

FAREHAM BOROUGH COUNCIL

SCHEME OF DELEGATION TO OFFICERS



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Note : Reference should be made also to Part 1 Chapter 10 of the Constitution – Functions and Areas of Responsibility of Officers.

EXECUTIVE FUNCTIONS

This delegation scheme is made under section 15(5) Local Government Act 2000 by the Executive of Fareham Borough Council on 15 May 2006 and comes into force on 1 June 2006.

1. General

- 1.1 In this scheme Chief Officer means a Director, a Chief Officer or the Solicitor to the Council and Monitoring Officer.
- 1.2 A local authority is a creature of statute and only has the power to act according to statutory provisions. In the same way, officers of the Council only have power to do those things which they are required by law to do or which the Council or its Executive have validly delegated to them.
- 1.3 Having the power or authority to take the action is a prerequisite for any officer to act, but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council's stated priorities aims and objectives.
- 1.4 Whilst the exercise of a function by an officer under these arrangements is not made the subject of any precondition or qualification, an officer shall when exercising a discretion be under a duty to consider whether the decision conforms to Council approved policies and strategies and that in reaching the decision he/she has observed approved practices and procedures.
- 1.5 Any decision made by the Executive or an individual Executive Member authorises any officer of the Council to take all action necessary to implement the decision.
- 1.6 Any Executive decision whether before or after the date of adoption of this scheme to delegate any specific function, power or authority is additional to and independent of any delegation made under this scheme.
- 1.7 The delegation of a function to a Chief Officer does not require the Chief Officer to give the matter his / her personal attention. The Chief Officer may delegate the matter to another officer but the Chief Officer remains responsible for any decisions taken by such officers in his / her name.
- 1.8 The term "function" should be construed broadly and includes action taken which is calculated to facilitate or is conducive or incidental to the discharge of the function.

2. Delegation to the Chief Executive Officer

- 2.1 Power to exercise any of the powers conferred by the Executive on any Chief Officer or other officer under this scheme.
- 2.2 Power to undertake any Executive function required to be undertaken by an "authorised officer" and to authorise any officer or other person to undertake any such function.

3. Delegation to the Solicitor to the Council

- 3.1 Power to institute and defend and take any other steps in any legal proceedings on behalf of the Council and to instruct external legal advisers on behalf of the Council.

4. Delegation to all Chief Officers

- 4.1 Power to authorise any officer for whom he or she has managerial responsibility to undertake any Executive function required to be taken by an “authorised officer”.

- 4.2 Power to undertake all Executive functions and make all decisions which the Executive is empowered to make except the following:

- 4.2.1 Matters on which the Executive is required by law or the Council’s constitution to make recommendations to the Council
- 4.2.2 Amendments to the budget or capital programme which are above the limit for officer virements set out in the Council’s Financial Regulations
- 4.2.3 The setting of fees and charges
- 4.2.4 The adoption, amendment and revocation of policies and strategies
- 4.2.5 The disposal or acquisition of or other dealing with land valued in excess of £ 10,000
- 4.2.6 Matters which are required to be determined by the Executive under the Council’s Contract Standing Orders or Financial Regulations or other policy or strategy
- 4.2.7 The making, variation or revocation of any statutory Orders or the granting of any consent or approval thereto
- 4.2.8 The approval of Front Line Service Plans
- 4.2.9 Agreements to deliver services in partnership with other local authorities or external partners
- 4.2.10 Approval of documents forming part of the Fareham Local Development Framework
- 4.2.11 Approval of Environmental Improvement Schemes in excess of £10,000
- 4.2.12 The awarding of grants
- 4.2.13 The amendment of Council house tenancy agreements

- 4.2.14 The writing off of any debt in excess of the amount specified in the Council's Financial Regulations
 - 4.2.15 Adoption or amendment of a concessionary travel scheme
 - 4.2.16 Approval of any member level appointment or attendance at an external meeting or conference as an "approved duty" under the Members' Allowances Scheme where approval of the Executive is required
 - 4.2.17 The allocation of funding on initiatives for the prevention and detection of crime and tackling criminal damage and disorder
- 4.3 In consultation with the relevant Portfolio Holder or the Executive Leader, authority to take any decision which would otherwise be taken by the Executive but which requires an urgent decision
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PLANNING COMMITTEE

This delegation scheme is made under section 101(2) of the Local Government Act 1972 by the Planning Development Control Committee of Fareham Borough Council on 14 June 2006 and comes into force with immediate effect.

