- 5.1 All staff shall be delegated all those powers necessary to carry out those functions specified in their respective job descriptions, subject to the general provisions and limitations set out in this Constitution.

- 5.2 All staff will have delegated authority required to:-

- (a) Effectively manage and promote the services for which they are responsible;
- (b) Exercise the functions delegated to Officers under the Financial Procedural Rules and to let contracts in accordance with Contract Procedure Rules;
- (c) Exercise all functions delegated under the Officer Employment Procedure Rules and to manage all staff in accordance with the Council's Policy and Procedures

6. Monitoring Officer and Chief Finance Officer

- 6.1 The functions of the Monitoring Officer and Chief Finance Officer are set out below. The Council will provide the Monitoring Officer and Chief Finance Officer with such offices, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

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

6.3 The Council has appointed the Assistant Director of Governance and ICT as the Monitoring Officer

6.4 **Functions of the Monitoring Officer**

The powers and functions of the Monitoring Officer are:

- (a) to maintain an up to date version of the Constitution and ensure that it is widely available for consultation by Members, staff and the public. This responsibility includes the power to make such amendments to the Constitution and related documents as may be necessary. Such changes should not include any changes of substance but be restricted to changes which the Monitoring Officer considers are required to reflect and take account of changes in legislation, guidance, Council policy and decisions of the Council and the Executive or are drafting changes and/or improvements;
- (b) to report to Full Council (or to the Executive in relation to an Executive function) after consulting with the Head of Paid Service and Chief Finance Officer, if he/she considers that any proposal, decision or omission would give rise to unlawfulness or to maladministration. Such a report will be sent to all Members of the Council and will have the effect of stopping the proposal or decision being implemented until the report has been considered;
- (c) to contribute to the corporate management of the Council, in particular by providing professional legal advice;
- (d) to contribute to the promotion and maintenance of high standards of conduct and ethics through provision of support to the Joint Standards Committee;
- (e) to jointly advise with the Chief Finance Officer whether the decisions of the Executive are in accordance with the budget and policy framework;

- (f) in conjunction, where necessary, with the Chief Finance Officer, to provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues;
- (g) where necessary, in conjunction, with the Chief Finance Officer, to exercise powers of sanction and intervention where he or she considers that any proposal, decision or omission would give rise to unlawfulness or maladministration or otherwise contravene the corporate governance interests of the authority;
- (h) As solicitor to the Council the power to;
 - (i) take any action intended to give effect to a decision of the Council, the Executive, a Committee of the Council or an Officer.
 - (ii) institute, defend, participate in, settle or withdraw from any legal or other proceedings or procedures in any case where such action is necessary to give effect to decisions of the Council, the Executive, a Committee of the Council or an Officer or in any case where he/she considers that such action is necessary to protect the Council's interests.
 - (iii) to authorise Council employees to conduct legal matters in court
 - (iv) to take any action remitted to him/her under corporate procedures, with the exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or to the Executive for consideration.
 - (v) in consultation with the Chair of the Joint Standards Committee the power to grant dispensations allowing Members to participate in meetings where they have a disclosable pecuniary or prejudicial interest in the business being considered at the meeting.

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

7. Functions of the Chief Finance Officer

7.1 The Council has appointed the Director of Customer and Business Support Services as the Chief Finance Officer.

7.2 The functions of the Chief Finance Officer are:

- (a) to report to the Full Council (or to the Executive in relation to a Executive function) after consulting with the Head of Paid Service and the Monitoring Officer and send a copy of the report to all Members of the Council and to 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 (or the Executive) is about to enter an item of account unlawfully;
- (b) to be responsible for the administration of the financial affairs of the Council;
- (c) to contribute to the corporate management of the Council, in particular by providing professional financial advice.
- (d) to provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration in relation to financial matters, financial impropriety, probity and budget and policy framework issues and to support and advise Councillors and staff in their respective roles (in liaison, as necessary, with the Monitoring Officer);
- (e) where required by law or authorised by the Council, to provide financial information to the media, members of the public and the community.
- (f) where necessary, and in conjunction with the Monitoring Officer as appropriate, to exercise powers of sanction and intervention when he or she considers that any proposal, decision, omission or course of action is likely to incur unlawful expenditure or otherwise contravene the corporate governance interests of the Council.

