

**PLYMOUTH CITY COUNCIL**

**Subject:** Amendments to the Council's Constitution  
**Committee:** Council  
**Date:** 20 May 2022  
**CMT Member:** Giles Perritt, Assistant Chief Executive  
**Author:** Ross Jago, Head of Governance, Performance and Risk.  
**Contact details:** Ross.jago@plymouth.gov.uk  
**Ref:** AGM22/C  
**Key Decision:** No  
**Part:** I

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**Purpose of the report:**

A number of constitutional amendments are required to ensure continuing good governance, clarification of proper officer roles and a best practice approach to Overview and Scrutiny.

Constitutional amendments as appended to this report will give effect to -

- Updated Proper Officer functions which better reflect officers' responsibilities and a proposed delegation to the Chief Executive to determine any further Proper Officer allocations where necessary.
- An update to the order of business at an ordinary Council Meeting which will enable Council to note any changes to political groups' appointments to committees provided they do not impact upon proportionality.
- An update to the responsibility for functions. New wording has been added to allow the Monitoring Officer to make in-year changes to appointments in agreement with the relevant leader and whip provided that they do not affect political proportionality.
- An update to Part D, Overview and Scrutiny Committees to reflect:
  - a change the name of the Brexit Infrastructure and Legislative Change Overview scrutiny committee to the "Infrastructure and Growth Overview and Scrutiny Committee"
  - Changes to allow the largest opposition party to hold the position of Chair on three of the four Committees
- The removal of the Terms of Reference for:
  - Devon and Cornwall and Isles of Scilly Police and Crime Panel as this is not a committee of the Council.
  - Mount Edgcumbe Joint Committee as it is a committee of the executive and not the Council
- Clarification of Article 5 – Lord Mayor. In law the Lord Mayor and Deputy Lord Mayor cannot be a member of the executive (cabinet). This amendment will ensure this is reflected in the articles of the constitution.

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**Corporate Plan:**

Effective decision and good governance impacts upon all aspects of the Corporate Plan. Proposed changes to the constitution ensure clarity of officer roles, best practice approach to scrutiny and flexibility for political groups.

Further reviews of the scrutiny function and the constitution will take place across the coming municipal year and will be considered at the Audit and Governance Committee and through the Council's scrutiny function.

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**Implications for Medium Term Financial Plan and Resource Implications:  
Including finance, human, IT and land:**

There are no financial implications of the amendments to the Constitution as appended.

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**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

There are no other implications of the amendments to the Constitution as appended.

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**Equality and Diversity:**

Has an Equality Impact Assessment been undertaken? No

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**Recommendations and Reasons for recommended action:**

That Council agrees to –

1. to remove the Devon, Cornwall and Isles of Scilly Police and Crime Panel terms of reference;
2. to remove Mount Edgcumbe Joint Committee terms of reference;
3. amendments as detailed in attached appendices.

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**Alternative options considered and rejected:**

Not reviewing the constitution would mean that the Council's statutory duty to maintain and keep under review a Constitution which must comply with the provisions of the Local Government Act 2000 would not be met.

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**Published work / information:**

N/A

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**Sign off:**

Fin	N/A	Leg	EJ/38 623/ 0522 /I	Mon Off	EJ/38 623/ 0522 /I	HR	N/A	Assets	N/ A	IT	N/A	Strat Proc	N/A
Originating SMT Member – Giles Perritt, Assistant Chief Executive													

## **Amendment to Part A, Article 5**

Amendments appear in yellow

# **4. Article 5 – Lord Mayor and Chair of the Council**

## **4.1. Appointment of the Lord Mayor**

- 4.1.1. The Lord Mayor will be elected by the Council annually.
- 4.1.2. Each municipal year the Council will appoint a panel of Councillors to receive nominations from amongst the Council for a Councillor to hold the position of Lord Mayor for the coming municipal year. The panel will make a recommendation to Full Council prior to the Annual Meeting from amongst the persons nominated.
- 4.1.3. Following the panel's recommendation the nominee shall within 4 weeks notify the panel of his or her recommendation for the position of Deputy Lord Mayor.

