

By: Leader of the Council
Director of Law & Governance

To: County Council 1 April 2010

Subject: Statutory and Proper Officers of Kent County Council

Classification: Unrestricted

Summary: This report seeks approval of the designation of individual officers as statutory and proper officers of the Kent County Council.

1. This report reviews the position of the statutory and proper officers within the authority. The situation was last reviewed in 2002 and updated recommendations for the posts to be designated as proper officers are set out in the attached table.
2. The report also reflects the fact that the role of Head of Paid Service is now designated within KCC as Group Managing Director
3. Under the terms of the Constitution, responsibility for recommending to the Council the designation of individual officers as statutory and proper officers rests with the Personnel Committee.
4. The Local Government Act 1972 and other legislation require local authorities to make specific statutory appointments and designate proper officers to carry out particular roles and carry specific responsibilities.
5. Prior to the passing of the 1972 Act, it was the practice in Acts of Parliament to name, by reference to a post, a specific officer of the council to deal with particular activities or to undertake a specific function on the council's behalf. However, in order to leave councils free to decide for them selves who should be responsible for particular tasks, the 1972 Act abandoned this concept. Instead, numerous references are made now in legislation to the term 'proper officer' who is, in fact, the officer designated by the Council to carry out a particular task. The officer can, of course, be a different officer for different purposes.
6. The designations were considered and approved by the Personnel Committee at its meeting on 27 January 2010. Also the Selection and Members Services Committee has agreed that the County Council should be asked to approve the post of Overview, Scrutiny and Localism Manager being designated as the County Council's Scrutiny Manager in accordance with Section 31 of the Local Democracy, Economic Development and Construction Act 2009.
7. Recommendation

That the County Council approves the designation of individual officers as statutory and proper officers of the Kent County Council as set out in the attached table.

Geoffrey Wild
Director of Law & Governance

Background Documents: The Constitution and reports submitted to the Personnel Committee and the Selection and Member Services Committee on 27 January 2010

STATUTORY AND PROPER OFFICERS

Any enactment, instrument or local statutory provision passed prior to the Local Government Act 1972		
Purpose		Officer
Any reference to the Clerk of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the proper officer of the Council		Director of Law & Governance
Any reference to the Treasurer of a council which, by virtue of the Local Government Act 1972, is to be construed as a reference to the proper officer of the Council		Director of Finance

Local Authority Social Services Act 1970		
Section	Purpose	Officer
6(A1)	Appointment as Director of Adult Social Services	Managing Director (Adult Social Services)

Agriculture Act 1970		
Section	Purpose	Officer
67(3)	Appointment as Agricultural Analyst	Public Analyst

Local Government Act 1972		
Section	Purpose	Officer
83	Witness and receive declarations of Members' acceptance of office	Head of Democratic Services & Local Leadership
84	Receive written notice of Members' resignation from office	Head of Democratic Services & Local Leadership
88(2)	Convene Council meeting for election to vacant office of Chairman	Head of Democratic Services & Local Leadership
89(1)(b)	Receive notice of casual vacancy from two local government electors	Head of Registration & Coroners
100B(2)	Decide on the exclusion of reports and agendas from public inspection	Head of Democratic Services & Local Leadership
100B(7)(c)	Decide whether copy documents supplied to Members should also be supplied to the press	Director of Law & Governance
100C(2)	Produce a written summary of proceedings taken by a committee in private	Head of Democratic

		Services & Local Leadership
100D(1)	Compile a list of background papers to a committee report	Managing Director responsible for preparing report
100D(5)(a)	Identify background papers that disclose facts or matters on which a report is based	Managing Director responsible for preparing report
100F(2)	Identify which documents contain exempt information that are not available for Members	Head of Democratic Services & Local Leadership
115(2)	Receive from officers any money and property committed to their charge in connection with their office	Director of Finance
146(1)	Sign statutory declaration to enable transfer of securities in the event of a change of name of the Council	Director of Finance
151	Responsibility for the administration of the Council's financial affairs (Chief Finance Officer)	Director of Finance
191(2)	Receive applications from Ordnance Survey for assistance in surveying disputed boundaries	Executive Director, Environment, Highways & Waste
210(6)-(7)	Exercise residual functions in relation to charities	Director of Law & Governance
225(1)	Receive and retain deposited documents	Director of Law & Governance
229(5)	Certify photographic copy documents	Director of Law & Governance
234(1)	Sign public notices, orders and other documents on behalf of the Council	Group Managing Director or other officer where the document to be authenticated relates to a delegated power
236(10)	Send copy byelaws to district councils	Director of Law & Governance
238	Certification of copy byelaws	Director of Law & Governance
Sch.12 Pt.I Para.4(2)(b)	Sign summonses to attend meetings	Head of Democratic

		Services & Local Leadership
Sch.12 Pt.I Para.4(3)	Receive written notice that a Member wants a summons sent to an alternative address	Head of Democratic Services & Local Leadership
Sch.29 Pt.II Para.41(3)-(5)	Appoint interim superintendent registrars or interim registrars of births and deaths pursuant to the Registration Service Act 1953 Exercise powers provided by the local scheme of organisation of the Registration Service pursuant to the 1953 Act Prescription by the Registrar General of duties of proper officers under the Registration and Marriage Acts	Head of Registration & Coroners

Local Government Act 1974		
Section	Purpose	Officer
30(5)	Give public notice of Local Government Ombudsman's report	Head of Democratic Services & Local Leadership

