

Report Title:	Appointment of Returning Officer and Electoral Registration Officer
Contains Confidential or Exempt Information	No – Part I
Cabinet Member:	Councillor Rayner, Cabinet Member for Corporate & Resident Services, Culture & Heritage, and Windsor
Meeting and Date:	Full Council – 25 January 2022
Responsible Officer(s):	Duncan Sharkey, Chief Executive
Wards affected:	All

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REPORT SUMMARY

This report recommends the appointment of a Returning Officer and Electoral Registration Officer following notification to the Chief Executive of the resignation of the current postholder.

The proposed appointment would take effect from 14 February 2022 to allow for continuity in the role of Returning Officer for a potential parish by-election in early February 2022.

1. DETAILS OF RECOMMENDATION(S)

RECOMMENDATION: That full Council notes the report and:

- i) **Appoints Emma Duncan, Deputy Director of Governance, Law and Strategy as Returning Officer and Electoral Registration Officer for the Royal Borough of Windsor and Maidenhead with effect from 14 February 2022 until further notice.**

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

Options

Table 1: Options arising from this report

Option	Comments
Appoint Emma Duncan as the council's Returning Officer and Electoral Registration Officer with effect from 14 February 2022 This is the recommended option	The Council will comply with its legal obligations under the Representation of the People Act 1983
Do not appoint to the role of Returning Officer and Electoral Registration Officer	The council will not comply with its legal obligations

- 2.1 David Scott (Head of Communities) is the council's current Returning Officer and Electoral Registration Officer (first appointed September 2014). He has

notified the Chief Executive of his intention to resign from the role of Returning Officer and Electoral Registration Officer with immediate effect and it is therefore necessary that the borough has a replacement appointment in place as soon as possible.

3. KEY IMPLICATIONS

3.1

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
RO and ERO appointed	RO and ERO not appointed; failure to carry out the requirements of the Act	RO and ERO appointed	N/A	N/A	14 February 2022

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no financial implications as a result of the recommendation in this report as the role is separately funded.

5. LEGAL IMPLICATIONS

- 5.1 Under section 35 of the Representation of the People Act 1983, the Returning Officer for local elections needs to be appointed from among the officers of the council by full Council.
- 5.2 The role of the Returning Officer is one of a personal nature and distinct and separate from their duties as an employee of the council.
- 5.3 Under section 8 of the Representation of the People Act 1983, an Electoral Registration Officer needs to be appointed from among the officers of the council by the full Council.
- 5.4 The council's insurance cover indemnifies the council's Returning Officer (as well as their deputies and all persons engaged by them in the performance of official duties) with no personal exposure to the individual/s concerned, with an upper limit of £5m. In addition, the Cabinet Office provides further indemnity if required for UK Parliamentary elections.

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 requirements of the Act are not put in place.	High	Appointment of RO and ERO	Low
Day to day responsibilities of officer acting as RO not covered during an election period	Medium	Ensure Deputy Returning Officers and Deputy Monitoring Officers are in place	Low

7. POTENTIAL IMPACTS

7.1 Equalities. Equality Impact Assessments are published on the [council's website](#). An EQIA screening assessment has been completed; it is not considered that a full EQIA is required.

7.2 Climate change/sustainability. No impacts identified.

7.3 Data Protection/GDPR. No impacts identified

8. CONSULTATION

8.1 N/A

9. TIMETABLE FOR IMPLEMENTATION

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

Table 4: Implementation timetable

Date	Details
25 January 2022	Consideration by full Council of the appointment of RO and ERO
14 February 2022	New RO and ERO in post

10. APPENDICES

10.1 This report is supported by one appendix:

- EQIA

11. BACKGROUND DOCUMENTS

11.1 None

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officers (or deputy)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	6/1/22	13/1/22
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	4/1/22	6/1/22
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	6/1/22	13/1/22
Elaine Browne	Head of Law (Deputy Monitoring Officer)	6/1/22	10/1/22
<i>Other consultees:</i>			
<i>Directors (where relevant)</i>			
Andrew Durrant	Executive Director of Place	6/1/22	10/1/22
Kevin McDaniel	Executive Director of Children's Services	6/1/22	7/1/22
Hilary Hall	Executive Director of Adults, Health and Housing	-	-
<i>Heads of Service (where relevant)</i>			
David Scott	Head of Communities	14/12/21	23/12/21
<i>External (where relevant)</i>			
N/A			

Confirmation relevant Cabinet Member(s) consulted	Cabinet Member for Corporate & Resident Services, Culture & Heritage, and Windsor	Yes
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REPORT HISTORY

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

Report Author: Karen Shepherd, Head of Governance, 07766 778286

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
EQUALITY IMPACT ASSESSMENT
EqIA: Appointment of RO/ERO

Essential information

Items to be assessed: (please mark 'x')

Strategy		Plan		Project		Service procedure	X
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Responsible officer	Duncan Sharkey	Service area	Chief Executive	Directorate	Chief Executive
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Stage 1: EqIA Screening (mandatory)	Date created: 6/1/21	Stage 2 : Full assessment (if applicable)	Date created : N/A
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Approved by Head of Service / Overseeing group/body / Project Sponsor:

"I am satisfied that an equality impact has been undertaken adequately."

