

The Improvement Service

ELECTED MEMBER BRIEFING NOTE No. 12

# The Roles of Statutory Officers



# What is the purpose of the Briefing Note series?

The IS has developed an Elected Members Briefing Series to help Elected Members keep abreast with key issues affecting local government.

Some Briefing Notes will be directly produced by IS staff but we will also publish material from as wide a range of public bodies, commentators and observers of public services as possible.

We will use the IS website and Elected Member e-Bulletin to publicise and provide access to the Briefing Notes. All Briefing Notes in the series can be accessed at <http://www.improvementservice.org.uk/elected-members-development/>.

# Introduction

Local authorities in Scotland are required by various statutes to make, and subsequently to maintain, appointments to a number of specified offices. Those individuals who are appointed to these offices are commonly referred to as ‘statutory officers’.

The term ‘statutory officer’ is generally used to refer to the principal statutory officers, who alongside their day to day roles have specific responsibilities, as set out in legislation. The statutory officers that Elected Members are most likely to deal with on a day to day basis are the Head of Paid Service, the Monitoring Officer, the Chief Financial Officer and the Chief Social Work Officer.

The Accounts Commission report ‘Roles and working relationships: are you getting it right?’ ([www.audit-scotland.gov.uk/docs/best\\_value/2010/bvrm\\_100826\\_councillors\\_officers.pdf](http://www.audit-scotland.gov.uk/docs/best_value/2010/bvrm_100826_councillors_officers.pdf)) reminds councils about the important role that statutory officers have in supporting good working practices and decision-making. They have an important, independent role in promoting and enforcing good governance and for making sure councils comply with legislation.

## Head of Paid Service

The Head of Paid Service (the Chief Executive) is the principal policy adviser and primary manager of the council. The council is under a statutory duty to consider reports prepared by the Head of Paid Service on the management and deployment of staff. Key roles include:

- being responsible to Elected Members for the staffing of the council and ensuring the work in different departments is coordinated;
- working with Elected Members to promote good governance by ensuring processes are in place that are fit for purpose and up to date;
- working with senior colleagues to ensure that Elected Members receive good quality information and support to inform decision-making and scrutiny; and
- ensuring other statutory officers have appropriate access and influence in carrying out their roles.

## Monitoring Officer

The Monitoring Officer works with Elected Members to provide guidance and support to help them fulfil their role. Key roles include:

- advising Elected Members about the legal position of proposed actions; and

- preparing a report for council if, at any stage, it appears that any proposal, decision or omission by the local authority, whether by committee, sub-committee, or officer, has given or is likely to result in the authority contravening legislation or any code of practice.

The Monitoring Officer usually prepares the Standing Orders and Schemes of Delegation, and is often responsible for monitoring behaviour and conduct.

### Chief Financial Officer

The Chief Financial Officer (section 95 officer):

- is responsible for the proper administration of the financial affairs of the council;
- is fundamental to ensuring the council has sound financial management;
- has an important role in establishing and maintaining internal financial controls; and
- is responsible for providing professional advice to Elected Members on all aspects of the council's finances.

Access to decision-makers and influence at a senior management level is critical.

### Chief Social Work Officer

Councils are required to appoint a professionally qualified Chief Social Work Officer to provide Elected Members and senior officers with advice about the delivery of social work services. The Chief Social Work Officer has a responsibility to:

- highlight where a council policy may endanger lives or welfare; and
- ensure that Elected Members and officers are provided with professional advice in relation to social work and social care services.

To do this effectively, the Chief Social Work Officer should have access to the Chief Executive and other senior managers, Elected Members and social work officers.

The Accounts Commission report 'Roles and working relationships: are you getting it right?' ([www.audit-scotland.gov.uk/docs/best\\_value/2010/bvrm\\_100826\\_councillors\\_officers.pdf](http://www.audit-scotland.gov.uk/docs/best_value/2010/bvrm_100826_councillors_officers.pdf)) reminds councils about the important role that these statutory officers have in supporting good working practices and decision-making.

Whilst the four roles outlined above are the principal statutory officers, a number of other officers are also required to be appointed by statute. Appendix 1 provides a full list of statutory officers and details of the legislation requiring appointment. It is not intended to be a definitive statement of the law.

## Why does this matter?

Making decisions in councils can be challenging, with many complex and demanding issues to be considered. Within each council, statutory officers have an important role in supporting well-informed decisions. They are responsible for making sure that Elected Members have all the information they need and that decisions comply with the law and good working practices.

To carry out their roles well, statutory officers must be accessible and be able to access decision-makers as required. For example, the Monitoring Officer, Chief Social Work Officer and Chief Financial Officer must have direct and regular access to the Chief Executive, Elected Members and senior officers, and the local reporting and accountability arrangements should take account of this.

## What does it mean for Elected Members?

Elected Members should be aware of and understand the statutory officer roles and responsibilities. Your council's Scheme of Delegation may help to increase awareness and understanding of the statutory officers within your council. Clarity about Elected Member and officer roles and responsibilities supports effective working relationships, which are central to the good performance of a council.

