

# **PART 5 - SCHEME OF DELEGATION TO OFFICERS**

## **A – SCHEME OF DELEGATION**

## **DELEGATIONS TO OFFICERS**

### **1. Introduction**

- 1.1 For the purposes of this section, the officers to whom delegations are made as follows:
- Managing Director and Statutory Officers
  - Executive Directors and other Corporate ~~Management~~ Leadership Team Members
  - Other Staff
- 1.2 Proper Officers for the purposes of specific legislation (as set out below) and as defined by section 270(3), Local Government Act 1972. These are set out in Part 5B.
- 1.3 The delegations set out below apply to those functions which have not, by virtue of this Constitution or any other instrument, been reserved to Council or Cabinet and any committees or sub-committees thereof.
- 1.4 For the avoidance of doubt any functions which are not specifically discharged by Council or delegated to Committees or Sub-Committees are delegated to Officers. If there is any doubt such power will be exercised by the Managing Director or in his absence his Deputy or Monitoring Officer.

### **2. General Principles of Officer Delegations**

- 2.1 Functions delegated to officers are to be exercised taking into account:
- All other parts of the Constitution (including Article 12 “Decision Making”),
  - The Budget and Policy Framework,
  - The approved Budget,
  - Any instructions given by the Managing Director,
  - Any financial advice given by the Head of Finance,
  - Any legal advice given by the legal advisers to the Council, and
  - Any statutory codes of conduct or statutory guidance, and codes and protocols as may be approved by the Council and Cabinet.

- 2.2 Any function delegated to a specified officer may also be exercised by any officer who has been so authorised by the officer to whom the function is delegated or (save in case of Head of Finance and Monitoring Officer) by the Managing Director. Such authorisations shall be recorded and held by the officer making the authorisation. Officers authorised under this provision to exercise a power delegated to another officer should be either fully or generally under the supervision and control of the authorising officer
- 2.3 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.
- 2.4 Any reference to any Act of Parliament shall be deemed to include any act, statutory instrument or regulation by which it is applied, extended, amended, consolidated or replaced.
- 2.5 Where any function is delegated to an officer, that officer may choose not exercise that function and may, instead, refer a matter to the Council, the Cabinet, Committee or relevant Portfolio Holder for decision as appropriate with the agreement of the appropriate Director.
- 2.6 Cabinet members or Committees may reserve to themselves decisions delegated to officers, by giving notice to the officer holding the delegated power or to the Managing Director.
- 2.7 In the absence or the unavailability of an officer, any function delegated to that officer may be exercised by their deputy.

### 3. **Powers of the Managing Director**

3.1 To act as Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989.

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3.2 To exercise authority over the Strategic Directors and Heads of Service, including allocating Strategic Directors' portfolios.

3.32 To exercise the powers delegated to any Executive Director or other members of staff so far as the law allows.

3.43 To carry out the functions of the Council for civic aid and emergency planning and to take any action, including incurring expenditure, in connection with an emergency or a disaster in the borough.

3.54 To undertake any other functions necessary for the carrying out of the role of the Managing Director, within any existing legislative and policy constraints.

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3.6 To act as Returning Officer for County Council Elections in accordance with Section 35 of the Representation of the People Act 1983 (the 1983 Act).

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3.7 To act as Electoral Registration Officer for the County in accordance with Section 8 of the 1983 Act.

**4. Powers of the Executive Directors and other CLMT Members**

- 4.1 The Executive Directors for the Council and their areas of responsibility are set out in this Constitution.
- 4.2 All Executive Directors and other CLMT members are delegated all those powers necessary to act within the assigned portfolio of responsibilities. Note that this delegation is subject to the general provisions and limitations set out in this Constitution.
- 4.3 An Executive Director or CLMT member may further delegate any of the powers delegated to him or her under this Constitution or any other applicable scheme of delegation, in so far as is legally permissible and in so far as not already delegated by virtue of this Constitution

**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 function 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, Procedures and Terms of Conditions of staff.

