

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	26 September 2023
Subject:	Statutory Appointments - Returning Officer and Electoral Registration Officer
Report of:	Executive Director: Resources
Head of Service/Director:	Executive Director: Resources
Lead Member:	Leader of the Council
Number of Appendices:	None

Executive Summary:

To ratify appointments previously made to the statutory roles of Returning Officer and Electoral Registration Officer and to make appointments to the roles of: (i) Returning Officer for Parish and Town Council elections within the Tewkesbury Borough area and (ii) Deputy Electoral Registration Officer.

Recommendation:

- 1. To RATIFY the appointment of the Chief Executive as the Returning Officer for Borough Council elections, as previously agreed as part of the report taken in closed session at the Council meeting on 24 January 2023 but not specifically included within the public Minutes of such meeting.**
- 2. To APPOINT the Chief Executive as the Returning Officer for Parish and Town Council elections within the Tewkesbury Borough area.**
- 3. To RATIFY the decision taken under urgency powers by the Executive Director: Resources, following consultation with (and with the support of) the Leader and Deputy Leader of the Council, to appoint the Chief Executive as the Council's Electoral Registration Officer.**
- 4. To APPOINT the following posts as Deputy Electoral Registration Officers:**
 - Executive Director: Resources**
 - Director: Corporate Resources**
 - Head of Service: Democratic and Electoral Services**

Financial Implications:

There are no specific on-going payments associated with the Returning Officer or Electoral Registration Officer roles. Returning Officer (or equivalent) fees are payable for any election or referendum held, determined by relevant Fees Orders in respect of Parliamentary elections; and by a scale agreed by the Gloucestershire authorities in respect of County, District/Borough, and Parish/Town elections (albeit based on the Parliamentary scale). Referendum payments have regard to the Fees Orders of the time and the local scheme.

However, the only Returning Officer fees that fall to be met by the Borough Council relate to Borough Council elections/by-elections; the scheduled, four-yearly, Parish/Town Council elections; and local executive arrangements/council tax referendums. These, and all other costs arising from such elections/referendums are met from the Elections Fund.

Legal Implications:

The Council is required to appoint a number of statutory officers, including a Returning Officer and an Electoral Registration Officer.

Environmental and Sustainability Implications:

None directly from this report.

Resource Implications (including impact on equalities):

None directly from this report.

Safeguarding Implications:

None directly from this report.

Impact on the Customer:

None directly from this report.

1.0 INTRODUCTION

1.1 The Council is required by law to appoint a Returning Officer and an Electoral Registration Officer. Both appointees must be officers (or an officer) of the Council. However, each appointee has personal liabilities and responsibilities, and is required to act in accordance with the relevant legislative requirements independent of the Council, rather than under the direction of the Council.

2.0 BACKGROUND

2.1 As part of the Council decision on 24 January 2023 to approve a proposal from the Head of Paid Service for a revised senior management structure (taken in closed session), the Chief Executive was appointed as the successor Returning Officer for Borough Council elections; however the public minutes of that item did not include that appointment decision and the report did not deal with the appointment of a successor Returning Officer for Parish and Town Council elections in the borough, or a successor Electoral Registration Officer (and deputy/deputies).

3.0 RETURNING OFFICER

3.1 In addition to being used to bring into the public domain and record the previous appointment of the Chief Executive as the successor Returning Officer for Borough Council elections, this report also deals with the Returning Officer appointment for Parish/Town Council elections within the borough area and, for completeness, sets out the other designations afforded to the Returning Officer.

3.2 There is no requirement that the same officer be appointed as Returning Officer for both Borough Council and Parish/Town Council elections, but it is likely that significant administrative issues would be caused were that not to be the case, along with confusion for candidates and others involved in the elections process. It is therefore recommended that the Returning Officer for Borough Council elections be also appointed as the Returning Officer for Parish/Town Council elections within the borough area. This replicates the arrangement in place prior to the retirement of the previous incumbent of these roles.

