

By: The Leader of the Council
The Director of Law & Governance

To: Personnel Committee – 27 January 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. 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.
3. 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.
4. 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 themselves 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.
5. **RECOMMENDATION**
 - (a) That the Personnel Committee approves the designation of individual officers as statutory and proper officers of the Kent County Council as set out in the attached table.
 - (b) That the Personnel Committee recommends to the Council at its next meeting that it endorses such designations.

Background Documents: KCC Constitution

Geoffrey Wild
Director of Law & Governance

STATUTORY AND PROPER OFFICERS

| Any enactment, instrument or local statutory provision passed prior to the Local Government Act 1972 | | |
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| | 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 | | |
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| Section | Purpose | Officer |
| 6 | Appointment as Director of Social Services | Managing Director (Children, Families & Education) |

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

| Local Government Act 1972 | | |
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| 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 | Registration & Coroners Manager |
| 100B(2) | Decide on the exclusion of reports and agendas from public inspection | Head of Democratic Services & Local |

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| | | 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 | Chief Executive 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 |

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|------------------------------------|--|---|
| 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 | Registration & Coroners Manager |

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, |

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| | | Environment, Highways & Waste |
| 210(2) | Certify amendments to estimated costs and provisional apportionment of costs under the private street works code | Executive 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 | Chief Executive |
| 67(7)(b) | Receive declarations and giving public notice of election agents' appointments | Registration & Coroners Manager |
| 82(4) | Receive declarations and giving public notice of election agents' or candidates' election expenses | Registration & Coroners Manager |
| 131(1) | Provide accommodation for holding election court | Registration & Coroners Manager |

Weights and Measures Act 1985

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

| Local Government Finance Act 1988 | | |
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| 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 | | |
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| 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 | Chief Executive |
| 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 | | |
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| 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 |

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

| Local Government Act 2000 | | |
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| Section 22: Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2000 (SI2000/3272) | | |
| Regulation | Purpose | Officer |

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| 3 | Produce a written statement of executive decisions made at meetings | Chief Executive |
| 4 | Produce a written statement of executive decisions made by individual Members | Chief Executive |
| 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 (SI2000/760)

| 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 (SI2000/2417)

| 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 |

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 |

| The Local Authorities (Standing Orders) (England) Regulations 2001 | | |
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| Regulation | Purpose | Officer |
| | Functions in relation to notifying Executive of appointments, dismissals, etc. | Chief Executive or Head of Personnel & Development |
| | The Local Code of Conduct | Director of Law & Governance |

| Freedom of Information Act 2000 | | |
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| | Purpose | Officer |
| | Section 36 exemption | Director of Law & Governance |

- In the event of the Chief Executive not being available to deal with matters for which he/she 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.