

## **PART 8: ANCILLARY DOCUMENTS**

### **APPOINTMENT OF STATUTORY AND PROPER OFFICERS**

#### **Introduction**

- 1.1 This report reviews the position of the statutory and Proper Officers within the authority and records the appointment of Proper Officers by the Service Director: Legal & Business Operations.
- 1.2 The Local Government Act 1972 and other legislation requires local authorities to make specific statutory appointments which carry specific responsibilities. Three of those posts are the statutory officer posts, namely the Head of Paid Service, Chief Financial Officer and Monitoring Officer. These are identified in Appendix A.
- 1.3 Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament. Those posts designated as Proper Officer are specified in Appendix B.

#### **Appointment**

- 2.1 The Service Director: Legal & Business Operations has delegated authority to act as / make any Proper Officer appointments.
- 2.2 If the office of any of the Proper Officers is vacant or the person appointed is absent or otherwise unable to act then the most senior available officer or person to the Proper Officer is authorised to act as Proper Officer.

**STATUTORY OFFICERS**

Legislation requires local authorities to identify specific officers for particular responsibilities. These are detailed below:

<b>STATUTORY REQUIREMENTS</b>	<b>ALLOCATED TO</b>
<b><u>STATUTORY OFFICERS</u></b>	
<b>Section 4 Local Government Act 1989</b> Head of Paid Service	Chief Executive
<b>Section 151 Local Government Act 1972</b> Chief Financial Officer	Executive Director: Finance & Commercialisation
<b>Section 5 Local Government Act 1989</b> The Monitoring Officer	Service Director: Legal & Business Operations
<b><u>OTHERS</u></b>	
Director of Adult Social Services (Section 6 Local Authority Social Services Act 1978)	Executive Director: Wellbeing (Health & Adults)
<b>Section 18 Children’s Act 2004</b> Director of Children’s Services	Executive Director: Wellbeing (Children & Families)
<b>Representation of the People Act 1983</b> Electoral Registration Officer (Section 9-13A Representation of the People Act 1983)	Mark Heath (personal appointment)
<b>Agriculture Act 1970</b> Agricultural Analyst	Hampshire Scientific Service, Hampshire County Council, Hyde Park Road, Southsea, Portsmouth PO5 4LL
<b>Food Safety Act 1990</b> Public Analyst (Section 5 Food Safety Act 1990)	Hampshire Scientific Service, Hampshire County Council, Hyde Park Road, Southsea, Portsmouth PO5 4LL
<b>Weights &amp; Measures Act 1985</b> Inspector of Weights and Measures (Section 69(1) Weights & Measures Act 1985)	Trading Standards Officer Team Leader

**Registrations Service Act 1953**

Registrar of Births and Deaths  
(Sections 5 & 6, Registrations Service Act 1953)

Superintendent Registrar  
Registrar of Births, Deaths & Still Births  
Registrar of Marriages

**Environmental Protection Act 1990**

Officer identified as dealing with stray dogs  
(Section 149 Environmental Protection Act 1990)

Animal Welfare Officer

**The Cremation Regulations 1930**

Regulation 7 requires that the Cremation authority  
appoints a Registrar for Cremation

Service Manager - Bereavement is  
appointed as the Registrar for  
Cremations

**Data Protection Act 1998**

Service Director: Legal & Business  
Operations

**Local Government Act 2000**, Section 21ZA  
Scrutiny Officer

Scrutiny Manager

## PROPER OFFICER RESPONSIBILITIES

Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the "Proper Officer" to carry out particular functions under various Acts of Parliament.