3.3 The Council's Returning Officer will also assume/be automatically appointed to the following roles:

- Local Returning Officer for the borough area at Police and Crime Commissioner elections.
- Local Counting Officer for the borough area at national referendums.
- Counting Officer for any local referendum relating to local authority executive arrangements; council tax levels; neighbourhood planning; and parish polls.

The Returning Officer will also be appointed as a Deputy Returning Officer at County Council elections (by the County Council Returning Officer).

3.4 Legislation allows Returning Officers to appoint deputies to discharge any or all of the duties placed upon them. Deputies may be delegated full powers or, alternatively, limited powers (where they have authority and responsibility for certain aspects of an election, e.g. postal vote opening, adjudication of doubtful ballot papers, etc.).

3.5 It is best practice that deputies are appointed, and accept their appointment, in writing. While appointments are likely to vary across the differing election types, the Returning Officer has indicated his intention to appoint the Executive Director: Resources as a 'permanent deputy' with full powers across all election types.

4.0 ELECTORAL REGISTRATION OFFICER

4.1 There is no requirement that the Returning Officer must also be the Electoral Registration Officer; however, there may be administrative issues if different officers are appointed, not least as the Electoral Registration Officer has the legal duty to act as Acting Returning Officer at UK Parliamentary elections.

4.2 It is the position in most, if not all, authorities for the Returning Officer and Electoral Registration Officer to be held by the same officer, given the synergies between the roles. Indeed, this was the case at Tewkesbury Borough Council before the retirement of the previous incumbent. It is therefore logical that the Chief Executive be also appointed as the Council's Electoral Registration Officer (in addition to his Returning Officer appointment).

4.3 This report was to deal with such appointment; however, given that the Council was to embark on its Annual Canvass in early September, conducted in the name and designation of the Electoral Registration Officer, the view was taken that it would be advantageous for the Electoral Registration Officer appointment to be made at the earliest opportunity to protect the Council legally, albeit that the risk of any challenge was considered to be minor.

- 4.4 Accordingly, using the urgency powers available under Part 3 of the Council's Constitution, the Executive Director: Resources, following consultation with (and with the support of) the Leader and Deputy Leader of the Council, took the decision to appoint the Chief Executive as the Council's Electoral Registration Officer. Any action taken using urgency powers must be reported to the next available meeting of the appropriate Committee or Council for information.
- 4.5 Unlike Returning Officers, Electoral Registration Officers are not entitled to appoint their own deputy or deputies; this duty falls to the Council. Any appointed deputy or deputies will have the same duties and responsibilities of the Electoral Registration Officer.
- 4.6 There is no restriction on the number of deputies that may be appointed. When considering who to appoint as a deputy, the Council needs to consider how to best maintain the independence of the role. For example, the deputy may need to conduct a hearing into a registration application, but care needs to be exercised that they do not do so where they have been personally involved - so, although there is much merit in the Electoral Services Manager (or equivalent) being appointed as a deputy, if they had been personally involved in the processing of the original application, they should not then oversee a registration hearing on that application.
- 4.7 It is therefore recommended that the holders of the following posts be appointed as Deputy Electoral Registration Officers to afford the Council increased flexibility:
- Executive Director: Resources
 - Director: Corporate Resources
 - Head of Service: Democratic and Electoral Services

5.0 CONSULTATION

- 5.1 The Leader and Deputy Leader were consulted in respect of the proposed urgent decision relating to the Electoral Registration Officer appointment.

6.0 ASSOCIATED RISKS

- 6.1 The recommendations in this report mitigate any risks associated with the statutory roles of Returning Officer and Electoral Registration Officer (and deputies as applicable).

7.0 MONITORING

- 7.1 The decisions to be taken by the Council will satisfy the legal requirements relating to the appointments to the statutory roles of Returning Officer and Electoral Registration Officer (including Deputy Electoral Registration Officers). The appointments will need to be reflected in the Council's Constitution. The appointments will be reviewed at the time of any changes to the posts involved, either in terms of structure or staff departures. Further reports will be presented to the Council as and when necessary.

8.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

- 8.1 None.

Background Papers: None

Contact Officer: Executive Director: Resources
01684 272005 simon.dix@tewkesbury.gov.uk

Appendices: None