

Article 16 – Officers

16.1 Terminology

In this article “officers” means all employees and staff engaged by the Council to carry out its functions. This word also covers those engaged under short term, agency or other non-employed situations under a contract for services.

A “proper officer” is a person who has responsibility for a particular statutory function or range of functions.

All officers must comply with the Officers’ Code of Conduct and the Protocol on Officer/Member Relations set out in Part 2 of this Constitution.

The recruitment, selection and dismissal of officers will comply with the Officer Employment Rules as appended to this section.

16.2 Management Structure

(a) Appointment

Appointment of staff cannot be the responsibility of the Cabinet. Appointment of staff below Chief Executive level is the responsibility of the Head of Paid Service or their nominee.

The Chief Executive is appointed by members of the Council.

(b) Proper Officer Functions

- (i) A proper officer shall nominate in writing another Officer of the Council to act as proper officer in his or her stead in the event that he or she is at any time absent or unable to act as such proper officer.
- (ii) Without prejudice to specific appointments as proper officers the Chief Executive and the Assistant Directors are proper officers of the Council in relation to any matters including, but not limited to, matters referred to in Section 234 (authentication of documents) of the Local Government Act 1972 which fall either by specific resolution of the Council or by custom or practice within their responsibilities.
- (iii) The Chief Executive, and any officer of the Council so authorised by him or her in writing, may prosecute, defend or appear in any proceedings under Sections 222 and 223 of the Local Government Act 1972.

(c) Deputies

Under the relevant provisions, certain statutory officers of the Council have a duty to nominate members of their staff to perform their duties when they are unable to act owing to absence or illness. In practice this will be a Service Manager, having the requisite professional qualifications according to the particular duties requiring to be performed.

Role	Designated Officer
Head of Paid Service	Chief Executive
Deputy Head of Paid Service	
Section 151 Officer	Interim Section 151 and Chief Finance Officer
Deputy Section 151 Officer	Assistant Director Finance
Monitoring Officer	Assistant Director, Legal and Democratic
Deputy Monitoring Officer	

The Chief Executive will establish arrangements to ensure that his or her duties are carried out in a deputy capacity during any periods of absence.

(d) General – Chief Executive, Strategic Directors, Assistant Directors and Service Managers

1.	To manage the services for which they are responsible: i) In accordance with any policy decisions made by, or guidelines issued by, the Council ii) Within the budgets made or approved by the Council iii) In compliance with all standing orders, codes of practice, financial regulations or instructions approved or adopted by the Council
2.	To take such decisions or actions as they are required or authorised to take: i) Under standing orders adopted by the Council ii) As proper officers of the Council (as defined in Section 270(3) of the Local Government Act 1972)
3.	To accept tenders and award contracts to contractors on behalf of the Council in the following circumstances: i) Following a tender process strictly in accordance with the Council's Contract Procedure Rules and Financial Regulations ii) For the carrying out of works and/or the provision of goods and/or services iii) Which are to be awarded on the basis of best value

Chief Executive (Head of Paid Service)

Designation: Head of Paid Service

Section 4 of the Local Government and Housing Act requires Council's to designate a Head of Paid Service. The Head of Paid Service may not be the Monitoring Officer but if they are a qualified accountant they may also hold the post of Chief Finance Officer.

Functions

- To determine and publicise a description of the overall departmental structure of the Council showing the management structure and deployment of officers
- To report to full Council on the manner in which the discharge of the Council's functions is co-ordinated, the number and grade of officers required for the discharge of those functions and the organisation of officers
- To maintain and update the scheme of delegation to officers
- To grant dispensations in respect of any conflict of interest declared at Cabinet meetings by any Member of the Cabinet.

Designation: Chief Executive

The Chief Executive is the proper officer of the Council in relation to any matter or function which is not otherwise catered for or by later resolution of the Council.

The Chief Executive may engage such officers as he or she considers necessary to carry out the Council's functions.

Functions

- To serve as electoral registration officer and maintain a register of electors and to have delegated authority as the Electoral Registration Officer to appoint a Deputy Electoral Registration Officer as and when required or in the absence of the Assistant Director, Legal and Democratic
- To serve as returning officer for district and parish council elections
- All functions as Head of Paid Service
- To have corporate management and operational responsibility for all officers
- To approve operational People and Organisational Development policies, working procedures and protocols (such approvals may be delegated to the management team)

- To represent the Council on partnership and external bodies
- In liaison with the Leader of the Council, to authorise officers who are suitably trained and qualified to carry out delegated functions when the authorised post becomes vacant or ceases to exist and update the Constitution accordingly
- To act as parish trustee
- To act as parish trustee
- To receive Councillors' declarations of acceptance of office
- To receive any Councillor's resignation from office
- To summon a Council meeting to fill a casual vacancy for the office of Chairman
- To receive notice of casual vacancies for the office of Councillor
- To determine polling places in consultation with Ward Councillors in the event that a polling place becomes unavailable during an election period
- To sign any notice, order or other document on behalf of the Council including summonses to Council meetings
- To hold an up-to-date list of politically restricted posts
- To notify the auditor of the times and dates of any meetings called to consider reports made by Chief Finance Officer
- To carry out functions in relation to charities
- To hold documents on deposit and make any acknowledgements as directed
- To certify byelaws confirming that they were made by the authority, any copy is a true one, that they byelaw has been placed with the Secretary of State and has not been disallowed and the date on which the byelaw comes into effect
- To receive written notice of any address, other than their home address, to which Councillors want their summons to a meeting to be sent
- To transfer all securities on the alteration of an area
- To make temporary appointments of Members to Town and Parish Councils under Section 91 of the Local Government Act 1972 and report any such appointments to the next meeting of the Council.

Chief Finance Officer/S.151 Officer

The Chief Finance Officer may appoint a deputy to act in his or her absence.

To enable the Chief Finance Officer to carry out all of their duties, the Council will provide them with such officers, accommodation and other resources they consider are necessary.