1. General

- 1.1 In this scheme Chief Officer means the Director of Planning and Regulation, the Head of Development Management, or the Solicitor to the Council and Monitoring Officer.
- 1.2 A local authority is a creature of statute and only has the power to act according to statutory provisions. In the same way, officers of the Council only have power to do those things which they are required by law to do or which the Council or the Planning Development Control Committee have validly delegated to them.
- 1.3 Having the power or authority to take the action is a prerequisite for any officer to act, but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council's stated priorities aims and objectives. In exercising any power, authority or function the Chief Officer (or any officer to whom he or she has delegated the power or authority or function) shall be under a duty to consider whether the decision conforms to the Council's approved policies and strategies and that in reaching the decision he or she has observed all relevant and appropriate approved practices and procedures and taken into account all responses to publicity and statutory consultations.
- 1.4 A Chief Officer has power to authorise any officer for whom she or he has managerial responsibility, to undertake, discharge or exercise any of the functions or powers listed below. Whilst the Chief Officer may delegate any such matter to another officer, the Chief Officer remains responsible for any decisions taken by such officers in his/her name. Such powers and/or functions include those required to be taken by "an authorised officer".
- 1.5 Any power, authority or function should be construed broadly and includes any action taken which is calculated to facilitate or is conducive or incidental to the exercise or discharge of the power, authority or function.
- 1.6 A reference to any Act or Regulations shall include any revocation, modification or replacement thereof

2. Delegation to the Head of Development Management

2.1 Decisions on all applications for

- Planning permission (including renewals and those submitted by other officers relating to Council owned land)
- Listed building consent

- Conservation area consent
- Display of advertisements
- Hazardous substance consent
- Approval of reserved matters
- Approval of matters covered by a condition

Except those where:

- (i) An Elected Member registers a request before the expiry of the 21 day neighbour notification period, for a planning application to be reported to the Planning Committee for decision. Requests to call applications onto the Planning Committee are to be made in writing to the Head of Development Management and must explain the material planning reasons for the call-in. The reasons for calling items onto the agenda will be set out in the Planning Officers' reports.
- (ii) Any application submitted by or on behalf of a Member or an Officer of the Council, or their respective spouses, partners or close relations.
- (iii) Five or more representations (from different households) raising material planning reasons are received during the 21 day neighbour notification period which are contrary to the intended decision of the Head of Development Management. Multiple representations from the same household are to be treated as one representation.

2.2 The statutory power to decline similar applications

2.3 Decisions on minor amendments to the permissions, consents or approvals listed in 2.1

2.4 Authority to enter into agreements or obligations which arise from planning applications decide under delegated powers and power to discharge or modify such agreements or obligations.

2.5 Any action required in relation to complaints about High Hedges under the Anti-Social Behaviour Act 2003 or Regulations made thereunder other than complaints involving Council owned land or where the complainant or hedge owner is a Councillor or an Officer.

2.6 Authority to take all enforcement action authorised under the Town and Country Planning Act 1990, the Planning Hazardous Substances Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 and the Planning and Compensation Act 2004 including (but without prejudice to the generality of the foregoing) the issue, variation and withdrawal of enforcement notices and listed building enforcement notices, stop and temporary stop notices, planning contravention notices, breach of condition notices, completion notices, hazardous

substances contravention notices, building preservation notices, urgent works notices and the carrying out of works in default and the recovery of expenses in connection therewith

