

Report Title:	Constitutional Amendments – Designation of Polling Places
Contains Confidential or Exempt Information	No - Part I
Lead Member:	Councillor Johnson, Leader of the Council
Meeting and Date:	Extraordinary Full Council - 2 March 2021
Responsible Officer(s):	Emma Duncan, Deputy Director of Law and Strategy & Monitoring Officer / David Scott, Returning Officer
Wards affected:	All

REPORT SUMMARY

Changes to delegations to officers require amendments to the council constitution; the power to make such changes resides with full Council.

Members are therefore asked to delegate authority to enable the Returning Officer to re-designate new Polling Places where such becomes unavailable or unsuitable before an election.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That full Council notes the report and:

- i) Approves amendments to the constitution detailed in Appendix A.**
- ii) Delegates authority to the Monitoring Officer to update as appropriate and publish the council constitution.**

2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option	Comments
Approve the changes to the constitution detailed in Appendix A This is the recommended option	The delegation will allow the council to fulfil its statutory duty to run the elections scheduled for 6 May 2021. The updated constitution will promote best practice and confidence in decision making.
Modify the changes proposed in Appendix A and approve modified changes.	Members may wish to propose and consider amendments to the recommended changes, however any amendments would need to ensure that the council's ability to

Option	Comments
	fulfil its statutory duty to run the elections scheduled for 6 May 2021 was not affected.
Do not approve the changes detailed in Appendix A	The council will not be able to fulfil its statutory duty to run the elections scheduled for 6 May 2021.

- 2.1 The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations were made on 7 April 2020. The effect of these regulations delayed the Police and Crime Commissioner elections due to take place on 7 May 2020 to 6 May 2021.
- 2.2 In addition to delaying the delivery of the scheduled Police and Crime Commissioner elections, the Regulations also postponed any other polls (by-elections for Borough and Parish casual vacancies and local referendums, including neighbourhood plans) due to take place between 15 March 2020 and 5 May 2021 to 6 May 2021.
- 2.3 Unless further legislation is introduced to delay elections to a later date, the Royal Borough will be required to hold the following elections on 6 May 2021:
- Police and Crime Commissioner
 - Windsor Neighbourhood Plan referendum
 - Parish by-elections; Eton Town Council and Cookham Parish Council. Additional parish by-elections may be called before May and the number may increase
- 2.4 The power to designate polling districts and polling places lies with the Council. Polling Stations are designated by the Returning Officer. The Royal Borough's Polling Places are designated as specific buildings, which is the practice recommended by the Electoral Commission, although the legislation does allow Polling Places to be designated loosely as the Polling District. The Royal Borough's Polling Stations, designated by the Returning Officer, are the same as the designated Polling Place.
- 2.5 The Returning Officer and his team have been reviewing and amending plans for the management of the elections in light of the ongoing COVID-19 pandemic. One of the actions has been to write to all designated Polling Places to ask them to confirm the venue is available to host a COVID-safe polling station on 6 May 2021. At the time of writing, four privately-owned polling venues and two schools have indicated that due to the ongoing pandemic, they do not believe that their venues can be used as a Polling Station on 6 May 2021.
- 2.6 The Department of Education has advised against the use of schools where possible, where it requires the school to be shut to pupils to avoid further disruption to education. Whilst the Returning Officer reserves the right to commandeer the use of schools as polling stations every Polling Place that is a school is being reviewed to minimise disruption.

2.7 Whilst the Returning Officer is working with all venues to negotiate a safe voting environment for May, there may also be a need to identify a number of alternative Polling Places for venues that are privately owned:

- Mill House Family Centre, Riverside Ward (MRS2). The property is due to be sold before May 2021.
- Ascot District Day Centre (WAS3) Ascot and Sunninghill Ward
- Kipling Court (WCE2) Clewer East Ward
- Windsor Gospel Hall (WCDW3) Clewer and Dedworth West Ward

2.8 Regulation 10 of the Police and Crime Commissioner Elections Order 2012 states that the same polling districts and polling places must be used as those designated for the purposes of UK Parliamentary elections.

2.9 Officers are working to identify alternative Polling Places where required but the timescales involved mean it will not be possible to seek full Council approval for each alternative Polling Place before the relevant deadlines in advance of 6 May 2021. It is therefore proposed to amend the scheme of delegation in the constitution to delegate authority to the Returning Officer to make changes to the scheme outside of the Polling District Review process. It is considered a sensible plan for business continuity purposes to have such a delegation in place to enable the Returning Officer to deal with urgent changes that may arise in any elections, and as such it is proposed this delegation will remain beyond May 2021 to provide a suitable contingency in the event of urgent needs for future elections.

2.10 Although the delegation would remain available for use in future elections, any changes to Polling Places for the May 2021 elections would be temporary. All Polling Places currently in the designated polling scheme (as agreed at full Council in January 2019) would remain and be used for all future elections after 6 May 2021.