## **4.2. Role and functions of the Lord Mayor**

- 4.2.1. The Lord Mayor, and in his or her absence the Deputy Lord Mayor, represents the Council at civic and ceremonial events.
- 4.2.2. The Lord Mayor, and in his or her absence the Deputy Lord Mayor, chairs Council meetings. (In the absence of both, Council will elect a person to chair the meeting). In chairing Council, the Lord Mayor will:
  - promote the purpose of the Constitution
  - interpret the Constitution
  - get the business done efficiently but pay attention to the rights of all Councillors and the interests of local people
  - make Council a place for discussing the concerns of local people
  - encourage the public to take part in the Council's activities

**4.2.3. The Lord Mayor and the Deputy Lord Mayor may not be a member of the Cabinet.**

## **Amendment to Part A, Article 6**

Amendments appear in yellow

## **6.5 The Cabinet**

### **Form and Composition**

The Cabinet will consist of the Leader, and Deputy Leader (who may also hold a portfolio), together with Cabinet members. Cabinet members will be appointed by the Leader and notified to the Council. In accordance with the Local Government Act 2000 (Part II Sec. 11 Para. 8) the Cabinet may not consist of more than 10 members.

**No member of Cabinet will serve on Overview and Scrutiny Committees.**

**No member of Cabinet will serve as Lord Mayor or Deputy Lord Mayor.**

## PLYMOUTH CITY COUNCIL CONSTITUTION PART D: OVERVIEW AND SCRUTINY FUNCTIONS & PROCEDURES

### 1. Overview and Scrutiny Functions

2. The aims of the Overview and Scrutiny process are to-

- add value to Council business and decision-making;
- hold the Cabinet to account;
- monitor the budget and performance of services;
- assist the Council in the development of policy and review the effectiveness of the implementation of Council policy;
- review relevant central government policy development and legislation to assess the impact on the City and make recommendations to Cabinet.

### 3. Scrutiny Management Board

3.1. The purpose of the Scrutiny Management Board is to manage scrutiny in a way that ensures the functions of overview and scrutiny are fairly balanced across all aspects of the Council's work, with a view to improving services, reducing inequalities and improving outcomes for the people of Plymouth.

### 4. Role of the Scrutiny Management Board

- To ensure that work is allocated fairly across the four scrutiny committees and reflects all aspects of the Council's work by providing oversight and direction to the committees' work programmes
- To ensure corporate and cross cutting business is dealt with by the relevant committee
- To review performance against the relevant corporate priorities and inform work programmes as appropriate
- To commission select committee reviews where necessary and appropriate
- To receive for information, and oversee implementation of, recommendations made by each Scrutiny Committee
- To plan and oversee implementation of the process for annual Budget Scrutiny
- To produce an annual scrutiny report to Council (in conjunction with the scrutiny committees)
- To review national best practice and guidance in relation to overview and scrutiny and recommend any changes to the way overview and scrutiny is undertaken as a result

4.1. **Membership** – the Scrutiny Management Board will consist of the Chairs of each of the scrutiny committees. The relevant committee Vice-Chair can act as substitute for the relevant Chair if required.

4.2. **Chair** – the Chair of the Board will be from the group in administration.

4.3. **Vice-Chair** – the Vice-Chair will be from the main opposition group.

### 5. Role of Overview and Scrutiny Committees

5.1. The relevant scrutiny committee will:

- hear call-ins, Councilors' call for action and petitions;
- approve time limited select committees for issues within its remit;
- monitor performance against the relevant corporate priorities;
- receive finance and performance reports;

- agree recommendations to Cabinet, Council and partner organisations;
- agree appointments of co-opted representatives;
- monitor the forward plan;
- help Council and the Cabinet to develop policy by studying issues in detail through time limited Select Committees;
- review new and developing legislation to assess its impact on the city;
- consider and introduce schemes to involve the public in developing policy;
- work with national, regional and local organisations to promote the interest of local people.