- 2.7 On receipt of a Hedgerow Removal Notice, authority to determine whether the hedge is “important” in accordance with the Hedgerow Regulations 1997 except in respect of hedgerows owned by the Council.
- 2.8 In the case of “important” hedges, to issue Hedgerow Retention Notices and Hedgerow Replanting Notices in accordance with the above Regulations except in respect of hedgerows owned by the Council.
- 2.9 Authority to determine telecommunication mast applications, power to make determinations and the granting or refusal of prior approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order).
- 2.10 Authority to decide whether an Environmental Assessment or Environmental Statement is required for any planning application to be determined.
- 2.11 Authority to deal with all future applications for screening and scoping opinions under the Town and Country Planning (Environmental Impact) (England and Wales) Regulations 1999
- 2.12 Authority to issue a notice under Section 215 of the Town and Country Planning Act 1990 (proper maintenance of land).
- 2.13 Authority to determine a certificate of existing or proposed lawful use or development
- 2.14 Power to respond to consultations from neighbouring local authorities and Hampshire County Council upon planning applications and the Forestry Commission upon felling licence applications
- 2.15 Authority to grant or refuse consent under a TPO for felling, pruning, lopping or topping a protected tree other than applications submitted by or on behalf of:
 - (i) Elected Members, their spouses or partners
 - (ii) Council employees, their spouses or partners
 - (iii) Hampshire County Council

3. Delegation to the Director of Planning and Regulation

- 3.1 Authority to make provisional Tree Preservation Orders (TPOs) (including those in Conservation Areas), the making of such Orders to be reported to the next available meeting of the Planning Development Control Committee.
- 3.2 The confirmation of unopposed TPOs.

4. Delegation to the Head of Development Management

- 4.1 Authority to institute, defend, conduct and settle all legal proceedings on behalf of the Council and to instruct external legal advisers in respect of any of the functions and powers which are delegated to them under this Scheme

5. Delegation to all Chief Officers

- 5.1 Authority to authorise any officer of the Council or Contractor for whom he/she has responsibility to enter onto land for any of the purposes authorised under the Town and Country Planning Act 1990, the Planning (Listed Buildings and Buildings in Conservations Areas) Act 1990, the Planning (Hazardous Substances) Act 1990, Part 8 of the Anti-Social Behaviour Act 2003, the Planning and Compensation Act 2004 or any Regulations made thereunder.
- 5.2 Authority, in consultation with the Chairman of the Planning Development Control Committee (or in his/her absence the Vice Chairman of that Committee), to exercise any of the functions of the Council which are delegated to the Committee, where in the opinion of the Chief Officer, such matter is urgent and cannot await the next scheduled meeting to the Committee, subject to the decision or action taken being reported to the next scheduled meeting of the Committee.
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LICENSING AND REGULATORY AFFAIRS COMMITTEE

This delegation scheme is made under section 101(2) of the Local Government Act 1972 by the Licensing and Regulatory Affairs Committee (“the Committee”) of Fareham Borough Council on 18 September 2007 and comes into force on 19 September 2007.

1. General

- 1.7 In this scheme Chief Officer means the Council’s Chief Executive Officer and the Director of Planning and Regulation.
- 1.8 A local authority is a creature of statute and only has the power to act according to statutory provisions. In the same way, officers of the Council only have power to do those things which they are required by law to do or which the Council or the Committee has validly delegated to them.
- 1.9 Having the power or authority to take the action is a prerequisite for any officer to act, but does not replace or override normal managerial arrangements for the performance and allocation of duties, and the need to consider what action to take in the light of the Council’s stated priorities aims and objectives. In exercising any power, authority or function the Chief Officer (or any officer to whom he or she has delegated the power or authority or function) shall be under a duty to consider whether the decision conforms to the Council’s approved policies and strategies and that in reaching the decision he or she has observed all relevant and appropriate approved practices and procedures and taken into account all responses to publicity and statutory consultations.
- 1.10 A Chief Officer has power to authorise any officer for whom he or she has managerial responsibility, to undertake, discharge or exercise any of the functions or powers listed below. Whilst the Chief Officer may delegate any such matter to another officer, the Chief Officer remains responsible for any decisions taken by such officers in his/her name. Such powers and/or functions include those required to be taken by “an authorised officer”.
- 1.11 Any power, authority or function should be construed broadly and includes any action taken which is calculated to facilitate or is conducive or incidental to the exercise or discharge of the power, authority or function.
- 1.12 A reference to any Act or Regulations shall include any revocation, modification or replacement thereof.

