

16. BOROUGH SECRETARY AND MONITORING OFFICER

16.1 General

- 16.1.1 To take all actions and discharge all functions and responsibilities in discharge of the duties of the Monitoring Officer pursuant to Section 5 of the Local Government and Housing Act 1989, including the taking of any actions that are ancillary and incidental thereto.
- 16.1.2 To publish and maintain the Council's Constitution with authority to make minor textual changes and amendments to the Constitution to correct typographical errors, to change Officer titles and reallocate delegations following restructures, to make changes following Council decisions on the Constitution and to take into account changes in legislation.
- 16.1.3 To act as Borough Solicitor to the Council for any purposes and to exercise discretion whether to issue or defend proceedings, including injunctions under any legislation on behalf of the Council in any Court, Tribunal or other body with jurisdiction, to enter into arbitration or mediation to settle claims, disputes and proceedings and to take such other actions as are appropriate for the Borough Solicitor which are in the Borough Solicitor's opinion necessary to protect, maintain and fulfil the interests, rights and duties of the Council and to complete all legal formalities, including the creation and completion of legal documentation required to implement the above.
- 16.1.4 To institute, conduct, prosecute and defend any legal proceedings on behalf of the Council to implement any decision of the Council, Cabinet, Committees, other Council decision – making body or to implement delegated decisions by Officers and to complete all legal formalities, including the creation and completion of legal documentation required to implement the decision.
- 16.2 To obtain Counsel's or other specialist advisor's opinion, where it is considered to be in the Council's interests and to instruct Counsel to represent the Council in any court or tribunal or other appropriate circumstance.
- 16.3 To authorise staff pursuant to section 223 Local Government Act 1972 to appear on behalf of the Council in proceedings before Magistrates Courts where those staff would otherwise not have rights of audience before the court.

- 16.4 In the best interests of the Council:
- 16.4.1 to exercise discretion to appeal against any decisions of all courts and tribunals;
 - 16.4.2 to exercise discretion to defend proceedings and resist appeals in all courts and tribunals; and
 - 16.4.3 to exercise discretion to settle court and tribunal proceedings.
- 16.5 To discharge Local Land Charges functions
- 16.6 To discharge Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations 2004 functions and to maintain the Records Retention Scheme in respect of the Freedom of Information Act 2000 or associated legislation.
- 16.7 Authorising Officers of the Council to prosecute, defend or appear on behalf of the Council in proceedings before any court, tribunal or other relevant forum upon being satisfied that the Officers have the requisite skill, experience and ability to represent the Council in such proceedings.
- 16.8 Authority to sign or seal any document needed to implement any decision taken by, or in the name of the Council and to authorise other Officers to do so.
- 16.9 Signing, issuing, serving and receiving on behalf of the Council all notices or other documents as may be necessary or incidental to the functions and business of the Council (whether or not such action is also within the power of any other Officer, but not where the action can by law only be taken by some other person).
- 16.10 Upon the recommendation of the Head of Housing Needs and Support, taking the following action under Part XI of the Housing Act 1985 relating to houses in multiple occupation:
- 16.10.1 making control orders; and
 - 16.10.2 instituting proceedings in respect of offences.
- 16.11 Implementing the "Right to Buy" legislation and any actions that are ancillary and incidental to the "Right to Buy", any schemes of voluntary house sales and any necessary actions and processes in relation to shared ownership properties.