The Accounts Commission report 'Roles and working relationships: are you getting it right?' ([www.audit-scotland.gov.uk/docs/best\\_value/2010/bvrm\\_100826\\_councillors\\_officers.pdf](http://www.audit-scotland.gov.uk/docs/best_value/2010/bvrm_100826_councillors_officers.pdf)) found that the level of understanding and awareness about statutory roles varies. This may be due to the lack of clarity in council documents about what these roles involve and the terms used to describe the roles. The report recommends that councils are more explicit about the role of statutory officers and are clear about who these officers are.

The report provides a handy checklist for Elected Members to assess their awareness and understanding about statutory roles and is available at [www.audit-scotland.gov.uk](http://www.audit-scotland.gov.uk).

# Key questions to consider

Has the council provided you with guidance to support your understanding of statutory officer roles?

For example, are you confident that you understand:

- the roles and responsibilities of statutory officers?
- which officers fulfil the statutory roles?
- what circumstances may lead to an intervention by a statutory officer?
- when Elected Members or committees may wish to consult with statutory officers?

Are the role and responsibilities of statutory officers clearly understood throughout the council?

For example:

- have statutory officer roles been allocated clearly within job descriptions?
- do senior officers understand the roles and responsibilities of statutory officers?
- are statutory officers invited to attend and participate in relevant meetings?
- are the views of statutory officers actively sought and considered?

Does the council's structure and culture empower statutory officers to intervene when necessary to ensure compliance with legal requirements, regulations and established processes?

For example:

- do the council's governance arrangements allow statutory officers to fulfil their roles?
- do statutory officers have sufficient authority and access to Elected Members and other senior officials to provide advice and direction where necessary?

Am I satisfied that the Chief Financial Officer in my council has the necessary access and influence to fully discharge the statutory responsibilities of his/her role?

For example:

- is the Chief Financial Officer involved in all important decisions?
- does the Chief Financial Officer have sufficient authority to influence decision-making to ensure it is in line with financial regulations?
- does the Chief Financial Officer have sufficient access to senior officers, senior management meetings, committee meetings and Elected Members to be able to provide advice or intervene where necessary?

## Key messages

- Statutory officers have a vital role in supporting good governance and decision-making.
- Elected Members must satisfy themselves that the Chief Financial Officer has the necessary access and influence to fully discharge the statutory responsibilities of the role.
- Councils should ensure that they clearly establish and explain statutory officers' roles.

## Further support

- Any guidance notes produced by your council and key documents such as the Scheme of Delegation.
- How councils work: an improvement series for councillors and officers: 'Roles and working relationships: are you getting it right?', Audit Scotland, 2010, [www.audit-scotland.gov.uk/docs/best\\_value/2010/bvrm\\_100826\\_councillors\\_officers.pdf](http://www.audit-scotland.gov.uk/docs/best_value/2010/bvrm_100826_councillors_officers.pdf)
- 'The role of the Chief Financial Officer in local government', CIPFA, 2010, [www.cipfa.org/panels/finance\\_director/download/Role\\_CFO.pdf](http://www.cipfa.org/panels/finance_director/download/Role_CFO.pdf)
- 'The role of the Chief Social Work Officer', Scottish Government, 2009, [www.scotland.gov.uk/Publications/2010/01/27154047/1](http://www.scotland.gov.uk/Publications/2010/01/27154047/1)
- Professional associations:
  - Chartered Institute of Public Finance and Accountancy (CIPFA), [www.cipfa.org.uk](http://www.cipfa.org.uk)
  - Society of Local Authority Chief Executives (SOLACE), [www.solace.org.uk](http://www.solace.org.uk)
  - Society of Local Authority Lawyers and Administrators in Scotland (SOLAR), [www.solarscotland.org.uk](http://www.solarscotland.org.uk)
  - Association of Directors of Social Work (ADSW), [www.adsw.org.uk](http://www.adsw.org.uk)

# Appendix 1: List of statutory officers in Scottish local government

Please note that this is not intended to be a definitive statement of the law.

Statutory Officer	Legislation requiring appointment
Head of Paid Service (Chief Executive)	Section 4(1) of The Local Government and Housing Act 1989
Monitoring Officer	Section 5(1) of the Local Government and Housing Act 1989
Chief Financial Officer	Section 95 of the Local Government (Scotland) Act 1973
Chief Social Work Officer	The Social Work (Scotland) Act 1968 as amended by section 45 of the Local Government (Scotland) Act 1994.
Chief Officers and Members of Fire Brigades	Section 7 of the Fire (Scotland) Act 2005
Chief Constable and at least one Assistant Chief Constable	Sections 4 and 5 of the Police (Scotland) Act 1967
Electoral Registration Officer	Section 8(3) of the Representation of the People Act 1983
Returning Officer	Section 41 of the Representation of the People Act 1983
Mental Health Officers	Section 32 of the Mental Health (Care and Treatment) (Scotland) Act 2003
Agricultural Analyst	Section 67(3) of the Agriculture Act 1970
Registrar of Births, Deaths and Marriages	Section 7 of the Registration of Births, Deaths and Marriages (Scotland) Act 1965
Chief Inspector of Weights and Measures	Section 72 of the Weights and Measures Act 1985
Assessor	Section 27 of the Local Government etc (Scotland) Act 1994
Public Analyst	Section 27 of the Food Safety Act 1990
Dog Catcher	Section 149 of the Environmental Protection Act 1990

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