**6. General Provisions and Limitations**

- 6.1 Apart from those powers set out below which have been generally or specifically delegated to staff, any remaining functions which have not been, under this or any other current scheme of delegations, specifically reserved to Council, Cabinet or any committees or sub-committees thereof are delegated to officers
- 6.2 Staff shall exercise powers under this scheme in compliance with:

- The rules of procedure set out in this Constitution;
  - Corporate policies and strategies;
  - Any additional conditions imposed either by the Council or by statute or any statutory code of conduct.
- 6.3 The exercise of the powers delegated under this Constitution or any other scheme of delegation by staff involving the incurring of expenditure is subject to there being sufficient approved provision within their budget to cover that expenditure.
- 6.4 Each Executive Director shall have all the powers and duties delegated to the Heads of Service or other staff within his/her portfolio, who are assigned to him or her, so far as is legally permissible.

## **7. Monitoring Officer and Chief Finance Officer**

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

### **7.2 Functions of the Monitoring Officer**

- a) **Maintaining the Constitution.** The Monitoring Officer will maintain an up to date version of the Constitution and will ensure that it is widely available for consultation by Members, staff and the public.
- b) **Ensuring lawfulness and fairness of decision making.** After consulting with the Head of Paid Service and Chief Finance Officer, the Monitoring Officer will report to the Council or to Cabinet in relation to an executive function if he or she considers that any proposal, decision or omission would give rise to unlawfulness or if any decision or omission has given rise to maladministration. Such a report will have the effect of stopping the proposal or decision being implemented until the report has been considered.
- c) **Proper Officer for access to information.** The Monitoring Officer will ensure that Cabinet decisions, together with the reasons for those decisions and relevant Officer report and background papers are made publicly available as soon as possible.
- d) **Advising whether Cabinet decisions are within the budget and policy framework in accordance with the requirement under the Budget and Framework Rules.** The Monitoring Officer in consultation with the Head of Finance will advise whether decisions of the Cabinet are in accordance with the budget and policy framework.

- e) **Providing advice.** The Monitoring Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all councillors and will support and advise councillors and officers in their respective roles.
- f) **Contributing to corporate management.** The Monitoring Officer will contribute to the corporate management of the Council, in particular through the provision of professional advice on the lawfulness or probity of any matter.

### 7.3 Functions of the Chief Finance Officer

- a) **Ensuring lawfulness and financial prudence of decision making.** After consulting with the Head of Paid Service and the Monitoring Officer, the Chief Finance Officer will report to the full Council, or to the Cabinet in relation to an executive function, and 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 of the Council is about to enter an item of account unlawfully.
- b) **Administration of financial affairs.** The Chief Finance Officer will have responsibility for the administration of the financial affairs of the Council and will certify the robustness of the council's estimates of expenditure and proposed budget.
- c) **Contributing to corporate management.** The Chief Finance Officer will contribute to the corporate management of the Council, in particular through the provision of professional financial advice.
- d) **Providing advice.** The Chief Finance Officer will provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues to all Councillors and will support and advise Councillors and Officers in their respective roles.
- e) **Give financial information.** The Chief Finance Officer will provide financial information to the media, members of the public and the community.

# **PART 5 – SCHEME OF DELEGATION TO OFFICERS**

## **B – PROPER OFFICER FUNCTIONS**

## Delegations to Officers

### B - Proper Officer Functions

#### Meaning of Proper Officer Functions

- 1.1 The Council has approved and adopted the appointment of the following officers as proper officers, as described in the following specified sections of the relevant Acts of Parliament or regulations. Proper officer is defined for most legislation by s.270(3) Local Government Act 1972 as an officer appointed for that purpose by that body or for that area, as the case may be.
- 1.2 The deputy proper officer is given in brackets after the proper officer. The deputy proper officer is appointed to act where the proper officer is absent and/or unable to act for any reason. Where neither the designated proper officer nor the designated deputy proper officer is able to act, or if there is no specified designated proper officer or deputy proper officer, the Managing Director may designate an appropriate person to act as proper officer or deputy proper officer. If the Managing Director is unable to act, this power shall be delegated to the Monitoring Officer or, if the Monitoring Officer is unavailable, to the Deputy Monitoring Officer.

