

## **PROPER OFFICER PROVISIONS**

Any Proper Officer may appoint an alternative officer for all or any of their functions. For transparency it is recommended that such authorisation is forwarded to the Head of Legal and Democratic Services.

The Chief Executive or the Chief Operating Officer may exercise delegations provided to a designated Proper Officer in their absence unless precluded by law.

The Chief Executive shall be the Proper Officer for the purposes of any legislation not covered by these provisions.

Any reference in these provisions to an Act of Parliament includes reference to subordinate legislation made under it and to any modification and/or replacement thereof.

<b><u>Reference</u></b>	<b><u>Proper Officer</u></b>
<b><u>Data Protection Act 1988</u></b>	
Officer appointed to exercise responsibilities to the Council under the Act.	Internal Audit Manager
<b><u>Housing Act 1985</u></b>	Head of Housing and Development Control
Part xi	
<u>Section 351</u>	
Registration schemes of houses in multiple occupation.	Head of Housing and Development Control
<u>Section 606 (i)</u>	
This part of the Act is concerned with housing clearance and an officer is required to represent unfit property to the Council.	Head of Housing and Development Control
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<u>Section 606 (ii)</u>	
This section deals with receipt of a letter of complaint from a Justice of the Peace or parish council that a dwellinghouse or house in multiple occupation is unfit.	Head of Housing and Development Control

**Local Authorities (Stocks and Bonds) Regulations 1974**

Register of stocks and bonds

Head of Finance and Property

**Local Authorities (Contracts) Regulations 1987 (No. 2862) Regulation 7 (2)**

To sign on behalf of the Council certificates in respect of PFI Contracts.

Head of Finance and Property

**Local Elections (Principal Areas) (England and Wales) Rules 2006/3304**

Head of Legal and Democratic Services

**Local Elections (Parishes and Communities) Rules 1986- and**

Head of Legal and Democratic Services  
Head of Legal and Democratic Services

**Local Elections (Parishes and Communities) (England and Wales) Rules 2006/3305**

Local Elections (Parishes and Communities) (England and Wales) Rules 2006/

**Section 13 (3)**

This section provides that where a parish does not have a parish council, the Chairman of the parish meeting and the proper officer of the District Council shall be a body corporate by the name of the "Parish Trustees of – "(the name of the parish).

Head of Legal and Democratic Services

**Local Government Act 1972**

**Section 83 (1) to (4)**

This section provides that a person elected to the office of Mayor, Councillor or elected Mayor shall not take up such office until he has made a declaration of acceptance of office to the proper officer of the Council.

Chief Executive or Head of Legal and Democratic Services

**Section 84**

A person elected to any office or elected as an elected Mayor may resign such office by written notice delivered to the proper officer of the Council.

Chief Executive or Head of Legal and Democratic Services

**Section 86**

Duty to declare vacancy in office in certain circumstances.

Chief Executive or  
Head of Legal and  
Democratic Services

Section 87

Duty to give public notice of a casual vacancy.

Chief Executive or  
Head of Legal and  
Democratic Services

Section 88 (2)

This section concerns the filling of a casual vacancy in the office of Mayor and empowers the proper officer of the Council to convene a meeting of the Council to elect a successor.

Chief Executive

Section 89 (1) (b)

Where a casual vacancy occurs in the office of Councillor, notice may be given in writing of the vacancy to the proper officer of the authority by two local government elections for the area.

Chief Executive

Sections 100 A to K

These sections concern access to information.

Head of Legal and  
Democratic Services

Section 100 b (2)

The exclusion from inspection by the public and press of reports on terms during which in the opinion of the Proper Officer meeting is likely not to be open to the public.

Head of Legal and  
Democratic Services

Section 100 b (7) (C)

The supply to the press of additional material supplied to Members of the Council with items of business to be discussed.

Head of Legal and  
Democratic Services

Section 100 C (2)

Where parts of the minutes which disclose exempt information are excluded from inspection, the preparation where necessary of a written summary of those parts of the proceedings so as to provide the public with a reasonably fair and coherent record.

Head of Legal and  
Democratic Services

Section 100 D (1) (a) and 100 (5) (a)

The identification of background papers which have been relied upon in preparing the report and compiling the list of such papers for inspection by the public in accordance with Section 100 D of the Act.

All Reporting Officers

Section 100 F (2)

The making of decisions as to documents which are not required to be open to inspection by Council Members where it appears to the Proper Officer that a document discloses exempt information of a description falling within any of the paragraphs of Schedule 12A to the Act.

Head of Legal and Democratic Services

Section 115 (2)

This section requires officers to account for all monies and property coming into their hands in the course of their employment. The money due from such officers must be paid to the Proper Officer of the Council.