Functions

- Make arrangements for the proper administration of the Council's financial affairs
- Conduct loans, finance operations and incur and repay bank overdrafts in accordance with Council policies
- Write-off debts due to the Council (in accordance with financial regulations) when he or she is satisfied that the debt cannot be recovered
- Exercise powers of the Council to anticipate precepts in accordance with regulations made by the Secretary of State
- Report to the relevant decision-making body (Council or the Cabinet) and the external auditor, following consultation with the Head of Paid Service and the Monitoring Officer, if he or she considers that any proposal or decision will involve incurring unlawful expenditure, or is unlawful and likely to cause a loss or deficiency, or if the Council is about to enter an item of account unlawfully
- Provide professional financial advice and advise on systems of internal control and ensuring systems are in place to deal with fraud and corruption
- Ensure that there is an effective audit function and arrangements for financial scrutiny
- Provide advice to Councillors and officers on:
 - The scope of powers and authority to make decisions
 - Maladministration, financial impropriety and probity
 - Budget and policy framework issues
 - Corporate risk profiling and management
- Provide financial information to the media, members of the public and the community
- Provide financial management arrangements that ensure:
 - A prudential framework is in place

- That any partnership arrangements or other structures for service deliver are underpinned by clear and well-documented financial controls
- That the Council secures effective arrangements for prudential borrowing
- That statutory and other accounts, associated claims and returns in respect of grants are prepared

Delegations

The Chief Finance Officer/S.151 Officer and other officers appropriately qualified, trained and designated in writing by him or her have authority to:

- Exercise powers under relevant legislation to serve notices, enter into agreements, give receipts, make adjustments, institute proceedings and take any action available to collect or enforce the collection of non-domestic rates, council tax and the personal, standard and collective community charges from those persons liable
- Receive notice on behalf of the authority in respect of appeals over whether a dwelling is a chargeable dwelling or liable for council tax and calculation made in respect of council tax
- Exercise the powers of the council relating to the variation of the statutory instalment scheme for paying council tax
- To request information to identify the liable person in relation to a dwelling
- Manage civil penalties schemes, including imposing and collecting penalties, in accordance with council policies
- Enforce the payment of council tax
- Determining applications for discretionary rate relief in accordance with council policies
- Compile and maintain a local non-domestic rating list and a rural settlement list
- Administer arrangements for non-domestic rates
- Exercise powers in relation to the collection fund and the payment of precepts
- Establish and maintain the Council's General Fund
- Establish and maintain the Housing Revenue Account
- Make all calculations for the budget requirement subject to directions given by the Council

- To make arrangements for the proper administration of housing and council tax benefits
- To implement schemes for lease cars, car loans and travelling allowances as approved by the Council
- To authorise contributions up to a maximum of £200 towards litigation costs in cases supported by the Local Government Association
- Carry out all treasury management functions in accordance with the Council's Treasury Management Strategy
- Maintain adequate internal controls for the procurement of goods and services for the Council by setting appropriate authorisation limits for Council officers
- Take appropriate action in respect of forfeiting, terminating or repossessing a lease between the Council and any tenant as the final part of debt recovery and breach of tenancy process where rent remains outstanding or there has been some other breach of the terms of the lease which would require the Council to obtain vacant possession of the leased premises
- To make appropriate financial arrangements and/or payment to mitigate risk, including litigation or risk managing situations; taking such action as may be required for each situation/case based on appropriate professional opinion and advice
- To prosecute instances of fraud under relevant legislation in consultation with Legal and Democratic Services
- To sign and serve notice seeking possession and take action for possession of any council dwelling, land or garage due to rent arrears
- To sign, serve and issue Notices to Quit and take action for possession of any Council dwelling or garage under licence, non-secure tenancy as a result of rent arrears
- To sign, serve and make applications to the County Court in connection with rent arrears
- To authorise the sale of council dwellings under the Right to Buy
- Consider and determine applications for a review of a listing and applications received for compensation from the owner of any property included on the list of assets of community value
- Use powers to detect and enforce against fraud in relation to Council Tax reduction schemes

- Set fees for the licensing of scrap metal dealers in consultation with the relevant Cabinet Member
- In consultation with the Cabinet Member for Finance to approve the addition of other authorities to participate in the shared service partnership in the future.
- In consultation with the Cabinet Member for Finance to approve changes to the Building Control Fees and Charges.

Assistant Director, Legal and Democratic (Monitoring Officer)

The Assistant Director, Legal and Democratic has been appointed as the Council's Monitoring Officer (Local Government and Housing Act 1989). The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

Functions of the Monitoring Officer

Maintenance of the Constitution

The Monitoring Officer must maintain an up-to-date version of the Constitution and ensure it is widely available for inspection by Councillors, staff and the public. The Council has delegated responsibility to the Monitoring Officer to correct minor anomalies within the Council's Constitution and report these changes to the Constitution Committee (Article 10). Full details of the Monitoring Officer's responsibilities in relation to the Constitution are outlined in Article 1.

To ensure lawfulness and fairness of decision-making

- The Monitoring Officer is legally responsible for keeping records of decisions and ensuring public access to information
- The Monitoring Officer is responsible for the publication of notices relating to key decisions
- The Monitoring Officer is responsible for making reports to the Council (or Cabinet in relation to an Executive function) where he or she considers any proposal, decision or omission would give rise to unlawfulness or maladministration following consultation with the Head of Paid Service and the Chief Finance Officer

Councillor Conduct

In accordance with the Localism Act 2011, the Monitoring Officer assists Councillors with the promotion and maintenance of high standards of conduct through the following functions:

- i) To receive complaints of failure to comply with the Members' Code of Conduct by district, town and parish councillors and to delegate this responsibility back to the relevant town or parish council where appropriate

- ii) After consultation with the Independent Person¹ or reserve, determine whether a complaint against a Councillor merits formal investigation and, if necessary, to arrange such investigation.
- iii) To consider and determine applications for dispensation to allow a Councillor to participate and vote in any decision where they have an interest. If the Monitoring Officer is unable to determine an application for dispensation, they are authorised to refer it to the Review Board (contained in Article 4).

Investigations

In addition to responsibility for carrying out investigations in relation to alleged breaches of the Members' Code of Conduct the Monitoring Officer is also responsible for the investigation of matters as referred to the Council by the Local Government Ombudsman.

