

Council



Report of Head of Corporate Services
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To: VALE COUNCIL
DATE: 17 July 2024

To: SOUTH COUNCIL
DATE: 17 July 2024

Statutory Officer Appointments: Monitoring Officer, Electoral Registration Officer, and Returning Officer

Recommendations

That Council

- (a) considers the recommendation of the Joint Staff Committee's (JSC), and if in agreement, appoints the recommended candidate as the councils' Monitoring Officer for both councils with effect from them commencing their role as the councils' Head of Legal and Democratic services (NB a verbal update of the recommended; candidate will be given at the meeting due to interview process timescales),
- (b) in terms of the Representation of the People Act 1983 and all related legislation, appoints Steven Corrigan as the council's Electoral Registration Officer with immediate effect and to designate Susan Baker as Deputy Electoral Registration Officer,
- (c) that in terms of section 35 of the Representation of the People Act 1983 and all related legislation appoints Steven Corrigan as the council's Returning Officer with immediate effect, 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,
- (d) 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, national, regional, and local polls, or referenda,
- (e) authorises the Monitoring Officer (currently an interim arrangement) to make any consequential changes required to the Constitution to reflect these changes.

Purpose of report

1. This report asks Council to consider the recommendation of the Joint Staffing Committee (JSC), and if satisfied, to appoint a Monitoring Officer (MO) for both the councils. Council is also asked to approve the appointments of an Electoral Registration Officer (ERO) and a Returning Officer (RO).

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 JSC meeting, and following an extensive recruitment exercise, both councils need to appoint a new MO. Details of the preferred candidate will be given at this meeting.
4. This report also provides revisions to the councils' nominated Electoral Registrations Officer and Returning Officer, which are planned to come into effect with immediate effect.

Appointment of the Monitoring Officer

5. Under section 5 of the Local Government and Housing Act 1989, Council is required to appoint one of its officers as its MO. The MO is a shared role and the postholder works across both councils (South and Vale). The role of the MO includes such responsibilities as ensuring the lawfulness and fairness of the councils' 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.
6. Following an extensive recruitment process, the JSC will at its meeting on 16 July 2024 be invited to appoint a new Head of Legal and Democratic Services (NB the recommended candidate's name will be provided verbally at the Council meetings). As required by the councils' officer employment procedure rules and the Local Authorities (Standing Orders) (England) Regulations 2001, all members of the cabinets will be informed of the decision to appoint and given an opportunity to raise any objections.
7. The job role for the Head of Legal and Democratic Services includes, subject to Council approval, the statutory function of MO for both councils. The JSC will be invited to recommend to Vale Council on 17 July 2024 and South Council on 17 July 2024 to appoint the successful candidate as the councils' MO.
8. It is therefore recommended that Council formally appoints JSC's preferred candidate as the councils' MO with effect from them taking up their role as the councils' Head of Legal and Democratic Services.
9. It is anticipated they will assume their role in mid-late October. Vivien Williams, Deputy Head of Legal (Governance), will continue as the councils' MO, on an interim basis, until the recommended candidate takes up their role at which point, subject to Council approval they will become the substantive Monitoring Officer replacing the interim arrangements that are currently in place.

10. The remuneration for the successful candidate will be as per the Councils' agreed pay policy statement which is approved annually by council and reflects the ongoing collective bargaining agreement between the council and Unison.

Appointment of Electoral Registration Officer and Returning Officer

11. 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 (ERO). Section 8 of the Representation of the People Act 1983 requires every district council to appoint an officer of the council to be the ERO.
12. The ERO has a duty to maintain registers of electors that contain the details of all those who are registered to vote. The ERO 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.
13. Council can approve the appointment of one or more deputy EROs. Unlike a Returning Officer (RO), the ERO cannot appoint a deputy themselves, unless the power to do so has been delegated to them by Council. It is therefore recommended that Susan Baker is re-confirmed as the Deputy ERO.
14. Section 35 of the Representation of the People Act 1983 requires every district council to appoint a RO 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.
15. The RO 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.
16. The duties of a RO are separate from the duties held by that individual as a local government officer. A RO 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.
17. ROs 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.
18. The roles of ERO and RO are currently held by the Chief Executive which is the most common (but not universal) practice across the country as is confirmed in the councils' current Pay Policy. Although the law allows a council to appoint different people to the roles of ERO and RO, 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.

