

CONSTITUTION - PART 3 - RESPONSIBILITY FOR FUNCTIONS

(Last revised April 2019)

5. Responsibility for Proper Officer Functions and Statutory Officer Duties

1. Proper Officer and Statutory Officer appointments must be distinguished from powers “delegated” to Officers.
Delegated powers -
 - (1) can be confirmed at the Council’s discretion;
 - (2) can be withdrawn or amended;
 - (3) can be made subject to the observance of conditions and/or compliance with Council policy.
2. Under certain statutes and guidance, the Council is required to appoint a proper officer or statutory officer to undertake a specific function. In such cases, the effect of the statutory provision is as follows:-
 - (i) the function can only be dealt with through that Officer;
 - (ii) the function can only be discharged by that Officer in the way prescribed by the statutory provision concerned;
 - (iii) the Council cannot direct the way in which the function is discharged.
3. In the absence of the Proper Officers their powers are exercisable by their Deputy or Deputies in absence or by such Officer(s) as the Proper Officer in writing shall appoint. Deputies other than the usual deputy in absence are indicated in the schedules below.

SCHEDULE 1 - PROPER OFFICERS

The Council has appointed the following proper officers

PROPER OFFICER	STATUTORY REFERENCE	FUNCTION
<p>Chief Executive</p> <p>In the absence of the Chief Executive the Proper Officer is the Head of Legal and Governance</p>	<p>Local Government Act 1972:-</p> <p>S.13(3)</p> <p>S.83(1)</p> <p>S.84</p> <p>S.89</p> <p>S.86</p> <p>S.87</p> <p>S.88(2)</p> <p>S.234(1)</p>	<p>To act with Chairman of Parish Council as Parish Trustee.</p> <p>To receive declarations of acceptance of office.</p> <p>To receive notice of resignation.</p> <p>To receive notice of casual vacancy in the case of Councillors.</p> <p>Duty to declare vacancy in office in certain cases.</p> <p>Duty to give public notice of a casual vacancy.</p> <p>To convene a Council meeting for the election of Mayor following a casual vacancy in that office.</p> <p>To sign, on behalf of the Council, any notice, order, or other document which the Council is authorised or required to give, make or issue.</p>
<p>Chief Executive</p> <p>In the absence of the Chief Executive the deputy under Part I is the Head of Finance and under Part IV is the Head of Legal and Governance</p>	<p>Local Government Act 2000 Part I and Part IV and regulations introduced pursuant to that Act</p>	<p>To exercise Proper Officer powers under Parts I and IV of the Act and Regulations</p>

PROPER OFFICER	STATUTORY REFERENCE	POWER
<p>Head of Legal and Governance the deputy is the Chief Solicitor</p>	<p>Local Government Act 1972</p> <p>Para 4(2) (b) Part I Schedule 12</p> <p>Para 4(3) Part I Schedule 12</p> <p>Para 25(7) Part II Schedule 14</p> <p>S.96</p> <p>S.146</p> <p>S.191(2)</p> <p>S.210(6)</p> <p>S.225(1)</p> <p>S.238</p>	<p>To sign the summons to attend a Council Meeting.</p> <p>To receive notice of desire for summons to be sent to an address other than residence.</p> <p>To certify resolutions.</p> <p>To receive general notice of disclosures of pecuniary interest and to record particulars of disclosure.</p> <p>To make statutory declarations in connection with the transfer of securities.</p> <p>To receive applications under S.1 Ordnance Survey Act 1841</p> <p>To exercise any power with respect to a charity as defined in sub-section (1) of that section.</p> <p>To receive and deal with deposited documents.</p> <p>To certify printed copies of Council byelaws.</p>
<p>In the absence of the Head of Legal and Governance the deputy is the Chief Solicitor</p>	<p>Local Government Act 1972</p> <p>Para 25(7) Part II Schedule 14</p> <p>S.204(3)</p>	<p>To certify resolutions.</p> <p>To receive notice of an application for Justices Licence under Schedule 2 Licensing Act 1964.</p>

PROPER OFFICER	STATUTORY REFERENCE	POWER
Head of Legal and Governance Deputy in absence is Chief Solicitor	<p>S229(5)</p> <p>S.100B(2)</p> <p>S.100B(7)(C)</p> <p>S.100C(2)</p> <p>S.100D(1)</p> <p>S.100D(5)</p> <p>S.100F(2)</p>	<p>To certify copy documents.</p> <p>To determine: Exclusion from inspection.</p> <p>Copies of the documents for the press.</p> <p>Unpublished Minutes, the obligation to provide a fair and coherent record.</p> <p>The compilation of a list of background papers.</p> <p>The definition of what constitutes background papers.</p> <p>The availability of exempt information to Members.</p>
Head of Legal and Governance	<p>Local Government Finance Act, 1988:</p> <p>S.116</p>	<p>To inform the Authority's external auditor of the date, time place and outcome of any meetings held under Section 115 of the Act.</p>
Head of Legal and Governance	<p>Local Government and Housing Act, 1989</p> <p>S.19</p>	<p>To receive general notice of Members' direct and indirect pecuniary interests or stating that the Member has no such interest.</p>
Head of Legal and Governance	<p>Local Government Act, 2000 Parts II and III and Regulations introduced pursuant to that Act</p>	<p>To exercise Proper Officer powers under Parts II and III of the Act and Regulations.</p>
Head of Legal and Governance (Monitoring Officer) or Chief Solicitor (Deputy Monitoring Officer) in absence.	<p>Localism Act 2011 Section 33(2) (a), (b) and (d)</p>	<p>To grant dispensations to District or Parish Council Members or co-opted Members from the prohibition on participating or voting where they have a disclosable pecuniary interest.</p>