3. KEY IMPLICATIONS

3.1

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Updated Constitution	Amendments not approved	Amendments approved and updated constitution published	n/a	n/a	March 2021
Polling Places established for May 2021 elections	Alternative Polling Places not identified where needed	Alternative Polling Places identified where needed	n/a	n/a	March 2021 (in advance of elections)

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
					6 May 2021)

4. FINANCIAL DETAILS / VALUE FOR MONEY

4.1 There are no direct financial implications by virtue of the recommendations in the report.

5. LEGAL IMPLICATIONS

5.1 The Constitution must be in compliance with the terms of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007, Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2011 and any other relevant statutory acts or guidance.

5.2 The Police and Crime Commissioner Elections Order 2012 sets out the requirements for determining Polling Places.

5.3 A Returning Officer has the right by law (Para 22, Part 3, Schedule 1 of the Representation of the People Act 1983) to use a room within a school (which is maintained or assisted by the Local Authority) as a polling station. Therefore, where there is no alternative venue, it would be for the headteacher then to determine whether or not the school can remain open for pupils.

6. RISK MANAGEMENT

6.1

Table 3: Impact of risk and mitigation

Risk	Level of uncontrolled risk	Controls	Level of controlled risk
There is a risk of challenge if the constitution is not updated to reflect legal requirements and promote best practice.	Medium	Constitution is regularly reviewed and updated.	Low
Failure to identify suitable Polling Places affects the running of the May 2021 elections	High	Delegated authority to the Returning Officer to determine alternative Polling Places	Low

7. POTENTIAL IMPACTS

7.1 Equalities. Equalities: An EQIA screening form has been completed and published to the [council website](#).

7.2 Climate change/sustainability. None identified.

7.3 Data Protection/GDPR. None identified.

8. CONSULTATION

8.1 Guidance issued by the electoral commission sets out factors to be considered when reviewing Polling Places. Section 8 gives specific guidance on changes to polling places due to unavailability.

8.2 When exercising the delegation, the Returning Officer would take into consideration the views of relevant Ward Councillors on the suitability of alternative polling stations.

9. TIMETABLE FOR IMPLEMENTATION

9.1 The full implementation stages are set out in table 4.

Table 4: Implementation timetable

Date	Details
2 March 2021	Full Council consider proposed amendments
March 2021	Updated constitution published to the council website
March 2021 onwards	Returning Officer to determine polling places for elections to be held on 6 May 2021

10. APPENDICES

10.1 This report is supported by one appendix:

- Appendix A – Part 2B (The Full Council) of the council constitution – proposed changes

11. BACKGROUND DOCUMENTS

11.1 This report is supported by two background documents:

- Electoral Commission Guidance on [Polling Place Reviews](#)
- The [current council constitution](#)

12. CONSULTATION (MANDATORY)

Name of consultee	Post held	Date sent	Date returned
Cllr Johnson	Leader of the Council	12/2/21	17/2/21
Cllr Rayner	Lead Member for Resident and Leisure Services, HR, IT, Legal, Performance Management and Windsor	12/2/21	12/2/21

Duncan Sharkey	Managing Director	25/1/21	26/1/21
Adele Taylor	Director of Resources/S151 Officer	25/1/21	25/1/21
Hilary Hall	Director of Adults, Health and Commissioning	25/1/21	26/1/21
Elaine Browne	Head of Law	25/1/21	9/2/21 & 12/2/21
Sean O'Connor	Shared Legal Services	18/1/21	25/1/21
Kevin McDaniel	Director of Children's Services	25/1/21	26/1/21
Nikki Craig	Head of HR, IT and Corporate Projects	25/1/21	27/1/21

REPORT HISTORY

Decision type:	Urgency item?	To follow item?
Council decision	No	No

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Appendix A

Part 2B – The Full Council

B. Responsibility for Council Functions

These are functions which must not be the responsibility of an authority’s Cabinet from Schedule 1 to *The Local Authorities (Functions and Responsibilities) (England) Regulations 2000*, as amended.

The full Council can discharge these functions itself or may delegate one or more functions to a committee or sub-committee of councillors, an officer of the Council or another authority. The full Council may always exercise powers it has delegated to the other bodies or persons set out above. It may also discharge its functions jointly with one or more other Councils.

Delegations to Officers are listed in the Articles, under the Scheme of Delegation to Officers under Part 5 and the terms of reference to committees contained in Part 6.

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Function	Decision making body
Functions relating to elections as listed in Section D of Schedule 1 to the Regulations and as may be amended by law from time to time	Council. In addition there are delegations to Officers within this Constitution and the Council’s Scheme of Delegation <u>including permitting the Returning Officer to re-designate new Polling Places where such becomes unavailable or unsuitable before an election.</u>