### 1. SERVICE DIRECTOR: LEGAL BUSINESS OPERATIONS

The Service Director: Legal & Business Operations is appointed the Proper Officer in relation to:

- (a) any reference in any enactment passed before or during the 1971 -72 session of Parliament other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the clerk of a Council or the town clerk of a borough which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council;
- (b) any reference in any local statutory provision to the clerk of the Council or similar which, by virtue of an order made under the Local Government Act 1972 or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council:
- (c) the following provisions:

#### Local Government Act 1972

Section of the Act	Proper Officer's Functions
Sections 83(1)-(4)	Witness and receipt of declaration of acceptance of office
<sup>1</sup> Section 84	Receipt of declaration of resignation of office
Section 88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chair
<sup>1</sup> Section 89(1)(b)	Receipt of notice of casual vacancy from two local government electors
Section 96(1)	Receipt of notices of pecuniary interest
Section 96(2)	Keeping record of disclosures of pecuniary interest under Section 94 and of notices under Section 96(1)
Section 100(B)(2)	Circulation of reports and agendas
Section 100(B)(7)	Supply of papers to the press
Section 100(D)(1)(a) and 100D(5)(a)	Background papers
Section 100F(2)	To decide which documents are excluded from members inspection

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<sup>1</sup> The Electoral Registration Officer may deputise for the Service Director: Legal & Business Operations for these matters

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Section 191	Functions with respect to Ordnance Survey
Section 210(6) & (7)	Charity functions of holders of offices with existing authorities transferred to holders of equivalent office with new authorities or, if there is no such office, to the Proper Officer
Section 225(1)	Deposit of documents
Section 229(5)	Certification of photocopies (note Section 3)*
Section 234	Authentication of documents (note Section 3)**
Section 236(9) & (10)	Service of byelaws on other authorities
Section 238	Certification of byelaws
Schedule 12 paragraph 4(2)(b)	Signature of summonses to Council meetings

#### **Local Government Act 1974**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 30(5)	Notice of Local Government and Social Care Ombudsman's report.

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

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 41	Evidence of resolutions and minutes of proceedings

## **2. CHIEF FINANCIAL OFFICER (EXECUTIVE DIRECTOR: FINANCE & COMMERCIALISATION)**

The Chief Financial Officer is appointed the Proper Officer in relation to the following:

- (a) Any reference in any enactment passed before or during the 1971/72 session of Parliament other than the Local Government Act 1972 or in any instrument made before the 26 October 1972 to the Treasurer or a Treasurer of a Borough which by virtue of any provision of the said Act is to be construed as a reference to the Proper Officer of the Council
- (b) Any reference in any local statutory provision to the Treasurer of a specified Council or the Treasurer of a specified Borough which, by virtue of an order made under Section 254 of the Local Government Act 1972, or the Local Government Act 1992 is to be construed as a reference to the Proper Officer of the Council
- (c) Provisions of the Local Government Act 1972, as follows:-

#### **Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 115(2)	Receipt of money due from officers

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Section 146(1)(a) & (b)	Declarations and certificates with regard to securities

### 3. HEAD OF BUSINESS OPERATIONS

The Head of Business Operations is appointed the Proper Officer in relation to the following:

- (a) The following provisions:

#### **Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Section 100(C)(2)	Summaries of minutes
Schedule 12 paragraph 4(3)	Receipt of notices regarding addresses to which summons to meetings are to be sent
Section 229(5)	Certification of photocopies (only in respect of Minutes and Records of Decision)*
Section 234	Authentication of documents (only in respect of Minutes and Records of Decision)**
Section 248(2)	Keeping roll of Freeman

#### **Local Government and Housing Act 1989**

<b>Section of the Act</b>	<b>Proper Officer's Function</b>
Sections 15 and 16	Appointment of Members to Committees in accordance with Group Leader or Group Leader's representatives wishes.

- (b) The Head of Business Operations is appointed the Proper Officer in relation to the following:

Issues in respect of Electoral Registration, etc.

### 4. HEAD OF PLANNING & ECONOMIC DEVELOPMENT

#### **Local Government Act 1972**

<b>Section of the Act</b>	<b>Proper Officer's Functions</b>
Schedule 16	Receipt of deposit lists of protected buildings

Also appointed the Proper Officer in respect of powers contained in Section 78 of the Building Act 1984, ie, to act as "the surveyor" empowered to take and authorise emergency action in respect of damage and dangerous buildings, walls etc, and to order the demolition of buildings rendered dangerous by fire damage, without the prior authorisation of the Council.

and Regulation 4 of the Neighbourhood Planning (Referendums) Regulations 2012.

