

Luton Borough Council Constitution

Section 5: Delegations to Officers

Part 5 A: Statutory and Proper Officers

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Part 5 A: Statutory and Proper Officers

1. Statutory Officers

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

Title / description	Statutory derivation	Officer appointed
Head of Paid Service	Section 4 – Local Government & Housing Act 1989	Chief Executive
Monitoring Officer	Section 5 – Local Government & Housing Act 1989	Director of Governance
Officer responsible for financial administration	Section 151 – Local Government Act 1972	Director, Finance, Revenues & Benefits
Electoral Registration Officer	Sections 8,28 and 35 – Representation of the People Act 1983	Chief Executive
Chief Education Officer	Section 532 – Education Act 1996	Director, Education
Director of Children’s Services	Section 18 – Children Act 2004	Corporate Director, Children, Families & Education
Director of Adult Social Services	Section 6 – Local Authority Social Services Act 1970	Director, Adult Social Care
Director of Public Health	Section 73A – national Health Service Act 2006	Director of Public Health
Scrutiny Officer	Section 31 – Local Democracy, Economic Development and Construction Act 2009	Democracy Manager

2. Proper Officer functions

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

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Any reference in any enactment passed before or during the 1971/72 Session of Parliament, other than the Local Government Act 1972, or in any instrument made before 26 October 1972 to the Clerk of a Council or the Town Clerk of a Borough.	Chief Executive	Director of Governance and Monitoring Officer
Any reference in any enactment passed before or during the 1971/72 Session of Parliament, other than the Local Government Act 1972, or in any instrument made before 26 October 1972 to the Treasurer of a local authority.	Director, Finance, Revenues & Benefits	
Any reference in any enactment passed before or during the 1971/72 Session of Parliament, other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Public Health Inspector.	Director, Neighbourhood Services	
Representation of the People Act 1983:		
(a) Section 8 and Section 52 – the Registration Officer for any constituency of part of a constituency coterminous with or situated in the Borough.	Chief Executive	Director of Governance and Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
(b) Section 35(1) – the Returning Officer for elections of Councillors of the District and for elections of Councillors of Parishes within the District	Chief Executive	Director of Governance and Monitoring Officer
(c) Section 82 – To receive declarations of Election expenses	Chief Executive	Director of Governance and Monitoring Officer
Weights and Measures Act 1985:		
Section 72(1)a – Appointment of a Chief Inspector of weights & Measures	Investigations Manager	
Local Government Act 1972:		
Section 83(1) – The officer to whom a person elected to the office of councillor shall deliver a declaration of acceptance of office on a form prescribed by rules made under Section 42 of the Act	Chief Executive	Director of Governance and Monitoring Officer
Section 83(3)(b) – The officer before whom a declaration of acceptance of office of chair of council or deputy chair of council may be made	Chief Executive	Director of Governance and Monitoring Officer
Section 84 – The officer to whom written notice of resignation of elected office shall be delivered	Chief Executive	Director of Governance and Monitoring Officer
Section 86 – To declare any vacancy in any office under this section	Chief Executive	Director of Governance and Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 88(2) – The officer by whom a meeting of the council for the election of the vacant office of chairperson of the council may be convened	Chief Executive	Director of Governance and Monitoring Officer
Section 89(1)(b) – The officer to whom notice in writing of a casual vacancy occurring in the office of councillor may be given by two local government electors for the Borough	Chief Executive	Director of Governance and Monitoring Officer
Section 96 – The officer to whom general notices and recording of disclosures of interests under Section 94 should be given	Director of Governance and Monitoring Officer	Deputy Monitoring Officer
Section 99 and Schedule 12 – To give notice and send summonses in respect of any council meeting	Chief Executive	Director of Governance and Monitoring Officer
Section 100A(6) – To give public notice of any meeting to which the public are entitled to attend, provide copies of agenda and facilities for the press	Chief Executive	Director of Governance and Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 100B(2) – The officer to exclude from committees, sub-committees, council or cabinet meeting agendas any information to be dealt with in a meeting from which the public are likely to be excluded	Director of Governance and Monitoring Officer	Deputy Monitoring Officer
Section 100B(7)(c) – The officer to supply to any newspaper copies of documents supplied to members of committees, sub-committees, council or cabinet meetings in connection with an item for consideration	Director of Governance and Monitoring Officer	Democracy Manager
Section 100C(2) – The officer to prepare a written summary of proceedings of committees, sub-committees, council or the cabinet from which the public were excluded	Director of Governance and Monitoring Officer	Democracy Manager
Section 100D(1)(a) – The officer to prepare a list of background papers for reports considered by committees, sub-committees, council or the cabinet	Director of Governance and Monitoring Officer	Democracy Manager

