

## STATUTORY OFFICERS AND PROPER OFFICER FUNCTIONS

### 1. Statutory Officers

Legislation requires local authorities to appoint certain officers with statutory responsibilities. These appointments and the officer to whom the council has allocated responsibility are listed below.

Title/Description (and statutory derivation)	Officer appointed
Head of Paid Service (Section 4 – Local Government & Housing Act 1989)	Chief Executive
Monitoring Officer (Section 5 – Local Government & Housing Act 1989)	Assistant Chief Executive – Governance and Assurance
Officer responsible for financial administration (Section 151 – Local Government Act 1972)	Strategic Director of Finance and Governance
Electoral Registration Officer and Returning Officer (Sections 8, 28 and 35 – Representation of the People Act 1983)	Chief Executive
Chief Education Officer (Section 532 – Education Act 1996)	Strategic Director of Children’s and Adults’ Services
Director of Children’s Services (Section 18 – Children Act 2004)	Strategic Director of Children’s and Adults’ Services
Director of Adult Social Services Section 6 – Local Authority Social Services Act 1970)	Strategic Director of Children’s and Adults’ Services
Director of Public Health* (Section 73A National Health Service Act 2006)	Director of Public Health
Scrutiny Officer (Section 31 – Local Democracy, Economic Development and Construction Act 2009)	Head of Overview and Scrutiny
Data Protection Officer Article 37-39 General data Protection Regulation 2018)	Strategic Director of Finance and Governance

\*Director of Public Health must be appointed by the authority *acting jointly* with the Secretary of State

## 2. Proper officer functions

The following officers are appointed proper officers and will carry out functions in relation to the statutory provisions specified. This list is not necessarily exhaustive and any omission shall not affect the validity of any action or decision taken by the proper officer.

STATUTE AND FUNCTION	PROPER OFFICER
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### REPRESENTATION OF THE PEOPLE ACT 1983

Section 8 – The Electoral Registration Officer for the purpose of the registration of electors	Chief Executive
Section 28 – The Acting Returning Officer at an election of a Member of Parliament	Chief Executive
Section 35 – The Returning Officer at an election of London Borough councillors	Chief Executive

### LOCAL GOVERNMENT ACT 1972

Section 83(1) – The officer to whom a person elected to the office of councillor shall deliver a declaration of acceptance of office on a form prescribed by rules made under Section 42 of the Act	Monitoring Officer
Section 83(3)(b) – The officer before whom a declaration of acceptance of office of chair of council or deputy chair of council may be made	Chief Executive
Section 84 – The officer to whom written notice of resignation of elected office shall be delivered	Monitoring Officer
Section 86 – To declare any vacancy in any office under this section	Monitoring Officer
Section 88(2) – The officer by whom a meeting of the council for the election of the vacant office of chairperson of the council may be convened	Chief Executive
Section 89(1)(b) – The officer to whom notice in writing of a casual vacancy occurring in the office of councillor may be given by two local government electors for the Borough	Monitoring Officer
Section 96 – The officer to whom general notices and recording of disclosures of interests under Section 94 should be given	Monitoring Officer
Section 99 and Schedule 12 – To give notice and send summonses in respect of any council meeting	Chief Executive
Section 100A(6) – To give public notice of any meeting to which the public are entitled to attend, provide copies of agenda and facilities for the press	Chief Executive
Section 100B(2) – The officer to exclude from committees, sub-committees, council or cabinet meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded	Monitoring Officer
Section 100B(7)(c) – The officer to supply to any newspaper copies of documents supplied to members of committees, sub-committees, council or cabinet meetings in connection with an item for consideration	Monitoring Officer

<b>STATUTE AND FUNCTION</b>	<b>PROPER OFFICER</b>
Section 100C(2) – The officer to prepare a written summary of proceedings of committees, sub-committees, council or the cabinet from which the public were excluded	Proper Constitutional Officer / Scrutiny Officer as appropriate
Section 100D(1)(a) – The officer to prepare a list of background papers for reports considered by committees, sub-committees, council or the cabinet	Monitoring Officer
Section 100D(5) – The officer to determine which documents constitute background papers and Section 100H – ability to charge for the provision of such documents	Monitoring Officer
Section 100F(2) – The officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection	Monitoring Officer

