

Report Title:	Returning Officer and Electoral Registration Officer Appointments and Approval of Elections Payments
Contains Confidential or Exempt Information	No - Part I
Cabinet Member:	Councillor Rayner, Cabinet Member for Business, Corporate & Residents Services, Culture & Heritage, & Windsor
Meeting and Date:	Council – 21 February 2023
Responsible Officer(s):	Tony Reeves, Interim Chief Executive Emma Duncan, Returning Officer
Wards affected:	All

REPORT SUMMARY

This report recommends the appointment of the incoming Chief Executive Designate, Stephen Evans as Returning Officer and Electoral Registration Officer following notification to the interim Chief Executive of the resignation of the current postholder from 26 March 2023. The proposed appointment would take effect from 17 April 2023 for the upcoming Borough and Parish elections in May 2023.

This report recommends the appointment of the interim Chief Executive, Tony Reeves as Returning Officer and Electoral Registration Officer to cover the intervening period before the new postholder can take up the role. The proposed appointment would take effect from 27 March 2023 to 16 April 2023.

To support the implementation of the requirements of the Elections Act 2022 Council is being asked to appoint Deputy Electoral Registration Officers with duties limited to completing the Temporary Voter Authentication Certificate process as required by the same Act.

Due to a combination of the increase to the minimum wage rates, additional responsibilities and associated training required as part of the implementation of the same Act it is proposed to increase the hourly rate paid to staff working in key roles to deliver the elections in May and future elections as set out in Appendix B of the report.

1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Council notes the report and:

- i) Appoints Stephen Evans, Chief Executive Designate as Returning Officer and Electoral Registration Officer for the Royal Borough of Windsor and Maidenhead with effect from 17 April 2023 until further notice;**
- ii) Appoints Tony Reeves, Interim Chief Executive as Returning Officer and Electoral Registration Officer for the Royal Borough of Windsor and Maidenhead with effect from 27 March 2023 until 16 April 2023;**

- iii) **Appoints Kirsty Hunt, Service Lead Electoral and Democratic Services and Wendy Allum, Electoral Services Team Leader as Deputy Electoral Registration Officers with limited powers in relation to authorising Temporary Voter Authority Certificates; and**
- iv) **Agrees to increase staff pay rates for future election roles as detailed in Appendix B of the report.**

2. REASONS FOR RECOMMENDATIONS AND OPTIONS CONSIDERED

Options

Table 1: Options arising from this report

Option 1 - RO	Comments
Appoint Tony Reeves as the council's Returning Officer and Electoral Registration Officer between 27 March and 16 April 2023 and Stephen Evans with effect from 17 April 2023 until further notice This is the recommended option	The Council will comply with its legal obligations under the Representation of the People Act 1983. Managed handover between each incumbent of the role and continuity of project delivery through the Elections Board will help mitigate the risks to the Council.
Do not appoint to the role of Returning Officer and Electoral Registration Officer	The Council will not comply with its legal obligations during the nomination period preceding the next scheduled elections.
Option 2 - DERO	Comments
Appoints Kirsty Hunt, Service Lead Electoral and Democratic Services and Wendy Allum, Electoral Services Team Leader as Deputy Electoral Registration Officers with limited powers in relation to authorising Temporary Voter Authority Certificates This is the recommended option	The Council would be implementing mitigating factors to avoid the risk of the Electoral Registration Officer being unavailable to complete the process to authorise Temporary Voter Authority Certificates.
Do not appoint Deputy Electoral Registration Officers	The Council's processes would be at risk as only one individual would be able to authorise these urgent documents for residents.
Option 3 - Payments	Comments
Increase election role pay rates for future elections as detailed in Appendix B of the report. This is the recommended option	The Council would support the Returning Officer's responsibilities to reimburse staff at the national minimal wage levels and mitigate against the election being understaffed.
Do nothing.	Payments to staff undertaking election duties employed by the Returning Officer would not be reimbursed at the national minimum rates. The risk to recruitment and retention of staff would be high especially in the current economic climate.