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 100D(5) – The officer to determine which documents constitute background papers and Section 100H – ability to charge for the provision of such documents	Director of Governance and Monitoring Officer	Democracy Manager
Section 100F(2) – The officer to decide which documents are not, by virtue of containing exempt information, required to be open to inspection	Director of Governance and Monitoring Officer	Deputy Monitoring Officer
Section 100G – To maintain a register of the names and addresses of members and membership of committees, lists of delegations and the like	Director of Governance and Monitoring Officer	Democracy Manager
Section 115(2) – the Officer who shall receive all money due from any other Officer of the Council.	Director, Finance, Revenues & Benefits	
Section 146(1) – the Officer who (upon a transfer of securities the alteration of the name of the District) shall make a statutory declaration specifying the securities and verifying the change of name and identify of the Council or shall give such a certificate as is prescribed.	Director, Finance, Revenues & Benefits	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 151 – the Officer having responsibility for the proper administration of the financial affairs of the Council.	Director, Finance, Revenues & Benefits	
Section 191(2) – the Officer who shall receive an application under section 1 of the Ordnance Survey Act 1841.	Corporate Director, Inclusive Economy	
Section 210(6) – the Officer who shall exercise the powers relating to charities conferred by these subsections.	Director of Citizen Engagement	
Section 223 – authorise Officers to appear in legal proceedings (and Section 60 County Courts Act 1984).	Head of Legal Services	Principal Solicitors
Section 225(1) – the Officer who shall receive and retain documents deposited with the Council pursuant to the Standing Orders of either Houses of Parliament or to any enactment or instrument, and shall take such action relating to these documents as may be directed.	Head of Legal Services	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
(Section 229(5) – the Officer who shall certify a photographic copy of a document in the custody of the Council, or of a document which has been destroyed while in the custody of the Council, or of any part of any such document	Head of Legal Services	Principal Solicitors
Section 233 – The officer to receive documents required to be served on the authority	Head of Legal Services	
Schedule 29 [paragraph 41] – The officer responsible for the exercise of functions under Sections 9(1) & (2), 13(2)(h) and (3)(b) and 20(b) of the Registration Services Act 1953 (Proper Officer)	Chief Executive	
Schedule 12, Part I, para 4(3) – the Officer to whom a member of the Council shall give notice in writing desiring summonses to attend meetings of the Council to be sent to an address specified in the notice other than his/her place of residence.	Director of Governance and Monitoring Officer	Democracy Manager

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Schedule 14, Part II, para 25(7) – the Officer who shall certify a resolution of the Council applying or disapplying provisions under the Public Health Acts 1875-1925.	Head of Legal Services	
Section 234(1) – the Officer whose signature shall authenticate any notice, order or other document which the Council is required or authorised to issue by or under any enactment.	Head of Legal Services	
Section 236(9) – the Officer who shall send a copy of every byelaw made by the Council and confirmed to the Proper Officer of every parish to which they apply.	Head of Legal Services	
Section 236(10) – the Officer who shall send a copy of every byelaw made by the Council and confirmed to the Council of the County.	Head of Legal Services	
Section 238 – the Officer who shall certify a printed copy of a byelaw of the Council.	Head of Legal Services	
Section 248 – to keep the roll of Freeman.	Chief Executive	Director of Governance and Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
In relation to Section 13(3) of the Local Government Act 1972 – the Officer who together with the Chairman of the Parish Member shall be a body corporate by the name “The Parish Trustees”.	Chief Executive	Director of Governance and Monitoring Officer
The Officer responsible for the convening of newly created Parish Councils.	Chief Executive	Director of Governance and Monitoring Officer
Local Government and Housing Act 1989		
Section 2 - Maintain a list of politically restricted posts	Chief Executive	Director of Governance and Monitoring Officer
Section 3A - To determine applications for exemption from the list of politically restricted posts	Chief Executive	Director of Governance and Monitoring Officer
Local Government and Housing Act 1989 Sections 15-17 and Local Government (Committees and Political Groups) Regulations 1990		
Reg. 9 – Receipt of Notice re Political Groups	Director of Governance and Monitoring Officer	Monitoring Officer
Reg. 10 – Receipt of Notice of Cessation of Membership of Political Groups	Director of Governance and Monitoring Officer	Monitoring Officer
Reg. 13 – To accept wishes of Political Groups in respect of proportionality	Director of Governance and Monitoring Officer	Monitoring Officer
Reg. 14 – To notify Political Groups of allocations	Director of Governance and Monitoring Officer	Monitoring Officer

