

Milton Keynes City Council

Statutory Officers and Proper Officer Functions

MILTON KEYNES CITY COUNCIL
STATUTORY OFFICERS AND PROPER OFFICER
FUNCTIONS

1. INTRODUCTION

- 1.1. The Local Government Act 1972 and other legislation require local authorities to make specific statutory appointments which carry specific responsibilities. Three of those posts are the “Statutory Officer” posts, namely the Head of Paid Service, Chief Financial Officer and Monitoring Officer.
- 1.2. Earlier local government legislation required local authorities to appoint officers with specified titles but the Local Government Act 1972, in the main, abolished the procedure. This was in order to give local authorities freedom in deciding what officer posts to establish. It follows that the officers responsible for certain statutory duties can no longer be identified by the post they occupy. Consequently, the Act makes provision for certain officers to be designated by their employing authority as the “Proper Officer” to carry out particular functions under various Acts of Parliament.
- 1.3. If the office of any of the Proper Officers is vacant or the person appointed is absent or otherwise unable to act then the most senior available officer or person to the Proper Officer is authorised to act as Proper Officer.

2. STATUTORY OFFICERS

TITLE/DESCRIPTION <i>(including statutory derivation)</i>	OFFICER APPOINTED	BC
Head of Paid Service <i>Section 4 Local Government & Housing Act 1989</i>	Chief Executive	X
Monitoring Officer <i>Section 5 Local Government & Housing Act 1989</i>	Director Law and Governance	X
Officer responsible for financial administration / Section 151 Officer <i>Section 151 Local Government Act 1972</i>	Director Finance and Resources (Chief Finance Officer)	X
Electoral Registration Officer and Returning Officer <i>Sections 8, 28 and 35 Representation of the People Act 1983</i>	Director Law and Governance	X
Chief Education Officer <i>Section 532 Education Act 1996</i>	Director Children’s Services	X

TITLE/DESCRIPTION <i>(including statutory derivation)</i>	OFFICER APPOINTED	BC
Director of Children's Services <i>Section 18 Children Act 2004</i>	Director Children's Services	X
Director of Adult Social Services <i>Section 6 Local Authority Social Services Act 1970</i>	Director Adult Services	X
Director of Public Health* <i>Section 73A National Health Service Act 2006</i>	Director of Public Health	X
Scrutiny Officer <i>Section 9FB (Schedule 2, Part 1A) Localism Act 2011</i>	Committee Services and Scrutiny Manager	X
Data Protection Officer <i>Data Protection Act 2018</i> <i>Article 37-39 General Data Protection Regulation 2018</i>	Director of Customer and Community Services	X
Superintendent Registrar Registrar of Births, Deaths & Still Births Registrar of Marriages <i>Sections 5 & 6 Registrations Service Act 1953</i>	Head of Regulatory Services	
Animal Welfare Officer <i>Section 149 Environmental Protection Act 1990</i>	Head of Regulatory Services	
Registrar for Cremations <i>Regulation 7 The Cremation Regulations 1930</i>	Head of Regulatory Services	

3. PROPER OFFICERS

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT ACT 1972		
<p>Section 13(3) In a parish not having a separate parish council the chairman of the parish meeting and the proper officer of the district council shall be a body corporate by the name of “the Parish Trustees” with the addition of the name of the parish.</p>	Chief Executive	X
<p>Section 83 The officer to whom a person elected to the office of councillor, Mayor or Deputy Mayor shall deliver a declaration of acceptance of office on a form prescribed by rules made under Section 42 of the Act</p>	Chief Executive and Director Law and Governance	X
<p>Section 84 The officer to whom written notice of resignation of elected office shall be delivered</p>	Chief Executive and Director Law and Governance	X
<p>Section 86 To declare any vacancy in any office under this section</p>	Chief Executive and Director Law and Governance	
<p>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</p>	Director Law and Governance	X
<p>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</p>	Director Law and Governance (the Returning Officer)	X

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT ACT 1972		
Section 99 and Schedule 12 To give notice and send summonses in respect of any Council meeting	Director Law and Governance	X
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	Director Law and Governance	X
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 Law and Governance	X
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 Law and Governance	X
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 Law and Governance	X
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 Law and Governance	X