Like most chief executives, Mark Stone has worked closely with electoral registration and election teams throughout his career and has undertaken **Page 5**

various roles within the administration of elections including as ERO and RO. Within a South and Vale context, during the electoral period, he participates in many aspects of the elections due to his role as Chief Executive and this will continue. The recommendation is to maintain the separation of the roles of MO and ERO and RO to enable a degree of independence when both post holders are requested to provide advice on elections or in relation to council functions.

19. Steven Corrigan the Democratic Services Manager has supported the Chief Executive in their capacity as ERO and RO during several recent elections, including during elections counts dealing with electoral agents and candidates on their behalf and meetings with neighbouring authorities. Therefore, it is recommended that Steven Corrigan is appointed as the Council's ERO and RO with immediate effect. These changes will therefore regularise these existing electoral arrangements and in turn give the new ERO and RO the relevant authority to act independently. Council is invited to appoint Susan Baker, Electoral Services Team Leader, as Deputy Electoral Registration Officer.
20. Steven Corrigan has extensive experience and is the Chief Executive's recommended appointment for both the Electoral Registration Officer and Returning Officer.
21. In separating the roles officers believe this will make clearer the Chief Executive's ability to allocate staff to work on election activities (or indeed any other activities) via the delegations afforded to them as the Councils Head of Paid Service and will help prevent any confusion regarding the legislative basis that staff are being allocated to tasks under.
22. The appointments of any deputy returning officers are made by the RO and are not therefore a matter for Council.
23. These arrangements will be kept under review in the future should the need of the councils change and/or there are changes in personnel.

Climate and ecological impact implications

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

Financial Implications

25. The post of Head of Legal and Democratic is contained within the staffing budgets of the councils.
26. Both councils have agreed scales of fees and charges for local elections, referenda, and polls and these were reviewed before the council elections in 2023. There are statutory fee scales for national elections and referendums. National elections are funded from central government grant and costs associated with the designated RO post are met from this grant.
27. Full Council has previously agreed to indemnify the RO for any insurance 'excess' and it is proposed that this situation continues. This would be met from the council's contingency budget. This arrangement would cover the personal liability and insurance position.

Legal Implications

28. Appointing a permanent MO will fulfil the councils' duty under section 5 of the Local Government and Housing Act 1989.
29. Appointing an ERO and a RO will fulfil the councils' duties under sections 8 and 35 of the Representation of the People Act 1983.
30. Each year the councils are required to approve a Pay Policy statement in accordance with the Localism Act 2011. If agreed, the appointment of a new RO, will amend the councils' Pay Policy agreed in February 2024, and in particular paragraph 18 which noted that the Chief Executive was the councils' designated RO and had waived their right to additional payment for that activity. This amendment will be reflected in the next Pay Policy Statement.
31. The councils have power to agree to indemnify the RO up to the value of any excess on their insurance for elections, polls, and referendums.

Risks

32. The council has a statutory duty to appoint a Monitoring Officer, an Electoral Registrations Officer, and a Returning Officer. Making the appointments suggested in this report, including the ongoing interim arrangements, will ensure that the council meets these duties throughout whilst mitigating the associated risks of one or two officers holding multiple key roles. The Electoral Commission will be informed of the change in the council's Electoral Registrations Officer and a Returning Officer.

Conclusion

33. This report asks Council to appoint a new Monitoring Officer following the recommendations from the JSC, it is also proposed that the interim arrangements to cover the MO will continue until the new post holder is in post.
34. The report also recommends the appointment of Steven Corrigan as ERO and RO, and the appointment of Susan Baker as Deputy. It also asks Council to agree to continue the existing insurance and indemnity arrangements for these roles.