## 6. Infrastructure and Growth Overview and Scrutiny Committee

### 6.1. Responsibility for

- Relevant policies in the Plymouth Plan
- Response to Central Government's Policy Making
- Capital Programme
- Strategic Procurement
- Corporate Property
- Development planning
- Strategic Highways
- Economic Development
- Heart of the South West Productivity Plan
- Strategic Transport policies and strategies
- Cultural Infrastructure
- Climate change and sustainability
- Reviewing impact of Brexit on the city
- Proposing measures that Government should take to provide stability for the council and partners in light of Brexit
- Exploring powers could be devolved from the EU directly to local authorities
- Hear call-ins relevant to the role of the committee

### 6.2. Partnership links

- Growth Board
- Joint Committee for Heart of the South West
- Heart of the South West Local Enterprise Partnership

6.3. **Membership** - All members of the Committee will adhere to the general rules of Overview and Scrutiny. **There are thirteen members of the Committee including the Chair and Vice Chair.**

6.4. **Chair** – The Chair will be from the group in administration and will be a member of the Scrutiny Management Board.

6.5. **Vice Chair** – **The Vice Chair will be from the largest opposition group** and will act as substitute for the Chair on the Scrutiny Management Board.

6.6. **Urgent Decisions** – Urgent decisions will be reviewed by the Chair with relevant responsibilities

## 7. Performance, Finance and Customer Focus Overview and Scrutiny Committee

### 7.1. Responsibility for -

- Relevant policies in the Plymouth Plan
- Corporate Performance Monitoring
- Financial Performance Monitoring
- Annual Budget Setting Process
- Medium Term Financial Strategy
- Revenues and benefits
- Homelessness
- Communications
- Human resources
- Audit and Risk
- Transformation
- Bereavement Services and Register Office
- Community Safety
- Customer Services
- Street scene and Waste
- Parking
- Hear call-ins relevant to the role of the committee

### 7.2. Partnership links

- Health and Wellbeing Board
- Safer Plymouth
- Police and Crime Panel

**7.3. Membership** - All members of the Committee will adhere to the general rules of Overview and Scrutiny. **There are thirteen members of the Committee including the Chair and Vice Chair.**

**7.4. Chair** – The Chair will be from the **largest opposition group** and will be a member of the Scrutiny Management Board.

**7.5. Vice Chair** – The Vice Chair will be from the group in administration and will act as substitute for the Chair on the Scrutiny Management Board.

**7.6. Urgent Decisions** – Urgent decisions will be reviewed by the Chair with relevant responsibilities

## 8. Education and Children's Social Care Overview and Scrutiny Committee

### 8.1. Responsibility for-

- Relevant policies in the Plymouth Plan
- Early Years Services
- Schools, colleges and other educational settings
- Child Poverty
- Special Education Needs, behaviour and attendance, narrowing the gap in outcomes
- Safeguarding Children
- Cared for children
- Youth offending

- Adoption and Fostering
- Corporate Parenting
- Hear call-ins relevant to the role of the committee

#### 8.2.Partnership Links

- Plymouth Safeguarding Children's Board
- Plymouth Education Board
- Health and Wellbeing Board
- Regional Adoption Agency
- Children's Partnership

8.3.Membership - All members of the Committee will adhere to the general rules of Overview and Scrutiny. **There are thirteen members of the Committee including the Chair and Vice Chair.**

8.4.**Chair** – The Chair will be from the **largest opposition group** and will be a member of the Scrutiny Management Board.

8.5.**Vice Chair** – The Vice Chair will be from the group in administration and will act as substitute for the Chair on the Scrutiny Management Board.

