

PART THREE – RESPONSIBILITY FOR FUNCTIONS

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

Section 4 PROPER OFFICER AND SPECIFIED OFFICER FUNCTIONS

1.1 Chief Executive

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

- (a) 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;
- (b) Any statutory function of a Proper Officer, or other specified officer, contained in any legislation, whenever made, whether or not expressly delegated to any other officer(s) in this Constitution;
- (c) The Local Government Act 1972, Sections 83, 84, 88(2), 89(1)(b), and 225 and Schedule 12, Part I, paragraphs 4(2)(b) and 4(3) (notices relating to Members and meetings);
- (d) The Representation of the People Act 1983, Sections 8 (Registration Officer) and 35(3) (Returning Officer at an election of Councillors);
- (e) The Local Government and Housing Act 1989, Sections 4 (Head of Paid Service), and notifications pursuant to sections 15 to 17 and Schedule 1 and Regulations made under the Act (Political Balance);
- (f) Section 234 of the Local Government Act 1972. 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.

In addition the Chief Executive is empowered:

- (g) 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;
- (h) 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.

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- (i) 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 pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000

1.2 Deputy Chief Executive

The Deputy Chief Executive is designated as the “scrutiny officer” under section 21ZA of the Local Government Act 2000.

In addition the Deputy Chief Executive 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 pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000

1.3 Chief Finance Officer

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

- (a) The proper administration of the Council’s financial affairs under Section 151 of the Local Government Act 1972;
- (b) Sections 115 and 146 of the Local Government Act 1972 (receiving monies due from other officers and certifying changes in name or area of Council);
- (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);
- (d) Responsibility for the overall management of the internal audit function in accordance with the Accounts and Audit (England) Regulations 2011;
- (e) Budget calculations and budget monitoring under Part 2 of the Local Government Act 2003.
- (f) In addition the Chief Finance Officer 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 pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000

1.4 Assistant Director of Corporate Governance

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

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- (a) Sections 229 and 238 of the Local Government Act 1972 (certification of documents and byelaws);
- (b) Section 234 of the Local Government Act 1972. This authorises the Assistant Director of Corporate Governance 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. 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;
- (c) Section 30(5) of the Local Government Act 1974 (public notice of Ombudsman’s reports);
- (d) Authorising any officer to appear on behalf of the Council in proceedings before a Magistrates Court under Section 222 and 223(1) of the Local Government Act 1972 and in proceedings before a County Court under Section 60 of the County Courts Act 1984. This includes the power to certify such authorisation under Section 41(3) of the Local Government (Miscellaneous Provisions) Act 1976;
- (e) Signing on behalf of the Council to certify a contract under the Local Government (Contracts) Act 1997;
- (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 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

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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 2000;
- (j) In addition the Assistant Director of Corporate Governance 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 pursuant to sections 28 and 29 Regulation of Investigatory Powers Act 2000

1.5 Democratic Services Manager

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

- (a) Those proper officer functions relating to access to information not delegated to the Assistant Director of Corporate Governance above 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);
- (b) Section 191 of the Local Government Act 1972 (providing information to assist the Ordnance Survey);
- (c) Sections 225 and 229 and Schedule 14, Part II, Paragraph 25 (7) of the Local Government Act 1972, and Section 41(1) of the Local Government (Miscellaneous Provisions) Act 1976 (custody of, and certifying, documents);
- (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 a vacancy arising);
- (e) Section 2(2) of the Local Government and Housing Act 1989 (Maintenance of the list of politically restricted posts);

In addition 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;

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

1.6 **Business Manager, Legal Services**

The Business Manager, Legal services is appointed Proper Officer and specified officer in relation to the provisions of The Registration Services Act 1953 (appointment of superintendent registrars and registrars of births and deaths and their deputy and interim officers and all related functions therein).

1.7 **Assistant Director for Human Resources**

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

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Housing Act 1989 – (Opinion as to whether the duties of the post involve regularly giving advice to Members or speaking to journalists/broadcasters).

1.8 **Director of Regeneration, Planning and Development**

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

- (a) Section 191 Local Government Act 1972 (information to assist the Ordnance Survey);
- (b) Section 205 of the Highways Act 1980 (certification of proposed works, estimated cost 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 or 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 **Chief Operating Officer, Director of Children’s Services, Director of Adult Social Services, Director of Public Health and the Head of Audit and Risk Management**

The Chief Operating Officer, 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 or 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

1.10 **Assistant Director for Environmental Services and Community Safety**

The Assistant Director for Environmental Services and Community Safety is appointed Proper Officer and specified officer in relation to:

- (a) Section 72 (1) (a) Weights and Measures Act 1985 as the Council’s Chief Inspector of Weights and Measures
- (b) Sections 21 to 25 Regulation of Investigatory Powers Act 2000 (to exercise powers to authorise the obtaining and disclosure of communications data)

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1.11 **General Provisions**

- (a) 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;
- (b) 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;
- (c) If the office of any of the officers referred to above 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.

1.12 **Attestation of Seal**

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

Chief Executive, Chief Finance Officer, 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.