

Committee: Council

Date: 19th November 2014

Wards: all

Subject: Electoral Registration Officer – delegation of powers

Lead officer: Caroline Holland, Director of Corporate Services

Lead member: Councillor Mark Allison

Contact officer: Tim Revell, Interim Head of Electoral Services

Recommendations:

- A. That the Council agrees to authorise the Electoral Registration Officer (ERO) to appoint Deputy Electoral Registration Officers to carry out his powers and duties either in full or in part in accordance with section 52(2) of the Representation of the People Act 1983.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report proposes that the ERO should be able to appoint deputies to carry out his functions so that there should always an officer available to deal with those duties which must be carried out by the ERO personally. The matter was considered by the General Purposes Committee on 6th November 2014 and this report brings the recommendations from that meeting to the full council meeting for approval.

2 DETAILS

- 2.1 The Council's responsibilities for the registration of electors are discharged by the ERO and in certain circumstances must be carried out by the ERO personally. Under the system of Individual Electoral Registration (IER) which started on 10th June 2014 there is increased scope for disputes about a registration application to move to a hearing. These could be an appeal against a decision to reject an application to register, an objection by an elector in the area to a person's registration or a request for a hearing following a review whose outcome the elector disagrees with. The hearing is quasi-judicial in nature and there are statutory provisions regarding the timetable. Following a hearing any appeal is to the county court. The hearing must be conducted by the ERO or a properly appointed deputy with full powers to act.
- 2.2 To ensure that there is usually an officer to discharge this function it would be prudent to make arrangements for the ERO to be able to delegate his powers and duties. This would ensure that when it became necessary to hold a hearing it could be dealt with efficiently and effectively without unreasonable delay.
- 2.3 The council can appoint Deputy Electoral Registration Officers (DERO) who can carry out the powers and duties of the ERO and can also formally delegate the appointment of DEROs to the ERO. It is suggested that this would be the most effective way of dealing with this matter. In their guidance

on IER the Electoral Commission (EC) suggested that it may be useful to appoint deputies to undertake quasi-judicial procedures, such as hearings of registration applications, objections and reviews. The EC further advise that the ERO should ensure that deputy arrangements are in place in case they are unable to act personally and that appointments of DEROs and acceptance should be made in writing.

3 ALTERNATIVE OPTIONS

- 3.1. The alternative way of dealing with this matter would be to bring each proposal for the appointment of a DERO to a full council meeting which would be a cumbersome way of dealing with an administrative function.

4 CONSULTATION UNDERTAKEN OR PROPOSED

- 4.1. This is an internal matter dealing with the effective administration of the council's registration functions so no consultation has been undertaken or is proposed.

5 TIMETABLE

- 5.1. Following consideration by the General Purposes Committee on 6th November 2014 the matter has been brought to this council meeting.

6 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 6.1. There are no financial, resource or property implications.

7 LEGAL AND STATUTORY IMPLICATIONS

- 7.1 The council must appoint an ERO in accordance with section 8(2) (a) of the Representation of the People Act 1983(RPA1983) and under section 52(2) of that Act the ERO's powers and duties may be performed by a duly appointed deputy. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000¹ list section 8(2) of the RPA1983 as one of the functions that are not to be the responsibility of an authority's executive. In accordance with section 101 of the Local Government Act 1972 the council may delegate its functions under section 52(2) of RPA1983 to the ERO.

8 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 8.1 Under section 149 of the Equality Act 2010 it is the duty of a public authority in the exercise of its functions to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not.

Having due regard for advancing equality involves:

¹ SI 2000/2853

- Removing or minimising disadvantages suffered by people due to their protected characteristics;
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people;
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

8.2 In providing services and access to them the Council is required by law to make reasonable adjustments in order to avoid discriminating against disabled persons. When considering what adjustments should be considered as reasonable the council is required to have regard to the relevant code of practice. The following are some of the factors to be taken into account when considering what is reasonable:

- Whether taking any particular steps would be effective in overcoming the substantial disadvantage that disabled people face in accessing the services in question;
- The extent to which it is practicable for the service provider to take the steps;
- The financial and other costs of making the adjustment;
- The extent of any disruption which taking the steps would cause;
- The extent of the service provider's financial and other resources;
- The amount of any resources already spent on making adjustments; and
- The availability of financial and other assistance.

8.3 The right to free elections forms part of Article 3 of Protocol 1 of the Human Rights Act 1998. Any resident is entitled to vote, if qualified by age and nationality, and if not subject to any other legal incapacity. Any question about an individual's right to vote should be resolved as expeditiously as possible

8.4 The aim of enhancing community cohesion and engagement would be expected to be achieved by the principles in 8.1 and 8.2 through promoting democratic engagement by seeking to ensure that issues arising in the voter registration process are capable of being dealt with effectively and in accordance with statute.

9 CRIME AND DISORDER IMPLICATIONS

9.1. There are no crime and disorder implications.

10 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

10.1. This report puts forward a proposal to addresses the risk that electoral registration hearings could be delayed which might be perceived as contrary to the principles of natural justice and could be damaging to the council's reputation.

11 BACKGROUND PAPERS

11.1. Only published material has been used in the preparation of this report.

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