To provide advice

The Monitoring Officer shall provide advice to all Councillors on their scope of powers and authority in respect of:

- i) taking decisions
- ii) maladministration
- iii) financial impropriety
- iv) ethics and probity
- v) Policy Framework and Budget
- vi) Public Interest Test. To determine the release of information

Petitions

Managing and administering petitions submitted to the Council.

¹Independent Person - Appointed by the Council, term of office four years, a non remunerated post

- An independent person may not be appointed if that person: is a member or co-opted member or officer of the Council or a parish/town council in the Council's area, or
- Is a relative, or close friend of such a person, or
- Has been a member of co-opted member or officer of the Council or a parish/town council in the Council's area in the previous 5 years

- To provide advice to Members and Co-opted Members about whom a conduct complaint has been received and specifically to discharge the functions detailed in Section 28(7) of the Localism Act 2011.
- To promote and maintain high standards of conduct by members.
- To analyse and exercise fair and impartial judgement and decision making on conduct issues.
- To consult, liaise and maintain a professional working relationship with the Council's Monitoring Officer, his or her appointed deputies and other officers of the Council.
- To provide a view on the governance of the Council and its Town and Parish Councils, if any, from an external perspective that will better enable the Council to assess conduct and standard issues.

Responsibilities in relation to the Chief Executive's Performance Panel

- Acting as an advisor, along with the People and Organisational Development Service Manager, to ensure the panel complies with relevant legislation
- Working with the Chairman of the Performance Panel to ensure that formal complaints about the Chief Executive are addressed through the most appropriate procedure

Functions of the Assistant Director, Legal and Democratic

- Data Protection/Freedom of Information
- Ombudsman liaison/complaints investigation
- Providing a complete legal service to the Council
- Providing democratic services including electoral administration
- Providing a performance management and project support service
- Providing a service dealing with communications, engagement and reputation management
- Providing responses as appropriate in relation to stage 2 of the Council's complaints resolution arrangements (this is a function of all Assistant Directors)
- To act as Deputy Electoral Registration Officer with the full powers of the Electoral Registration Officer in the absence of the Electoral Registration Officer and as directed by the Electoral Registration Officer

The Assistant Director, Legal and Democratic is also the proper officer for the following functions:

- Keeping a record of any disclosable pecuniary interests declared by Councillors and make that record available for inspection
- Excluding from agendas any report which is likely to be considered in the absence of the public
- Supplying to any newspaper copies of documents supplied to Councillors in connection with any item on the agenda
- Preparing a summary of proceedings taken in the absence of the public when the minutes do not provide a reasonably fair and coherent record of the proceedings
- Deciding whether a document contains information that will exempt it from inspection by members of the Council
- Ensuring that a copy of any background papers material to a decision made by the Cabinet or Cabinet members are available for public inspection
- Certifying photographic copies of documents
- Sending copies of byelaws to county and parish councils

Legal Proceedings

The Assistant Director, Legal and Democratic may, unless any enactment otherwise authorises or requires, institute, defend or participate in any legal proceedings where such action is necessary to give effect to decisions of the Council or where the Chief Executive considers that such action is necessary to protect the Council's interests and to authorise other officers to act under these circumstances.

Functions under the Town and Country Planning Act 1990

The Assistant Director, Legal and Democratic is authorised to carry out, and to authorise other officers who are suitably trained and qualified, to carry out the following functions:

- To serve requisitions for information and to prosecute offenders
- To instigate prosecution proceedings for unlawful advertisements and breach of condition notices
- To serve planning contravention notices and commence prosecution proceedings

Authentication of documents

The Assistant Director, Legal and Democratic may sign, and authorise others to sign, any document where it is necessary to any legal procedure or proceedings on behalf of the Council unless any enactment or the Council has given authority to some other person.

Assistant Director, Growth and Development

Proper officer functions²

The Assistant Director, Growth and Development is the proper officer for the following functions:

- Ordnance survey matters
- Local land charges

Development management³

The Assistant Director, Growth and Development may exercise and authorise in writing other officers appropriately qualified and trained to exercise the following powers under the Town and Country Planning Acts and other relevant legislation:

- All decisions, responses or determinations arising in relation to applications
- Approval of reserved matters
- Prior approvals, consents and consultations submitted to or received by the Council in accordance with all Town and Country Planning, Listed Building and associated legislation

Except in the following circumstances:

- All applications for major development, where “major development” means development involving any one or more of the following:
 - a) The provision of dwelling houses where
 - (i) The number of dwelling houses to be provided is 10 or more; or
 - (ii) The development is to be carried out on a site having an area of 0.5 hectares or more, and it is not known whether the development falls within sub-paragraph a) (i)
 - b) The provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or
 - c) Development carried out on a site having an area of 1 hectare or more
- When, in the opinion of the authorised officer, an application for planning permission is a departure from the Development Plan or an emerging replacement plan, and where the intended officer decision is permission/consent
- Any application for planning permission, approval of reserved matters, conservation area consent or listed building consent where a Councillor has submitted a written request that the application be considered by the Development Management Committee to the Service Manager, Development Management and Implementation

² All legislation in relation to these functions can be found under Assistant Director, Growth and Development: proper officer functions - Appendix

³All legislation in relation to these functions can be found under Assistant Director, Growth and Development: development management - Appendix

All requests by Councillors for the consideration of items by the Development Management Committee must:

- Be submitted on the appropriate pro-forma within three weeks of the circulation of details of the application
- Include a statement that the Councillor has consulted the Ward Member(s) for those Ward(s) in which the application was made
- Include a statement outlining material reasons why the proposal needs to be considered by Committee
- Include a list of related Development Plan and national planning policies

All requests will be acknowledged in writing and the reasons for referral included in the officer report to the Development Management Committee. When, in the opinion of the Service Manager, Development Management and Implementation, the reasons for the request do not constitute material planning considerations, the Service Manager, Development Management and Implementation will have the power to decline the request.

