

Report To:	COUNCIL
Date:	16 SEPTEMBER 2024
Heading:	APPOINTMENT OF ELECTORAL REGISTRATION OFFICER AND RETURNING OFFICER
Executive Lead Member:	NOT APPLICABLE
Ward/s:	NOT APPLICABLE
Key Decision:	NO
Subject to Call-In:	NO

Purpose of Report

Following interim arrangements put into place for the Parliamentary General Election 2024, this report seeks to appoint Ruth Dennis, Executive Director - Governance, as Electoral Registration Officer and Returning Officer and Theresa Hodgkinson, Chief Executive as Deputy Electoral Registration Officer.

Furthermore, to authorise nominated officers to act as Deputy Electoral Registration Officers for the purposes of signing Temporary Voter Authority Certificates.

Recommendation(s)

1. With effect from 16 September 2024 to appoint Ruth Dennis, Executive Director - Governance:
 - (a) As the Electoral Registration Officer (ERO) for the Council pursuant to Section 8(2)(a) of the Representation of the People Act 1983;
 - (b) As the Returning Officer (RO) pursuant to Section 35(1) of the Representation of the People Act 1983 with authority to act in that capacity for elections to the Council and all or any Parish Councils within the Council's administrative area; and
 - (c) To act in respect of all related electoral, poll or referendum duties, including elections to the County Council and for national and regional polls or referenda.

Recommendation(s)

2. With effect from 16 September 2024, to appoint Theresa Hodgkinson, Chief Executive, as Deputy Electoral Registration Officer pursuant to Section 52(2) of the 1983 Act.
3. To authorise the following to act as Deputy Electoral Registration Officers for the purpose of signing Temporary Voter Authority Certificates, in addition to the Statutory Electoral Registration Officer (Ruth Dennis) and Deputy Electoral Registration Officer (Theresa Hodgkinson).
 - Michael Joy, Assistant Director – Democracy
 - Ian Dobson, Electoral Services (AEA) Consultant
 - Carla Benedetti, Electoral Services Officer
 - Louise Ellis, Assistant Director – Legal
4. That, in relation to the duties of Returning Officer (RO), or any other electoral referendum or polling duties arising from such appointment, the Returning Officer (RO) shall:
 - (a) Be entitled to be remunerated in accordance with the scale of fees approved from time to time in respect of the District, Parish and Nottinghamshire County Council for local elections; and
 - (b) Be entitled to be remunerated in accordance with the relevant scale of fees prescribed by a Fees Order in respect of national or regional elections, polls or referenda; and
 - (c) In all cases where it is a legal requirement or normal practice to do so, fees paid to the Returning Officer (RO) shall be superannuable and the Council 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.
5. 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 Council is entitled by law to do so, the Council shall take out, and maintain in force, insurance indemnifying the Council and the Returning Officer (RO) against:
 - (a) legal expenses reasonably incurred in connection with the defence of any proceedings brought against the Council, or the Returning Officer (RO); and/or
 - (b) 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 (RO), or any other person employed by, or officially acting for her in connection with the election or poll).

Also, that, in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the Council, through its internal insurance fund or otherwise, will indemnify the Returning Officer (RO) up to the value of such excess.

Reasons for Recommendation(s)

The Council is required by legislation to appoint an Officer of the Council to be the ERO and RO in accordance with statutory requirements.

Alternative Options Considered

Members may suggest an alternative Officer for the appointment.

Detailed Information

ERO/RO APPOINTMENT

Statutory Requirements

Section 8(2)(a) of the Representation of the People Act 1983 (the 1983 Act) requires that every district council should appoint an officer of the Council to be the Electoral Registration Officer (ERO) for its district. In accordance with Section 52(2) of the 1983 Act, a Deputy ERO may be appointed by the Council. The ERO may appoint officers to assist him/her.

Section 35(1) of the 1983 Act requires that every district council should appoint an officer of the Council to be the Returning Officer (RO) for the elections of councillors of the district and councillors of the parishes within the district. In accordance with Section 35(4) a Deputy RO may be appointed by the RO.

For Parliamentary Constituency elections, the Sheriff of the County is designated by statute/order as the RO. However, these duties are discharged by an Acting Returning Officer (ARO) as prescribed by Section 28 of the Representation of the People Act 1983. This provides that the ARO duties should be carried out by the ERO appointed by the Council. The ARO is given all powers, obligations, rights and liabilities of the RO together with the power to appoint deputies.

The County Council is responsible for appointing a RO for County elections and that Authority will appoint Deputy Returning Officers to act in each district.