Local Government (Miscellaneous Provisions) Act 1976		
Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 16 – Service of notices requiring details of any interests in land	Head of Legal Services	Any Principal Solicitor
Section 41– the Officer for certifying documents as provided for under this section.	Head of Legal Services	
Any reference in any enactment passed before or during the 1971/72 Session of Parliament, other than the Local Government Act 1972 or in any instrument made before 26 October 1972 to the Public Health Inspector.	Director, Neighbourhood Services	
Part I Public Health Enactments		
Public Health Act 1936		
Public Health (Control of Disease) Act 1984		
Section 11 - Duty of local authority to supply forms to doctors for purposes of Section 48.	Director, Neighbourhood Services	
Section 48 - Removal of dead body to mortuary for burial.	Director, Neighbourhood Services	
Section 58 - Authentication of documents.	Director, Neighbourhood Services	
Section 60 - Service of notices and other documents.	Director, Neighbourhood Services	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Part II Statutory Instrument		
Health Protection (Notification) Regulations 2010/659 Including cases of infectious disease to be notified to proper officer and disclosure of information/notices	Director, Neighbourhood Services	
Public Health (Fees for Notification of Infectious Disease) Order 1968 (SI 1968 No. 1365).	Director, Neighbourhood Services	
Public Health (Prevention of Tuberculosis) Regulations 1925 (SI 1925 No. 757).	Director, Neighbourhood Services	
Food Hygiene (Docks, Carriers etc) Regulations 1960 (SI 1960 No. 1602) Article 11.	Director, Neighbourhood Services	
Public Health (Aircraft) Regulations 1979 No. 1434).	Director, Neighbourhood Services	
Public Health (Ships) Regulations 1979 (SI 1979 No. 1435).	Director, Neighbourhood Services	
Local Government Act 1974 Part 3 – Local Government Ombudsman functions, including giving public notice of reports	Chief Executive	Director of Governance and Monitoring Officer
Local Government Miscellaneous Provisions Act 1982	Director, Neighbourhood Services	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Building Act 1984 78 – Authorise action in relation to dangerous structures	Director, Sustainable Development	Registered Building Inspectors
Food Safety Act 1990 – Food Safety and authentication of documents	Director, Neighbourhood Services	
Freedom of Information Act 2000 36 – Non-disclosure where potential to prejudice the effective conduct of public affairs	Chief Executive	Director of Governance and Monitoring Officer
Local Authorities (Referendum) (Petitions) (England) Regulations 2011 Whole – Proper Officer function	Director of Governance and Monitoring Officer	Director of Citizen Engagement
Licensing Act 2003	Director, Neighbourhood Services	
Localism Act 2011		
Section 29 – Establish and maintain a register of members' and co-opted members' interests	Director of Governance and Monitoring Officer	Deputy Monitoring Officer
Section 31 – Receipt of Members and co-opted members' declarations of interests and changes to those interests within 28 days	Director of Governance and Monitoring Officer	Deputy Monitoring Officer
Section 32 – Sensitive Interests	Director of Governance and Monitoring Officer	Deputy Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 33 – Dispensations from restrictions under Section 31(4)	Director of Governance and Monitoring Officer	Deputy Monitoring Officer
Local Authorities (Conduct of Referendums) (England) Regulations 2012 Whole – Proper Officer function	Chief Executive	Director of Governance and Monitoring Officer
Anti-Social Behaviour Act 2003 and Anti-Social Behaviour, Crime and Policing Act 2014	Corporate Director, Inclusive Economy Corporate Director, Population Wellbeing (in respect of the 2014 Act only)	Director, Neighbourhood Services Director, Housing (in respect of the 2014 Act only)
Local Government Act 2000		
The officer responsible for ensuring a proper record is made of cabinet decisions and that the document comprising the authority's forward plan is published in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000	Director of Governance and Monitoring Officer	Democracy Manager
To establish and maintain the members' register of interest (Section 81 LGA 2000) and ensure it is available for public inspection	Director of Governance and Monitoring Officer	
To ensure that copies of the constitution are available for inspection	Director of Governance and Monitoring Officer	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
To make payments of relevant allowances in accordance with the council's members allowances scheme	Director of Governance and Monitoring Officer	
To defray expenses of any members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough	Chief Executive	Director of Governance and Monitoring Officer
<p>Land Charges Act 1975</p> <p>Section 19 – The officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975</p>	Head of Legal Services	
<p>National Assistance Act 1948 and National Assistance (Amendment) Act 1951</p> <p>Proper officer to seek an order for removal of persons into care</p>	Corporate Director, Children, Families & Education and Service Director, Adult Social Care	
<p>Registration Services Act 1953</p> <p>Proper officer for births, deaths and marriages</p>	Chief Executive	Corporate Director, Inclusive Economy
<p>Local Government Act 2003</p> <p>Section 25 – Requirement to report to council annually on the robustness of estimates and the adequacy of the proposed financial reserves</p>	Director, Finance, Revenues & Benefits	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
