

CONSTITUTION PRACTICE NOTE

STATUTORY AND PROPER OFFICER APPOINTMENTS

1. The Local Government Act 1972 and the Local Government and Housing Act 1989 require local authorities to make specific statutory appointments to carry out defined responsibilities. Those appointments are set out in Appendix A.
2. The 1972 Act also 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. Designations as Proper Officers are set out in Appendix B.
3. Any statutory or proper officer authority may be exercised in the name of the statutory or proper officer by any senior officer authorised in writing to do so by the statutory or proper officer. All such authorisations must be sent to the Legal and Democratic Services Manager and will be recorded and open to public inspection.
4. Where not prohibited by statute the Chief Executive is appointed Alternative Proper Officer in respect of all functions in the event that the appointed Proper Officer is unable to act and no other officer has been authorised. Article 13 of the Constitution sets out the restrictions on the designation of statutory officers.
5. In accordance with the arrangements described at the end of Part 3.4.2 (a) of the Constitution, the appropriate Director will be the appointed Alternative Proper Officer for those functions where the Chief Executive is the Proper Officer and is unable to act.
6. Until the Council decides otherwise the Chief Executive or the appropriate Director is appointed the Proper Officer for the purpose of all statutory provisions, whether existing or future, in respect of which no express Proper Officer appointment has, for the time being, been made.
7. Every appointment hereby made in relation to a provision that is replaced or re-enacted shall be effective as an appointment of the same officer in relation to the corresponding new provision.
8. In Appendix B any reference to “Directors” includes the Chief Executive. In accordance with Article 2.16.3 the Legal and Democratic Services Manager shall have authority to amend the designation of Proper Officer responsibilities to reflect any change in the organisation of the Council’s services.

<u>LEGISLATION</u>	<u>STATUTORY OFFICER</u>	<u>ALLOCATED TO</u>
Section 4 Local Government and Housing Act 1989	Head of Paid Service	Chief Executive
Section 151 Local Government Act 1972	Chief Financial Officer	Chief Financial Officer
Section 5 Local Government and Housing Act 1989	Monitoring Officer	Legal and Democratic Services Manager

See also Article 13 of the Constitution

Appendix B

<u>Ref. No.</u>	<u>LEGISLATION (in date order)</u>	<u>ROLE OR FUNCTION</u>	<u>PROPER OFFICER</u>
<u>1. General provisions</u>			
1.1	N/A	Any reference in any public or local statutory provision to the Proper Officer of the Council, except as provided in this Appendix	Chief Executive
1.2	N/A	Any reference to the town clerk 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 which, by virtue of any provision of the said Act, is to be construed as a reference to the Proper Officer of the Council	Legal and Democratic Services Manager
1.3	N/A	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	Legal and Democratic Services Manager
1.4	N/A	Any reference to the Treasurer 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 which, by virtue of any provision of the said Act, is to be construed as a reference to the Chief Financial Officer of the Council	Chief Financial Officer
1.5	N/A	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 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	Chief Financial Officer

<u>Ref. No.</u>	<u>LEGISLATION</u> <u>(in date order)</u>	<u>ROLE OR FUNCTION</u>	<u>PROPER OFFICER</u>
-----------------	--	-------------------------	-----------------------

2. Primary Legislation

LOCAL GOVERNMENT ACT 1972

2.1	S13(3)	Acting as a Parish Trustee	Chief Executive
2.2	S83(1)-(4)	Witness and receipt of declaration of acceptance of office	Chief Executive
2.3	S84	Receipt of declaration of resignation of office	Chief Executive
2.4	S88(2)	Convening of meeting of Council to fill casual vacancy in office of Mayor	Legal and Democratic Services Manager
2.5	S89(1)(b)	Giving notice of casual vacancy	Chief Executive
2.6	S94 & 96(2)	Keeping of record of officer disclosures and notices of pecuniary interests	Legal and Democratic Services Manager
2.7	S96(1)	Receipt of notices of officer pecuniary interests	Legal and Democratic Services Manager
2.8	S100(B)(2)	Circulation of reports and agendas	Legal and Democratic Services Manager
2.9	S100(B)(7)	Supply of papers to press	Legal and Democratic Services Manager
2.10	S100(C)(2)	Summary of minutes	Legal and Democratic Services Manager
2.11	S100(D)(1)(a)	Definition of background papers	Legal and Democratic Services Manager
2.12	S100(F)	Identification of confidential documents not open to Members	Legal and Democratic Services Manager
2.13	S115(2)	Receipt of money due from officers	Director of Financial Services