8.6.**Urgent Decisions** – Urgent decisions will be reviewed by the Chair with relevant responsibilities

### 9. Health and Adult Social Care Overview and Scrutiny Committee

#### 9.1.Responsibility for -

- Relevant policies in the Plymouth Plan
- Integrated Commissioning
- Hospital and community health services
- dental services, pharmacy and NHS ophthalmic services;
- public health services
- Adult Social Care Services
- Adult Safeguarding Services
- Hear call-ins relevant to the role of the committee

9.2.Statutory Role with regard to undertaking all the statutory functions in accordance with Section 244, of the National Health Act 2006, (as amended by Health and Social Care Act 2012) regulations and guidance under that section.

#### 9.3.Partnership Links

- Health and Wellbeing Board
- Plymouth Safeguarding Adults Board
- Integrated Commissioning Board

9.4.**Membership** - All members of the Committee will adhere to the general rules of Overview and Scrutiny. **There are thirteen members of the Committee** including the Chair and Vice Chair. The Vice Chair is from the opposite political group to the Chair.

**10. Chair** – The Chair will be **from the largest opposition group** and will be a member of the Scrutiny Management Board.

**11. Vice Chair** – The Vice Chair will be from **the group in administration** and will act as substitute for the Chair on the Scrutiny Management Board.

**12. Urgent Decisions** – Urgent decisions will be reviewed by the Chair with relevant responsibilities.



## Amendment to Part B section 4 of the Constitution.

Amendments highlighted in yellow.

### 4.5 ORDER OF BUSINESS AT ORDINARY MEETING OF COUNCIL

- 4.5.1 At ordinary meetings (except for Council Tax setting meetings) the order of business will be to:
- a. elect the chair (if the Lord Mayor and Deputy are absent)
  - b. receive apologies for absence from Councillors
  - c. approve minutes of the last meeting as a correct record
  - d. receive declarations of interest from Councillors
  - e. Note any changes made by a political group to its allocated seats on committees (other than committees of the executive).
  - f. To make appointments to outside bodies (unless the outside body's function relates to an executive function)
  - f. reply to questions by the public ( see Part B)
  - g. receive announcements from the Lord Mayor, Head of Paid Service, Responsible Finance Officer and Monitoring Officer
  - h. receive announcements from the Leader, Cabinet members, committee chairs
  - i. receive presentations of and responses to Council Petitions (see Part G)
  - j. deal with any unfinished business from the last meeting
  - k. respond to recommendations from the Cabinet
  - l. respond to recommendations and reports from Overview and Scrutiny Committees/sub-committees
  - m. respond to recommendations from other Committees requiring Council approval
  - n. respond to reports from the Chief Executive, Responsible Finance Officer or Monitoring Officer
  - o. deal with motions on notice
  - p. deal with any other agenda items
  - q. deal with questions by Councillors to the Leader, Cabinet members and committee chairs about their areas of responsibility<sup>2</sup>

## **Amendment to Part E section 2 of the Constitution.**

Amendments highlighted in yellow.

### **General Rules Applying to Committees**

#### **2. APPOINTMENT OF COMMITTEES**

Council is responsible for appointing and dissolving committees and for agreeing their membership and roles, unless the law says otherwise. Allocation of seats will be made by Council at the AGM each year.

Changes during the municipal year to those appointed to a committee seat allocated to a political group will be able to be delegated to the Monitoring Officer to enact:

- on the advice and agreement of the leader and the whip of the relevant political group seeking changes to the group's appointments; and
- Provided any changes being made do not affect the agreed political proportionality of the Council.

Where any change requested by a political group has the effect of altering the political proportionality as approved by Council, no changes may be approved other than by a meeting of full Council.

Where amendments are made to committee appointments by the Monitoring Officer, those changes will be reported to Council at the next ordinary meeting.