- Any application, consultation or like matter where the authorised officer considers a decision should be made by the Development Management Committee
- Any application submitted by or on behalf of a Councillor of the authority (or their spouse or partner) or by or on behalf of a member of the Council's Senior Management Team, or an employee within the Development Management or Planning Policy functions of the Council
- Any application submitted by or on behalf of the Council for its own developments, except for the approval of routine minor developments to which no objection has been received

Where there are statutory time limits for making decisions or taking action where non-determination within a set period automatically gives consent (e.g. agricultural buildings, demolitions and telecommunications determinations and notifications of works to trees in a conservation area), the Assistant Director, Growth and Development, or other appropriately qualified and trained officers authorised by them in writing, may determine the applications. The authorised officer will consider any objections received and, at their discretion, efforts will be made to resolve the objection before the expiry period. The existence of an objection will not alter the officer's authority to make a decision in these instances.

The Assistant Director, Growth and Development, and other appropriately trained and qualified officers authorised by them in writing, may also exercise the following functions:

- Accepting minor amendments to approved plans

- Undertaking screening opinions and determining the need for an Environmental Impact Assessment statement for developments that require planning permission
- Authorising the making of immediate Tree Preservation Orders and routine maintenance work to trees covered by Tree Preservation Orders or trees in Conservation Areas
- Issuing hedgerow retention notices and general discharge of duties under the Hedgerow Regulations 1997
- Dealing with complaints relating to high hedges
- Authorising powers of entry in respect of complaints and appeals under anti-social behaviour legislation
- Entering into a Section 106 Agreement on a delegated planning application approval where no financial contributions are required
- Entering into planning performance agreements on behalf of the Council as the local planning authority
- Entering premises for statutory purposes

Development management: enforcement⁴

The Assistant Director, Growth and Development is authorised to carry out, and authorise in writing other officers with necessary training and qualifications, the following functions:

- Administer cautions in respect of breaches of advertisement control and in order cases where, following authorisation, court proceedings are considered appropriate
- Serve, in consultation with the Assistant Director, Legal and Democratic, breach of condition notices relating to the implementation of planning permissions and conditions containing a precedent requirement
- Remove or obliterate unauthorised placards and posters
- Serve written notice requiring information as to interests in land or, if related to a planning contravention notice, activities carried out on the land
- To serve the following notices in consultation with the Service Manager, Development Management and Implementation and Legal Services:
 - Enforcement notice
 - Breach of condition notice
 - Section 215 notice
 - Listed building enforcement notice
 - Hazardous substance notice
 - Stop notice
 - Temporary stop notice

Neighbourhood Planning⁵

⁴All legislation in relation to these functions can be found under Assistant Director, Growth and Development: development management: enforcement - Appendix

⁵All legislation in relation to these functions can be found under Assistant Director, Growth and Development: neighbourhood planning - Appendix

Following consultation with the relevant Cabinet Member and the local Ward Councillor(s), the Assistant Director, Growth and Development is authorised to make decisions on the following:

- Applications to designate a Neighbourhood Forum
- To accept or decline repeat proposals for a Neighbourhood Development Plan or Neighbourhood Development Order
- The validity and acceptance of proposals for a Neighbourhood Development Plan or Neighbourhood Development Order
- Appointing a person to carry out the examination of a Neighbourhood Development Plan or Neighbourhood Development Order
- Decisions in respect of action to be taken in response to recommendations included within the Examiner's Report and whether to modify the Plan or Referendum Area prior to submitting it for referendum.

Street naming⁶

The Assistant Director, Growth and Development and other officers appropriately qualified, trained and authorised by them in writing, have authority to determine uncontested street naming applications

Business Grant Scheme⁷

The Assistant Director, Growth and Development and other officers appropriately qualified, trained and authorised by them in writing have authority to make awards under the Council's business Grant Scheme in consultation with the relevant Cabinet Member.

Planning Policy⁸

The Service Manager, Spatial and Economic Growth has delegated authority to determine applications for grant aid in relation to listed buildings and conservation areas with the following **exceptions**:

- New applications which would commit the district council to expenditure in excess of £1,000
- Applications for supplementary grant which would commit the district council to further expenditure in excess of £500
- Applications where an applicant has requested reconsideration of a decision of the Service Manager, Development Management and Implementation

⁶All legislation in relation to these functions can be found under Assistant Director, Growth and Development: street naming - Appendix

⁷All legislation in relation to these functions can be found under Assistant Director, Growth and Development: business grant scheme - Appendix

⁸All legislation in relation to these functions can be found under Assistant Director, Growth and Development: Planning Policy - Appendix

- Applications which involve a matter of policy (e.g. grants to churches)

Assistant Director, Housing

Housing⁹

The Assistant Director, Housing has delegated authority to carry out, and authorise in writing other officers appropriately trained and qualified to carry out, the following functions:

- Prepare and implement, with resources provided by the Council, programmes for the refurbishment, repair and maintenance of Council dwellings
- To exercise the powers of the Council relating to tenants' rights to have repairs carried out and pay compensation for improvements in accordance with relevant legislation
- Serve requisitions for information under relevant legislation
- General management, regulation and control of the Council's housing stock
- Prepare, maintain and administer the housing register
- Prepare, maintain and administer a housing allocation scheme in accordance with relevant legislation and subject to policy directions given by Council
- Allocate housing to homeless applicants to whom the Council owes a duty
- Sign and serve notice seeking possession and take action or possession of any council dwelling, land or garage due to a breach of tenancy
- Publish information about secure tenancies
- Maintain arrangements for consultation with tenants on housing management matters that are likely to substantially affect them
- Issue yearly reports to all housing revenue account tenants containing information about the functions of the Council as housing authority, as determined by the Secretary of State
- Implement and ensure compliance with the Tenancy and Neighbourhood Services Tenancy Agreement
- Sign and serve "Notice to Quit" and take action for possession of any council dwelling or garage occupied under licence, non-secure tenancy as a result of breach of tenancy or trespass
- Draw up and serve anti-social behaviour contracts

⁹ All legislation in relation to these functions can be found under Assistant Director, Housing - Appendix

- Make application to the County Court in connection with the general housing management regulation and control of the Council's stock
- Authorise disposal of small parcels of land held for the purposes of Tenancy Services land (not exceeding 0.25 acres) which is no longer required for use by Tenancy Services purposes provided such disposals are in accordance with established policy, the land is not required by any other service of the council and subject to prior consultation with the Ward Member in which the land is situated.
- Providing and securing the provision of advisory services and assistance in relation to homelessness
- Take all such action to undertake enquiries in relation to homelessness and determine homelessness applications as appropriate

Strategic Director Growth

The Strategic Director Growth with the agreement of the S151 Officer or deputy, in consultation with the relevant Cabinet Member, has the authority to purchase properties and agree any necessary purchase prices and/or parameters and any other property transactions or decisions required to effectively implement the Scheme to buy back ex-council properties.