2.14	S146(1)(a) & (b)	Declarations and certificates with regard to securities	Chief Financial Officer
2.15	S137A	Receive statements in connection with the provision of financial assistance	Chief Financial Officer
2.16	S191	Applications under S1 of the Ordnance Survey Act 1841	Director of Sustainable Communities
2.17	S204(3)	Receipt of notice of an application for a justices' licence under Schedule 2 of the Licensing Act 1964	Director of Public Places
2.18	S210(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	Legal and Democratic Services Manager
2.19	S222 and 223	The officer who shall have responsibility for the conduct of legal proceedings on behalf of the Council	Legal and Democratic Services Manager
2.20	S225(1)	Receipt of documents required to be deposited under any enactment or instrument with the Proper Officer of the Council	Legal and Democratic Services Manager
2.21	S228(3)	Accounts – to be open for inspection	Chief Financial Officer
2.22	S229(5)	Certification of documents	Legal and Democratic Services Manager
2.23	S234	Signing notices, orders or other documents on behalf of the Council	All Directors See also Article 15 in respect of the sealing of documents
2.24	S234(2)	Statutory Notices under various Public Health and associated legislation	Director of Public Places
2.25	S236(9) and (10)	Service of bye-laws on other authorities	Legal and Democratic Services Manager
2.26	S238	Certification of bye-laws	Legal and Democratic Services Manager

2.27	S248(2)	Keeping roll of Freeman	Legal and Democratic Services Manager
2.28	Schedule 12 para. 4(2)(b)	Signature of summons to Council	Legal and Democratic Services Manager
2.29	Schedule 12 para. 4(3)	Receipt of notices regarding addresses which summons to meeting are to be sent	Legal and Democratic Services Manager
2.30	Schedule 14 para. 25(7)	Certification of resolutions under para. 25 applying certain provisions of the Public Health Acts throughout the Council's area	Legal and Democratic Services Manager
2.31	Schedule 16 para. 28	Receipt of deposit lists of protected buildings	Director of Sustainable Communities

LOCAL GOVERNMENT ACT 1974

2.32	S30(5)	Notice of Local Government Ombudsman report	Chief Executive
------	--------	---	-----------------

LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

2.33	S41	Certification of copies of resolutions, minutes, other documents	Legal and Democratic Services Manager
------	-----	--	---------------------------------------

RENT ACT 1977

2.34	Schedule 15 Part IV	Certificates of provision of suitable alternative accommodation	Director of Public Places
------	---------------------	---	---------------------------

ANCIENT MONUMENTS AND ARCHAEOLOGICAL AREAS ACT 1979

2.35	S1A	Receipt of information on the inclusion, amendment or exclusion, or a copy of any entry or amended entry in the Schedule of Ancient Monuments, relating to any Monument in the area of the Authority	Director of Sustainable Communities
------	-----	--	-------------------------------------

REPRESENTATION OF THE PEOPLE ACT 1983

2.36	S8	Registration Officer for any constituency or part of a constituency coterminous with or contained in the Chelmsford Borough	Chief Executive
2.37	S9	Duty to compile a register of electors	Chief Executive
2.38	S35	Returning Officer for the election of councillors for Chelmsford City Council	Chief Executive
2.39	S81, 82 and 89	Receiving elections expenses declarations and returns and making them available for public inspection	Chief Executive
2.40	S52(2)	Officer who may do acts in respect of Registration in the event of the Chief Executive's incapacity or of a vacancy	Director of Connected Chelmsford

PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984

2.41	Parts II, III, IV and VI and Section 48 as amended by the Health and Social Care Act 2008	Control of diseases and Preparation of certificate to Justice of Peace for removal of a body to a mortuary or for burial within a prescribed time or immediately	Public Health and Protection Services Manager
------	---	--	---

BUILDING ACT 1984

2.42	S78	Take and authorise emergency action in respect of dangerous buildings	Director of Sustainable Communities
2.43	S93	Sign notices and other documents under this Act	Director of Sustainable Communities

LOCAL GOVERNMENT AND HOUSING ACT 1989

2.44	S2	Receipt of list of politically restricted posts	Chief Executive
------	----	---	-----------------

2.45	S3	Certification as to whether a post is politically restricted	Chief Executive
2.46	S15 and 16	Receipt of Notice relating to political groups	Legal and Democratic Services Manager
2.47	S19	Receipt of general notice of members' pecuniary interests	Legal and Democratic Services Manager

PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990

2.48	All relevant sections	Receipt, deposit and notification of lists of protected buildings	Director of Sustainable Communities
------	-----------------------	---	-------------------------------------

FOOD SAFETY ACT 1990

2.49	S49(3)	Sign any document which a food authority are authorised or required by or under this Act to give, make or issue	Public Health and Protection Services Manager
------	--------	---	---

ENVIRONMENTAL PROTECTION ACT 1990

2.50	S149	Stray dogs	Director of Public Places
------	------	------------	---------------------------

DATA PROTECTION ACT 1998

2.51	S20	Duty to notify Information Commissioner of changes to data controllers	Information and Communications Technology Manager
------	-----	--	---