<p>Public Health (Control of Diseases) Act 1984, Food Safety (General Food Hygiene) Regulations 1995 and the Milk and Dairies (General) Regulations 1969</p> <p>Requirement to appoint a suitably qualified person as the council's medical advisor on environmental health and proper officer for notifiable diseases</p>	Director, Neighbourhood Services	
<p>Civil Evidence Act 1995</p> <p>To certify council records for the purposes of admitting the document in evidence in civil proceedings</p>	Head of Legal Services	
Crime and Disorder Act 1998		
Section 12 – to apply for the discharge or variation of a Child Safety Order	Corporate Director, Children, Families & Education	
Sections 17 and 37 – to have regard to effect of the exercise of any function on the need to prevent crime and disorder and offending by children and young persons	Corporate Director, Children, Families & Education	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
<p>Criminal Justice and Police Act 2001</p> <p>Delegated power to authorise officers to enter premises and seize items where the council has a power of seizure under this Act and to perform other related duties (return and security of seized items)</p>	Chief Executive	
Local Government Finance Act 1988		
<p>Section 114 – The officer to be responsible for the proper administration of the authority’s financial affairs (and to issue a report to members if there is or is likely to be unlawful expenditure or an unbalanced budget)</p>	Director, Finance, Revenues & Benefits	
<p>Section 116 – Notification to the council’s auditor of any meeting to be held under Section 115 of the 1988 Act (meeting to consider any report of the Chief Finance Officer under Section 114)</p>	Service Director, Finance, Revenues & Benefits	
<p>Section 139A – Provision of information to the Secretary of State in relation to the exercise of his powers under this Act as and when required</p>	Director, Finance, Revenues & Benefits	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
<p>Local Government (Contracts) Act 1997</p> <p>Certification of relevant powers to enter into contracts</p>	<p>Director, Finance, Revenues & Benefits</p>	
<p>Local Authorities' Cemeteries Order 1977 (SI 1977 No. 204)</p> <p>Schedule 2, Article 10, Part 11.1(1) – To appoint an officer for the purpose of signing the Grants of Exclusive Right of Burial Deeds on behalf of the burial authority</p> <p>Note: It is not necessary for that deed to be executed under seal</p>	<p>Corporate Director, Inclusive Economy</p>	
<p>National Health Service Act 2006</p>		
<p>Section 2B – the exercise by the authority of its duty to take steps as it considers appropriate for improving the health of the people in its area</p>	<p>Director of Public Health</p>	
<p>Section 111 – the exercise by the authority of any functions prescribed by Secretary of State in relation to dental public health</p>	<p>Director of Public Health</p>	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 249 – the exercise by the authority of its duty to cooperate with the prison service with a view to improving the exercise of their respective functions in relation to securing and maintaining the health of prisoners	Director of Public Health	
Schedule 1 – the exercise by the authority of any of its functions as set out in Schedule 1	Director of Public Health	
Section 6C(1) – the exercise by the authority of any of the Secretary of State’s public health functions, which it is required to carry out by regulations issued by the Secretary of State	Director of Public Health	
Section 7A – the exercise by the authority of any of the Secretary of State’s public health functions, which are delegated to it by the Secretary of State	Director of Public Health	
Section 73A(1)(d) – the exercise by the authority of any of its functions that relate to planning for, or responding to, emergencies involving a risk to public health	Director of Public Health	

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
Section 73A(1)(e) – the exercise by the authority of its functions under section 325 Criminal Justice Act 2003 (cooperating with “responsible bodies” in relation to the assessment of risks posed by certain offenders)	Director of Public Health	
Section 73A(1)(f) – the exercise by the authority of such other functions relating to public health as may be prescribed	Director of Public Health	
The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013		
Section 3 – authorisations by billing authorities	The Head of Revenues and Benefits	
Freedom of Information Act 2000 – “qualified person” for the purposes of section 36	Chief Executive and Monitoring Officer, jointly or severally	
Miscellaneous Provisions		
Any other provisions for which arrangements are not specifically made under the Scheme of Delegation.	Chief Executive	Director of Governance and Monitoring Officer
Any other legislation whether made before or after this list was approved and requiring a proper officer or authorised officer where not otherwise stated in this list or the Council's approved scheme of delegation from time to time.	Chief Executive	Director of Governance and Monitoring Officer

Function	Proper Officer	Person to act in the event of the Proper officer being absent or otherwise unable to act
To act as shareholder representative in respect of the Council's wholly owned and joint-venture companies	Chief Executive	Director, Finance, Revenues & Benefits (in relation to financial matters) Director of Governance and Monitoring Officer (in relation to all other matters)