- 16.12 Making of Tree Preservation Orders or authorising named Officers to make Tree Preservation Orders on the advice of the Head of Planning:
- 16.12.1 in cases of urgency such orders to be signed rather than sealed by the authorising Officer; and
 - 16.12.2 confirming on the advice of Head of Planning, Tree Preservation Orders where there are no outstanding valid objections.
- 16.13 In consultation with the Director of Planning and the Chair and Deputy Chair of the Planning Committee to serve notices where considered appropriate under section 215 of the Town and Country Planning Act 1990 requiring steps to be taken to improve the condition of a property and/or land in its curtilage.
- 16.14 Upon the recommendation of the Head of Public Protection the power to commence injunctions or any other necessary action or proceedings against the organisers or other relevant persons of acid house parties or raves where it is considered expedient for the promotion or protection of the interests of the inhabitants of the area of Northampton Borough.
- 16.15 Upon the recommendation of the Head of Planning after consultation with the Chair (or Deputy Chair in the absence of the Chair) of the Planning Committee and Opposition Spokespersons the issue of Enforcement Notices and Stop Notices in the case of urgency provided that if dissent be shown to the proposed issue of a Stop Notice or Enforcement Notice following the above procedure, a special meeting of the committee be arranged.
- 16.16 Upon the recommendation of the Head of Planning, the issue and service of Breach of Condition Notices.
- 16.17 Upon the recommendation of the Head of Public Protection, the institution of legal proceedings under the Environment Act 1995 (contaminated land).
- 16.18 The making of Traffic Regulation, Road Closure and Off Street Parking Place Orders which have been agreed on behalf of the Council (whether in the exercise of delegated powers or otherwise) and upon the advice of the Head of Neighbourhood Environmental Services that any necessary works and signs have been completed.
- 16.19 The institution of proceedings for contravention of the Advance Payments Code under Section 219 of the Highways Act 1980.

- 16.20 Giving consent on behalf of the Council to the issue by a relevant Police Officer of an authorisation under Part 4 of the Anti-Social Behaviour Act 2003.
- 16.21 To establish and maintain a register of interests of Members and Co-opted Members as required by Section 29(1) of the Localism Act 2011.
- 16.22 To ensure that a Council's register of interests is available for public inspection at the Guildhall and is published on the Council's website as required by Sections 29(5) and 29(6) of the Localism Act 2011.
- 16.23 To determine requests from Members or Co-opted Members that any interest be regarded as a "sensitive interest" in accordance with Section 32 of the Localism Act 2011.
- 16.24 To make an initial assessment of allegations of breaches of the Council's adopted Members' Code of Conduct, seek alternative resolution in appropriate cases, instigate and consider Investigating Officers' reports as set out in paragraphs 4, 5, 6 and 7 of the Arrangements for Dealing with Allegations of Breaches of the Members' Code of Conduct.
- 16.25 To issue decision notices in accordance with paragraph 9 of the Arrangements for Dealing with Allegations of Breaches of the Members' Code of Conduct.
- 16.26 To deal with any other residual matters, not otherwise delegated, resulting from the Council's adopted Members' Code of Conduct and the Adopted Arrangements of Breaches of the Northampton Borough Council Members' Code of Conduct and Codes of Conduct adopted by Parish Councils.
- 16.27 In accordance with Section 33 of the Localism Act 2011, to grant dispensations together with the discretion to refer any particular request to the Standards Committee in appropriate circumstances.

PROPER OFFICER APPOINTMENTS

1. Except for documents to be executed under seal, any Officer of the Council to whom powers have been delegated shall be the Proper Officer of the Council for the purposes of authenticating any notice, order or document which they are authorised or required by any enactment to give, make or issue or pursuant to sections 229 and 234 of the Local Government Act 1972; and unless otherwise specifically defined or delegated by law or in the Constitution of which these delegations and appointments form part, the Proper Officer for all other statutory purposes (including, without prejudice to the generality of the foregoing, the provisions of the Local Government Act 2000 and all Regulations Protocols and Rules made thereunder) shall be the Chief Executive.

2. In particular, the following Proper Officer appointments are specifically designated:

PART 1

Statutory Provision	Brief Description	Proper Officer
S13(3) & (5) LGA 72	Parish Trustee	Chief Executive
S4(3) Northampton Act 1988	Roll of Freemen	Chief Executive
S33 Localism Act 2011	Receipt of requests for Dispensations	Chief Executive and Monitoring Officer

ELECTIONS

S.8 R of the PA 83	Registration Officer	Chief Executive
S.35 R of the PA 83	Returning Officer for Borough Mayoral and Parish Elections and Officer for Mayoral Referendums other Referendums and Parish Polls	Chief Executive
S.83(1) & (4) LGA 72	Witness and Receipt of Declarations of Acceptance of Office	Chief Executive