### **LOCAL GOVERNMENT ACT 1972**

Section 100G – To maintain a register of the names and addresses of members and membership of committees, lists of delegations and the like	Proper Constitutional Officer
Section 115 – The officer to whom money properly due from officers shall be paid	Strategic Director of Finance and Governance
Section 146 – The officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies	Strategic Director of Finance and Governance
Section 151 – The officer to be responsible for the proper administration of the authority's financial affairs (and to issue a report to members if there is or is likely to be unlawful expenditure or an unbalanced budget)	Strategic Director of Finance and Governance
Section 223 – Authorising officers to attend court and appear on behalf of the council under Local Government Act 1972 and the County Courts Act 1984	Monitoring Officer
Section 225(1) – The officer to receive and retain statutory documents on behalf of the authority	Monitoring Officer
Section 229(5) – The officer to certify photographic copies of documents	Monitoring Officer
Section 233 – The officer to receive documents required to be served on the authority	Monitoring Officer
Section 234(1) and (2) – The officer to authenticate documents on behalf of the authority	Monitoring Officer
Section 238 – The officer to certify printed copies of bylaws	Monitoring Officer
Section 248 – The officer responsible for the keeping of the roll of freemen	Monitoring Officer
Schedule 12 [paragraphs 4(2)(b) & 4(3)] – The officer responsible for the receipt of notices regarding address to which summons to meetings is to be sent	Proper Constitutional Officer / Scrutiny Officer as appropriate
Schedule 14 [paragraph 25(7)] – The officer responsible for the certification of true copies of resolutions	Monitoring Officer
Schedule 29 [paragraph 41] – The officer responsible for the exercise of functions under Sections 9(1) & (2), 13(2)(h) and (3)(b) and 20(b) of the Registration Services Act 1953 (Proper Officer)	Chief Executive

STATUTE AND FUNCTION	PROPER OFFICER
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### LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1976

Section 41 – The officer to certify copies of any resolution, order, report or minutes of proceedings of the authority as evidence in any legal proceedings	Monitoring Officer
Section 16 – Notices requiring details of interest in land	Any officer of the council

### LOCAL GOVERNMENT AND HOUSING ACT 1989

Section 2 – The officer to hold on deposit the list of politically restricted posts and Section 2 – provision of certificates as to whether a post is politically restricted	Monitoring Officer
Sections 15-17 (and regulations made thereunder) – The officer to receive notices relating to the membership of political groups	Monitoring Officer

### LOCAL GOVERNMENT ACT 2000

The officer responsible for ensuring a proper record is made of cabinet decisions and that the document comprising the authority's forward plan is published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	Proper Constitutional Officer
To establish and maintain the members' register of interest (Section 81 LGA 2000) and ensure it is available for public inspection	Monitoring Officer
To ensure that copies of the constitution are available for inspection	Proper Constitutional Officer
To make payments of relevant allowances in accordance with the council's members allowances scheme	Proper Constitutional Officer
To defray expenses of any members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough	Chief Executive

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

Regulation 7 – The officer to exclude reports for inspection when considered in private cabinet meetings	Monitoring Officer
Regulations 7 & 14 – The officer to determine which documents made available to the cabinet should be provided to the public	Monitoring Officer
Regulations 12 & 13 – The officer to prepare a written statement of decisions of cabinet or individual cabinet members	Proper Constitutional Officer
Regulations 2 and 15 – The officer to determine which documents constitute background papers for reports considered by cabinet and for the background papers to be available for inspection	Monitoring Officer
Regulations 19 & 20- The officer to decide which	Monitoring Officer

documents are not, by virtue of containing exempt and/or confidential information or advice by a political assistant information, required to be open to inspection	
Regulation 10- The officer responsible for process of dealing with exceptions to the forward plan publication	Proper Constitutional Officer

<b>STATUTE AND FUNCTION</b>	<b>PROPER OFFICER</b>
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#### **OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

Regulation 9- The officer to decide which documents are not, by virtue of containing confidential and/or exempt information, required to be open to inspection	Monitoring Officer
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#### **LAND CHARGES ACT 1975**

Section 19 – The officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975	Monitoring Officer
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#### **NATIONAL ASSISTANCE ACT 1948 AND NATIONAL ASSISTANCE (AMENDMENT) ACT 1951**

Proper officer to seek an order for removal of persons into care	Strategic Director of Children's and Adults' Services
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#### **REGISTRATION SERVICES ACT 1953**