Assistant Director, Transformation and Change

Building Control

Building Regulations

The Assistant Director, Transformation and Change is authorised to deal with Building Regulation applications, variations and relaxations in accordance with relevant legislation.

All building control surveyors to discharge the Building Regulation function in accordance with internal procedures.

Enforcement of Building Regulations

The Assistant Director, Transformation and Change is authorised to deal with the enforcement of Building Regulations in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures

Dangerous and dilapidated buildings

The Assistant Director, Transformation and Change is the **proper officer** for dealing with dangerous and dilapidated buildings and structures and neglected sites in accordance with relevant legislation.

The Assistant Director, Transformation and Change is also the **proper officer** of the Council to deal with the boarding up of dangerous and dilapidated buildings and structures, including emergency measures in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Demolition of buildings

The Assistant Director, Transformation and Change is authorised to deal with the demolition of buildings in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Party Wall Advice

The Assistant Director, Transformation and Change is authorised to provide advice in dealing with disputes in relation to 'party walls' in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Mines and mine shafts

The Assistant Director, Transformation and Change is authorised to deal with the protection of abandoned mine openings in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Powers of entry

The Assistant Director, Transformation and Change is authorised to enter land and premises in order to carry out statutory and discretionary functions of the council in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Lapse of deposit of plans

The Assistant Director, Transformation and Change is authorised to lapse building regulation applications to carry out the council's statutory and discretionary functions in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Means of escape from fire

The Assistant Director, Transformation and Change is authorised to serve notice on designated properties to carry out statutory and discretionary functions of the Council in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Raising of chimney

The Assistant Director, Transformation and Change is authorised to deal with issues associated with tall buildings against lower chimneys in accordance with relevant legislation to carry out the council's statutory and discretionary functions

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Determination of questions

The Assistant Director, Transformation and Change is authorised to correspond with the Secretary of State to determine issues that require a technical clarification based on individual cases in accordance with relevant legislation and to enable the council to carry out its statutory and discretionary functions.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Relaxation of building regulations

The Assistant Director, Transformation and Change is authorised to carry out the duties associated with relaxing or dispensing with the requirements of the building regulations in order to carry out the council's statutory and discretionary functions in accordance with relevant legislation.

All building control surveyors are authorised to discharge the function in accordance with internal procedures.

Amendment/alteration of charges

Building Regulation Charges may be altered/amended by 10% by the Assistant Director, Transformation and Change, the Building Control Manager and the Chief Executive Officer.

Assistant Director, Property

Property¹⁰

The Assistant Director, Property is authorised to serve the following notices and authorise in writing other officers appropriately qualified and trained to serve notices in relation to the following:

- Arrange short term lettings of land not immediately required for other purposes at rent/licences fees fixed by the Section 151 Officer.
- Grant, vary or discharge easements and covenants in, over or for the benefit of land owned by the Council subject to:
 - (i) Valuation agreed by the District Valuer
 - (ii) Approval of the Assistant Director of any service directly concerned
- Exercise all the Council's powers and duties, including the power to issue directions and to apply
 - (i) To the Magistrates Court for orders relating to unauthorised encampments of travellers
 - (ii) To the Civil Courts for orders against trespassers on Council land or property.
- Serve notices and authorise repairs in relation to drainage under relevant legislation
- Consult with the relevant Cabinet Member to determine regulations, procedures and guidance relating to applications to list properties as assets of community value in accordance with relevant legislation
- Consider and determine applications nominating a property as an asset of community value in consultation with the Assistant Director, Legal and Democratic and the Assistant Director, Transformation and Change
- Consider and determine applications for compensation from owners or former owners of property which has been included on the list of assets of community value in consultation with the Assistant Director, Legal and Democratic and the Assistant Director, Transformation and Change

¹⁰ All legislation in relation to these functions can be found under Assistant Director, Property, Property - Appendix

Assistant Director, Environment

Private Sector Housing¹¹

The Assistant Director, Environment and other officers with appropriate training and qualifications authorised by them in writing, to carry out enforcement action under relevant legislation, and where appropriate, enter premises in relation to:

- Housing standards
- Houses in multiple occupation

The Assistant Director, Environment is the Proper Officer in relation to the signature of documents under the Housing Act in relation to the condition of houses or environmental health.

The Assistant Director, Environment is authorised to serve the following notices and authorise in writing other officers appropriately qualified and trained to:

- Serve notices in relation to the repair, closing or demolition of dwellings that fail to meet legal standards (currently set out in the Housing Health and Safety Rating System)
- Serve notices to recover expenses incurred in the service of notices under the Housing 2004
- Serve notices in relation to defective premises
- Serve requisitions for information on land to carry out statutory functions
- Serve notices requiring the production of documents reasonably required to allow the enforcement function to be carried out
- Authorise grants in accordance with Council policies (discretionary disabled facilities grants are determined by the relevant Cabinet Member)
- Arrange for the restoration of utilities if the supply has been cut off as a result of landlord failure where a building is used as a dwelling
- Serve overcrowding notices to restrict the number of occupants houses in multiple occupation
- Issue licences for houses in multiple occupation and impose conditions where appropriate
- Serve notices to abate statutory nuisance

Waste Services¹²

The Assistant Director, Environment and other officers with appropriate training and qualifications authorised by them in writing, to carry out enforcement action under relevant legislation, and where appropriate, enter premises in relation to:

¹¹ All legislation in relation to these functions can be found under Assistant Director, Environment, Private Sector Housing - Appendix

¹² All legislation in relation to these functions can be found under Assistant Director, Environment, Waste Services - Appendix

- Waste
- Fly tipping
- Graffiti
- Fly-posting
- Abandoned vehicles

Authority is also given for delegation to Police Community Support Officers (PCSOs) to serve fixed penalty notices in relation to litter, waste and dog fouling.