#### Local Authority Social Services Act 1970

Section	Description	Proper Officer
6	Statutory Director of Social Services (Adults)	Managing Director

#### Local Government Act 1972

Section	Description	Proper Officer
83(1) – (4)	Officer to whom persons elected to any of the following offices of the Council shall make declaration of acceptance of office: Mayor, Deputy Mayor, Councillor	Monitoring Officer (Managing Director)
84	Officer to whom a person elected to any office under the Council may give written notice or resignation	Monitoring Officer (Managing Director)
88(2)	Officer who may convene a meeting of the Council for the election to fill a vacancy	Managing Director (Any Director)
89(1)(b)	Officer who may receive notice in writing of a casual vacancy in the office of Councillor from two local government electors	Managing Director (Monitoring Officer)
100B(2)	Officer who may think fit to exclude from reports open to inspection parts relating to items during which the meeting is likely not to be open to the public	Democratic Services Manager (Monitoring Officer)

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
100B(7)(c)	Officer who may supply a copy of the agenda and reports for the meeting and copies of any other documents supplied to members of the council in connection with the item.	Democratic Services Manager (Monitoring Officer)
100C(2)	Officer responsible for preparing a written summary of those parts of the committee proceedings which disclose exempt information	Democratic Services Manager
100D(1)(a) and (5)(a)	Officer responsible for identifying background papers and list of such documents	Democratic Services Manager
100F(2)	Officer making decision as to documents disclosing exempt information which are not required to be open to inspection by council members	Monitoring Officer (Managing Director)
115	Officer to whom all officers shall pay monies received by them and due to the local authority	Head of Finance
146(1)	Officer authorised to produce a statutory declaration specifying securities and verifying name change of authority	Head of Finance
151	Officer having responsibility for the administration of the Council's financial matters	Head of Finance
191	Officer authorised in respect of Ordnance Survey	Head of Highways
204(3)	Officer to whom notice of application for a Justices License under schedule 1 of the Licensing Act 1964 should be given	Managing Director or Monitoring Officer
210(6) and (7)	Officer in whom power in respect of a charity will vest as at 1 April 1974	Monitoring Officer
212	Officer authorised to act as local registrar for Land Charges Act	Monitoring Officer (Information Management TL)
222	Officer authorised to prosecute and defend proceedings	Monitoring Officer
225(1)	Officer with whom documents may be deposited pursuant to law to make notes or endorsements and give acknowledgements or receipts.	Monitoring Officer
229(4) and (5)	Officer who shall certify that a document is a photographic copy of a document in the custody of the Council	Monitoring Officer

Section	Description	Proper Officer
234(1)	Officer who may authenticate documents	Monitoring Officer
236 / 238	Officer authorised to receive, certify and send copies of byelaws to Parish Councils	Monitoring Officer
248	Officer authorised to keep a Roll of Freeman	Monitoring Officer
Para 4(2)(b) of Part 1 of Schedule 12	Officer who may sign a summons to council meetings	Managing Director (Any Executive Director)
Para 4(3) of Part 1 of Schedule 12	Officer who may receive notice from a member of address to which a summons to a meeting is to be sent	Managing Director (Monitoring Officer)
Para 25 of Schedule 14	Officer authorised to certify resolutions	Monitoring Officer
Para 28 of Schedule 16	Officer authorised to receive deposit of protected buildings	<del>Strategic Director of Operations and Customer Services</del> Executive Director

**Local Government Act 1974**

Section	Description	Proper Officer
30 (5)	Officer responsible for arranging publication in newspapers of notice of Local Commissioner's report on investigation of a complaint	Monitoring Officer

**Local Government (Miscellaneous Provisions) Act 1976**

Section	Description	Proper Officer
41	Officer responsible for certifying copies of resolutions, minutes and other documents	Democratic Services Manager

**Representation of the People Act 1983**

Section	Description	Proper Officer
8	Registration Officer	Returning Officer
35	Returning Officer	Returning Officer

**Buildings Act 1984**

Section	Description	Proper Officer
78 (8) BA 1984	Officer responsible for taking immediate action in relation to dangerous buildings	Executive Director - Place

**Local Government Finance Act 1988**

Section	Description	Proper Officer
114	Officer responsible for making financial report to the authority	Head of Finance

**Local Government and Housing Act 1989**

Section	Description	Proper Officer
2	Officer responsible for preparation of list of politically restricted posts	Managing Director
4	Head of Paid Service	Managing Director
5	Monitoring Officer	Monitoring Officer
15, 16 and 17	Officer responsible for receiving notices relating to political groups	Managing Director