## Amendments to Part H Standing Orders

Amendments in yellow

### Appointment of Proper Officers

1. The Following table, subject to 2 and 3 below, sets out the proper officer appointments of the Council.
2. Legislation in these tables includes any amendments, re-enactments and subordinate legislation.
3. In relation to any other Proper Officer appointments which are contained with legislation, whether that legislation was made before or after this list was approved and requiring a proper officer appointment, the or authorised officer Chief Executive shall (or the Assistant Chief Executive in their absence) shall be delegated the responsibility to allocate all such functions to appropriate officers, in consultation with the Leader and Leader of the opposition.

Legislation		Responsibility	Proper officer
Local Government Act 1972	Section 83(1) to (4)	Witnessing and receiving declarations of acceptance of office	Chief Executive Or Monitoring Officer
	Section 84(1)	Receiving a Councillor's resignation	Chief Executive Or Monitoring Officer
	Section 88 (2)	Calling a Council meeting to elect a chair if there is a casual vacancy	Chief Executive
	Section 89(1)	Giving notice of a casual vacancy	Chief Executive
	Section 100B	Access to Agenda and Connected Reports	Monitoring Officer
	Section 100C	Inspection of minutes and other documents after the meeting	Head of Governance, Performance and Risk
	Section 100D	Listing background papers for reports and making copies available for the public to look at	All Service Directors
	Section 100F	Additional right of access to documents for members	Monitoring Officer
	Section 115(2)	Receiving money due	Responsible

		from officers	Finance Officer
	Section 146(1)(a) and (b)	Making declarations and certificates about transferring securities	Responsible Finance Officer
	Section 191	Receiving applications under Section 1 of the Ordnance Survey Act	Head of Legal Services
	Section 225	Depositing documents	Head of Legal Services
	Section 228(3)	Making accounts available for Councillors to look at	Responsible Finance Officer
	Section 229(5)	Certifying photocopies of documents	Head of Legal Services
	Section 234 *	Authenticating documents	Head of Legal Services and all Service Directors
	Section 238	Certifying byelaws	Head of Legal Services
	Section 248	Keeping a list of freemen of the city	Monitoring Officer
	Schedule 12, paragraph 4(2)(b)	Signing the summons to Council	Chief Executive
	<del>Schedule 14, paragraph 25</del>	<del>Certifying resolutions passed under this paragraph</del>	<del>Head of Legal Services</del>
Local Government Act 1974	Section 30(5)	Giving notice that copies of an ombudsman's report are available	Strategic Director for Customer and Corporate Services
Local Government (Miscellaneous Provisions) Act 1976	Section 41(1) Section 4 (2A)	Certifying copies of resolutions and minutes	Monitoring Officer

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Local Authorities Cemeteries Order 1977	Regulation 10 and schedule 2	Signing exclusive burial rights	Head of Public Protection Service
Local Elections (Principal Area) Rules 1986	Rule 46	Keeping documents after an election and making them available for the public to look at	Electoral Registration Officer
Local Authorities (Referendum) (Petitions and	Part 2	Petitions and Referendums	Chief Executive

Directions) Functions Regulations 2000			
Local Authorities (Conduct of Referendums) (England) Regulations 2012		Conducting Referendums	Chief Executive
Local Government and Housing Act 1989	Section 2(4)	Keeping the list of politically restricted posts	Service Director for Human Resources and Organisational Development
Local Government (Committees and Political Groups) Regulations 1990		Dealing with political balance on committees	Monitoring Officer
Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012	Section 7	Access to agenda and connected reports for public meetings	Monitoring Officer
	Section 10	General exception to publication and access duties	Head of Governance, Performance and Risk  Or Monitoring Officer
	Section 12	Record of executive decisions at meetings	Head of Governance, Performance and Risk
	Section 13	Record of executive decisions by individuals	Head of Governance, Performance and Risk
	Section 14	Inspection of documents following executive decisions	Head of Governance, Performance and Risk
	Section 15	Inspection of background papers	All Service Directors
	Section 16	Additional access rights for members of the overview and scrutiny committees	Monitoring Officer
	Section 20	Confidential Information and exempt information	Monitoring Officer
Local Authorities		Giving notice of	Service Director for