Licensing¹³

The Assistant Director, Environment and other officers authorised by them in writing may carry out required enforcement action in relation to any licensable activity in accordance with relevant legislation and the Council's policies and procedures.

Hackney Carriage and Private Hire Vehicles

To act as authorised officer and to authorise officers to act for the purposes of licensing hackney carriage and private hire vehicles and drivers and to exercise the powers of the Council in respect of the offences set out below which, in the opinion of the Assistant Director, Environment may render the applicant not fit to hold, or continue to hold a licence:

- Sex offences
- Drink-driving
- Reckless driving
- Driving without insurance
- Burglary and theft
- Impersonation
- Arson
- Blackmail
- Offences involving fraud or deception
- Firearms and other weapons
- Drugs

No hackney carriage or private hire driver's licence shall be issued to an applicant until:

- The applicant has held a full driving licence for at least one year
- Three years have elapsed with no further convictions since his or her driving licence was restored following a conviction for offences involving drink-driving or reckless driving

In consultation with Legal Services and the Licensing Committee Chairman (or Vice-Chairman in his or her absence), the Assistant Director, Environment is authorised

¹³ All legislation in relation to these functions can be found under Assistant Director, Environment, Licensing - Appendix

to suspend or revoke a hackney carriage or private hire driver's licence with immediate effect in the interests of public safety.

Miscellaneous licences

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained to exercise the following functions:

- Approve permits for public collections for charitable or other purposes
- Approve requests for busking in the Stamford pedestrian precinct

Alcohol, Entertainment and Late Night Refreshment

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications (including applications for renewal, variation and transfer) for licences or registrations of premises and/or persons when all qualifying conditions are met.

Gambling

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications for licences or registrations when all qualifying conditions are met.

Scrap metal dealers

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications for licences or registrations when all qualifying conditions are met.

Animals

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications for licences or registrations when all qualifying conditions are met. If necessary a veterinary officer may be engaged to carry out premise inspections on a fee basis.

Street trading

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications for licences or registrations when all qualifying conditions are met.

Caravan and camp sites

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications for licences or registrations when all qualifying conditions are met.

Environmental permits

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications for licences or registrations when all qualifying conditions are met.

Tattooing and skin piercing

The Assistant Director, Environment may exercise and authorise in writing other officers appropriately qualified and trained, to approve all applications for licences or registrations when all qualifying conditions are met.

Community Safety

The Assistant Director, Environment may authorise officers from the Neighbourhoods Team (with appropriate training and qualifications) and legal officers to consult and make application to the relevant Court for anti-social behaviour orders

The Assistant Director, Environment may also delegate power to officers and Lincolnshire Police (including Police Community Support Officers) to issue fixed penalty notices on the Council's behalf.

Public Health

The Assistant Director, Environment is the proper officer of the Council in relation to public health matters and can carry out those public health functions that are the responsibility of the Council in accordance with relevant legislation.

Authority is also delegated to the Director of Public Health and all other proper officers of the Health Protection Agency (HPA) so authorised:

- To apply to the Justice of the Peace for orders in relation to persons suffering from communicable diseases.
- To apply in emergency situations to the relevant court for the removal to suitable premises of people in need of care and attention.

The Assistant Director, Environment is the proper officer of the Council in respect of matters of public health.

The proper officer and alternative proper officers must:

- Notify the Health Protection Agency of any communicable disease or condition presenting the risk of significant harm to human health on behalf of the local authority

They can carry out the following functions without the authorisation of a JP:

- Requiring that a child is kept away from school

- Requiring a head teacher to provide a list of contact details of pupils attending their school
- Disinfect/decontaminate premises or articles on request
- Request (but not require) individuals or groups to co-operate for health protection purposes
- Restrict contact with, or relocate, a dead body for health protection purposes

The proper officer of an authority can apply to a JP for an order imposing restrictions or requirements on a person to:

- Undergo a medical examination (NOT treatment or vaccination)
- Be taken to hospital or other suitable establishment
- Be detained in hospital or other suitable establishment
- Be kept in isolation or quarantine
- Be disinfected or decontaminated
- Wear protective clothing
- Provide information or answer questions about their or other circumstances
- Have their health monitored and the results reported
- Attend training or advice sessions on how to reduce the risk of infecting or contaminating others
- Be subject to restrictions on where they go or who they have contact with
- Abstain from working or trading

A request could also be made for an order from a JP requiring that:

- A thing(s) is seized or retained, kept in isolation or quarantine; disinfected or decontaminated; or destroyed or disposed of
- A body or human remains be buried or cremated, or that human remains are otherwise disposed of
- Premises are closed, premises are disinfected or decontaminated, a conveyance or movable structure is detained, or a building, conveyance or structure is destroyed

The Proper Officer in respect of making notifications and making and requesting orders is also the proper officer to receive notifications.

Public Health – Local Authority Powers, Miscellaneous

The Assistant Director, Environment is authorised to approve, engage and serve notices and authorise in writing other officers appropriately qualified and trained to approve, engage and serve notices, undertake works in default and where appropriate, enter premises in relation to the following:

- Bury or cremate a body of any person who has died or been found dead in the area where no other suitable arrangements have or will be made and seek to recover any costs incurred
- Drainage when satisfied that immediate action is necessary
- Requiring works to be carried out in buildings with defective water closets capable of repair

- Overflowing and leaking cesspools
- Unblocking private sewers
- Removal of noxious matter
- Closing or restricting the use of water from a polluted source of supply
- Control of rats and mice

Animals

The Assistant Director, Environment is the appointed officer for dogs

The Assistant Director, Environment and in writing other officers with appropriate training and qualifications authorised by them in writing, to carry out enforcement action under relevant legislation, and where appropriate, enter premises in relation to:

- Dog fouling
- Failure to put a dog on a lead when requested to do so
- Allowing a dog into an area from which they are excluded
- Seizure and detention of stray dogs

Authority is also given for delegation to Police Community Support Officers (PCSOs) to serve fixed penalty notices in relation to dog fouling.