- 2.1 Emma Duncan (Director of Law, Strategy and Public Health and Monitoring Officer) is the Council's current Returning Officer and Electoral Registration Officer (appointed 14 February 2022). She has notified the interim Chief Executive of her intention to resign from the authority effective 26 March 2023. Alternative arrangements must be in place for a new statutory Returning Officer and Electoral Registration Officer from 27 March 2023. Arrangements for the statutory role of Monitoring Officer are the subject of a separate report.
- 2.2 The latest the Council can publish notice of the next scheduled borough and parish elections is 27 March 2023, therefore departure of the current Returning Officer and Electoral Registration Officer coincides with the commencement of the pre-election period.
- 2.3 Interim Chief Executive, Tony Reeves has been involved in meetings of the Council's Elections Project Board since they commenced in November 2022. Following his appointment Chief Executive Designate, Stephen Evans has undertaken to observe future meetings in advance of his start date with the Council. It is essential for the integrity of the election process that incumbents of the position of Returning Officer and Electoral Registration Officer maintain an overview of the preparations and all three postholders are committed to ensuring continuity of decision making throughout the transition period.
- 2.4 As part of the implementation of the Elections Act 2022 the Council needs a robust process in place to issue temporary Voter Authority Certificates. These temporary certificates will be determined and issued locally in specific circumstances. The deadline to apply for a Voter Authority Certificate for the local elections in England on 4 May 2023 is 5pm on Tuesday 25 April 2023. If officers have determined and issued a permanent Voter Authority Certificate but are satisfied that it may not be delivered to an applicant in time to be used on polling day or for a petition then a temporary Voter Authority Certificate may be issued. A decision on whether a temporary Voter Authority Certificate is needed may be due to the proximity of the forthcoming polling day or final day of petition, or it could be due to another issue, such as a postal strike.
- 2.5 A temporary Voter Authority Certificate is valid only on the relevant date of a specific election or for the remaining period of a petition. It must be signed by the Electoral Registration Officer or appointed Deputy Electoral Registration Officer and collected in person by the applicant; it cannot be sent via post. Only the Electoral Registration Officer and their deputies are able to authorise these documents and it is therefore prudent to appoint deputies with limited powers to support the delivery of this critical new function in a timely fashion in this short period after the application deadline before the polling day or final day of petition.
- 2.6 A thorough review has been undertaken of the current agreed election payments, the duration of tasks and hourly rates assessed. The review included consideration of fees set by other Berkshire authorities. During election of Members of Parliament cross-boundary working will occur with staff usually employed by other local authorities supporting the delivery of the Windsor and Maidenhead constituencies. Significant disparity between authorities can increase issues when recruiting and retaining staff to administer the polling process.

2.7 An increased payment structure has been proposed for election roles (at Appendix B) to ensure that the remuneration takes into account:

- the requirement to match the increasing new national minimal wage rates;
- the additional responsibilities and training time for staff administering the elections due to the implementation of the Elections Act 2022; and
- the principle that casual or temporary workers are also entitled to holiday pay and should not suffer financially.

3. KEY IMPLICATIONS

Table 2: Key Implications

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
Appointment gap avoided for RO and ERO	RO and ERO not appointed; failure to carry out the requirements of the Act	RO and ERO appointed	N/A	N/A	21 February 2023
Council prepared for new Temporary VAC process	DEROs not appointed; risk of ability to respond to the demand of the new process	Two DEROs appointed	Multiple DEROs appointed	N/A	21 February 2023
Election role payments meet minimum wage requirements and recognise additional responsibilities	No increase implemented; deliverability of election threatened due to low staff recruitment; risk and liability through HMRC investigation resulting in fine and reputational damage.	Proposed schedule agreed	N/A	N/A	21 February 2023