Head of Finance and Property

Section 146 (l) (a) and (b)

This section provides for the situation where securities stand in the books of a company in the name of a local authority and deals with the transfer of those securities on the alteration of local authority areas. If the name of the authority is changed the Proper Officer of the Council is required to make a statutory declaration to that effect in order that the new name may be entered in the company's books. Where securities are transferred to another authority, the certificate of the Proper Officer of the Council is sufficient authority for the new name to be entered in the company's books.

Head of Finance and Property

Section 151-Statutory Officer

Every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs.

Head of Finance and Property

Section 191 (2) & (4) (b)

Where an application is made by the Ordnance Survey under Section 1 of the Ordnance Survey Act 1841 to

Head of Finance and Property

examine, ascertain and mark out the reputed boundaries of local authority areas, the application shall be sent to the Proper Officer of the County Council or District Council.

Section 210 (6) and (7)

Where an officer of an existing authority has, by virtue of his office, powers relating to a charity, those powers will transfer to the officer holding the equivalent post with the appropriate new authority. If there is no equivalent post the powers will vest in the Proper officers of the new authority.

Head of Legal and Democratic Services

Section 212 (1) and (2)

With respect to local land charges, the Proper Officer to act as local registrar shall be the Proper Officer of the Council of the district in which the land is situated. There is also a duty on the Proper Officer to register any notice, order, scheme, agreement, restriction, etc., in the register of land charges.

Head of Legal and Democratic Services

Section 225 (1)

This section provides that documents to be deposited with the Council should be received by the Proper Officer on the council and retained by him/her according to the directions accompanying such documents.

Head of Legal and Democratic Services

Section 229 (5)

A photocopy of a document in the custody of the Council shall be admissible in evidence in legal proceedings. A certificate purporting to have been signed by the Proper Officer of the council shall be sufficient authentication of the photocopy.

Head of Legal and Democratic Services

Section 234 (1) and (2)

This section provides that any notice, order or other document which the Council are authorised to give, make or issue may be signed on their behalf by the Proper Officer of the Council.

Chief Executive or any other Officer upon whom the Council has delegated its powers and duties under specific legislation.

### Section 236 (9)

The Proper Officer of the District Council shall send a copy of every byelaw made by the Council to the Proper Officer of every parish or community to which such byelaws apply.

Head of Legal and Democratic Services

### Section 238

This section sets out the requirements for evidencing byelaws. It provides that a certificate purporting to be signed by the Proper Officer of the Council shall be prima facie evidence of the facts stated in the certificate.

Head of Legal and Democratic Services

### Section 248

The Roll of Freeman of Burnley is to be kept by the Proper Officer of the district council.

Head of Legal and Democratic Services

### Schedule 12 Paragraph 4 (2)(1A)(b) and 2(b)

A Summons to attend a meeting of the Council shall be signed by the Proper Officer of the Council.

Head of Legal and Democratic Services

### Schedule 12 paragraph 4 (3)

If a member of the Council wishes his Summons to be addressed to an address other than his residence, he should inform the Proper Officer of the Council in writing.

Head of Legal and Democratic Services

### Schedule 14 Paragraph 25 (7)

Certification of resolutions passed by the Council applying or disapplying certain sections of the Public Health Acts 1875 to 1925 to the area of the new district.

Head of Legal and Democratic Services

### **Local Government Act 1974**

S.30 (5) Publication of reports of Local Commissioner

Monitoring Officer-Chief Operating Officer

### **Local Government Act 2000**

#### Part I and IV

To exercise Proper Officers powers under Parts I and IV of the Act and Regulations.	Chief Executive or Head of Legal and Democratic Services
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Parts II and III

To exercise Proper Officer power under Parts II and III of the Act and Regulations.	Head of Legal and Democratic Services
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Part III, Chapters I, II, IV and V

To exercise the powers of Monitoring Officer under the Act and Regulations pursuant to that Act.	Head of Legal and Democratic Services
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**Local Government (Contracts) Act 1997**

Section 3 (2)(e)

To sign, on behalf of the Council, certificates in respect of PFI Contracts.	Head of Finance and Property
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**Local Government and Housing Act 1989**

Section 2

To maintain a list of politically restricted posts	Head of Legal and Democratic Services
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Section 4- Statutory Officer

Head of Paid Service	Chief Executive
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Section 6- Statutory Officer

Monitoring Officer	Chief Operating Officer
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Deputy Monitoring Officer	Head of Legal and Democratic Services
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Section 46 (1)

Registrar of Loans	Head of Finance and Property
Registrar of Bonds	Head of Legal and Democratic Services

**Local Government (Miscellaneous provisions) Act 1976 (as amended by the Local Government Act 2000)**

Section 41

Certificate of copies of resolutions, minutes and other documents.