The Assistant Director, Environment is authorised to approve, engage and serve notices and authorise in writing other officers appropriately qualified and trained to approve, engage and serve notices in relation to the following:

- Animal boarding
- Animal health and welfare
- Breeding and sale of dogs
- Dangerous dogs and wild animals
- Pet animals
- Riding establishments
- Zoos

Food Safety

The Assistant Director, Environment and other officers with relevant training and qualifications authorised by them in writing, may issue approvals to food businesses under relevant legislation.

Air pollution

The Assistant Director, Environment and other officers with relevant training and qualifications authorised by them in writing are responsible for monitoring air quality and developing and implementing action plans to ensure that the air quality standards set by the Government are met.

Health and Safety

The Assistant Director, Environment and other officers with relevant training and qualifications authorised by them in writing are responsible for enforcing health and safety regulations in offices, shops, warehouses, restaurants, pubs, clubs, leisure premises, care homes and private nurseries to make sure they are safe for all employees and visitors. In so doing, authorised officers will carry out regular inspections and investigate work place accidents and complaints about health and safety issues when related to this type of premise.

Miscellaneous

- To issue prior consents regarding noise and serve notice to control noise levels from construction sites
- Appoint inspectors in relation to Sunday Trading
- To serve notice and take all necessary action in relation to contaminated land
- Carry out inspections and serve abatement notices in relation to statutory nuisance

15.3 Officer Employment Procedure Rules

(incorporating Mandatory Standing Orders relating to staff prescribed by The Local Authorities (Standing Orders) Regulations 2001

15.3.1 Recruitment and Appointment

(a) Declarations

- (i) The Council will draw up a statement requiring any candidate for appointment as an officer to state in writing whether they are the parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of an existing Councillor, officers of the Council, or of the partner of such persons.
- (ii) No candidate so related to a Councillor or an officer will be appointed without the authority of the relevant chief officer or an officer nominated by him/her.

(b) Seeking support for appointment

- (i) Subject to paragraph (iii), the Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. The content of this paragraph will be included in any recruitment information.
- (ii) Subject to paragraph (iii), no Councillor will seek support for any person for any appointment with the Council.
- (iii) Nothing in paragraphs (i) or (ii) above will preclude a Councillor from giving a written reference for a candidate in connection with an application for employment.

15.3.2 Recruitment of head of paid service and chief officers

Where the Council proposes to appoint a chief officer and it is not proposed that the appointment be made exclusively from among their existing officers, the Council will:

(a) draw up a statement specifying:-

- (i) the duties of the officer concerned; and
- (ii) any qualifications or qualities to be sought in the person to be appointed;

(b) make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it; and

- (c) make arrangements for a copy of the statement mentioned in paragraph (1) to be sent to any person on request.

15.3.3 Appointment, Disciplinary Action and Dismissals of Staff

The function of appointing and dismissing staff and setting the terms and conditions of employment is allocated by statute to Council rather than the Executive. The Council has adopted mandatory standing orders, as set out in the appendix to these rules, the effect of which is as follows:

- (a) All appointments, disciplinary action and dismissals of staff below Deputy Chief officer level, must be conducted at officer level without any participation by members. The definition of Deputy Chief Officers in this authority is broadly the same as Assistant Directors.
- (b) For Assistant Directors and above, members can be involved in appointments, disciplinary action and dismissals. This may be through a staffing committee, which must include at least one member of the Cabinet but, where the decision relates to the appointment or dismissal of the Head of Paid Service (Chief Executive), Chief Finance Officer or Monitoring Officer, the procedure rules outlined below must be followed. The Officer Employment Rules provide that normally the appointment and discipline of Assistant Directors will be the responsibility of the Head of Paid Service. Appointment and discipline of the Head of Paid Service, Chief Finance Officer or Monitoring Officer, whilst ultimately the responsibility of the full Council will be undertaken as outlined below.
- (c) For the appointment or dismissal of Assistant Directors and above, the Cabinet is given a right of objection. The person or body taking the decision must tell the Cabinet who they propose to appoint or dismiss, together with supporting information, and the Leader can then object on its behalf. There is no right of veto, but material objections should be taken into account by the decision maker.
- (d) In respect of the Head of Paid Service, Chief Finance Officer and Monitoring Office, if the Council wishes to investigate any allegations of serious misconduct or incompetence, which might lead to dismissal, the Council must invite relevant independent persons to be considered for appointment to a Panel, with a view to appointing at least two such persons to that Panel. (A relevant independent person means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate). This procedure does not apply to redundancy or ill health dismissals.

Officer Employment Procedure Rules

APPENDIX

Mandatory Standing Orders

1. Appointment, Disciplinary Action and Dismissal of Staff

1. In this Part-

“the 1989 Act” means the Local Government and Housing Act 1989;

“the 2000 Act” means the Local Government Act 2000;

“disciplinary action” has the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001;

“Cabinet” and “Cabinet leader” have the same meaning as in Part II or the 2000 Act;

“member of staff”. means a person appointed to or holding a paid office or employment under the authority; and

“proper officer” means an officer appointed by the authority for the purposes of the provisions in this Part.

2. Subject to paragraphs 3 and 7, the function of appointment and dismissal of, and taking disciplinary action against, a member of staff of the authority must be discharged, on behalf of the authority, by the officer designated under section 4(1) of the 1989 Act (designation and reports of head of paid service) as the head of the authority’s paid service or by an officer nominated by him.