4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no financial implications as a result of the Returning Officer, Electoral Registration Officer and Deputy Electoral Registration Officer recommendations in this report as the roles are separately funded.
- 4.2 The Council applies an additional 13.81% to the hourly rates for casual contract workers to compensate them for their leave entitlement. For consistency this principle has been applied to the proposed payment structure at Appendix B.
- 4.3 The Electoral Integrity New Burdens Funding has been awarded by the Department for Levelling Up Housing and Communities (DLUHC) to provide support to local authorities in England and Wales towards expenditure lawfully incurred or to be incurred by them through implementation of the Elections Act 2022. Specifically, the revenue grant covers the Voter Identification and Accessibility portions of the act only for the 2022 to 2024 financial years only.
- 4.4 The payment structure was last reviewed by officers in 2019 with slight increases applied to polling station roles for the delivery of the Parliamentary election in 2021 due to additional responsibilities / pandemic conditions.
- 4.5 There are no immediate financial implications as a result of the staffing payment recommendation in the 2023/24 financial year as the proposed increases are provided for within the New Burdens Funding grant.
- 4.6 The costs of conducting UK-wide elections are paid for by the UK Government from the Consolidated Fund managed by DLUHC. This applies to the election of Members of Parliament and Police and Crime Commissioners (England and Wales only). The fee structure proposals are in line with levels currently being consulted on by the Electoral Commission. If the proposals are approved then delivery budgets for future borough and parish elections would require adjustment to reflect the increase and would subsequently be submitted for approval by Council as part of those future budget setting proposals. This would be in preparation for the 2027 elections.

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.

- 5.5 It is an offence for employers to not pay someone the National Minimum Wage or the National Living Wage.

6. RISK MANAGEMENT

Table 3: Impact of risk and mitigation

Threat or risk	Impact with no mitigations in place or if all mitigations fail	Likelihood of risk occurring with no mitigations in place.	Mitigations currently in place	Mitigations proposed	Impact of risk once all mitigations in place and working	Likelihood of risk occurring with all mitigations in place.
There is a risk that the Council would not comply with its legal obligations under the Representation of the People Act 1983 which could result in a legal challenge.	Major 3	High	Managed handover between each incumbent of the role and continuity of project delivery through the Elections Project Board		Moderate 2	Medium

7. POTENTIAL IMPACTS

- 7.1 Equalities. An Equality Impact Assessment is available as Appendix A.
- 7.2 Climate change/sustainability. No impacts identified.
- 7.3 Data Protection/GDPR. The Electoral Registration Officer (ERO) and Returning Officer (RO) are data controllers who collect and use information about residents to enable them to perform specific functions for they are statutorily responsible. Electoral Services have a number of privacy notices on the Council's website relating to Candidates and agents, Electoral Staff and Electoral Services at <https://www.rbwm.gov.uk/home/council-and-democracy/strategies-and-policies/data-protection/privacy-notices>.

8. CONSULTATION

- 8.1 None.

9. TIMETABLE FOR IMPLEMENTATION

Table 4: Implementation timetable

Date	Details
21 February 2023	Consideration by Council
21 February 2023	Appointment of Kirsty Hunt, Service Lead Electoral and Democratic Services and Wendy Allum, Electoral

	Services Team Leader as Deputy Electoral Registration Officers with limited powers in relation to authorising Temporary Voter Authority Certificates
21 February 2023	Increase to staff pay rates for future election roles as detailed in Appendix B of the report
27 March 2023	Appointment of interim Chief Executive, Tony Reeves as Returning Officer and Electoral Registration Officer.
17 April 2023	Appointment of Chief Executive Designate, Stephen Evans as Returning Officer and Electoral Registration Officer.