PROPER OFFICER	STATUTORY REFERENCE	POWER
Head of Finance	Local Government Act, 1972 S.151	To be responsible for the administration of the financial affairs of the Council, in accordance with arrangements made for their proper administration.
Head of Finance	Local Government Finance Act, 1982 S.23 Account and Audit Regulations 1996	Determination of the Authority's accounting systems, form of accounts and supporting records and accounting control systems.
All Consultants in Communicable Disease Control or Health Protection working in UK Health Security Agency Centre, Yorkshire and the Humber to have these Proper Officer responsibilities.	<p>Public Health (Control of Disease) Act 1984: Sections 48, 61 & 62 And the</p> <p>The Health Protection (Notification) Regulations 2010 Sections 2, 3 & 6</p> <p>Public Health Act 1936: Sections 84 and 85 And the Public Health Act 1961; Section 37;</p> <p>National Assistance Act 1948 as amended by the National Assistance (Amendment) Act 1951 Section 47</p> <p>And any enactments amending or replacing the aforementioned legislation</p>	<p>Proper Officer to issue certificates relative to the removal of bodies to mortuaries or for immediate burial.</p> <p>Proper Officer for the purpose of receiving and forwarding information about notifications</p> <p>Proper Officer for the purposes of dealing with verminous persons, clothing or articles.</p> <p>Proper Officer to initiate action or make application for the removal of persons in need of care and attention.</p>

PROPER OFFICER	STATUTORY REFERENCE	POWER
	General	In relation to any reference to the Medical Officer of Health of a District or Borough in any enactment passed before or during the 1971/2 Session of Parliament in any instrument made before 26 October 1972, power to sign and issue such notices the signature and issue of which is not otherwise provided for.

SCHEDULE 2 - STATUTORY OFFICER DUTIES

THE COUNCIL HAS APPOINTED THE FOLLOWING OFFICERS
IN ACCORDANCE WITH THE RELEVANT STATUTES

STATUTORY APPOINTMENTS

OFFICER	STATUTORY REFERENCE	POWER
Chief Executive	Representation of the People Act 1983	
Deputy in absence Head of Legal and Governance	S.8	To be Electoral Registration Officer for the Harrogate and Knaresborough Borough Constituency and the Electoral Registration Officer for those parts of the Skipton and Ripon and Vale of York Constituencies within Harrogate District.
Deputy in absence Head of Legal and Governance	S.35	To be Returning Officer for the election of District Councillors and to be Returning Officer for the election of Parish Councillors in the District.
	S.39(4)	Powers in respect of holding elections.
	Representation of the People Act 1985	
	S.21	Power to fill vacancies in the event of insufficient nominations.
	European Parliamentary Elections Act 1978	
	Paragraph 4(3) and 4 of Schedule 1	Duty to provide assistance at European Parliamentary elections.

PROPER OFFICER	STATUTORY REFERENCE	POWER
Chief Executive deputy in absence Head of Legal and Governance	Local Elections (Principal Areas) Rules 1986 and Local Elections (Parishes and Communities) Rules 1986 Rule 48(3)	Power to determine fees and conditions for supply of copies of, or extracts from, the elections documents.
Chief Executive	Regulation of Investigatory Powers Act 2000	Officer responsible for the management of an investigation.
Head of Legal and Governance	Local Government and Rating Act 1997 (Part II) and subordinate legislation under that part	Functions in relation to review of parishes
Head of Legal and Governance deputy in absence Chief Solicitor	Local Government 2000 Part III Chapters I, II, IV and V Localism Act 2011 - Chapter 7	To exercise the powers of Monitoring Officer under the Act and Regulations introduced pursuant to that Act
Chief Solicitor	Local Government (Miscellaneous Provisions) Act 1976, S.80	Authorised Officer
Chief Solicitor	Regulation of Investigatory Powers Act 2000	Senior Officer Responsible
Chief Solicitor	Data Protection Act 1998	Officer appointed to exercise responsibilities to the Council under the Act
Audit Manager	Regulation of Investigatory Powers Act 2000	Officer appointed to exercise responsibilities to the Council under the Act

PROPER OFFICER	STATUTORY REFERENCE	POWER
Director of Corporate Affairs and Director of Economy, Environment and Housing	Public Health Act 1936 S.343	Authorised Officer for the purpose of all matters arising under the Act and other statutes incorporated therewith which are within the functions of that department
	Health and Safety at Work Act 1974	Officer appointed as Inspector to exercise the functions and duties of the Council under the Act
	Housing Act 1985	Officer authorised to exercise powers of entry and authenticate documents
Head of Safer Communities	Regulation of Investigatory Powers Act 2000	Officer responsible for the management of an investigation
Head of Finance	Regulation of Investigatory Powers Act 2000	Officer responsible for the management of an investigation
Director of Corporate Affairs	Regulation of Investigatory Powers Act 2000	Officer responsible for the management of an investigation