

Report to Council

1 March 2022

Subject:	Appointment to the Statutory roles of Electoral Registration Officer (ERO) and Returning Officer (RO) and Deputy Electoral Registration Officer (DERO)
Director:	Director of Law and Governance Surjit Tour
Contact Officer:	Tracey Hurst Electoral Services Manager Tracey_Hurst@sandwell.gov.uk

1. Recommendations


- 1.1 That the Interim Chief Executive, Kim Bromley – Derry, be appointed as Returning Officer (RO) in accordance with section 35(1) of the Representation of the People Act 1983 with immediate effect.
- 1.2 That Council notes the Interim Chief Executive, Kim Bromley – Derry is appointed under the Council’s Scheme of Delegation to Officers, as the Electoral Registration Officer (ERO) in accordance with section 8(2)(a) of the Representation of the People Act 1983.
- 1.3 That the Monitoring Officer and Director of Law and Governance, Surjit Tour, be appointed as Deputy Electoral Registration Officer (DERO) under Section 52 (2) & (3) of the Representation of the People Act 1983.



2 Reasons for Recommendations

- 2.1 The Council is required to appoint a Returning Officer in accordance with Section 35(1) of the Representation of the People Act 1983. The duties of the Returning Officer are separate and one of a personal nature from his/her duties as a local government officer. The Returning Officer is directly accountable to the courts as an independent statutory office holder.
- 2.2 Returning Officers are under Sections 28(5) and 35(4) of the Representation of the People Act 1983 entitled to appoint deputies to discharge all or any of the duties placed upon them. There are no restrictions on the number of Deputies that can be appointed.
- 2.3 The Council is required to appoint an Electoral Registration Officer in accordance with Section 8(2)(a) of the Representation of the People Act 1983. By virtue of Section 23 (1) of the Act, only the appointed ERO may act as Acting Returning Officer at Parliamentary Elections. A previous resolution by Council confirmed the appointment of the Chief Executive as the Council's Electoral Registration Officer and is detailed within the Council's Scheme of Delegation to Officers.
- 2.4 The responsibility to appoint Deputies falls to the RO. However, Section 52(2) of the Act provides that any Deputy ERO must be appointed by the Council.

3 How does this deliver objectives of the Corporate Plan?

	<p>Strong resilient communities.</p> <p>The recommendations detailed in this report ensure the Council has appointed officers in place to be responsible and accountable for the delivery of all the required elements of Electoral Registration and all Elections and Referenda in accordance with law. Representative and participative democracy can strengthen the democratic process which in turn helps to build strength within communities.</p>
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4 Context and Key Issues

- 4.1 The Returning Officer is the person who has overall responsibility for the conduct of Local Elections in Sandwell. Returning Officers also take on responsibilities at National and Local referendums.
- 4.2 Returning Officers are impartial and ensure that the conduct of the process is in accordance with law. The duties and responsibilities become personal to the officer undertaking them, they are independent of the local authority.
- 4.3 Interim Returning Officer arrangements were previously considered by Council at its meeting on 26th July 2021. These were agreed in accordance with the envisaged timeframe for the permanent recruitment to the post of Chief Executive. As interim arrangements have now been extended in the short term, it is prudent for the Council to consider and re-confirm the appointment of the interim Chief Executive as the Returning Officer.
- 4.4 The Returning Officer at a UK Parliamentary election is a ceremonial role with the office holder only being permitted to reserve two duties, the receiving of the writ and the declaration of the result. In Sandwell, this is the role of the elected Mayor. The Acting Returning Officer administers the electoral process.
- 4.5 There is no requirement for the local authority to appoint an Acting Returning Officer as the duties and responsibilities automatically fall to the Electoral Registration Officer.
- 4.6 The Electoral Registration Officer (ERO) is the person with statutory responsibility for the creation and maintenance of the register of electors and the absent voters list. This person takes responsibility for publishing a revised electoral register and issuing monthly alterations notices.
- 4.7 The Electoral Registration Officer is an Officer of the Council, but the role of the Electoral Registration Officer is a personal responsibility, independent and separate from their duties as an employee of the Council.



5 Implications

Resources:	The Local Authority has a duty to assist the Electoral Registration Officer as may be required to carry out their statutory functions and to pay any expenses “properly incurred” in performance of their duties. For Local Elections, provisions are set within the Electoral Services budget for delivery of all Elections, Referenda and Electoral Registration. For national elections, the fees and charges order for each specific election type confirm the maximum recoverable amounts for the specified services.
Legal and Governance:	<p>The Representation of the People Act 1983 section 35 requires the Council to appoint an officer of the council to be the Returning Officer for Local Elections.</p> <p>It is a requirement of Section 8 of the Representation of the People Act 1983 that the Council appoints an Electoral Registration Officer. The Electoral Registration Officer must be an officer of the council. By virtue of Section 28 (1) of the Act only the ERO may act as Acting Returning Officer in Parliamentary Elections</p> <p>Responsibility for appointing a Deputy Returning Officer rests with the Returning Officer. However, Section 52(2) of the Act provides that any Deputy ERO must also be approved by the Council</p>
Risk:	Failure to appoint an officer to the statutory roles could lead to the council being challenged for failing to meet its statutory duties. The recommendations contained in this report enable Sandwell Council to comply with the legal requirements for the appointment of statutory officers.
Equality:	No Equality implications are contained within this report
Health and Wellbeing:	No Health and Wellbeing implications are contained within this report
Social Value	No Social Value implications are contained within this report



6 Appendices

None

7. Background Papers

None