2. Delegation to the Director of Planning and Regulation

- 2.1 The Director of Planning and Regulation is authorised to discharge any function of the Licensing and Regulatory Affairs Committee
 - As a licensing and registration authority
 - In relation to Health and Safety
 - In relation to safety at sports grounds

- In relation to fire safety
- In relation to the approval of premises (including vessels and markets)
- In relation to gambling
- In relation to smoke-free legislation
- Under Section 142 of the Highways Act 1980 (Power to licence planting retention and maintenance of trees etc in part of the highway).
- Under Section 149 Highways Act 1980 (Powers relating to the removal of things so deposited on highways as to be a nuisance)
- Under Section 32 of the Acquisition of Land Act 1981 (Power to extinguish certain public rights of way)
- Under Section 294 of the Housing Act 1981 (Power to extinguish public right of way over land acquired for clearance).

and any other function that is or becomes the responsibility of the Committee.

With the exception of those matters reserved to the Committee by law or by any Council policy.

4. Delegation to the Chief Executive Officer of the Council

- 4.1 The Chief Executive Officer is authorised to discharge any function of the Committee in relation to Election Services with the exception of those matters reserved to the Committee by law or by any Council policy.
 - 4.2 The Chief Executive Officer is authorised to make decisions regarding discretionary payments on early termination of employment in accordance with the Council's approved policy statement and with The Local Government (Early Termination of Employment) (Discretionary Compensation) Regulations 2006.
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PROPER OFFICER APPOINTMENTS

Ref No.	Source	Power Delegated	Proper Officer
1.	Local Government and Housing Act 1989 Section 4	To be the “Head of the Paid Service”	Chief Executive Officer
2.	Local Government and Housing Act 1989 Section 5	To be the “Monitoring Officer”	Director of Operations
3.	Local Government Act 1972 Section 151 as amended by Local Government Finance Act 1988 Section 14 Local Government and Housing Act 1989 Section 139 Schedule 5 Local Government Act 1972 Section 101	To be the officer responsible for financial administration	Director of Finance and Resources
4.	Local Government Act 1972 Section 229(5)	To certify a photocopy of a document in the custody of the Council to enable it to be used in legal proceedings instead of the original in any matter	Chief Executive Officer Solicitor to the Council
5.	Local Government (Misc Provisions) Act 1976 Section 41	To certify a copy of an order, report or minutes as a true copy and evidence in legal proceedings	Chief Executive Officer Solicitor to the Council
6.	Local Government Act 1972 Section 234(1)and(2)	To sign formal notices, orders or other documents which the Council are authorised or required to do by or under any enactment	Chief Executive Officer Solicitor to the Council

Ref No.	Source	Power Delegated	Proper Officer
7.	Local Government Act 1972 Section 101	To attest the Common Seal of the Council for any purpose	Chief Executive Officer Solicitor to the Council Director of Finance and Resources Monitoring Officer Director of Planning and Regulation
8.	Local Government Act 1972 Section 101	To act in all appropriate cases in the event of the "Proper Officer" and designated deputy in respect of a function being absent or otherwise unable to act	Chief Executive Officer
9.	Local Government Act 1972 Section 101	To be the "Proper Officers" in relation to any reference in any enactment passed before or during the 1971/72 Session of Parliament or in any instrument made before 26 October 1972	Chief Executive Officer Solicitor to the Council Directors and Chief Officers
10.	Local Government Act 1972 Section 100B (2)	To determine those reports or parts of reports which contain exempt information and are not available to the public.	Monitoring Officer Head of Democratic Services
11.	Local Government Act 1972 Section 100B (7)	To determine which reports or parts of reports contain exempt information and are not available for supply to newspapers.	Monitoring Officer Head of Democratic Services
12.	Local Government Act 1972 Section 236(1) and (9)	To send copy of Byelaws to the County Council and other authorities.	Solicitor to the Council