10. APPENDICES

10.1 This report is supported by two appendices:

- Appendix A – Equality Impact Assessment
- Appendix B – Proposed election role payment scheme

11. BACKGROUND DOCUMENTS

11.1 Not applicable.

12. CONSULTATION

Name of consultee	Post held	Date sent	Date returned
<i>Mandatory: Statutory Officer (or deputy)</i>			
Adele Taylor	Executive Director of Resources/S151 Officer	8/02/23	9/02/23
Emma Duncan	Director of Law, Strategy & Public Health/ Monitoring Officer	070223	080223
<i>Deputies:</i>			
Andrew Vallance	Head of Finance (Deputy S151 Officer)	9/2/23	9/2/23
Elaine Browne	Head of Law (Deputy Monitoring Officer)	7/2/23	7/2/23
<i>Mandatory: Procurement Manager (or deputy) - if report requests approval to go to tender or award a contract</i>			
Lyn Hitchinson	Procurement Manager		
<i>Mandatory: Data Protection Officer (or deputy) - if decision will result in processing of personal data; to advise on DPIA</i>			
Samantha Wootton	Data Protection Officer		
<i>Mandatory: Equalities Officer – to advise on EQiA, or agree an EQiA is not required</i>			
Ellen McManus-Fry	Equalities & Engagement Officer	7/02/23	9/02/23
<i>Other consultees:</i>			

<i>Directors (where relevant)</i>			
Tony Reeves	Interim Chief Executive	7/02/23	8/02/23

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

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

Report Author: Kirsty Hunt, Service Lead – Electoral and Democratic Services
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Equality Impact Assessment

For support in completing this EQIA, please consult the EQIA Guidance Document or contact equality@rbwm.gov.uk

1. Background Information

Title of policy/strategy/plan:	Appointment of RO/ERO and Election payments
Service area:	Elections and Democratic Services
Directorate:	Law and Governance

Provide a brief explanation of the proposal:

- What are its intended outcomes?
- Who will deliver it?
- Is it a new proposal or a change to an existing one?

The aim of the proposal is to appoint a Returning Officer and Electoral Registration Officer for the Council as well as two Deputy Electoral Registration Officers. The decision will be taken by full Council.

The report includes the proposal to increase election fees. Once agreed this will be implemented by the Electoral Services team working with payroll to process payments following each election.

2. Relevance Check

Is this proposal likely to directly impact people, communities or RBWM employees?

- If No, please explain why not, including how you've considered equality issues.
- Will this proposal need a EQIA at a later stage? (for example, for a forthcoming action plan)

No - Appointing a Returning Officer / Electoral Registration Officer (ERO) and Deputy EROs will ensure the continuation of Electoral Services and the successful delivery of elections for RBWM's communities. The principles of the statutory role are to ensure that residents within the whole geographical borough area are in receipt of information, timely and equitable services.

Yes – increasing the election fees will impact on RBWM staff, residents and interested parties who take on these roles. The amended fees will not affect the quality and scope of the delivery of the election and its outcomes but may increase the pool of interested applicants. Understaffing the election administration would have a detrimental impact on its effective delivery – this proposed increase is a mitigation against this.

If 'No', proceed to 'Sign off'. If unsure, please contact equality@rbwm.gov.uk

3. Evidence Gathering and Stakeholder Engagement

Who will be affected by this proposal? For example, users of a particular service, residents of a geographical area, staff
RBWM employees and residents who work on the election.
Among those affected by the proposal, are protected characteristics (age, sex, disability, race, religion, sexual orientation, gender reassignment, pregnancy/maternity, marriage/civil partnership) disproportionately represented? For example, compared to the general population do a higher proportion have disabilities?
No
What engagement/consultation has been undertaken or planned? <ul style="list-style-type: none">• How has/will equality considerations be taken into account?• Where known, what were the outcomes of this engagement?
N/A
What sources of data and evidence have been used in this assessment? Please consult the Equalities Evidence Grid for relevant data. Examples of other possible sources of information are in the Guidance document.
N/A

4. Equality Analysis

Please detail, **using supporting evidence**:

- How the protected characteristics below might influence the needs and experiences of individuals, in relation to this proposal.
- How these characteristics might affect the impact of this proposal.

Tick positive/negative impact as appropriate. If there is no impact, or a neutral impact, state 'Not Applicable'

More information on each protected characteristic is provided in the Guidance document.

