

# Council

## Appointment of Electoral Registration Officer and Returning Officer

8 December 2010

## Report of Chief Executive and Head of Legal and Democratic Services

### PURPOSE OF REPORT

To appoint an Electoral Registration Officer and Returning Officer

This report is public

### Recommendations

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Council is recommended:

- (1) That, in terms of the Representation of the People Act 1983 and all related legislation, and with effect from 1 January 2011, Karen Curtin be appointed as Electoral Registration Officer for the Council until 30 June 2011;
- (2) That, in terms of section 41 of the Local Government Act 1972 and all related legislation, and with effect from 1 January 2011, Karen Curtin be appointed as Returning Officer for the Council, with authority to act in that capacity for elections to the Council and all or any parish and town councils within the Council area until 30 June 2011;
- (3) That the Electoral Registration Officer for the Council be also appointed or authorised to act in respect of all related electoral, poll or referendum duties, including in relation to County Council elections, elections to the European Parliament, and for national and regional polls or referendums;
- (4) That, in relation to the duties of Returning Officer or any other electoral, referendum or polling duties arising from such appointment, the Returning Officer shall be entitled to be remunerated in accordance with scale of fees approved from time to time by Council for local elections, or the relevant scale of fees prescribed by a Fees Order in respect of national, regional or European Parliament elections, polls or referendums;
- (5) That in all cases where it is a legal requirement or normal practice to do so, the Returning Officer may elect for such fees to 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;

- (6) 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, the Electoral Registration Officer and the Returning Officer against legal expenses reasonably incurred in connection with the defence of any proceedings brought against the Council, Electoral Registration Officer 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); and
- (7) 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 Electoral Registration Officer and Returning Officer up to the value of such excess.
- (8) That Council notes its duties to provide support to the Electoral Registration Officer and Returning Officer

## **Executive Summary**

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### **Introduction**

- 1.1 The Council has a statutory responsibility to appoint a Returning Officer and Electoral Registration Officer. The current appointee is Mary Harpley, who is leaving the Council to take up her new job as Chief Executive, London Borough of Hounslow. It is appropriate for the new appointments to be made with effect from 1 January 2011.
- 1.2 The positions of Returning Officer and Electoral Registration Officer are a personal responsibility on the officer concerned. In other words, the appointments are separate from appointment as an Officer of the Council. In carrying out each role the Officer concerned is accountable to his or her statutory responsibility, not to the Council that is their main employer. For that reason, the provisions in the resolution need to be more explicit than would be the case with ordinary appointments.
- 1.3 It should be noted that whilst these are separate appointments the council has a duty to provide support to the appointee as set out below:

### **Assistance for Electoral Registration Officers**

In England a district council or London borough council is required to assign such officers to assist the registration officer (ERO) as may be required for carrying out his functions under the 1983 Act (section 52(4) of the 1983 Act, as substituted by Schedule 4 to the 1985 Act).

### **Assistance for Returning Officers**

Section 28(5) of the 1983 Act (as amended by paragraph 6(b) of Schedule 4 to the Act of 1985 and Schedule 16 to the 1994 Act) requires district councils and London borough councils in England to assign officers of the council to assist the RO/ARO in carrying out all or any of his duties at an election.

### **Proposals**

- 1.4 The posts of Returning Officer and Electoral Registration Officer have been held by the Chief Executive, Mary Harpley since January 2007, which is the arrangement at the majority of local authorities. From January 2011 this Council will have an interim Chief Executive, pending the appointment of a Chief Executive to be shared with South Northamptonshire (both decisions being considered elsewhere on this agenda). We also need to take into account the fact that the Head of Legal and Democratic Services, Liz Howlett, will be leaving the Council at the end of March 2011.
- 1.5 In consultation with the Leader of the Council and the proposed interim Chief Executive, the current Chief Executive has approached Karen Curtin and asked her to take up these positions for the next six months until the 30 June 2011. The Job Description for the new shared Chief Executive with South Northamptonshire positions the new shared Chief Executive as the Electoral Registration Officer and Returning Officer for both Councils and both Councils will need to make these appointments at the appropriate time.
- 1.6 Karen Curtin has been involved in the delivery of previous elections at Cherwell District Council and led all the preparation for the parliamentary, district and parish counts last year and was responsible for running all these events last year. What is more, all elections run by this Council are now delivered on a corporate basis by an elections project board and it is felt that Karen Curtin's experience in corporate working will be an asset in continuing to deliver elections in this way. The current Chief Executive is sure that Karen Curtin is more than capable of taking on this role and will give it the attention and care it needs to run the district and parish elections scheduled for 5 May 2011, alongside the alternative vote referendum. Karen Curtin will attend the same course for new Returning Officers which the current Chief Executive did before acting as Returning Officer for the first time.

### **Conclusion**

- 1.7 It is believed that the recommendations set out above provide a pragmatic solution for the Council, which will help to ensure that elections and electoral registration for 2011 are delivered consistently and to a high standard.

### **Key Issues for Consideration/Reasons for Decision and Options**

The following options have been identified. The approach in the recommendations is believed to be the best way forward

**Option One** To make an alternative appointment as Returning Officer and Electoral Registration Officer from either the staff of the Council or from outside the Council

## **Implications**

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**Financial:** The election fees for the Returning Officer are met from existing council budgets and external government grant.  
Comments checked by Karen Muir, Corporate Systems Accountant 01295 221559

**Legal:** It is a legal requirement that the council appoints a Returning Officer and Electoral Registration Officer. The recommendations set out in this report meet this requirement.  
Comments checked by Liz Howlett, Head of Legal and Democratic Services 01295 221686

**Risk Management:** The principal risks associated with these appointments fall on the Officer who holds them. The risks to the Council are that without making adequate provision to remunerate, train and indemnify that Officer it may fail to identify a person prepared to undertake these statutory tasks or, having made such an appointment, run the reputational risk associated with a successful legal challenge that exposes the Officer to significant financial loss as a result of a failure of the Council to do what is lawful and appropriate.  
Comments checked by Rosemary Watts, Risk and Insurance Manager 01295 221566

## **Wards Affected**

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All

## **Document Information**

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<b>Appendix No</b>	<b>Title</b>
	None
<b>Background Papers</b>	
None	
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