

Full Council



14 March 2017

Report of: Monitoring Officer

Title: Appointment of Local Returning Officer for the West of England Combined Authority mayoral election

Ward: Citywide

Recommendation

1. That Stephen Hughes remain the interim Returning Officer and Electoral Registration Officer for Bristol City Council until the election for the combined authority has been delivered.
2. That Stephen Hughes is appointed as Local Returning Officer for the Combined Mayoral elections on 4th May 2017.
3. That Deputy Returning Officer appointments are made by the Returning Officer once confirmed in post.



Summary:

Section 35(1) of the Representation of the People Act 1983 requires the council to appoint an officer to be the Returning Officer (RO) in local elections.

The Returning Officer (RO) is the person who has the overall responsibility for the conduct of elections in Bristol. The RO is usually an officer of the council, but the role of the RO is a personal responsibility, independent and separate from their duties as an employee of the council. Since the Pinfold case in 2010 it has been confirmed that the RO does not have to be an officer of the council. The intention is for Stephen Hughes to continue in this role, after leaving BCC on 28th February 2017 in order to ensure consistency is maintained given the close proximity of the election on the 4th May 2017.

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. The role of the Electoral Registration Officer is a personal responsibility, independent and separate from their duties as an employee of the council. These two roles of Returning Officer and Electoral Registration Officer are typically combined and performed by a single person.

The RO may appoint one or more persons to discharge all or any of his/her functions. At an election, the Returning Officer may appoint election specific deputies.

Policy

The City Council must appoint a named individual to the role of Returning Officer.

Consultation

Internal

The appointment is normally made by the selection committee but given the need to maintain continuity and the date of the election, Stephen Hughes has agreed to stay on and deliver the election. The Returning Officer and Electoral Registration Officer are then formally appointed by Full Council.

External

None.

Context

1. The Returning Officer is the person who has the overall responsibility for the conduct of elections in Bristol and the combined authority election. They are appointed under the Representation of the People Act 1983. It is the duty of the RO to organise and conduct elections.

It is the RO's general duty at elections to do all such acts and things as may be necessary for effectively conducting the election for example:

- the nomination process for candidates and political parties;
- provision, administration, security and notification of polling stations;
- appointment of staff such as presiding officers and count staff;
- preparation and issue of all ballot papers; issue, receipt and counting of postal ballot papers;
- organising and delivering the count and declaration of results;
- receipt of all candidates' election expenses returns;

- presentation of final account and claiming appropriate funding from central government as prescribed.
- retention of election documents.

A Combined Authority Mayor election will take place on 4th May 2017 across three council areas, Bristol, South Gloucestershire and Bath and North East Somerset. Bristol Electoral Services is undertaking the Combined Authority Mayor co-ordination and if Stephen Hughes is appointed as Bristol's Returning Officer he will continue to be the Combined Authority Returning Officer (CARO). The Chief Executive of the Association of Electoral Administrators has suggested not changing the CARO at this stage.

The person appointed as RO for principal area elections in each local authority – the CARO - is not automatically the local RO for the combined authority mayoral election, hence need to appoint to the position of Local Returning Officer.

The Electoral Registration Officer is the person with statutory responsibility for the creation, maintenance, security and distribution of the register of electors and the absent voters list. The register of electors is based on an annual canvass and monthly rolling registration of all properties where electors reside. The Electoral Registration Officer maintains four registers of those entitled to vote at various types of elections.

The Electoral Registration Officer takes responsibility for publishing a revised electoral register and issuing monthly alterations notices.

At an election the Electoral Registration Officer has a statutory obligation to provide registers and absent voters lists for each polling station as well as to candidates at the election and to the Returning Officer.

Proposal

The proposal is to make the appointments as set out in the recommendation.

Other Options Considered

None

Public Sector Equality Duties

Before making a decision, section 149 Equality Act 2010 requires that each decision-maker considers the need to promote equality for persons with the following "protected characteristics": age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation;

There are no specific issues arising from these appointments.

Legal and Resource Implications

Legal Implications

The Representation of the People Act 1983 Section 35 requires the council to appoint an officer of the council to be the Returning Officer in local elections.

The Combined Authorities (Mayoral Elections) Order 2017 requires that each constituent council must appoint a local Returning Officer for the combined authority mayoral election to be held on 4th May

2017. Even though the Returning Officer may be an officer of the council, at the time of an election their responsibility is a separate office. The officer does not have to be an employee following the Pinfold case.

Any failure to do so could lead to the council being challenged for failing to meet its statutory duties.

Responsibility for appointing a Deputy Returning Officer rests with the Returning Officer.

Pinfold North Limited and Humberside Fire Authority 18th March 2010 His Honour Judge Grenfell:

1. Mr Michael Price carried out the duties of Chief Finance Officer for the Humberside Fire Authority (“the HFA”) between 1995, just before it was formed in 1996, to 2007. He had been employed by Kingston upon Hull City Council (“Hull CC”) up to 2001 when he retired. He was asked to stay on as Chief Finance Officer.
2. The judgment was that ‘... my judgment, as a matter of interpretation, I can find nothing in the 1972 and 1988 Acts or in the authorities cited to me to restrict the appointment of officers of the HFA to employees. Whilst its employees are necessarily officers, in my judgment, its officers are not necessarily employees; nor is there any statutory requirement that that should be so...’

Shahzia Daya, Service Director – Legal and Democratic Services

Financial Implications

The Representation of the People Act 1983 makes provision for a scale of expenses to be fixed for the purpose of determining the Returning Officer’s expenditure.

Elections are categorised as either “local” (i.e. parish, district, county or unitary) or “Parliamentary” (i.e. Westminster).

Parliamentary elections have their own fees and charges, set by the Cabinet Office and appropriate expenditure on these elections is reclaimed from central government.

In local elections the Returning Officer is paid a fee based on the number of wards where seats are being contested. Payment for the Returning Officer is subject to a scale of fees issued by the Cabinet Office.

For principal area elections ie the Combined Authority Mayoral elections, any payments for the Returning Officer will be reclaimed from the combined authority.

There is no change to the existing budget and charging arrangements in place as a result of this report.

Chris Holme
Service Manager: Finance Business Support

Appendices - None.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers None.