

# Council

## Appointment of Electoral Registration Officer and Returning Officer

18 May 2011

### Report of Interim Head of Legal and Democratic Services

#### PURPOSE OF REPORT

To appoint an Electoral Registration Officer and Returning Officer

This report is public
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#### 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 June 2011, Sue Smith be appointed as Electoral Registration Officer for Cherwell District and South Northamptonshire Councils;
- (2) That, in terms of section 41 of the Local Government Act 1972 and all related legislation, and with effect from 1 June 2011, Sue Smith be appointed as Returning Officer for Cherwell District and South Northamptonshire Councils with authority to act in that capacity for elections to the Council and all parish and town councils within the area of both councils;
- (3) That the Electoral Registration Officer 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 Councils are entitled by law to do so, they shall take out and maintain in force insurance indemnifying the Councils, the Electoral Registration Officer and the Returning Officer against legal expenses reasonably incurred in connection with the defence of any proceedings brought against the Councils, 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, (provided that, in the case of the Officer such proceedings or invalidation arise from an act or omission which the Electoral Registration Officer or Returning Officer reasonably believes is within the Officer's powers); and
- (7) That, in the event of such insurance carrying an 'excess' clause by which an initial portion of risk is not insured, the Councils, through their internal insurance fund or otherwise, will indemnify the Electoral Registration Officer and Returning Officer up to the value of such excess.
- (8) That the Councils note their duty to provide support to the Electoral Registration Officer and Returning Officer

## **Details**

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- 1.1 Both Cherwell District and South Northamptonshire Councils have a statutory responsibility to appoint a Returning Officer and Electoral Registration Officer.
- 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 Councils. In carrying out each role the Officer concerned is accountable to his or her statutory responsibility, not to the Councils that are 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 councils have 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.

- 1.4 At its meeting on 20 April 2011 South Northamptonshire Council considered

and approved a similar set of recommendations to those set out above.

## **Conclusion**

- 1.5 In accordance with the Shared Chief Executives job description (agreed as part of the business case) the responsibilities as Electoral Registration Officer and Returning Officer have been assigned to the Shared Chief Executive. As an experienced Returning Officer and Electoral Registration Officer, the appointment of Sue Smith will help to ensure that elections and electoral registration are delivered consistently and to a high standard.

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

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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 councils appoint a Returning Officer and Electoral Registration Officer. The recommendations set out in this report meet this requirement.

Comments checked by Kevin Lane, Interim 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 Councils 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 Councils to do what is lawful and appropriate.

Comments checked by Claire Taylor, Community and Corporate Planning Manager, 01295 221563

**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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