Proper officer for births, deaths and marriages	Chief Executive
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#### **LOCAL GOVERNMENT ACT 2003**

Section 25 – Requirement to report to council annually on the robustness of estimates and the adequacy of the proposed financial reserves	Strategic Director of Finance and Governance
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#### **PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984, FOOD SAFETY (GENERAL FOOD HYGIENE) REGULATIONS 1995 AND THE MILK AND DAIRIES (GENERAL) REGULATIONS 1969**

Requirement to appoint a suitably qualified person as the council's medical advisor on environmental health and proper officer for notifiable diseases	As may be appointed from time to time by the Strategic Director of Environment and Social Regeneration
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#### **CIVIL EVIDENCE ACT 1995**

To certify council records for the purposes of admitting the document in evidence in civil proceedings	Monitoring Officer
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<b>STATUTE AND FUNCTION</b>	<b>PROPER OFFICER</b>
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### **CRIME AND DISORDER ACT 1998**

Section 12 – to apply for the discharge or variation of a Child Safety Order	Strategic Director of Children's and Adults' Services
Sections 17 and 37 – to have regard to effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons	The Chief Executive and Strategic Directors

### **CRIMINAL JUSTICE AND POLICE ACT 2001**

Delegated power to authorise officers to enter premises and seize items where the council has a power of seizure under this Act and to perform other related duties (return and security of seized items)	The Chief Executive and Strategic Directors
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### **GREATER LONDON COUNCIL (GENERAL POWERS) ACT 1969**

Certification of documents as a decision of any officer of the council exercising delegated powers	Monitoring Officer
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### **LOCAL GOVERNMENT FINANCE ACT 1988**

Section 114 – The officer to be responsible for the proper administration of the authority's financial affairs (and to issue a report to members if there is or is likely to be unlawful expenditure or an unbalanced budget)	Strategic Director of Finance and Governance
Section 116 – Notification to the council's auditor of any meeting to be held under Section 115 of the 1988 Act (meeting to consider any report of the Chief Finance Officer under Section 114)	Strategic Director of Finance and Governance
Section 139A – Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required	Strategic Director of Finance and Governance

### **LOCAL GOVERNMENT (CONTRACTS) ACT 1997**

Certification of relevant powers to enter into contracts	The Chief Executive, Monitoring officer, Strategic Director of Finance and Governance and posts designated in accordance with article 10.01(b) as chief officers
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### **LOCAL AUTHORITIES' CEMETERIES ORDER 1977 (SI 1977 NO 204)**

Schedule 2, Article 10, Part 11.1(1) – To appoint an officer for the purpose of signing the Grants of Exclusive Right of Burial Deeds on behalf of the burial authority  Note: It is not necessary for that deed to be executed under seal	As may be appointed from time to time by the Strategic Director of Environment and Social Regeneration
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STATUTE AND FUNCTION	PROPER OFFICER
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**OTHER MISCELLANEOUS PROPER OFFICER FUNCTIONS**

Any other miscellaneous proper or statutory officer functions not otherwise delegated by the authority	Chief Executive or his/her nominee
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**NATIONAL HEALTH SERVICE ACT 2006**

Section 2B – the exercise by the authority of its duty to take steps as it considers appropriate for improving the health of the people in its area	Director of Public Health
Section 111 – the exercise by the authority of any functions prescribed by Secretary of State in relation to dental public health	Director of Public Health
Section 249 – the exercise by the authority of its duty to cooperate with the prison service with a view to improving the exercise of their respective functions in relation to securing and maintaining the health of prisoners	Director of Public Health
Schedule 1 – the exercise by the authority of any of its functions as set out in Schedule 1	Director of Public Health
Section 6C(1) – the exercise by the authority of any of the Secretary of State’s public health functions, which it is required to carry out by regulations issued by the Secretary of State	Director of Public Health
Section 7A – the exercise by the authority of any of the Secretary of State’s public health functions, which are delegated to it by the Secretary of State	Director of Public Health
Section 73A(1)(d) – the exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health	Director of Public Health
Section 73A(1)(e) – the exercise by the authority of its functions under section 325 Criminal Justice Act 2003 (cooperating with “responsible bodies” in relation to the assessment of risks posed by certain offenders)	Director of Public Health
Section 73A(1)(f) – the exercise by the authority of such other functions relating to public health as may be prescribed	Director of Public Health