PART 3 – RESPONSIBILITY AND FUNCTIONS

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1. PRINCIPLES OF DELEGATION

1.1 Section 101 of the Local Government Act 1972 provides that:

- A Council may delegate its powers (except those incapable of delegation) to a committee or an Officer.
- A Committee may delegate its powers to a Sub-Committee.
- A Committee may delegate its powers to an Officer.
- Powers which have been delegated may be exercised by the delegating body.

1.2 Any delegation to a Committee or an Officer shall be exercised in compliance with the Council's Constitution, any other policies or conditions imposed by the Council and with the law.

1.3 In making any decision regard shall be had to the Council's Corporate Plan and Themed Strategies, and also the principles of decision-making as set out in Article 11 of the Constitution.

1.4 Save in the cases of statutory appointments, a function delegated to an Officer shall be validly exercised if carried out on behalf of that Officer and in that Officer's name by staff authorised by them in writing for that purpose. Any Officer so authorised shall not extend that authorisation to another Officer. The exercise of a function in the name of an Officer will not be invalidated by the absence of that Officer at the time when the function was exercised.

1.5 In the absence of the Chief Executive or other authorised Officer, or their inability to act, any other Director may exercise that power or function should the need arise, and vice versa.

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2. STATUTORY OFFICER AND OTHER DESIGNATIONS

Monitoring Officer

1. Pursuant to Section 5 of the Local Government and Housing Act 1989, the person appointed by the Appointments Board (see Officer Employment Procedure Rules) shall be Monitoring Officer for the Maldon District Council. For the purposes of this document the Monitoring Officer is referred to as the Director of Legal and Governance.

Head of Paid Service

2. Pursuant to Section 4 of the Local Government and Housing Act 1989, the person appointed by the Appointments Board (see Officer Employment Procedure Rules) shall be the Head of Paid Service for the Maldon District Council. For the purposes of this document the Head of Paid Service is referred to as the Chief Executive.

Section 151 Officer

3. Pursuant to Section 151 of the Local Government Act, 1972, the person appointed by the Appointments Board (see Officer Employment Procedure Rules) shall be the Section 151 Officer for the Maldon District Council. For the purposes of this document the Section 151 Officer is referred to as the Director of Finance.

Registration of Electors

4. Pursuant to Section 8 of the Representation of the People Act 1983, Mr Doug Wilkinson, Chief Executive, shall be Registration Officer for the Maldon District.

5. Pursuant to Section 8 of the Representation of the People Act 1983, the Lead Elections and Democratic Services Manager shall be appointed as the Deputy Electoral Registration Officer for the Maldon District.[1]

Returning Officer at Local Government Elections

6. Pursuant to Section 35 of the Representation of the People Act 1983, Mr Doug Wilkinson, Chief Executive, is Returning Officer for the election of Councillors of the Maldon District and of Councillors of parishes and communities within the Maldon District. Mr Doug Wilkinson is also Returning Officer for the conduct of Parish Polls within the Maldon District.

"Proper Officers"

7. The Council has approved and adopted the appointment of the following officers as proper officers, as described in the following specified sections of the relevant Acts of Parliament or regulations. Proper Officer is defined for most legislation by s.270(3)

[1] Minute 678 refers (Council 30 March 2023)

Local Government Act 1972 as an officer appointed for that purpose by that body or for that area, as the case may be.

The Local Government Act 1972		
Section of Act	**Functions**	**Proper Officer**
83(l) to (4)	Witness and receipt of declaration of acceptance of office	Director of Legal and Governance
84	Receipt of declaration of resignation of office	Director of Legal and Governance
88(2)	Convening of meeting of Council to fill casual vacancy in the office of Chairperson	Director of Legal and Governance
89(l)(b)	Receipt of notice of casual vacancy from two local government electors	Chief Executive
100 B(2)	Circulation of Reports and Agendas	Director of Legal and Governance
100 B(7)(c)	Supply of Papers to the Press	Director of Legal and Governance
100 C(2)	Summaries of Minutes	Director of Legal and Governance
100 D(1)(a)	Compilation of lists of background papers	Director of Legal and Governance
100 D(5)(a)	Identification of background papers	In joint reports the Chief Executive and in all other cases the Director of Legal and Governance
100 F(2)	Papers not open to Members	Chief Executive
115(2)	Receipt of money due from Officers	Director of Finance
117	Record of notices given by Officers of personal interests in contracts	Director of Legal and Governance
l46(l)(a) & (b)	Declarations and certificates with regard to securities	Director of Finance
151	Responsibility for proper administration of the Council's financial affairs.	Person appointed by Appointments Board
191	Functions with respect to ordnance survey	Director of Place, Planning and Growth
215	Registrar of Local Land Charges	Director of Place, Planning and Growth
225(l)	Deposit of documents	Director of Legal and Governance
229(5)	Certification of photographic copies of documents	Director of Legal and Governance
234(l) & (2)	Authentication of documents	Director of Legal and Governance
236(9)(i)	To send copies of byelaws for parish records	Director of Legal and Governance