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT ACT 1972		
<p>Section 100D(5) The officer to determine which documents constitute background papers and Section 100H – ability to charge for the provision of such documents</p>	Director Law and Governance	X
<p>Section 100A F The officer responsible for providing access to meetings, documents and information on decisions being taken by Councillors.</p>	Director Law and Governance	X
<p>Section 100G To maintain a register of the names and addresses of members and membership of committees lists of delegations and a written summary of the rights to attending Council, Committee and Sub-Committee meetings and to inspect and copy documents.</p>	Director Law and Governance	
<p>Section 115 The officer to whom money properly due from officers shall be paid</p>	Director Finance and Resources (Chief Finance Officer)	X
<p>Section 137 Gives the proper officer power to require a voluntary organisation or similar body to supply information to them, where a local authority uses its powers under Section 137 to give financial assistance to that voluntary organisation or similar body above a relevant minimum</p>	Director Finance and Resources (Chief Finance Officer)	
<p>Section 138 Emergency disaster powers</p>	Chief Executive	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT ACT 1972		
Section 146 The officer to make statutory declarations and issue any certificate with regard to securities held by local authority companies	Director Finance and Resources (Chief Finance Officer)	X
Section 191 The officer to receive notices from Ordnance Survey in relation to ascertaining or locating Local Authority boundaries.	GIS or Director Customer and Community Services	
Section 210 The officer responsible for exercising certain functions relating to charities	Chief Executive	
Section 223 To authorise officers to attend court and appear on behalf of the Council under Local Government Act 1972 and the County Courts Act 1984	Director Law and Governance	X
Section 225 The officer to receive and retain statutory documents on behalf of the Authority	Director Law and Governance	X
Section 229 The officer to certify photographic copies of documents	Director Law and Governance	X
Section 233 The officer to receive documents required to be served on the Authority	Director Law and Governance	X
Section 234(1) and (2) The officer to authenticate documents on behalf of the Authority	Director Law and Governance	X