8. Statutory Scrutiny Officer

- 8.1 The statutory scrutiny officer cannot be the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.
- 8.2 The Council has appointed the Head of Civic and Democratic Services as the Statutory Scrutiny Officer
- 8.3 The functions of the statutory scrutiny officer are:
- (a) to promote the role of the authority's overview and scrutiny committee or committees;
 - (b) to provide support to the authority's overview and scrutiny committee or committees and the members of that committee or those committees;
 - (c) to provide support and guidance to—
 - (i) members of the authority,
 - (ii) members of the executive of the authority, and
 - (iii) officers of the authority,in relation to the functions of the authority's overview and scrutiny committee or committees

9. Restrictions on use of delegated powers

Note: All delegated decision must be in compliance with the Constitution including the budget and policy framework, financial procedure rules and the contract procedure rules

Financial thresholds

- 9.1 An Officer may not make a key decision unless specifically authorised to do so under this Constitution or by the Executive
- 9.2 An Officer may not award a contract with a value exceeding £250K except where the contract is treated as a routine procurement in accordance with the Contract Procedure Rules

Planning Powers

- 9.3 An Officer may not exercise a power in respect of a planning matter where the power to take the particular decision is specifically delegated under this Constitution to the Planning Committee or Planning Sub Committee
- 9.4 An Officer may not authorise the issuing of a planning enforcement or stop notice without consultation with the Chair and Vice Chair of the Planning Committee. Such consultation shall not be required where urgent or immediate action is required.
- 9.5 An Officer may not determine a planning application which a Councillor has requested be determined by Committee unless the Director of City and Environmental Services or the Assistant Director (Planning and Transport) has consulted the Chair and Vice Chair of Planning Committee and, following that consultation, has agreed to the matter being determined under delegated powers.
- 9.6 An Officer may only designate or refuse to designate an area as a neighbourhood area under the Localism Act 2011 where the application for designation has been made by a Parish Council for the designation of the whole Parish and no objection has been received to the application.

Licensing functions

- 9.7 An Officer may not exercise a Council function in respect of a licensing matter where the function has been specifically reserved under this Constitution to Council, a Committee or a Sub Committee

Executive functions

- 9.8 An Officer may not exercise an executive function where the relevant Executive Member or the has reserved the power to him or herself by giving written notice to the officer holding the delegated power or to the Chief Executive

Legal Action

- 9.9 An Officer may only commence legal proceedings in accordance with an approved enforcement policy or with the approval of the Assistant Director of Governance and ICT

Part B- Proper Officer Functions

1. Meaning of Proper Officer Functions

- 1.1 Certain legislation requires the Council to designate a particular Officer as “Proper Officer” for the performance of certain functions.
- 1.2 The following officers are designated to perform the functions of Proper Officer in relation to the matters set out below in the following tables:

Local Government Act 1972

No.	Section	Duties	Proper Officer
1	42	To receive notice in writing of a request for an election on casual vacancy occurring in the office of a Parish Councillor.	Chief Executive
2	83 (1)	To receive the declaration of acceptance of office by the Lord Mayor, Deputy Lord Mayor, Sheriff or Councillor of the Council.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.

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No.	Section	Duties	Proper Officer
3	83 (3)	To witness the declaration of acceptance of office by the Lord Mayor, Deputy Lord Mayor, Sheriff or Councillor of the Council.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.
4	84	To receive written notice of resignation from any officer under the Local Government Act 1972.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.
5	88 (2)	To convene a meeting of the Council for the election of Chairman of the Council on a casual vacancy occurring.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.
6	89 (1) (b)	To receive written notice of a casual vacancy in the office of a Councillor from two local government electors.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.
7	146 (1)(a) (re: transfer of securities of a company in the name of a local authority)	To make statutory declarations as to the securities and the change of name and identity of an authority on the transfer of those securities into the new name of the authority	The Monitoring Officer or in his/her absence a solicitor nominated by the Monitoring Officer.

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No.	Section	Duties	Proper Officer
8	146(1)(b) (re: transfer of securities of a company in the name of a local authority)	To give a certificate confirming that a local authority has become entitled to securities, dividends or interest standing in the name of the name of another local authority.	The Monitoring Officer or in his/her absence a solicitor nominated by the Monitoring Officer.
9	151	Officer responsible for the proper administration of financial affairs.	Director of Customer & Business Support Services
10	191 (2)	To receive applications concerning surveying under section 1 of the Ordnance Survey Act 1841.	Director of City and Environmental Services
11	210 (6) and (7)	Duties relating to charities.	Head of Finance