S.84 (1) LGA 72	Acceptance of resignation	Chief Executive
S.88 (2) LGA 72	Convening of meetings of the Council to Fill Casual Vacancy in the Office of Chairman	Chief Executive
S.89 (1)(b) LGA 72	Receipt of Notices of Casual Vacancies	Chief Executive

CHARITIES

S.210(6) & (7) LGA 72	Charity Function created before 1972 and inherited by the Council on 1 April 1974	Chief Executive
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DOCUMENTS AND MINUTES

S.225(1) LGA 72	Deposit of Documents	Chief Executive and Borough Secretary
S.229(5) LGA 72	Certification of Photographic Copies	Chief Executive and Borough Secretary
S.234(1) & (2)	Authentication of LGA 72 Documents	Chief Executive and Borough Secretary
S.236(9) & (10) LGA 72	Send copies of the Byelaws to Parish and County Councils	Chief Executive and Borough Secretary
S.238 LGA 72	Certification of Byelaws and Borough Solicitor	Chief Executive
S.41(1) LG(MP)A 76	Certification of Resolutions, Orders, Reports and Minutes	Chief Executive and Borough Secretary
	Preparation and Holding of Register of Politically	Chief Executive

Restricted Posts

COUNCIL MEETINGS

LGA 72 Sched 12

para. 4(2)(b)	Signature of Summons for Council Meeting	Chief Executive
para. 4(3)	Receipt of Notices of Addresses to which Summons to be sent	Chief Executive

ACCESS TO INFORMATION

LGA 72

S.100B(2)	Circulation of Reports and Agenda	Chief Executive
S.100B(7)(c)	Supply of Agenda and Reports to the Press	Chief Executive
S.100C(2)	Preparation of Summaries of Exempt Minutes	Chief Executive
S.100D(1)(a) for	Compilation of Lists of Background Papers to a Report	Director responsible Report
S.100D(5)	Identification of Background Papers	Director responsible for Report
S.100F(2)	Determination of Papers not open to the Public	Chief Executive

FINANCIAL

S.115(2) LGA 72	Receipt of Monies due from Officers	Chief Finance Officer
S.146(1)(a) LGA 72	Declarations and Certificates for Council's Securities	Chief Finance Officer

S.151 LGA 72	Responsibility for Administration of Council's Financial Affairs Officer	Chief Finance Officer
Part VIII LG Fin.A 88	Responsibility for making Financial Reports to the Council	Chief Finance Officer

ORDNANCE SURVEY

S.191 LGA 72	Ordinance Survey (receipt of applications under Ordinance Survey Act 1841)	Chief Executive
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PART II - PRE 1974 ENACTMENTS

The Proper Officer in relation to any reference or any enactment passed before 1 April 1974 (other than the Local Government Act 1972) relating to:

- (1) The Clerk or Town Clerk Chief Executive
- (2) The Surveyor holding The most senior Officer of the Council relevant qualification or experience
- (3) The Treasurer Chief Finance Officer
- (4) A Public Health Inspector All professionally qualified and registered Environmental Health Officers from time to time in the employ of the Council
- (5) The Medical Officer of Health or practitioner appointed by or on behalf of the employees of the Council Such registered medical practitioner or other registered medical practitioners as may be appointed by the Council in writing

SECTION 47 NATIONAL ASSISTANCE ACT 1948 AND PART III ENACTMENTS NOT PREVIOUSLY SPECIFICALLY REFERRED TO

The Proper Officer in relation to Section 47 of the National Assistance Act 1948 and in relation to any enactment passed after 1st April 1974 not previously referred to relating to Environmental Health (including Food Safety and Communicable Disease) matters shall be the appropriate Environmental Health Manager.

THE PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984

The Proper Officer functions in relation to the above provisions – Health Protection Agency, East Midlands South (further delegation to appropriate registered clinicians in that role).

PROPER OFFICER APPOINTMENTS - KEY TO ABBREVIATIONS

Statutes:

LGA 72 Local Government Act 1972

R of the PA 83 Representation of the People Act 1983

LG(MP)A 76 Local Government (Miscellaneous Provisions) Act 1976

LG Fin.A 88 Local Government Finance Act 1988

LG HA 89 Local Government and Housing Act 1989.