

Strategy & Resources Committee Tuesday, 24 November 2020

Appointment of Electoral Registration Officer and Returning Officer

Report of:	Chailey Gibb, Lead Democratic Specialist cgibb@tandridge.gov.uk
ELT Lead	Jackie King, Acting Chief Executive jking@tandridge.gov.uk
Publication status:	Open
Wards affected:	All wards
Recommendations:	That, the Committee recommends to Council that with immediate effect: A. the Acting Chief Executive is appointed as Electoral Registration Officer and Returning Officer pursuant to section 35(1) and section 8(2)(a) of the Representation of the People Act 1983 on a temporary basis until a permanent Chief Executive is appointed; and B. Lidia Harrison, Head of Legal Services & Monitoring Officer, and Chailey Gibb, Lead Democratic Specialist, continue to be appointed as Deputy Electoral Registration Officers
Appendices:	None
Background papers defined by the Local Government (Access to Information) Act 1985	None

1. Executive Summary

- 1.1 Elaine Jackson was appointed as the Electoral Registration officer and Returning Officer for the Council at Full Council on 24 October 2019. Following her decision to step down on 23 October 2020, there is a requirement to fill the statutory roles of Electoral Registration Officer (ERO) and Returning Officer (RO).
- 1.2 The duties of the ERO and RO need to be allocated to a suitably senior and qualified officer. It is considered prudent to appoint the Acting Chief Executive as the ERO and RO on a temporary basis pending appointment of a Chief Executive on a permanent basis. Therefore, there needs to be an approval from this Committee initially, with a recommendation being passed to Full Council to implement the arrangements for the post holder to undertake these duties.

2. Background

- 2.1 The RO is the person who has the overall responsibility of the conduct of elections in Tandridge. Section 35 of the Representation of the People Act 1983 requires the Council to appoint an officer of the Council to be the RO.
- 2.2 Section 8(2)(a) of the Representation of the People Act 1983 states that the Council shall appoint an officer of the Council to be the Electoral Registration Officer ('ERO').

3. Duties of the Returning Officer

- 3.1 The RO is directly accountable to the Courts system as an independent Statutory Officer. The RO is personally responsible for the administration of the election, including:
- the nomination process for candidates and political parties;
 - provision, administration, security and notification of polling stations;
 - appointment of presiding officers and polling clerks;
 - preparation and issue of ballot papers;
 - the count and declaration of results;
 - issue, receipt and counting of postal ballot papers;
 - all candidates' election expenses returns;
 - presentation of final accounts and reclaiming of expenditure from external bodies as prescribed; and
 - retention of election documents.
- 3.2 The duties of a RO are separate from the duties held by that individual as a local government officer. A RO is not responsible to the Council but is a separate legal entity to that of the Council which appointed them and is directly accountable to the courts as an independent statutory office holder. The RO is not bound by the Council's normal procedures in carrying out their duties.
- 3.3 The RO may appoint one or more persons to discharge all or any of their functions.
- 3.4 If the RO is, without reasonable cause, guilty of any act or omission in breach of their official duty, they are liable to a fine not exceeding £5,000. An ERO or DERO is also liable, in the same way as the RO, for a breach of official duty.
- 3.5 The RO should have a working knowledge of the relevant legislation governing the conduct of the elections. This means that, in addition to having a clear understanding of the statutory functions, they should have an overview of what the legislation contains and an understanding of how it affects the administration of the elections, so that they can review, question where necessary, and quality-assure the whole process in the Council area. Initial training will be scheduled for the new post holder.

4. Duties of the Electoral Registration Officer

- 4.1 The ERO has a duty to maintain registers of electors that contain the details of all those who are registered to vote. The ERO must publish registers that are as accurate and complete as possible. The register of electors is based on an annual canvass and monthly rolling registration of all properties where electors reside. The ERO maintains registers of those entitled to vote at various types of elections. Any failure to do this correctly could lead to the Council being challenged for failing to meet its statutory duties.
- 4.2 The ERO takes responsibility for publishing a revised electoral register and issuing monthly alteration notices.
- 4.3 At an election, the ERO has a statutory obligation to provide registers and absent voters lists for each polling station as well as to candidates at the election and to the RO.
- 4.4 In the event of a Parliamentary election being called, the ERO would be the Acting Returning Officer. The Chair of the Council is the Returning Officer at Parliamentary elections.

5. Other options considered

- 5.1 The Electoral Registration Officer and the Returning Officer are statutory roles to which the Council must appoint a named individual.

6. Climate Change implications

- 6.1 There are no significant climate change implications associated with this report.

7. Equality implications

- 7.1 There are no equality implications associated with this report.

8. Comments of the Chief Finance Officer

- 8.1 The Representation of the People Act 1983 makes provision for a scale of expenses to be fixed for the purpose of determining the Returning Officer expenditure.
- 8.2 Elections are categorised as either 'local' (i.e. parish, district, or county) or 'Parliamentary'. Parliamentary elections and Referenda have their own fees and charges set by the Cabinet Office and appropriate expenditure on these elections is reclaimed from central government.
- 8.4 In respect of parish, district and county elections, the RO is paid in line with the agreed Surrey election fee scale. Fees for duties for other elections are paid at the rate as prescribed by the government as and when they arise. In the event of a County or Parish election, these costs are recovered from the County Council or Parish Council.

8.5 There is no change to the existing arrangements in place as a result of this report.

9. Comments of the Head of Legal Services

9.1 These formal appointments are legally required so the Council can continue to meet statutory responsibilities relating to electoral matters. It can fall automatically upon the holder of specific job, as is currently the case at the Council, or it can be applied to an individual appointed by Council. Nevertheless, the role should rest with a permanent member of staff.

9.2 The appointment of Jackie King as Returning Officer and Electoral Registration Officer with immediate effect is considered to be the most effective approach to the administration of any elections that may be required to be held before the appointment of a permanent Chief Executive.

10. Conclusion

10.1 The Authority is under a statutory obligation to appoint a Returning Officer and an Electoral Registration Officer. The law prescribes that only full Council can determine such appointments. In light of the departure of Elaine Jackson (who was both RO and ERO) the committee is asked to make appropriate recommendations for filling the vacant positions, subject to ratification by Council.

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