No.	Section	Duties	Proper Officer
12	225 (1)	To receive and retain such documents as are specified by the Standing Orders of the House of Commons, or any enactment or instrument, in the manner and for the purpose directed and to make such notes and endorsements thereon and to give such acknowledgments and receipts in respect thereof as may be so directed.	The Monitoring Officer
13	229 (5)	To give a certificate in legal proceedings that a document is a photographic copy of a document or any part of a document which is in the custody of, or has been destroyed while in the custody of a Local Authority.	The Monitoring Officer or in his/her absence a solicitor nominated by the Monitoring Officer.
14	234 (1)	To sign on behalf of the Authority any notice, order or other document which the Authority is authorised or required to authorise or required to give, make or issue.	The Monitoring Officer or in his/her absence a solicitor nominated by the Monitoring Officer.

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No.	Section	Duties	Proper Officer
15	238	To sign a certificate endorsed on a printed copy of any byelaws (relating to the authenticity of the byelaws).	The Monitoring Officer or in his/her absence a solicitor nominated by the Monitoring Officer.
16	Schedule 12 Para 4 (3)	To receive written notice from a Member that the summons to a meeting of the Council shall be sent to some other address other than his/her place of residence.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.
17	Schedule 14	To certify resolutions of the Council under Public Health Acts 1875-1925.	The Monitoring Officer
18	Schedule 16 (28)	To receive on deposit lists of buildings of special architectural or historic interest under section 54 (4) of the Town & Country Planning Act.	Director of City and Environmental Services

No.	Section	Duties	Proper Officer
19	Schedule 29 Para 41 (3)	Substitution of Proper Officer for Clerk of Council in section 9 (1) of Registration Services Act 1953- the determination of a Deputy to become Interim Superintendent Registrar or Interim Registrar of births and deaths if the latter ceases to hold office.	Assistant Director (Communities & Neighbourhoods)
20	Schedule 29 Para 41 (4)	<p>Substitution of Proper Officer for Clerk of Council.</p> <ol style="list-style-type: none"> 1. In section 9 (2) of Registration Service Act 1953- appointment of Interim Superintendent Registrar or Registrar of births and death were no Deputy. 2. In section 13 (2) (h) details of running of service hours in business Superintendent Registrars. 3. In section 13 (3) (b) general supervisory powers over administration of Registration Service Act. 	Assistant Director (Communities & Neighbourhoods)

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No.	Section	Duties	Proper Officer
21	Schedule 29 Para 41 (5)	Substitution of Proper Officer for Clerk of Council in section 20 (b) of Registration Service Act 1953-prescription of duties in regulation of Clerks of Council under Registration Acts.	Assistant Director (Communities & Neighbourhoods)
22	Section 100 b (2)	Excluding from inspection by Members of the public, the whole or part of any report which in his/her opinion is likely to be excluded from consideration in public at a Council, Executive, Committee or sub Committee meeting.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.
23	Section 100 B (7)	Deciding whether or not a newspaper should be supplied with copies of any documents supplied to a Member of the Council other than the agenda, report and statement, or particulars indicating the nature of the agenda items.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.

No.	Section	Duties	Proper Officer
24	Section 100 C (2)	Making (without disclosing exempt information) a written summary to provide Members of the public with a reasonable fair and coherent record of the whole or part of the proceedings where part of the minutes of the meeting are not open to the public because they disclose exempt information.	The Monitoring Officer or in his/ her absence the Democratic Services Manager.
25	Section 100 d (1) a & 5 (a)	Compilation of lists of background papers and identification of background papers.	Chief Executive & Corporate Directors (each Corporate Director for their service reports)
26	Section 100 d	Papers not open to inspection by Members.	Chief Executive & The Monitoring Officer

The Highways Act 1980

No.	Section	Duties	Proper Officer
1	Section 205 (5) (re: private street works)	To certify a copy of the resolution of the Local Authority approving the specifications, estimates and apportionment and a copy of those documents for keeping on deposit open to public inspection.	The Monitoring Officer or in his/her absence a solicitor nominated by the Monitoring Officer.
2	Section 210 (2) (re: private street works)	To certify a document giving details of the amendment of any estimate and consequential amendment of any apportionment for keeping on deposit open to public inspection.	The Monitoring Officer or in his/her absence a solicitor nominated by the Monitoring Officer.

Representation of the People Act 1983

Para	Section	Duties	Proper Officer
1	Section 35	To be the Returning Officer for elections of Councillors of the City	Chief Executive

1.3 The Chief Executive shall act as proper officer in any other circumstances