3. Paragraph 2 shall not apply to the appointment or dismissal of, or disciplinary action against –

(a) the officer designated as the head of the authority’s paid service;

(b) a statutory chief officer within the meaning of section 2(6) of the 1989 Act (politically restricted posts);

(c) a non-statutory chief officer within the meaning of section 2(7) of the 1989 Act;

(d) a deputy chief officer within the meaning of section 2(8) of the 1989 Act; or

(e) a person appointment in pursuance of section 9 of the 1989 Act (assistants for political groups)

4. (1) Where a committee, sub-committee or officer is discharging, on behalf of the authority, the function of the appointment or dismissal of an officer designated as the head of the authority's paid service, the authority must approve that appointment before an offer of appointment is made to him/her or, as the case may be, must approve that dismissal before notice of dismissal is given to him/her.
 - (2) Where a committee or a sub-committee of the authority is discharging, on behalf of the authority, the function of the appointment or dismissal of any officer referred to in subparagraph (a), (b), (c) or (d) or paragraph 3, at least one member of the executive must be a member of that committee or sub-committee.
5. (1) In this paragraph, "appointer" means, in relation to the appointment of a person as an officer of the authority, the authority or, where a committee, sub-committee or officer is discharging the function of appointment on behalf of the authority, the committee, subcommittee or officer, as the case may be.
 - (2) An offer of an appointment as an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be made by the appointer until:-
 - (a) the appointer has notified the proper officer of the name of the person to whom the appointer wishes to make the offer and any other particulars which the appointer considers are relevant to the appointment;
 - (b) the proper officer has notified every member of the executive of the authority of -
 - (i) the name of the person to whom the appointer wishes to make the offer;
 - (ii) any other particulars relevant to the appointment which the appointer has notified to the proper officer, and
 - (iii) the period within which any objection to the making of the offer is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either -
 - (i) the cabinet leader has, within the period specified in the notice under sub-paragraph (b)(iii), notified the appointer that neither he nor any other member of the cabinet has any objection to the making of the offer;

- (ii) the proper officer has notified the appointer that no objection was received by him within that period from the cabinet leader; or
 - (iii) the appointer is satisfied that any objection received from the cabinet leader within that period is not material or is not well-founded.
6. (1) In this paragraph, “dismissor” means, in relation to the dismissal of an officer of the authority, the authority or, where a committee, sub-committee or another officer is discharging the function of dismissal on behalf of the authority, that committee, subcommittee or other officer, as the case may be.
- (2) Notice of the dismissal of an officer referred to in sub-paragraph (a), (b), (c) or (d) of paragraph 3 must not be given by the dismissor until –
- (a) the dismissor has notified the proper officer of the name of the person who the dismissor wishes to dismiss and any other particulars which the dismissor considers are relevant to the dismissal;
 - (b) the proper officer has notified every member of the executive of the authority of
 - (i) the name of the person who the dismissor wishes to dismiss;
 - (ii) any other particulars relevant to the dismissal which the dismissor has notified to the proper officer; and
 - (iii) the period within which any objection to the dismissal is to be made by the executive leader on behalf of the executive to the proper officer; and
 - (c) either -
 - (i) the cabinet leader has, within the period specified in the notice under sub-paragraph (b) (iii), notified the dismissor that neither he nor any other member of the executive has any objection to the dismissal
 - (ii) the proper officer has notified the dismissor that no objection was received by him within that period from the cabinet leader; or
 - (iii) the dismissor is satisfied that any objection received from the cabinet leader within that period is not material or is not well-founded.

7. Nothing in paragraph 2 shall prevent a person from serving as a member of any committee or sub-committee established by the authority to consider an appeal by -
- (a) another person against any decision relating to the appointment of that other person as a member of staff of the authority; or
 - (b) a member of staff of the authority against any decision relating to the dismissal of, or taking disciplinary action against, that member of staff.

2. Disciplinary Action

In the following paragraphs: -

- (a) “the 2011 Act” means the Localism Act 2011
 - (b) “chief finance officer”, “disciplinary action”, “head of the authority’s paid service” and “monitoring officer” have the same meaning as in regulation 2 of the Local Authorities (Standing Orders) (England) Regulations 2001 (c);
 - (c) “independent person” means a person appointed under section 28(7) of the 2011 Act;
 - (d) “local government elector” means a person registered as a local government elector in the register of electors in the authority’s area in accordance with the Representation of the People Acts;
 - (e) “the Panel” means a committee appointed by the authority under section 102(4) of the Local Government Act 1972 (d) for the purposes of advising the authority on matters relating to the dismissal of relevant officers of the authority;
 - (f) “relevant meeting” means a meeting of the authority to consider whether or not to approve a proposal to dismiss a relevant officer; and
 - (g) “relevant officer” means the chief finance officer, head of the authority’s paid service or monitoring officer, as the case may be.
1. A relevant officer may not be dismissed by an authority unless the procedure set out below is complied with.
 2. The authority must invite relevant independent persons (to be considered for appointment to the Panel, with a view to appointing at least two such persons to the Panel.
 3. In paragraph 2 above “relevant independent person” means any independent person who has been appointed by the authority or, where there are fewer than two such persons, such independent persons as have been appointed by another authority or authorities as the authority considers appropriate.

4. Subject to 5 below, the authority must appoint to the Panel such relevant independent persons who have accepted an invitation issued in accordance with paragraph 2 in accordance with the following priority order
 - (a) a relevant independent person who has been appointed by the authority and who is a local government elector;
 - (b) any other relevant independent person who has been appointed by the authority;
 - (c) a relevant independent person who has been appointed by another authority or authorities.
5. An authority is not required to appoint more than two relevant independent persons in accordance with paragraph 4 but may do so.
6. The authority must appoint any Panel at least 20 working days before the relevant meeting.
7. Before the taking of a vote at the relevant meeting on whether or not to approve such a dismissal, the authority must take into account, in particular:-
 - (a) any advice, views or recommendations of the Panel;
 - (b) the conclusions of any investigation into the proposed dismissal; and
 - (c) any representations from the relevant officer.
8. Any remuneration, allowances or fees paid by the authority to an independent person appointed to the Panel must not exceed the level of remuneration, allowances or fees payable to that independent person in respect of that person's role as independent person under the 2011 Act.