Head of Legal and Democratic Services

Part II

Authorisation of officers to enforce the provisions of the Act relating to private hire vehicles, their drivers and operators and to hackney carriage vehicles and their drivers.

Head of Legal and Democratic Services

**Local Government and Rating Act 1997**

(Part II) and Sub-ordinate legislation under that part

Functions in relation to review of parishes.

Head of Legal and Democratic Services

**Representation of the People Act 1983**

Section 8

Registration Officer of Parliamentary and local electors.

Chief Executive

Section 35

Returning Officer for the election of District and Parish Councillors.

Chief Executive

Section 35

Acting Returning Officer for the election of County Councillors.

Chief Executive

Section 39 (4)

Powers in respect of holding elections.

Chief Executive or Head of Legal and Democratic Services



## **Representation of the People Act 1985**

### **Section 21**

Power to fill vacancies in the event of insufficient nominations.

Chief Executive or Head of Legal and Democratic Services

## **Party Walls Act 1996**

### **Section 10 (8)**

To serve as the Appointing Officer for the purposes of the Act.

Head of Finance and Property

## **Town and Country Planning Act 1971 Act replaced by the Planning (Listed Buildings and Conservation Areas) Act 1990**

Maintaining the list of listed buildings (Section 54)

Strategic Head of Economy and Growth

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

Sections 8,9,13 and 14  
Notifications to and by the Proper Officer

Head of Legal and Democratic Services

## **Regulation of Investigatory Powers Act 2000**

To act as Senior Responsible Officer

Head of Legal and Democratic Services

To issue authorisations under the Regulation of Investigatory Powers Act 2000.

Chief Executive, Chief Operating Officer, Head of Finance & Property and Head of Streetscene

## **Freedom of Information Act 2000**

### **Section 36**

Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs

Head of Legal and Democratic Services

## **The Local Authorities (Standing Orders ) (England) Regulations 2001**

Schedule 1 Part II

Functions in relation to notifying Executive of appointments and dismissals

Monitoring Officer or  
Strategic Human  
Resources Consultant

**Local Government Act 2000 section 34  
Local Authorities (Referendums) (Petitions and  
Directions) Regulations 2000**

Publish the verification number of electors being 5% of local government electors for the purpose of petitions

Head of Legal and  
Democratic Services

**Local Authorities (Executive Arrangements)  
(Access to Information) (England) Regulations  
2012 (was Local Government Act 2000 section 22)**

Section 7 and 10

Access to agenda and connected reports for public meetings and general exception

Head of Legal and  
Democratic Services

Section 12 and 13

Produce a written statement of Executive decisions made at meetings and of Individual Members

Head of Legal and  
Democratic Services

Section 14

Make a copy of written statements of Executive decisions and associated reports available for inspection by the public

Head of Legal and  
Democratic Services

Section 15

Make available for inspection a list of background papers

Head of Legal and  
Democratic Services

**Other Enactments**

**Proper Officer-**

**Reference**

The Public Health (Control of Disease) Act 1984 and regulations made thereunder

UK Health Security  
Agency

The Health Protection (Notification) Regulations 2010, for the purposes of regulations 2, 3 and 6

UK Health Security  
Agency

## **Appointment of Inspectors**

Head of Streetscene

Health and Safety at Work Act 1974 Section 19  
appointment of inspectors.

## **Miscellaneous Legislation**

Head of Streetscene

Animal Boarding Establishment Act 1963  
Breeding of Dogs Act 1973  
Clean Air Act 1993  
Food Safety Act 1990  
Control of Pollution Act 1974  
Pet Animals Act 1951  
Public Health Acts 1936, 1961 and 1968  
Riding Establishments Acts 1964 and 1970  
Sunday Trading Act 1994  
Animal Health and Welfare Act 1984  
Dangerous Wild Animals Act 1976  
Zoo Licensing Act 1981  
Public Order Act 1986

Prevention of Damage by Pests Act 1949  
Public Health Acts 1936, 1961 and 1968  
Highways Act 1980  
Environmental Protection Act 1990  
Town and Country Planning Act 1990  
Environment Act 1995  
Anti- Social Behaviour Act 2003  
Clean Neighbourhoods and Environment Act 2005  
Childrens Act 2004

Head of Streetscene

Head of Streetscene

Housing Act 1985 (Housing Conditions)  
And Housing Act 2004  
Town and Country Planning Act 1990  
Environmental Act 1995  
Planning and Compulsory Purchase Act 2004

Head of Housing and  
Development Control

Wildlife and Countryside Act 1981  
Town and Country Planning Act 1990  
Planning and Compulsory Purchase Act 2004

Strategic Head of  
Economy and Growth