(Standing Orders) (England) regulations 2001		appointments and dismissals of officers in accordance with the regulations	Human Resources and Organisational Development
Local Government Act 2000		Acting as proper officer for all the responsibilities in the Local Government Act 2000 and subordinate legislation	Monitoring Officer
Localism Act 2011	Section 33	To receive written requests and grant dispensations	Monitoring Officer
Freedom of Information Act 2000	Section 36	Qualified Person	Monitoring Officer
Public Health Act 1936	Section 84	Cleansing of filthy and verminous articles	Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Public Health Act 1936	Section 85(2)	Cleansing of filthy and verminous persons and their clothing	Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Public Health Act 1961	Section 37	Controlling verminous things	Strategic Director of Public Health  Consultant in Communicable

			Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Public Health (Aircraft) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit (as Medical Officer of Health)
Public Health (Ships) Regulations 1979	Regulation 5 and including all subsequent reference to medical officers		Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit (as Medical Officer of Health)
Public Health (Control of Disease Act) 1984 as amended	Section 61 and 62	Powers to enter premises for health protection purposes, and supplementary powers of entry	Director of Public Health  Consultant in Communicable

			Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Public Health (Control of Disease Act) 1984 as amended	Section 48	Certification for removal of bodies to mortuary or for burial.	Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Health Protection (Local Authority Powers) Regulations 2010	Regulations 8 (1) and 8 (2)		Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Health Protection (Notification Regulations) 2010	Regulations 2, 3, and 6	Receipt and disclosure of notification of suspected notifiable disease, infection or contamination in patients and dead persons	Director of Public Health  Consultant in Communicable Disease Control (CCDC), and any equivalently medically qualified



			officer as designated by the Devon, Cornwall and Somerset Public Health England Centre or by any successor agency or unit
Health Protection (Part 2A Orders) regulations 2010		Preparation of application for Part 2A Order	Director of Public Health
Building Act 1984	Section 78	Power to authorise action in relation to dangerous structures	Service director for Strategic Planning and Infrastructure
Food Safety Act 1990	Section 49	Form and authentication of documents	Strategic Director of Public Health
Registration Services Act 1953		Power to act as proper officer for the registration service	Service Director for Customer Services
National Assistance Act 1948	Section 47	Taking people in need of care and attention to a suitable place	Head of Strategic Commissioning
National Assistance (Amendment) Act 1951	Section 1	Certifying the need for immediate action	Head of Strategic Commissioning
Money Laundering Regulations 2003	Regulation 7	Being told about suspected money laundering	Responsible Finance Officer
Local government data handling guidelines under the Data Protection Act		Manage information risk within the Council's risk management framework	Responsible Finance Officer
Local Democracy, Economic Development and Construction Act 2009	Sections 31 and 32	Promote the role of and provide support to the overview and scrutiny committees; provide support and guidance to members and officers in relation to the scrutiny function.	Head of Governance, Performance and Risk
Registration Services Act		Proper officer for registration of births, marriages and deaths	Service Director for Customer Services
Regulation of Investigatory Powers Act 2000	Section 21, 22, 27, 28 and 29	Designation of officers empowered to grant authorisation for the carrying out of directed surveillance, to	Information Governance Manager

		authorise the use of covert human intelligence sources, and communications data checks.  The RIPA Monitoring Officer	
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\* In relation to appointments of Proper Officers under section 234 of the Local Government Act 1972 the appointments shall be to each of the officers to sign any notice, order or other document required to be made, given or issued to give effect to the powers delegated to them only where:

- a. they or one of their staff has budgetary or management responsibility for that function; and
- b. the officer appointed is qualified to carry out the functions of a Proper Officer; and
- c. the Council's standing orders or the law does not require the function to be carried out by someone else.