

<b>Report of:</b>	Chief Executive
<b>Submitted to:</b>	Corporate Affairs and Audit Committee
<b>Date:</b>	16 March 2023
<b>Title:</b>	Appointment of Returning Officer and Electoral Registration Officer
<b>Report for:</b>	Decision
<b>Status:</b>	Public
<b>Strategic priority:</b>	Quality of service
<b>Key decision:</b>	No
<b>Why:</b>	Not applicable
<b>Urgent:</b>	Not applicable
<b>Why:</b>	Not applicable

**Executive summary**

The purpose of this report is to seek approval for the appointment of Charlotte Benjamin, Director of Legal and Governance Services, as the Returning Officer and the Electoral Registration Officer in accordance with the Representation of the People Act 1983.

Every Local authority must appoint a Returning Officer and an Electoral Registration Officer to be responsible for all local and national elections and referenda.

## **Purpose**

1. The purpose of this report is to seek the approval for the appointment of Charlotte Benjamin, Director of Legal and Governance Services as the Returning Officer and the Electoral Registration Officer in accordance with the Representation of the People Act 1983.

## **Background and relevant information**

2. Every district council in England is required by Section 35(1) of the Representation of the People Act 1983 Act to appoint an officer of the council to be the Returning Officer for elections of councillors of the county and every district council shall appoint an officer of the council to be the returning officer for the elections of councillors of the district and an officer of the council to be the returning officer for elections of councillors of parishes or communities within the district.
3. Section 8(2)(a) of the Act also requires the Council to appoint an officer to be the Electoral Registration Officer. The Electoral Registration Officer is responsible for the preparation and maintenance of the electoral register for any parliamentary constituency or part of a constituency within its area.
4. According to Section 24(1) (b) the returning Officer for Parliamentary Elections is Chair of the Council (John Hobson) who delegates authority for the management of the election to the Acting Returning Officer who is the Electoral Registration Officer.
5. According to Section 28(1) of the Act, only the Electoral Registration Officer may act as the (Acting) Returning Officer at Parliamentary elections, therefore It makes sense to ensure that one officer is appointed as both the roles and therefore responsible for all local and national elections and referenda.
6. Both of these roles are currently undertaken by the Chief Executive.
7. The Returning Officer is the person who has the overall responsibility for the conduct of elections. The Returning Officer is responsible for:
  - the nomination process for candidates and political parties
  - provision and notification of polling stations
  - appointment of Presiding Officers and polling clerks
  - appropriate administration and security of polling stations
  - preparation of all ballot papers
  - the actual 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.

8. It must be emphasised that these duties of the Returning Officer are separate from the officer's duties as a local government officer. The Returning Officer is personally liable for the conduct of the election, and only Council can designate an alternative Returning Officer to discharge these functions. This committee has delegated authority to consider and approve this appointment on behalf of the Council.
9. The Electoral Registration Officer is an official appointed by the Council to prepare and maintain the Register of Electors. If there were a legal challenge to any act of including or refusing to include somebody within the register of electors, it is the Electoral Registration Officer that would convene and conduct the hearing required by statute.
10. The legislative landscape with regard to electoral registration and the Management of elections has become increasingly complicated. Electoral Registration Officers and Returning Officers are now subject to monitoring by the Electoral Commission who have established appropriate performance standards.

#### **What decision(s) are being recommended?**

11. That the Committee appoints Charlotte Benjamin, Director of Legal and Governance Services as the Returning Officer and Electoral Registration Officer for the council.
12. Historically in Middlesbrough these roles sat with the Director of Legal & Democratic Services. The responsibility for the department dealing with elections falls under the remit of the Director of Legal and Governance Services and it is proposed that she now undertake these roles.
13. The Returning officer has the power to appoint deputies in the case of all elections.

#### **Rationale for the recommended decision(s)**

14. The efficient conduct of the electoral registration process and elections is one of the highest-profile functions that the Council undertakes. Any challenge to these processes could result in adverse publicity and legal sanction against the Returning Officer personally and the Council.
15. Therefore, the position of the Returning Officer and Electoral Registration Officer is usually undertaken by a senior officer of the Authority who has the ability to ensure that the appropriate resources and finances are available to ensure the efficient running of an election and remaining compliant with the Representation of the People Act 1983

#### **Other potential decisions and why these have not been recommended**

16. Not applicable.

#### **Impact(s) of recommended decision(s)**

#### **Legal**

17. Every district council in England is required by Section 35(1) of the Representation of the People Act 1983 Act to appoint an officer of the council to be the Returning Officer for elections of councillors of the county and every district council shall appoint an officer of the council to be the returning officer for the elections of councillors of the district and an officer of the council to be the returning officer for elections of councillors of parishes or communities within the district.
18. Section 8(2)(a) of the Act also requires the Council to appoint an officer to be the Electoral Registration Officer. The Electoral Registration Officer is responsible for the preparation and maintenance of the electoral register for any parliamentary constituency or part of a constituency within its area.

### **Strategic priorities and risks**

19. It is a statutory requirement for a local authority to appoint a Returning Officer and Electoral Registration Officer to be responsible for all local and national elections and referenda.

### **Human Rights, Equality and Data Protection**

20. There are no direct implications from this report on equality and diversity.

### **Financial**

21. There are no financial implications for the Council. The Returning Officer is paid on a scale fee basis as prescribed in legislation in respect of individual elections as and when they are held.
22. Provision is made in the Council's budget for the running costs associated with local government elections. Central government pays for UK Parliamentary and European Parliamentary elections (including national referendums).

### **Actions to be taken to implement the decision(s)**

23. Not applicable.

### **Appendices**

None.

### **Background papers**

Body	Report title	Date
NONE	N/A	N/A

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