**5. HEAD OF CONSUMER PROTECTION & ENVIRONMENTAL SERVICES  
Local Government Act 1972**

The Head of Consumer Protection & Environmental Services is appointed the Proper Officer in relation to:

- (a) Sections 9(1), 9(2), 13(2)(h), 13(3)(b) and 20(b) of the Registration Services Act 1953
- (b) the provisions of the Registration of Births, Deaths and Marriages Regulations 1968 to 1994.

**6. THE CONSULTANT IN COMMUNICABLE DISEASE CONTROL (CCDC)  
THE COUNCIL'S SCIENTIFIC OFFICER**

The Consultant in Communicable Disease Control with Southampton University Hospitals NHS Trust is appointed the Proper Officer for the purposes of:-

- (a) Sections 11(1), 11(3), 18(1), 20(1), 21(1), 22(1), 23(2), 24(1), 26(2), 29(4), 30(2), 31(1), 32(1), 34(3), 34(5), 35(1), 36(1), 37(1), 38(1), 39(1), 39(3), 40, 41 (1), 42(1), 43(1), 48(1), 50(2)(b) and 51 (1) of the Public Health (Control of Disease) Act 1984.
- (b) Regulations 6, 8, 10 and 12 of The Public Health (Infectious Diseases) Regulations 1988.
- (c) All functions of the "Medical Officer" under the Public Health (Aircraft) Regulations 1979 (as amended) and the Public Health (Ships) Regulations 1979 (as amended).

In accordance with the provisions of Section 101 Local Government Act 1972 the Consultant in Communicable Disease Control may when absent authorise another community physician with experience in environmental health and the control of communicable diseases to act as Proper Officer.

**7. EXECUTIVE DIRECTOR: COMMUNITIES, CULTURE & HOMES**

The Executive Director: Communities, Culture & Homes is appointed the Proper Officer in relation to the following:

- (a) the issue of certificates under the provisions of the Rent (Agriculture) Act 1976 in relation to the provision of alternative accommodation
- (b) the provisions of Schedule 15 Part (iv) of the Rent Act 1977 relating to certificates as to the provision of suitable alternative accommodation.

**9. OTHER – NATIONAL ASSISTANCE ACTS**

The Head of CYP Strategic Commissioning, Education, Inclusion & Infrastructure, Head of Provider Services Adults and Service Director: Adults, Housing & Communities are appointed the Proper Officers in relation to Section 47 National Assistance 1948 and Section 1 National Assistance (Amendment) Act 1951.

## **9. OTHER – CALDICOTT GUARDIAN**

The Executive Director: Wellbeing (Health & Adults) and Executive Director: Wellbeing (Children & Families) are jointly appointed the Caldicott Guardian under recommendations of the Caldicott Committee and its reports *Review of Patient-Identifiable Information* (1997) and *Information: to Share or not to Share* (2013), and under obligations contained in the Data Protection Act 1998, Human Rights Act 1998 the Social Care Records Guarantee.

## **10. NON-EXECUTIVE DECISION-MAKING**

The report author of any report to be considered by the Council or a Committee / Sub-Committee thereof is appointed as Proper Officer under the Local Government Act 1972 in relation to:

- (a) The identification of and compilation of lists of background papers to reports;
- (b) The identification of confidential documentation.

## **11. RETURNING OFFICER**

As Returning Officer and Electoral Registration Officer, to undertake all functions and responsibilities for local, national, European and any other elections, in accordance with UK and European legislation and regulations, save where otherwise provided including, but not limited to, the registration functions and duties (including varying the location of polling places where required) and the determination of fees and charges for local elections in accordance with the decision of the Hampshire and Isle of Wight Election Fees Working Party.

## **12. OTHER**

The Constitution and/or primary and secondary legislation associated with the Constitution and both Executive and non-Executive functions and decision-making contain a range of Proper Officer posts. Save where prescribed in this part of the Constitution, those responsibilities are set out in the remainder of the Constitution, eg Council Procedure Rules. In the absence of any identified postholder, the Proper Officer shall be the Service Director: Legal & Business Operations.