Ref No.	Source	Power Delegated	Proper Officer
13.	Local Government Act 1972 Section 238	To certify printed copy of Byelaws made by Council	Solicitor to the Council
14.	Local Government Act 1972 Section 243 (2)	To keep the Roll of Freemen of the Borough	Chief Executive Officer
15.	Local Government Act 1972 Section 99 and Paras (4)(2)(b) and 3 of Schedule 12	To sign summons to meetings and to specify to whom and where notices should be sent	Chief Executive Officer
16.	Local Government Act 1972 Section.270	To be the Proper Officer for the purpose of taking declarations made by candidates in accordance with the Representation of the People Acts 1983 and 1985 in relation to the election expenses of Borough Council candidates	Chief Executive Officer Head of Democratic Services
17.	Representation of the People Act 1983. Section 8.	To be the Electoral Registration Officer for the Fareham County Constituency and that part of the Gosport Borough Constituency within the administrative area of Fareham Borough Council	Chief Executive Officer
18.	Representation of the People Act 1983. Section 52.	In the event of the absence or incapacity of the Chief Executive Officer or of a vacancy, to undertake any of the acts with respect to the Electoral Registration Officer in accordance with Section 52	Head of Democratic Services
19.	Representation of the People Act 1983 Section 35	To be the Returning Officer for Borough Council Elections	Chief Executive Officer
20.	Local Government Act 1972 8 Section 3	To witness and receive declarations of acceptance of office.	Chief Executive Officer or, in his or her absence, Head of Democratic Services.

Ref No.	Source	Power Delegated	Proper Officer
21.	Local Government Act 1972 Section 84	To receive written notice of resignation by the Mayor, Deputy Mayor and councillors	Chief Executive Officer or, in his or her absence, Head of Democratic Services.
22.	Local Government Act 1972 Section 88(2)	To convene meetings of the Council to fill a vacancy in the office of Mayor (where such a casual vacancy occurs)	Chief Executive Officer or, in his or her absence, Head of Democratic Services.
23.	Local Government Act 1972 Section 96(1) and (2)	To receive notices of pecuniary interest by councillors and to keep records of disclosures of pecuniary interests	Monitoring Officer Solicitor to the Council
24.	Health and Safety at Work etc Act 1974	<p>(a) To exercise the powers of an Inspector specified in:</p> <ul style="list-style-type: none"> (1) Sections 20, 21, 22, 25 and 39 of the 1974 Act (2) Any Health and Safety Regulations; and (3) The provisions of the Acts mentioned in Schedule 1 to the 1974 Act which are specified in the 3rd column of that schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provision so specified, as enforced from time to time; <p>(b) To institute proceedings pursuant to Section 38 of the 1974 Act;</p> <p>but not to the extent that these functions are</p>	Director of Planning and Regulation or in his absence Head of Environmental Health or a Principal Environmental Health Officer

Ref No.	Source	Power Delegated	Proper Officer
25.	Health and Safety at Work etc Act 1974 Section 19	<p>discharged in the Council's capacity as an employer</p> <p>To exercise the powers of an Inspector specified in:</p> <ul style="list-style-type: none"> (1) Sections 20; 21; 22 and 25 (2) Any Health and Safety Regulations; and (3) The provisions of the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963 mentioned in Schedule 1 to the 1974 Act which are specified in the 3rd column of that Schedule and of the Regulations, Orders or other instruments of a legislative character made or having effect under any provisions so specified as in force from time to time <p>but not to the extent that these functions are discharged in the Council's capacity as an employer</p>	Director of Planning and Regulation; Head of Environmental Health; Principal Environmental Health Officers; Senior Environmental Health Officers; Environmental Health Officers; and Environmental Health Technical Officers (Section 20 only).
26.	Zoo Licensing Act 1981	Appointment as Inspector for the purposes of Sections 10, 11 and 12 of the Act and any amending statutes and regulations	Veterinary Surgeon
27.	Riding Establishments Acts 1964 and 1970	Appointment as Inspectors to carry out inspections of riding establishments on behalf of the Council	Veterinary Surgeons
28.	Animal Boarding Establishments Act 1963	Appointment as Inspectors to carry out	Veterinary Surgeons