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT ACT 1972		
Section 236 and 238 The officer to send copies of Bylaws to parish councils and to certify printed copies of Bylaws	Director Law and Governance	X
Section 248 The officer responsible for the keeping of the roll of freemen	Director Law and Governance	X
Schedule 12, Paragraphs 4(2)(b) & 4(3) The officer responsible for the receipt of notices regarding address to which summons to meetings is to be sent	Director Law and Governance	
Schedule 14, Paragraph 25(7) The officer responsible for the certification of true copies of resolutions	Director Law and Governance	X
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)	Head of Regulatory Services	X
LOCAL GOVERNMENT ACT 1974		
Section 30 The officer responsible for giving public notice that Ombudsman reports will be made available for public inspection	Director of Customer and Community Services	
LAND CHARGES ACT 1975		
Section 3 and 19 The officer to act as Local Registrar as defined in Section 3 of the Land Charges Act 1975 and maintain a Local Land Charges Register	Director of Planning and Placemaking	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES) RULES 2006 AND LOCAL ELECTIONS (PARISHES AND COMMUNITIES) RULES 2006		
Retention and public inspection of documents after elections	Director Law and Governance	
LOCAL GOVERNMENT (COMMITTEES AND POLITICAL GROUPS) REGULATIONS 1990		
For the purposes of the composition of committees and nominations to political groups (e.g. receiving cessation and nomination notifications)	Chief Executive / Director Law and Governance	
REPRESENTATION OF THE PEOPLE ACT 1983		
Section 10 All proper office functions identified in the legislation	Chief Executive	
LOCAL GOVERNMENT (MISCELLANOUS PROVISIONS) ACT 1976		
Section 16 The officer responsible for serving notices requiring details of interest in land	Director Law and Governance	
Section 41 The officer to certify copies of any resolution, order, report or minutes of proceedings of the authority as evidence in any legal proceedings	Director Law and Governance	
BUILDING ACT 1984		
Section 78 The officer responsible for giving notice and taking action in relation to dangerous buildings and structures	Head of Regulatory Services	
Section 93 The officer responsible for authenticating under this Act	Head of Regulatory Services	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT AND HOUSING ACT 1989		
<p>Section 2 The officer to hold on deposit the list of politically restricted posts and Section 2 – provision of certificates as to whether a post is politically restricted</p>	Director Law and Governance	
<p>Section 3A The officer responsible for the grant and supervision of exemptions from political restriction</p>	Chief Executive (can consult with the Monitoring Officer)	
<p>Sections 15-17 (and Regulations made thereunder) The officer responsible for undertaking all matters relating to the formal establishment of political groups within the membership of the Council.</p>	Director Law and Governance	
<u>LOCAL GOVERNMENT ACT 2000</u>		
<p>The officer responsible for ensuring a proper record is made of Cabinet decisions and that the document comprising the Authority's Executive Forward Plan is published in accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000</p>	Director Law and Governance	
<p>Section 81 To establish and maintain the Councillors' Register of Interest and ensure it is available for public inspection</p>	Director Law and Governance (The Monitoring Officer)	
<p>Section 9P and 37 To ensure that copies of the constitution are available for inspection</p>	Director Law and Governance	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT AND HOUSING ACT 1989		
To make payments of relevant allowances in accordance with the Council's Councillors Allowances Scheme	Director Law and Governance or Director Finance and Resources	
To defray expenses of any members making official and courtesy visits, receptions and entertainment of distinguished persons visiting the Borough	Director Law and Governance or Director Finance and Resources	
All references to the Proper Offices in the Local Government Act 2000 and subordinate legislation	Director Law and Governance	
<u>THE LOCAL AUTHORITIES (REFERENDUMS) (PETITIONS) (ENGLAND) REGULATIONS 2011</u>		
Section 4 Publishing the verification number of local government electors for the purpose of petitions	Director Law and Governance	
<u>PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984</u>		
Section 48 Preparation of certificate to Justice of Peace for removal of body to mortuary and for burial within a prescribed time or immediately.	Head of Regulatory Services	
Section 59 Authentication of any notice or other document which has been authorized by a relevant health protection authority are authorized or required by or under this Act to give, make or issue	Director Law and Governance	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<u>PUBLIC HEALTH (CONTROL OF DISEASES) ACT 1984</u>		
Section 61 Right to enter premises to ascertain whether there has been a contravention of a provision of the 1984 Act or a Part 2A order made pursuant to the 1984 Act.	Head of Regulatory Services	
Requirement to appoint a suitably qualified person as the Council's medical advisor on environmental health and proper officer for notifiable diseases	Head of Regulatory Services	
Proper Officer for the purposes of Consultant in Communicable Disease Control under this Act and the Health Protection Regulations 2010 and the Health Protection (Part 2A Orders) Regulations 2010	Director Public Health	
<u>HEALTH PROTECTION (NOTIFICATION) REGULATIONS 2010</u>		
Sections 2, 3 and 6 Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons.	Head of Regulatory Services	
<u>FOOD SAFETY ACT 1990</u>		
Section 49(3) Any document which a food authority is authorised or required to give, make or issue under this Act	Head of Regulatory Services	
<u>CIVIL EVIDENCE ACT 1995</u>		
Section 9 To certify Council records for the purposes of admitting the document in evidence in civil proceedings	Director Law and Governance	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<u>CRIME AND DISORDER ACT 1998</u>		
Section 11 and 12 To apply for the discharge or variation of a Child Safety Order	Director Law and Governance	
Sections 17 To exercise any function on the need to prevent crime and disorder and offending by children and young persons	Director Children’s Services	
<u>CRIMINAL JUSTICE AND POLICE ACT 2001</u>		
Part 2 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)	The Chief Executive and Directors	
Section 20 Application for closure orders of unlicensed premises	Head of Regulatory Services	
<u>LOCAL GOVERNMENT FINANCE ACT 1988</u>		
Section 114 and 115 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)	Director Finance and Resources (Chief Finance Officer)	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
LOCAL GOVERNMENT FINANCE ACT 1988		
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)	Director Finance and Resources (Chief Finance Officer)	
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	Director Finance and Resources (Chief Finance Officer)	
LANDLORD AND TENANT ACT 1927 AND THE LANDLORD AND TENANT ACT 1954		
Section 23 (1927 Act) Section 66 (1954 Act) The officer who shall receive all notices on behalf of the Council	Director Law and Governance	
LOCAL GOVERNMENT (CONTRACTS) ACT 1997		
Certification of relevant powers to enter into contracts	Director Finance and Resources (Chief Finance Officer), Director Law and Governance and posts designated in accordance with article 10.01(b) as chief officers	
WEIGHTS AND MEASURES ACT 1985		
Section 72(1)(a) The Chief Inspector of Weights and Measures	Head of Regulatory Services	
LOCAL AUTHORITIES' CEMETRIES ORDER 1977		
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 <i>Note: It is not necessary for that deed to be executed under seal</i>	Head of Regulatory Services	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<u>NATIONAL HEALTH SERVICE ACT 2006</u>		
<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>	Director of Public Health	
<p>Section 111 The exercise by the authority of any functions prescribed by Secretary of State in relation to dental public health</p>	Director of Public Health	
<p>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</p>	Director of Public Health	
<p>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</p>	Director of Public Health	
<p>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</p>	Director of Public Health	
<p>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</p>	Director of Public Health	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
<u>NATIONAL HEALTH SERVICE ACT 2006</u>		
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	
Schedule 1 The exercise by the authority of any of its functions as set out in Schedule 1	Director of Public Health	
<u>HEALTH ACT 2006 AND SMOKE FREE (PREMISES AND ENFORCMENT) REGULATIONS 2006</u>		
Section 10 To carry out the functions of the enforcement authority under Regulation 3 of the Smoke Free (Premises and Enforcement) Regulations 2006	Head of Regulatory Services	
OTHER MISCELLANEOUS PROPER OFFICER OR STATUTORY OFFICER FUNCTIONS		
Any other miscellaneous proper or statutory officer functions not otherwise delegated by the authority	Director Law and Governance	
Caldicott Guardian	Director Customer and Community Services	

TITLE/DESCRIPTION (including statutory derivation)	PROPER OFFICER APPOINTED	
NON-EXECUTIVE DECISION MAKING		
<p>The report author of any report to be considered by the Council or a Committee/Sub-Committee thereof is appointed as Proper Officer under the Local Government Act 1972 in relation to:</p> <p>(a) The identification of and compilation of lists of background papers to reports;</p> <p>(b) The identification of exempt documentation</p>	Director Law and Governance	