

# Council



Report of Deputy Chief Executive – Transformation and Operations

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To: VALE COUNCIL

To: SOUTH COUNCIL

DATE: 14 July 2021

DATE: 15 July 2021

## **Appointment of the council's monitoring officer, interim monitoring officer, electoral registration officer and returning officer**

## Recommendations

That Council

- (a) appoints Catherine Whitehead as the council's monitoring officer with effect from her taking up her role as the councils' head of legal and democratic;
- (b) appoints Steven Corrigan, Democratic Services Manager, as the council's monitoring officer, on an interim basis, with effect from 16 July 2021 until Catherine Whitehead becomes monitoring officer when she takes up her role;
- (c) in terms of the Representation of the People Act 1983 and all related legislation, appoints Mark Stone as the council's electoral registration officer with effect from 16 July 2021 and agrees to continue the designation of Steven Corrigan as deputy electoral registration officer;
- (d) that in terms of section 35 of the Representation of the People Act 1983 and all related legislation appoints Mark Stone as the council's returning officer with effect from 16 July 2021, with authority to act in that capacity for elections to the council and all or any parish and town councils within the council's area;
- (e) authorises the council's electoral registration officer to act in respect of all related electoral, poll or referendum duties, including in relation to county council elections, and national, regional and local polls or referendums;
- (f) agrees 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 against legal expenses reasonably incurred in connection with the defence of any proceedings brought against the council 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) agrees that in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the council will indemnify the returning officer up to the value of such excess.
- (h) authorises the monitoring officer to make any consequential changes required to the Constitution to reflect these changes.

## Purpose of report

1. This report recommends Council to appoint a monitoring officer, an interim monitoring officer, an electoral registration and a returning officer.

## Corporate objectives

2. This report relates to the discharge of statutory responsibilities which contribute to all the corporate objectives of the two councils.

## **Background**

3. As recognised at the recent Joint Staff Committee meeting, both councils need to appoint a new monitoring officer, electoral registration officer and returning officer to come into effect immediately in anticipation of the retirement of the councils' current holder of these appointments.

## **Appointment of monitoring officer**

4. Under section 5 of the Local Government and Housing Act 1989, Council is required to appoint one of its officers as its monitoring officer. The monitoring officer is a shared role and the postholder works across both councils. The role of the monitoring officer includes such responsibilities as ensuring the lawfulness and fairness of the council's decision making; promoting and maintaining high standards of conduct; reporting to Council on any instances of maladministration; and reviewing the councils' Constitution on an ongoing basis.
5. Following a recruitment process, the Joint Staff Committee at its meeting on 10 June 2021 agreed to appoint Catherine Whitehead as the new head of legal and democratic. As required by the councils' officer employment procedure rules and the Local Authorities (Standing Orders) (England) Regulations 2001, all members of the cabinets were informed of the decision to appoint and given an opportunity to raise any objections. No objections were raised.
6. The job role for the head of legal and democratic includes, subject to full Council approval, the statutory function of monitoring officer for both councils. The Joint Staff Committee agreed to recommend Vale Council on 14 July 2021 and South Council on 15 July 2021 to appoint the successful candidate as the councils' monitoring officer.
7. It is therefore recommended that Council formally appoints Catherine Whitehead as monitoring officer with effect from her taking up her role as the councils' head of legal and democratic. Catherine has extensive experience across local government, including previously as a monitoring officer and was appointed after an extensive recruitment search and competitive interview process led by the Joint Staff Committee.
8. It is anticipated that Catherine will take up her role in mid-late September. Council therefore needs to appoint an interim monitoring officer until then. Council is recommended to appoint Steven Corrigan, Democratic Services Manager, as the council's monitoring officer, on an interim basis, with effect from 16 July 2021 until Catherine Whitehead becomes monitoring officer when she takes up her role. Steven has acted as a deputy monitoring officer for many years and has agreed to take on this interim role.

## **Appointment of electoral registration and returning officer**

9. 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.

10. 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.
11. 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. In 2017, the councils appointed Steven Corrigan as the deputy electoral registration officer and it is recommended that he continues in this role.
12. 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.
13. 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.
14. 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.
15. 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.
16. The roles of electoral registration officer and returning officer are currently held by the head of legal and democratic in each council but the most common (but not universal) practice across the country is for the roles to be held by the chief executive. 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 and the reliance on the same staffing resources from an operational perspective.
17. Like most chief executives, Mark Stone has worked closely with electoral registration and election teams throughout his career and has undertaken various roles within the administration of elections. Within a South and Vale context, during the electoral period, he is involved in many aspects of the elections due to his role as Chief Executive and the extensive reliance placed on the goodwill and willingness of council staff in their delivery. He has supported the current postholder in their duties, including during elections counts and has engaged with and spoken to relevant electoral agents and candidates on their behalf.

18. Council is asked to appoint Mark Stone as the council's electoral registration officer with effect from 16 July 2021 and to agree that Steven Corrigan, Democratic Services Manager, continues to be the council's deputy electoral registration officer.
19. Council is also asked to appoint Mark Stone as the council's returning officer with effect from 16 July 2021. The appointments of any deputy returning officers are made by the returning officer and not a matter for Council.
20. Council is asked to note that given his role as Chief Executive, Mark Stone does not intend to receive the normal additional payments for these responsibilities and instead would wish that the sums that are normally payable to the postholder continue to be shared with deputy returning officers and/or are used to support the costs of additional staff and workloads across the councils in supporting this role.

### **Climate and ecological impact implications**

21. There are no direct climate and ecological impact implications arising from this report.

### **Financial Implications**

22. 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 2023. There are statutory fee scales for national elections and referendums.
23. The council holds 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 council's contingency budget. The recommendations cover the personal liability and insurance position

### **Legal Implications**

24. Appointing a permanent and interim monitoring officer will fulfil the councils' duty under section 5 of the Local Government and Housing Act 1989.
25. Appointing an electoral registration officer and a returning officer will fulfil the councils' duties under sections 8 and 35 of the Representation of the People Act 1983.
26. 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**

27. The council has a statutory duty to appoint a monitoring officer, an electoral registration officer and a returning officer. Making the appointments suggested in this report, including the interim appointment, will ensure that the council meets these duties throughout. The Electoral Commission will be informed of the change in the council's electoral registration and returning officer.

## **Conclusion**

28. This report asks Council to appoint a new monitoring officer, an interim monitoring officer, a new electoral registration officer, to continue the appointment of the current deputy electoral registration officer and to appoint a new returning officer. It also asks Council to agree the insurance and indemnity arrangements

## **Background Papers**

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