Signed by (print): Duncan Sharkey

Dated: 6/1/22

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

EQUALITY IMPACT ASSESSMENT

EqlA: Appointment of RO/ERO

Guidance notes

What is an EqlA and why do we need to do it?

The Equality Act 2010 places a 'General Duty' on all public bodies to have 'due regard' to:

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advancing equality of opportunity between those with 'protected characteristics' and those without them.
- Fostering good relations between those with 'protected characteristics' and those without them.

EqlAs are a systematic way of taking equal opportunities into consideration when making a decision, and should be conducted when there is a new or reviewed strategy, policy, plan, project, service or procedure in order to determine whether there will likely be a detrimental and/or disproportionate impact on particular groups, including those within the workforce and customer/public groups. All completed EqlA Screenings are required to be publicly available on the council's website once they have been signed off by the relevant Head of Service or Strategic/Policy/Operational Group or Project Sponsor.

What are the "protected characteristics" under the law?

The following are protected characteristics under the Equality Act 2010: age; disability (including physical, learning and mental health conditions); gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation.

What's the process for conducting an EqlA?

The process for conducting an EqlA is set out at the end of this document. In brief, a Screening Assessment should be conducted for every new or reviewed strategy, policy, plan, project, service or procedure and the outcome of the Screening Assessment will indicate whether a Full Assessment should be undertaken.

Openness and transparency

RBWM has a 'Specific Duty' to publish information about people affected by our policies and practices. Your completed assessment should be sent to the Strategy & Performance Team for publication to the RBWM website once it has been signed off by the relevant manager, and/or Strategic, Policy, or Operational Group. If your proposals are being made to Cabinet or any other Committee, please append a copy of your completed Screening or Full Assessment to your report.

Enforcement

Judicial review of an authority can be taken by any person, including the Equality and Human Rights Commission (EHRC) or a group of people, with an interest, in respect of alleged failure to comply with the general equality duty. Only the EHRC can enforce the specific duties. A failure to comply with the specific duties may however be used as evidence of a failure to comply with the general duty.

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
EQUALITY IMPACT ASSESSMENT
EqIA: Appointment of RO/ERO

Stage 1 : Screening (Mandatory)

1.1 What is the overall aim of your proposed strategy/policy/project etc and what are its key objectives?

The overall aim of the proposal is to appoint a Returning Officer and Electoral Registration Officer for the council

1.2 What evidence is available to suggest that your proposal could have an impact on people (including staff and customers) with protected characteristics? Consider each of the protected characteristics in turn and identify whether your proposal is Relevant or Not Relevant to that characteristic. If Relevant, please assess the level of impact as either High / Medium / Low and whether the impact is Positive (i.e. contributes to promoting equality or improving relations within an equality group) or Negative (i.e. could disadvantage them). Please document your evidence for each assessment you make, including a justification of why you may have identified the proposal as “Not Relevant”.

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD

EQUALITY IMPACT ASSESSMENT

EqIA: Appointment of RO/ERO

Protected characteristics	Relevance	Level	Positive/negative	Evidence
Age	Not relevant			The proposal does not affect persons with this protected characteristic
Disability	Not relevant			The proposal does not affect persons with this protected characteristic
Gender re-assignment	Not relevant			The proposal does not affect persons with this protected characteristic
Marriage/civil partnership	Not relevant			The proposal does not affect persons with this protected characteristic
Pregnancy and maternity	Not relevant			The proposal does not affect persons with this protected characteristic
Race	Not relevant			The proposal does not affect persons with this protected characteristic
Religion and belief	Not relevant			The proposal does not affect persons with this protected characteristic
Sex	Not relevant			The proposal does not affect persons with this protected characteristic
Sexual orientation	Not relevant			The proposal does not affect persons with this protected characteristic

ROYAL BOROUGH OF WINDSOR AND MAIDENHEAD
EQUALITY IMPACT ASSESSMENT
EqIA: Appointment of RO/ERO

Outcome, action and public reporting

Screening Assessment Outcome	Yes / No / Not at this stage	Further Action Required / Action to be taken	Responsible Officer and / or Lead Strategic Group	Timescale for Resolution of negative impact / Delivery of positive impact
Was a significant level of negative impact identified?	No			
Does the strategy, policy, plan etc require amendment to have a positive impact?	No			

If you answered **yes** to either / both of the questions above a Full Assessment is advisable and so please proceed to Stage 2. If you answered “No” or “Not at this Stage” to either / both of the questions above please consider any next steps that may be taken (e.g. monitor future impacts as part of implementation, re-screen the project at its next delivery milestone etc).