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The Local Government Act 1972		
Section of Act	**Functions**	**Proper Officer**
236(l0)(ii)	To send copies of byelaws to the County Council	Director of Legal and Governance
238	Certification of byelaws	Director of Legal and Governance

Data Protection Act 1998		
Section of Act	**Functions**	**Proper Officer**
	Data Protection Officer	Director of Legal and Governance

Local Government Finance Act 1988		
Section of Act	**Functions**	**Proper Officer**
S116	Notification to auditor of the date, time and place of a proposed meeting to consider a report under Section 114 and of any decision made at the meeting.	Chief Executive

Crime and Disorder Act 1998		
Section of Act	**Functions**	**Proper Officer**
	For all matters relating to the Act	Director of Neighbourhood Services and Communities

Local Government Act 2000		
Section of Act	**Functions**	**Proper Officer**
S81	Maintenance of Register of Interests of Members	Director of Legal and Governance

Localism Act 2011		
Section of Act	**Functions**	**Proper Officer**
S29	Maintenance of Register of Interests of Members	Director of Legal and Governance

Local Government and Housing Act 1989		
Section of Act	**Functions**	**Proper Officer**
S3A (Amended by Localism Act 2011)	Grant of exemptions from politically restricted posts.	Chief Executive
S4	Head of Paid Service	Person appointed by Appointments Board

The Openness of Local Government Bodies Regulations 2014		
Regulation	**Functions**	**Proper Officer**
9	Disclosure of confidential information	Chief Executive

Public Health (Control of Disease) Act 1984 and related legislation		
Section	**Functions**	**Proper Officer**
48	Issue certificates relative to the removal of bodies to mortuaries or for immediate burial	Named Officers of the Health Protection Agency appointed by the Environmental Health Manager (Protection)

Food and Environmental Protection Act 1985		
Section	**Functions**	**Proper Officer**
	Enforcement and Investigating Officers	Director of Neighbourhood Services and Communities Environmental Health Managers and staffing

(i) In the event of any other notices being required to be served under any other Section of the Local Government Act 1972 or any other enactment, and not otherwise specified in the Council's Scheme of Delegation, the Chief Executive is designated the "Proper Officer".

(ii) The Director of Legal and Governance is recognised as the Officer responsible for giving public notice of the time and place of meetings pursuant to Section 100 A(6)(a).

(iii) The Director of Legal and Governance in consultation with the "Proper Officer" as appropriate, is recognised as the officer responsible for provision of the Agendas and Reports for public inspection pursuant to Sections 100 B(1) and 100 E(1) of the Act.

Delegation to Officers – General (continued)

8. To renew Council membership of bodies or organisations, subject to the costs of any particular subscription renewal falling within the Council's estimates guideline figure.

9. The authorisation of directed surveillance under the provisions of the **Regulatory and Investigatory Powers Act 2000** to the undermentioned Officers:

- Director of Legal and Governance (as Senior Responsible Officer);
- Director of Neighbourhood Services and Communities

10. **Emergency Action** – The Chief Executive or any Director is authorised to act in emergencies, and where time permits in consultation with the Leader of the Council and Chairperson of appropriate Committee(s)

11. **Consultations** – The Chief Executive or any Director, in liaison with the relevant Lead Member (Committee Chairperson or Leader of the Council), is authorised to respond to consultation documents where the period during which a response is

required does not allow the matter to be reported to the relevant committee or where the consultation is of a predominantly technical nature.

12. **Legal Proceedings** - The Chief Executive or any Director in consultation with a Legal Advisor, Chairperson of the relevant Committee (or Vice-Chairperson in his or her absence) and Leader of the Council, be authorised to institute or defend legal proceedings on any criminal offence or civil proceedings not otherwise provided for in Officer delegation arrangements elsewhere in this document, subject to subsequent report to the next meeting of the relevant Committee. The exercise of this authorisation shall, for the avoidance of any doubt, include responding to legal representations on behalf of the other party, any directions of the Court, and the pursuance and settlement of disputes by means other than litigation.

13. **Financial Management –** Directors, and service managers, have responsibility for the management of the financial aspects of service provision, which includes authority to incur expenditure considered to be reasonably required to carry out the policies of the Council at any time provided that such expenditure is in accordance with the budget, is fit for purpose, and there is sufficient money existing within the budget or otherwise vired.