Appointment of County Returning Officer

Lead Officer: Sheila Wheeler, Chief Executive
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Cabinet Member: N/A
Division and Local Member: N/A

1. Summary

1.1. This report seeks the agreement of the Committee to the appointment of Ms Sheila Wheeler as the County Returning Officer with immediate effect and to indemnify her against any costs arising from any subsequent legal challenges to any County election process. It also proposes a delegation in relation to the approval of the Scale of Fees & Charges to apply to County elections.

1.2. The Council elections in 2013 will play a key role in delivering a smaller, more enabling Council in accordance with County Plan requirements.

2. Issues for consideration / Recommendations

2.1. The Committee is recommended to:

- Appoint Ms Wheeler as the County Returning Officer with immediate effect with responsibility for all of the statutory functions of the appointment as listed in paragraph 3.3
- Agree that the Council should indemnify Ms Wheeler against any costs arising from any subsequent legal challenges to any County election process – see paragraph 3.4
- Delegate to Ms Wheeler, authority to agree the scale of fees and charges to apply to County elections and bye-elections as long as any increases do not exceed equivalent rises in APC&T pay awards – see paragraph 3.5. In the event that the level of increase proposed in the fees and charges exceeds officer pay awards then the matter will be referred to the Committee for decision.
- Ask the officers to ensure that this appointment process is repeated upon the appointment of future Chief Executives.

3. Background

3.1. This Committee has delegated authority from Council to deal with all matters in relation to County Council elections.
3.2. Council will be aware that following the last Council election in 2009, Ms Sheila Wheeler was appointed Chief Executive. Traditionally in County Council areas the Chief Executive of the County Authority is appointed by the Council as the County Returning Officer. In this Council we are relying on pre-2000 delegations to the Chief Executive post-holder to:

- Fulfil the role of County Returning Officer
- Agree increases in the County Council scale of fees and charges (which cover the full cost of the County Council elections) as long as these don’t exceed APT&C pay awards over the equivalent time period.

The Council’s historic position is not best practice. Some authorities confirm the appointment within their Constitution. Again, this is not best practice. Because the position of County Returning Officer is a personal responsibility of the officer concerned the Chief Executive should be appointed to this role by name. In carrying out the role, the officer named is accountable to his or her statutory responsibility, and not to the Council as their employer. For that reason the provisions in the resolution need to be more explicit than would be the case with ordinary appointments.

3.3. The County Returning Officer is responsible for:

- the nomination process for candidates and political parties;
- provision and notification of polling stations;
- appointment of Presiding Officers and polling clerks;
- appropriate administration and security of polling stations;
- preparation of all ballot papers;
- the actual count and declaration of results;
- issue, receipt and counting of postal ballot papers;
- all candidates’ election expenses returns;
- presentation of final account; and
- reclamation of funding from external bodies as prescribed.

In two-tier areas the County Returning Officer role is traditionally undertaken by the County Chief Executive who then delegates the above responsibilities to the district councils through the appointment of senior officers of those councils as Deputy Returning Officers.

3.4. The County Council is empowered to provide an indemnity to an officer who has specific statutory powers or responsibilities e.g. the Returning Officer. This indemnity is intended to protect the Returning Officer in the event of there being a legal challenge to the election, and would take the form of an insurance policy held by the County Council. This is considered essential given that the 2013 County Council election is the first such election for some years that is not a combined election with either a General or a European election. Therefore the full cost of this election will fall on the Council rather than be shared with the Government. This has increased the overall estimated cost of the 2013 election to £850k, a substantial increase from the actual cost of the 2009 election to the Council of £427k. The recommendations provide for the Committee under its delegated authority from the Council to agree to ensure that an appropriate indemnity is in place for Ms Wheeler.
3.5. Agreeing the Scale of fees and charges for County Council elections is also a responsibility of the Council. There is a longstanding delegation to the Chief Executive to agree the Scale as long as increases do not exceed APT&C pay rises covering the same period. In the event that any proposed increases in the Scale exceed pay awards for the same period then the revised Scale would be brought to the Committee for approval. It is suggested that this delegation be made explicitly to Ms Wheeler at this stage although members are asked to note that the Scale of Fees & Charges to apply to the 2013 County Council election remains unchanged from 2009.

4. Consultations undertaken

4.1. These have been internal with key officers including the Monitoring Officer and the Section 151 Officer.

5. Implications

5.1. Legal (and Business Risk) & Financial & HR: as detailed in the report.

5.2. Impact assessment: The Council’s duty under Section 149 of the Equality Act 2010 is to have “due regard” to the matters set out in relation to equalities when considering and making decisions on the provision of services. There are no direct impacts of these recommendations on the provision of services. There are no direct impacts on sustainability, health and safety, community safety or privacy aspects as a result of these proposals.

6. Background papers

6.1. None.

Note: For sight of individual background papers please contact the report author.