

Council



Report of Head of Legal and Democratic Services

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To: VALE COUNCIL

DATE: 20 July 2016

To: SOUTH COUNCIL

DATE: 21 July 2016

Appointment of electoral registration officer and returning officer

Recommendations

That both Councils agree:

- (a) in terms of the Representation of the People Act 1983 and all related legislation, with effect from 1 September 2016, to appoint David Hill as electoral registration officer and to reappoint Margaret Reed as deputy electoral registration officer;
- (b) in terms of section 41 of the Local Government Act 1972 and all related legislation, with effect from 1 September 2016, to appoint David Hill as returning officer, with authority to act in that capacity for elections to the councils and all or any parish and town councils within the councils' areas;
- (c) to authorise the councils' electoral registration officer to act in respect of all related electoral, poll or referendum duties, including in relation to county council elections, elections to the European Parliament and national, regional and local polls or referendums;
- (d) in relation to the duties of returning officer or any other electoral, referendum or polling duties arising from such appointment, to remunerate the returning officer for local elections, polls or referendums in accordance with the scale of fees approved from time to time by the councils and to note that the returning officer will be entitled to the relevant scale of fees prescribed by a fees order in respect of national, regional or European Parliament elections, polls or referendums;

- (e) that in all cases where it is a legal requirement or normal practice to do so, the fees paid to the returning officer shall be superannuable and that South Oxfordshire District Council as the employing authority shall pay the appropriate employer's contribution to the superannuation fund, recovering such employer's contributions from central government or other local authorities or agencies where this can be done;
- (f) that in relation to the conduct of local authority elections and polls, and elections to the United Kingdom Parliament, and all other electoral duties where the councils are entitled by law to do so, the councils shall take out and maintain in force insurance indemnifying the councils and the returning officer against legal expenses reasonably incurred in connection with the defence of any proceedings brought against the councils or the returning officer and/or the cost of holding another election in the event of the original election being declared invalid (provided that such proceedings or invalidation are the result of the accidental contravention of the Representation of the People Acts or other legislation governing the electoral process, or accidental breach of any ministerial or other duty by the returning officer or any other person employed by or officially acting for him in connection with the election or poll);
- (g) that in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the councils will indemnify the returning officer up to the value of such excess.

Purpose of report

1. This report asks the Councils to appoint the new chief executive, David Hill, as the councils' electoral registration officer and returning officer with effect from 1 September 2016, recognising that these appointments may change following the implementation of a management restructure. The report also covers the personal liability and insurance position, fee entitlement and superannuation.

Strategic objectives

2. This report relates to the discharge of statutory responsibilities but also contributes to the strategic objective of managing our business effectively.

Background

3. Both councils need to appoint a new electoral registration officer and returning officer to come into effect immediately after David Buckle retires on 31 August 2016.
4. In order to be able to vote in elections, a person's name must be included in a register of electors. Responsibility for compiling the register of electors lies with the electoral registration officer. Section 8 of the Representation of the People Act 1983 requires every district council to appoint an officer of the council to be electoral registration officer.
5. The electoral registration officer has a duty to maintain registers of electors that contain the details of all those who are registered to vote. The electoral registration officer must publish registers that are as accurate and complete as

possible. The councils must provide the electoral registration officer with the resources they need to discharge their statutory functions.

6. The councils can approve the appointment of one or more deputy electoral registration officers. Unlike a returning officer, the electoral registration officer cannot appoint a deputy themselves, unless the power to do so has been delegated to them by the council.
7. Section 35 of the Representation of the People Act 1983 requires every district council to appoint a returning officer for district and parish council elections. The role is to ensure that the elections are administered effectively and that, as a result, the experience of voters and those standing for election is a positive one.
8. The returning officer is personally responsible for the administration of the local government election, including: nominations, the provision of polling stations, the appointment of presiding officers and poll clerks, management of the postal voting process and the verification and counting of votes.
9. The duties of a returning officer are separate from the duties held by that individual as a local government officer. A returning officer is not responsible to the councils 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 returning officer is not bound by the council's normal procedures in carrying out their duties.
10. Returning officers 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 their council area.
11. The roles of electoral registration officer and returning officer are currently held by the chief executive in each council. That is an appropriate level for them and reflects the most common (but not universal) practice across the country. Although the law allows a council to appoint different people to the roles of electoral registration officer and returning officer, it is beneficial for both roles to be undertaken by the same person because of the close interaction between the two roles.
12. The new chief executive is clearly an officer of South Oxfordshire District Council as the employer council. He can also be regarded as an officer of Vale of White Horse District Council as the non-employer council because he is being placed at that council's disposal under section 113 of the Local Government Act 1972. It is therefore possible for him to act as electoral registration officer and returning officer for each council. He is an experienced electoral registration officer and returning officer.
13. The councils are therefore asked to appoint David Hill as both councils' electoral registration officer and to agree that Margaret Reed, Head of Legal and Democratic Services, continues to be the deputy electoral registration officer for both councils. The councils are also asked to appoint David Hill as both councils' returning officer. The appointments of any deputy returning officers are made by the returning officer and not a matter for the Councils.

14. One of David Hill's first tasks as chief executive will be to implement a management restructure. The Leaders have agreed to support the appointments set out in this report but have indicated that as part of the restructure they would like to consider alternative options for the appointment of an electoral registration officer and returning officer. If changes are agreed then a further report will be brought to the Councils recommending fresh appointments to these roles.

Financial implications

15. Both councils have agreed scales of fees and charges for local elections, referendums and polls and these are due for review before the council elections in 2019. There are statutory fee scales for national elections and referendums. The recommendations in this report also deal with fee entitlement and superannuation.
16. The councils hold appropriate insurance cover for elections. As the returning officer is not acting as agent of the councils at elections, it could be construed that liability for any excess will be personal to the returning officer. However, it is suggested that in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the councils will indemnify the returning officer up to the value of such excess. This would be met from the respective council's contingency budget. The recommendations cover the personal liability and insurance position.

Legal implications

17. The councils' statutory obligations are set out in the body of the report. The councils have power to agree to indemnify the returning officer up to the value of any excess on their insurance for elections, polls and referendums.

Risks

18. The councils have a statutory duty to appoint an electoral registration officer and returning officer. Making the appointments suggested in this report ensures that the councils meet this duty pending further consideration as part of the management restructure.

Human resources implications

19. The returning officer's fees have always been treated as superannuable and recommendation (e) ensures that there is explicit agreement to this.

Conclusion

20. This report asks the Councils to appoint a new electoral registration officer, to confirm the appointment of the deputy electoral registration officer and to appoint a new returning officer. It also asks the Councils to agree the fee, insurance and indemnity arrangements.

Background Papers

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