The duties of an ERO/RO/ARO/LRO are separate from his/her duties as a local government officer. The officer is personally liable for the Electoral Register and the conduct of elections. The ERO/RO/ARO acts independently of the Council and is only accountable to the courts. The Council does not provide direction or exercise control whilst the officer is undertaking these duties. For this reason, the RO/ARO will carry his/her own insurance. The Council's insurance policies indemnify the RO/ARO against legal expenses reasonably incurred in connection with the defence of any proceedings, brought against the RO/ARO and for the costs of holding another election in the event of the original election being declared invalid. In relevant elections, the Secretary of State may indemnify the officer. Where a policy carries an excess, it is common practice, for the avoidance of doubt, for the Council to pass a formal resolution to indemnify the RO/ARO up to the value of the excess. Fees and Expenditure for local government elections (District and Parish) are determined by an amalgamation of local authorities within Nottinghamshire to ensure consistency. The District Council is responsible for paying the RO fees and expenditure for local government elections. The ARO/LRO is entitled to reasonable charges for specified services and expenses as laid down by the Secretary of State. For Parliamentary and national elections the Secretary of State is responsible for meeting election expenditure and fees are set by Order. All fees payable to the RO are superannuable.

Interim arrangements were put in place in 2024 to cover the Parliamentary General Election, with Theresa Hodgkinson serving as Returning Officer / Electoral Registration Officer. This appointment will now be served, subject to Council approval, by Ruth Dennis, Executive Director - Governance with Theresa Hodgkinson taking on the role as Deputy Electoral Registration Officer.

It is good practice to appoint a Deputy ERO to act in the absence / incapacity of the ERO, as such it is recommended that Theresa Hodgkinson, Chief Executive, is appointed to act as Deputy ERO.

Temporary Voter Authority Certificates

Where a permanent Voter Authority Certificate has been issued (printed centrally by MHCLG) between 5pm 6 working days before an election and 5pm on the day of the election and the ERO is satisfied that it may not be delivered to an applicant in time to be used on polling day a temporary Voter Authority Certificate may also be produced and issued locally, up until the close of poll on the date of the relevant poll.

The ERO's signature can be provided by a deputy and should be a wet ink signature. It would not be advisable for the ERO to be the only officer authorised to sign Temporary Voter Authority Certificates as this would not be workable in the event of large numbers of applications being received in a short space of time which need processing without delay.

For future elections, Ruth Dennis, subject to Council approval, will be authorised to sign Temporary Voter Authority Certificates as ERO.

It is recommended that the following Officers act as Deputy Electoral Registration Officers for the purposes of signing Temporary Voter Authority Certificates:

- Theresa Hodgkinson, Chief Executive
- Michael Joy, Assistant Director – Democracy
- Ian Dobson, Electoral Services (AEA) Consultant (for elections held during the term of his appointment)
- Carla Benedetti, Electoral Services Officer
- Louise Ellis, Assistant Director – Legal

Implications

The management and delivery of lawful elections and the publication of the Register of Electors is outside the remit of the Corporate Plan.

Corporate Plan:

There are no direct Corporate Plan implications resulting from the recommendations within this report.

Legal:

It is a statutory requirement for the Council to appoint an Electoral Registration Officer and a Returning Officer. Legal issues are contained within the report. [RLD 12/09/2024]

Finance:

The proposed change has no impact on existing budgets. Fees will be met by the relevant bodies identified in the report. The Returning Officer is responsible for making appropriate arrangements for tax and superannuation obligations. [PH 11/09/24]

Budget Area	Implication
General Fund – Revenue Budget	Not Applicable
General Fund – Capital Programme	
Housing Revenue Account – Revenue Budget	
Housing Revenue Account – Capital Programme	

Risk:

Risk	Mitigation
<p>Interim arrangements were put into place to cover the Parliamentary General Election. In accordance with Section 8(2)(a) of the Representation of the People Act 1983, every district council should appoint an officer of the Council to be the Electoral Registration Officer (ERO) for its district. Section 35(1) of the 1983 Act requires that every district council should appoint an officer of the Council to be the Returning Officer (RO) for the elections of councillors of the district and councillors of the parishes within the district. In accordance with Section 35(4) a Deputy RO may be appointed by the RO.</p> <p>There is also continued uncertainty regarding the number of Voter Authority Certificates/Temporary Voter Authority Certificates the Council will be required to assist with and process in advance of future</p>	<p>To appoint an Electoral Registration Officer and Returning Officer for the District for future elections.</p> <p>Planning is in place to ensure resources are available. The recommendation to authorise additional signatories to Temporary Voter Authority Certificates will contribute to ensuring the Council is able to process large numbers in a short period of time.</p>

elections. In the event of a large number of applications, particularly for temporary certificates, in a short period of time, there will be pressure on the small team to process these.	
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Human Resources:

There are no contractual changes arising from the proposed appointments.

Environmental/Sustainability:

There are no direct environmental/sustainability implications resulting from the recommendations within this report.

Equalities:

There are no direct equalities implications resulting from the recommendations within this report.

Other Implications:

There are no other implications resulting from the recommendations within this report.

Reason(s) for Urgency

None

Reason(s) for Exemption

None

Background Papers

None

Report Author and Contact Officer

Michael Joy
ASSISTANT DIRECTOR - DEMOCRACY

michael.joy@ashfield.gov.uk

01623 457232

Sponsoring Executive Director

Ruth Dennis

EXECUTIVE DIRECTOR - GOVERNANCE

ruth.dennis@ashfield.gov.uk

01623 457009