Local Government (Miscellaneous Provisions) Act 1976		
Section	Purpose	Officer
41	Certifying copy resolutions and minutes of proceedings	Head of Democratic Services & Local Leadership

Highways Act 1980		
Section	Purpose	Officer
59(1)	Certify that extraordinary expenses have been incurred in maintaining the highway by reason of damage caused by excessive weight	Executive Director, Environment, Highways & Waste
193(3)	Certify that additional expenses have been incurred in the execution of wider than normal street works	Executive Director, Environment, Highways & Waste
205(3)-(5)	Undertake duties as specified in the schedules in relation to private street works	Executive Director, Environment, Highways & Waste
210(2)	Certify amendments to estimated costs and	Executive

	provisional apportionment of costs under the private street works code	Director, Environment, Highways & Waste
211(1) 212(4) 216(2)-(3)	Make final apportionment of costs as detailed in the schedules under the private street works code	Executive Director, Environment, Highways & Waste
295(1)	Issue notice requiring removal of materials from non-maintainable streets in which works are due to take place	Executive Director, Environment, Highways & Waste
321	Authenticate notices and other documents	Director of Law & Governance
Sch.9 Para.4	Sign plans showing proposed prescribed improvement or building lines	Executive Director, Environment, Highways & Waste

Representation of the People Act 1983

Section	Purpose	Officer
35	Appointment as Returning Officer for local elections	Group Managing Director
67(7)(b)	Receive declarations and giving public notice of election agents' appointments	Head of Registration & Coroners
82(4)	Receive declarations and giving public notice of election agents' or candidates' election expenses	Head of Registration & Coroners
131(1)	Provide accommodation for holding election court	Head of Registration & Coroners

Weights and Measures Act 1985

Section	Purpose	Officer
72(1)	Appointment as Chief Inspector of Weights And Measures	Director Of Community Safety & Regulatory Services

Local Government Finance Act 1988

Section	Purpose	Officer
116(1)	Notify external auditor of meeting under the Act to consider a report from the Chief Finance Officer	Director of Finance

Local Government and Housing Act 1989		
Section	Purpose	Officer
2(4)	Hold the Council's list of politically restricted posts	Director of Law & Governance
4	Designation as Head of Paid Service	Group Managing Director
5(1)	Designation as Monitoring Officer	Director of Law & Governance
5(7)	Nomination to act as deputy in the absence of the Monitoring Officer	Head of Democratic Services & Local Leadership
15-17	Receive notification of the formation of a political group, changes in membership, names of group leaders and deputies, and group nominations to sit on committees	Head of Democratic Services & Local Leadership

Food Safety Act 1990		
Section	Purpose	Officer
27(1)	Appointment as Public Analysts	Public Analyst
49(3)	Sign any document authorised or required to be given, made or issued by the Food Authority	Director Of Community Safety & Regulatory Services

The Local Government (Committees and Political Groups) Regulations 1990		
Regulation	Purpose	Officer
	Notifications to and by the Proper Officer	Head of Democratic Services & Local Leadership

Education Act 1996		
Section	Purpose	Officer
532	Appointment as Chief Education Officer	Managing Director (Children, Families & Education)

Local Government Act 2000, section 22 Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000		
Regulation	Purpose	Officer
3	Produce a written statement of executive decisions made at meetings	Group Managing

		Director
4	Produce a written statement of executive decisions made by individual Members	Group Managing Director
5	Make a copy of written statements of executive decisions and associated reports available for public inspection	Head of Democratic Services & Local Leadership
6	Make available for public inspection a list of background papers	Head of Democratic Services & Local Leadership
12	Publish key decisions of the Council	Head of Democratic Services & Local Leadership

Local Government Act 2000, section 34
Local Authorities (Referendums)(Petitions and Directions) Regulations 2000

Regulation	Purpose	Officer
34	Publish the verification number of electors for the purpose of petitions under the 2000 Act	Director of Law & Governance

Regulation of Investigatory Powers Act 2000, section 30
The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000

Regulation	Purpose	Officer
2	Authorise the carrying out of directed surveillance or the conduct or use of a covert human intelligence source	Director Of Community Safety & Regulatory Services, Chief Internal Auditor, Director of Law & Governance, Head of Planning Applications Unit, Principal Planning Officer (Enforcement), Head of Public Rights of Way, Public Rights of Way Officer (Enforcement), Head of Trading Standards (TS), TS Area Managers, TS Operational Manager

Freedom of Information Act 2000

Section	Purpose	Officer
36	Qualified person to confirm or deny whether disclosure of information is likely to prejudice the effective conduct of public affairs	Director of Law & Governance

The Local Authorities (Standing Orders)(England) Regulations 2001

Regulation	Purpose	Officer
Sch. 1, Part	Functions in relation to notifying Executive of	Director of Law

II, Paras. 5 and 6	appointments, dismissals, etc.	& Governance
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Children Act 2004		
Section	Purpose	Officer
18	Director of Children's Services	Managing Director (Children, Families & Education)

Local Democracy, Economic Development and Construction Act 2009		
Section	Purpose	Officer
31	Designation of Scrutiny Manager	Overview, Scrutiny & Localism Manager

- In the event of the Group Managing Director (Head of the Paid Service) not being available to deal with matters for which s/he has been designated the proper officer, the Director of Law & Governance be authorised to act as proper officer in his/her absence.
- In the event of any other designated officer being unable to fulfill his/her duties as proper officer, his/her deputy be authorised to undertake such duties instead.
- Notwithstanding the above, a proper officer may at any time delegate or authorise other officers to perform the designated duties on his/her behalf.