**Local Government (Committees and Political Groups) Regulations 1990**

Section	Description	Proper Officer
8 (1) and (5)	Officer to whom notice is delivered about the constitution of, or the change of name of a political group	Managing Director (Monitoring Officer)
9 and 10	Officer to whom notice is delivered about a Councillor's membership of, or cessation of, a political group	Managing Director (Monitoring Officer)
13	Officer to whom the wishes of a political group are expressed	Managing Director (Monitoring Officer)
14	Officer responsible for notifying a political group about allocations and vacancies of seats	Democratic Services Manager

**Local Government (Contracts) Act 1997**

Section	Description	Proper Officer
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1 - 4	Officer responsible for certifying a contract under this act.	Head of Finance
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**Local Government Act 2000**

Section	Description	Proper Officer
34	Officer responsible for publication of number of local government electors required to support a petition	Managing Director

**The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012**

Section	Description	Proper Officer
12 (1)	Officer responsible for producing a written statement of all executive decisions made at a public or private meeting of Cabinet, including the information specified in regulation 12 (2).	Managing Director (Monitoring Officer)

Section	Description	Proper Officer
14	Officer responsible for ensuring that a copy of the following documents is available for public inspection: the written statement referred to in regulation 12 above part or all of any report considered by the decision maker and relevant to the decision made	Managing Director (Monitoring Officer)
15	Officer responsible for compiling a list of background papers to the report referred to in regulation 14 above. This officer is the proper officer referred to in rule 8 of the Access to Information Procedure Rules set out in Part 8 of this constitution	Managing Director (Monitoring Officer)
20 (1)	Officer who may exclude whole or part of any report provided for public inspection under regulation 20 (1), where the part excluded relates to a matter for which the proper officer considers a meeting is not likely to be open to the public. This officer is the proper officer referred to in rule 11 of the Access to	Managing Director (Monitoring Officer)

	Information Procedure Rules set out in Part 8 of this constitution	
9 (1)	Officer responsible for publishing the information relating to key decisions specified in regulation 9 (1). This officer is the proper officer referred to in rule 14 of the Access to Information Procedure Rules set out in Part 8 of this Constitution.	Democratic Services Manager(Monitoring Officer)

Section	Description	Proper Officer
20 (3) (a) and (b)	Officer who may form an opinion as to whether a document contains or is likely to contain information confidential information or exempt information or the advice of a political advisor or assistant	Monitoring Officer (Managing Director)

**The Local Authorities (Referendums) (Petitions and Directions) (England) Regulations 2000**

Section	Description	Proper Officer
4 (2)	Officer who publishes the number that is equal to 5 per cent of the number of local government electors for the authority's area	Electoral Registration Officer

**The Local Authorities (Standing Orders) (England) Regulations 2000**

Section	Description	Proper Officer
Paras 5 and 6 of Part II of Schedule 1	Officer for receiving notification of proposed appointment of certain officers, notifying executive members of that proposed appointment and for receiving and notifying of objections to the proposed appointment.	Managing Director

**Proper officer functions referred to in guidelines issued by the Secretary of State under section 38 of the Local Government Act 2000 (Part 8 of this Constitution)**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
17 Access to Information Procedure Rules	Officer who may, when requested to do so on behalf of an Overview and Scrutiny Commission, require Cabinet to submit a report to the Council within such reasonable time as the Overview and Scrutiny Commission specifies	Monitoring Officer (Democratic Services Manager)
2.5 Executive Procedure Rules	Officer who may place an item on the agenda of the next available meeting of the Cabinet for consideration	The Monitoring Officer and/or the Chief Financial Officer in pursuance of their statutory duties. In other circumstances, where any two of the Head of Paid Service, Chief Financial Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting.

**Children Act 2004**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
18	Statutory Director of Children's Services	Director of Children's Services

**The Environment Assessment of Plans and Programmes Regulations 2004**

<b>Section</b>	<b>Description</b>	<b>Proper Officer</b>
9	Officer responsible for determining whether a plan, programme or modification is likely to have significant environmental effects.	Head of Planning

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**The Neighbourhood Planning (Referendums) Regulations 2012**

Section	Description	Proper Officer
4	Officer responsible for the publication of the information statement and specified documents in relation to the neighbourhood planning process.	Returning Officer