LOCAL GOVERNMENT ACT 2000

2.52	Section 81	Maintaining the register of members' financial and other interests	Legal and Democratic Services Manager
------	------------	--	---------------------------------------

REGULATION OF INVESTIGATORY POWERS ACT 2000 (Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000)

2.53	S28	Authorisation to undertake covert surveillance	Legal and Democratic Services Manager and Public Health and
------	-----	--	---

Protection Services
Manager

2.54 **HOUSING ACT 2004**

All Parts except
Part 6

Housing conditions and enforcement

Public Health and
Protection Services
Manager

HEALTH ACT 2006

2.55 Part 1

Enforcement of provisions relating to
smoke-free premises, places and
vehicles

Public Health and
Protection Services
Manager

**LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION
ACT 2009**

2.56 Those sections
relating to petitions

Receive petitions and requests for
reviews for handling of the
petitions under the Petitions Scheme,
verify number and direct to the
relevant councillor body or officer for a
response

Legal and
Democratic Services
Manager

<u>Ref. No.</u>	<u>LEGISLATION</u> <u>(in date order)</u>	<u>ROLE OR FUNCTION</u>	<u>PROPER OFFICER</u>
-----------------	--	-------------------------	-----------------------

3. Secondary Legislation

LOCAL AUTHORITIES CEMETERIES ORDER 1977

3.1	All	Officer of the burial authority	Director of Public Places
-----	-----	---------------------------------	---------------------------

LOCAL ELECTIONS (PRINCIPAL AREAS) RULES 1986

3.2	Rule 44	Receipt from Returning Officer of names of persons elected to Council	Chief Executive
-----	---------	---	-----------------

3.3	Rules 46 and 47	Receipt from Returning Officer of election documents	Chief Executive
-----	-----------------	--	-----------------

3.4	Rules 48,49 and 51	Retention of election documents and making them available for public inspection	Chief Executive
-----	--------------------	---	-----------------

LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990

3.5	All Regulations referring to the proper officer	Dealing with political balance on committees and giving notice of the establishment of political groups	Legal and Democratic Services Manager
-----	---	---	---------------------------------------

LOCAL AUTHORITY (MEMBERS' ALLOWANCES) REGULATIONS 1991

3.6	Regulation 14	Receive written notice from a member electing to forego entitlement to allowances	Legal and Democratic Services Manager
-----	---------------	---	---------------------------------------

THE LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS AND DIRECTIONS) (ENGLAND) REGULATIONS 2000

3.7	All Regulations referring to the proper officer	Verification etc. of Mayoral petitions	Chief Executive
-----	---	--	-----------------

THE LOCAL AUTHORITIES (CONDUCT OF REFERENDUMS) (ENGLAND) REGULATIONS 2001

3.8	Regulation 11	The role of Counting Officer	Chief Executive
-----	---------------	------------------------------	-----------------

LOCAL AUTHORITIES (STANDING ORDERS) (ENGLAND) REGULATIONS 2001

3.9	Schedule 1	Provision relating to the appointment and dismissal of staff	Chief Executive (or Director of Connected Chelmsford if the action concerns the post of Chief Executive)
-----	------------	--	--

REGULATION OF INVESTIGATORY POWERS (COMMUNICATIONS DATA) ORDER 2003

3.10	Part III of Schedule 2	Authorisations/notices relating to communications data falling within sections 21(4)(b) and (c) of the RIPA 2000	Legal and Democratic Services Manager and Public Health and Protection Services Manager
------	------------------------	--	---

HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010

3.11	Regs 2, 3 and 6	The proper officer to appoint Consultants in Communicable Disease Control (CCDC) for the receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Public Health and Protection Services Manager
------	-----------------	--	---

ACCOUNTS AND AUDIT REGULATIONS 2011

3.12	References to the responsible financial officer	Maintenance of arrangements for financial management and internal control	Chief Financial Officer
------	---	---	-------------------------

LOCAL AUTHORITIES (EXECUTIVE ARRANGEMENTS) (MEETINGS AND ACCESS TO INFORMATION) (ENGLAND) REGULATIONS 2012

3.13	Regulation 12	Recording of executive decisions	Legal and Democratic Services Manager
------	---------------	----------------------------------	---------------------------------------

3.14	Regs 5, 6, 7, 13, 14 and 15	Compilation and availability of background papers, agenda and connected reports in relation to executive decisions	All Directors
3.15	Regs 9, 10 and 11	Publicity in connection with Key Decision and giving notice etc. in cases of urgency	Legal and Democratic Services Manager
3.16	Regs 16 and 17	Rights of access to documents for councillors	Legal and Democratic Services Manager