Ref No.	Source	Power Delegated	Proper Officer
29.	Pet Animals Act 1951	inspections of animal boarding establishments on behalf of the Council	Veterinary Surgeons
30.	Town Police Clauses Act 1847 Local Government (Miscellaneous Provisions) Act 1976 Part II	Appointment as Inspectors to carry out inspections of pet shops on behalf of the Council	Director of Planning and Regulation
31.	Local Government Act 1972 Section 101	Appointment as Authorised Officer for the purposes of the Acts and any Regulations made thereunder	Chief Executive Officer
32.	Local Government Act 1972 Section 100B, 100C and 100F	Designation as District Controller for civil emergency purposes	Chief Executive Officer, or, in his or her absence, Solicitor to the Council.
33.	Local Government Act 1972 Section 100D	To be the “Proper Officer” for the purposes of the Act	Chief Executive Officer, Directors and Chief Officers
34.	Local Government and Housing Act 1989	To be “Proper Officers” for the purposes of Section 100D(1)(a) and 100D(5)(a) of the Local Government Act 1972	Chief Executive Officer, or, in his or her absence, Solicitor to the Council, Director of Operations
35.	Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012	To be the Proper Officer for the purposes of publication of information under the Regulations	Chief Executive Officer Monitoring Officer Solicitor to the Council
36.	Local Government Act 1972 Section 115(2)	To be the person to whom all officers shall pay moneys received by them and due to the local authority	Director of Finance and Resources

Ref No.	Source	Power Delegated	Proper Officer
37.	Local Government Act 1972 Section 146	To make declarations and to issue certificates in connection with the holding or transfer of securities held by the Council or the payment of dividend or interest	Director of Finance and Resources
38.	Local Government Act 1972 Section 191(2)	To receive notices from Ordnance Survey in relation to ascertaining or locating local authority boundaries	Head of Democratic Services
39.	Local Government Act 1972 Section 210(6) and (7)	To exercise any charity functions exercised by officers of the “old” local authority whenever there is no “holder of a corresponding office” in the “new” local authority	Chief Executive Officer
40.	Local Government Act 1972 Section 225	To receive and give receipt for any document required to be formally deposited with the Council	Solicitor to the Council Head of Democratic Services
41.	Para 5 of Schedule 2 of the Licensing Act 1964 as amended by Section 204(3) and Para 6 of Schedule 25 of the Local Government Act 1972	To be the “Proper Officer” to whom notice of application for justices’ licence is to be given.	Director of Planning and Regulation
42.	Public Health (Control of Disease) Act 1984, as amended, and Regulations made thereunder	To act for such of the functions relating to notification, investigation, prevention and control of notifiable diseases and food poisoning as require the services of a registered medical practitioner	Director of Planning and Regulation Consultants in Communicable Disease Control as appointed from time to time
43.	Housing Act 1985 (as amended)	Appointment as “Proper Officer” for the purposes of the Act	Director of Operations
44.	Rent Act 1977	Appointment as “Proper Officer” for the	Director of Operations

Ref No.	Source	Power Delegated	Proper Officer
45.	Local Authorities (Standing Orders) (England) Regulations 2001, Schedule I, Part II	purposes of the Act To notify Executive members of any proposed appointment or dismissal of the Chief Executive Officer (Head of Paid Service) or Chief Officer.	Monitoring Officer or in the event of a conflict of interest, Solicitor to the Council
46.	Local Government and Housing Act 1989 Local Authorities (Standing Orders) (England) Regulations 2001	Appointment and dismissals to Deputy Chief Officer posts, subject to notification to the Executive	Chief Executive Officer Relevant Director or Chief Officer
47.	National Assistance Act 1948 and Section 1 of the National Assistance (Amendment) Act 1951; Public Health Acts The Public Health (Ships) Regulations	Power to Act including application to courts for any necessary orders in relation to removal to suitable premises of persons in need of care and attention. Control of disease	Director of Operations; and Such person as is for the time being on the Health Protection Agency Public Health on-call rota covering Hampshire and the Isle of Wight
48.	Regulation of Investigatory Powers Act 2000. Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order 2000.	Authorisation to undertake covert surveillance	Chief Executive Officer Director of Finance and Resources
49.		To monitor and review the operation of the Code of Corporate Governance and report annually to Audit and Governance Committee on compliance with Code and proposing any changes necessary to ensure its effectiveness	Monitoring Officer Solicitor to the Council
50.	Homelessness Act 2002	Proper Officer for the purposes of the Act	Director of Operations