	Details and supporting evidence	Potential positive impact	Potential negative impact
Age	Increasing election payments will have a positive impact on all staff members, residents and interested parties who take on these roles, regardless of their protected characteristics.	X	
Disability	As above	X	
Sex	As above	X	
Race, ethnicity and religion	As above	X	
Sexual orientation and gender reassignment	As above	X	
Pregnancy and maternity	As above	X	
Marriage and civil partnership	As above	X	
Armed forces community	As above	X	
Socio-economic considerations e.g. low income, poverty	As above	X	
Children in care/Care leavers	As above	X	

5. Impact Assessment and Monitoring

If you have not identified any disproportionate impacts and the questions below are not applicable, leave them blank and proceed to Sign Off.

What measures have been taken to ensure that groups with protected characteristics are able to benefit from this change, or are not disadvantaged by it? For example, adjustments needed to accommodate the needs of a particular group
Application to these roles has been promoted to and open to all employees via the internal Borough Bulletin messaging and the Council's website. Application to these roles has been promoted to and open to all residents and interested parties via the Council's website and the residents' newsletter and Jobs Fairs. The process will be subject to standard employment rules around equalities and that staff with disabilities would be able to ask for reasonable adjustments if need be.
Where a potential negative impact cannot be avoided, what measures have been put in place to mitigate or minimise this? <ul style="list-style-type: none">For planned future actions, provide the name of the responsible individual and the target date for implementation.
N/A
How will the equality impacts identified here be monitored and reviewed in the future? See guidance document for examples of appropriate stages to review an EQIA.

6. Sign Off

Completed by: Kirsty Hunt	Date: 08.02.23
Approved by: Ellen McManus-Fry	Date: 09.02.23

If this version of the EQIA has been reviewed and/or updated:

Reviewed by:	Date:
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Election roles payment scheme – reviewed February 2023

Role	Current fee	Incorporating indicative training fee	Incorporating Ballot box collection	Duration of activity	Current hourly rate (minimum wage = £10.42 from April 2023)	Proposed increased hourly rate	Proposed hourly rate after 13.81% holiday pay included	Additional training fee element	Ballot box collection	Proposed rounded total fee or hourly rate as appropriate
Polling Station Inspector	£285	£35	£10	19 hours	£12.63	£13	£14.80	£35	£10	£330
Presiding Officer	£285	£35	£10	19 hours	£12.63	£13	£14.80	£35	£10	£330
Poll Clerk	£195	£35	NA	16.5 hours	£9.70	£10.42	£11.86	£35	NA	£230
Standby Poll Clerk	New role: If unused then 2 hours paid in recognition of being available plus training fee. If deployed to a polling station then full Poll Clerk payment will be paid					£10.42	£11.86	£35	NA	£60
Postal Vote Manager					£20		£22.76			£23
Postal Vote Supervisor					£15		£17.07			£17
Postal Vote Assistant					£11		£12.52			£13
Verification and Count Supervisor					£18		£20.49			£20.50
Junior Verification and Count Supervisor					£15		£17.07			£17
Verification and Count Assistant					£13		£14.80			£15
Count Hall Manager					£25		£29.53			£30
Ballot Box Manager					£20		£22.76			£23
Assistants for Ballot Box Manager					£15		£17.07			£17

Role	Current fee	Incorporating indicative training fee	Incorporating Ballot box collection	Duration of activity	Current hourly rate (minimum wage = £10.42 from April 2023)	Proposed increased hourly rate	Proposed hourly rate after 13.81% holiday pay included	Additional training fee element	Ballot box collection	Proposed rounded total fee or hourly rate as appropriate
Front of House Manager					£20		£22.76			£23
Facilities Manager					£20		£22.76			£23
Facilities Assistants					£13		£14.80			£15
Media Manager					£20		£22.76			£23
Media Assistants					£15		£17.07			£17
Health and Safety Manager					£18		£20.49			£20.50
HR Assistant					£18		£20.49			£20.50
Ballot box Reception Assistants					£15		£17.07			£17
Ballot Paper Accountants					£18		£20.49			£20.50