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## **APPOINTMENT OF ELECTORAL REGISTRATION OFFICER AND RETURNING OFFICER FOR DISTRICT, PARISH AND COMMUNITY COUNCIL ELECTIONS**

To: **Council – 10 July 2014**

By: **Democratic Services and Scrutiny Manager**

Classification: **Unrestricted**

Ward: **All wards**

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**Summary:** This report asks Council to appoint to the roles of Electoral Registration Officer, Deputy Electoral Registration Officer and Returning Officer for District, Parish and Community Council Elections.

### **For Decision**

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#### **1.0 Introduction and Background**

1.1 On 14 July 2011, Council agreed the following:

That the Chief Executive and Chief Finance Officer, Dr. Sue McGonigal, be appointed Electoral Registration Officer and Returning Officer for Thanet District Council.
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1.2 Although the Returning Officer has appointed Deputy Returning Officers in the past, those appointments have always been specific to one election and expire at the completion of that election. The Council therefore currently has no designated Deputy Returning Officer. Council must designate an Electoral Registration Officer. Only Council can designate a Deputy Electoral Registration Officer, something which has not been done in the past.

1.3 Members will be aware that Dr. Sue McGonigal is currently not able to work, so there is no-one currently available to carry out the functions of the above roles, or to appoint a Deputy Returning Officer for a future election.

1.4 It is very important that the Council has:

- A duly appointed Returning Officer if an election needs to take place. Some elections have to be completed over a very tight timescale, meaning that the appointment of a Returning Officer cannot wait until the October meeting of Council.
- A duly appointed Electoral Registration Officer, if anyone challenged the inclusion of, or omission of someone from, the published register. Again, strict statutory timetables apply to such processes.

1.5 Part 7 of the Council's constitution lists the "proper officer" functions, and designates the Democratic Services Manager to act as both Returning Officer and Electoral Registration Officer in the absence of the proper officer holding those roles. However, such designations are intended to be used in the very short term. Given the availability of this Council meeting, officers consider it appropriate to ensure that posts are designated for these roles where a post-holder is currently available. By designating it in the way

proposed below, should Dr. Sue McGonigal return to work, she would automatically become Returning Officer and Electoral Registration Officer again at that time. The designation of Deputy Electoral Registration Officer below would remain until such time as Council alters it.

## **2.0 Legal requirements**

2.1 The appointment of the Electoral Registration Officer is prescribed in Section 8 of the Representation of the People Act 1983. In England, the council of every district and London borough is required to appoint an officer of the council to be Electoral Registration Officer

2.2 Similarly, in England, every district council is required to appoint an officer of the council to be the Returning Officer for the election of district councillors and for the election of councillors of any parishes within the district. Whoever is appointed as Returning Officer automatically becomes responsible for the conduct of other elections, and whoever is appointed as Electoral Registration Officer becomes responsible for the conduct of some elections (most notably, Parliamentary elections as Acting Returning Officer) <sup>1</sup>.

## **3.0 Duties of roles**

3.1 The Returning Officer is the person who has the overall responsibility for the conduct of elections. The 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 accounts and,
- reclaiming of expenditure from external bodies as prescribed.

3.2 It must be emphasised that these duties of the Returning Officer are separate from his/her duties as a local government officer. The Returning Officer is personally liable for the conduct of the election, and only Council can designate an alternative Returning Officer to discharge these functions.

3.3 A Returning Officer is able to designate a Deputy Returning Officer with full powers or powers limited to specific purposes relating to an individual election. Such a designation does not remove personal liability from the Returning Officer appointed by Council.

3.4 The Electoral Registration Officer is an official appointed by the Council to prepare and maintain the Register of Electors. If there were a legal challenge to any act of including, or refusing to include, somebody within the register of electors, it is the Electoral Registration Officer that would convene and conduct the hearing required by statute.

3.5 Council can appoint a Deputy Electoral Registration Officer who could carry out the duties of the Electoral Registration Officer in his/her absence.

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<sup>1</sup> Section 28(1)(b) Representation of the People Act 1983. The Returning Officer for Parliamentary elections within the Thanet North and Thanet South constituencies is the High Sheriff of Kent.

## **4.0 Corporate Implications**

### **4.1 Financial and VAT**

4.1.1 There are no immediate financial implications arising from this report

### **4.2 Legal**

4.2.1 Under the Representation of the People Acts, it is essential for the Council to have a designated Electoral Registration Officer and Returning Officer available to carry out the functions set out above. The Council may appoint a deputy Electoral Registration Officer.

### **4.3 Corporate**

4.3.1 The efficient conduct of the electoral registration process and elections is one of the highest-profile functions that the Council undertakes. Any challenge to these processes could result in adverse publicity and legal sanction against the Returning Officer personally and the Council.

4.3.2 It is therefore essential that Council designates an officer to cover the roles of Electoral Registration Officer and Returning Officer.

### **4.4 Equity and Equalities**

4.4.1 There are no immediate equity or equalities implications arising from this report. However, amongst the roles undertaken by the Electoral Registration Officer and Returning Officer are those of ensuring that equalities issues are addressed in the running of electoral registration and elections (e.g. access to Polling Stations).

## **5.0 Recommendations**

5.1 THAT the Head of Paid Service be appointed Electoral Registration Officer.

5.2 THAT the Democratic Services and Scrutiny Manager be appointed Deputy Electoral Registration Officer.

5.3 THAT the Head of Paid Service be appointed Returning Officer.

## **6.0 Decision Making Process**

6.1 Only Council can designate the Electoral Registration Officer, Deputy Electoral Registration Officer and Returning Officer. The Returning Officer can appoint a Deputy Returning Officer.

Contact Officer:	Glenn Back, Democratic Services and Scrutiny Manager, ext 7187
Reporting to:	Paul Cook, Interim Director of Corporate Services, ext 7617

### ***Annex List***

<i>None</i>	
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***Background Papers***

<b>Title</b>	<b>Details of where to access copy</b>
<i>None</i>	

***Corporate Consultation Undertaken***

Finance	N/A
Legal	Steven Boyle, Interim Legal Services Manager