

Meeting: COUNCIL

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ELECTORAL SERVICES – SCALE OF FEES

Author – Luke Fattorusso ext. 2174

Lead Officer – Matt Partridge ext. 2456

Contact Officer – Luke Fattorusso ext. 2174

PURPOSE

- 1.1 To approve the scale of fees for electoral events from 1 April 2024.

RECOMMENDATIONS

- 2.1 That Council approves the scale of fees from 1 April 2024, as outlined in Appendix A.
- 2.2 That the Chief Executive (as appointed Returning Officer) keeps the fees for electoral staff under review and is delegated authority to amend any of those fees following revised national guidance issued by Central Government.
- 2.3 That the Chief Executive is delegated authority to create additional roles for electoral events with attributable fees, as required.
- 2.4 That the Chief Executive is delegated authority to uplift any electoral staff fees as appropriate due to market forces or other factors (such as difficulty in recruiting staff).
- 2.5 That the Returning Officer's fee is uplifted each year following agreement of the JNC pay award for Chief Executives.

BACKGROUND

- 3.1 The Representation of the People Act 1983 requires each local authority to appoint a Returning Officer to conduct elections. The Returning Officer (and not the Council) is personally responsible for the delivery of elections and although they must be an employee of the Council at the time of an election, their responsibility and accountability for the running of an election is separate to their local authority duties. A Returning Officer may be held personally liable by the courts for any failure in undertaking their duties. A Returning Officer appointed by a District Council will also act as Returning Officer for each Town and Parish election held within the District Council's area and will undertake the role of Deputy Returning Officer for County Council elections, Acting Returning Officer for Parliamentary elections, Local Returning Officer for the election of a Police and Crime Commissioner and Counting Officer for any national and local referenda. The Chief Executive has been appointed the Returning Officer by the Borough Council.
- 3.2 In order to administer elections in the Borough, the Returning Officer needs to directly employ and pay in excess of 200 staff with differing levels of responsibility and to hire a sufficient number of venues to use as polling stations and count centres. Staff employed in the running of an election are considered in law as employees of the Returning Officer, not the local authority, and the Returning Officer is responsible for meeting all employment requirements and obligations. The Returning Officer is therefore entitled to recover a fee which recognises the level of responsibility and the independent nature of the post.
- 3.3 For national elections and referendums, the fee paid to the Returning Officer is set by statute and paid by Central Government. For local elections the fee is paid by the appropriate local authority.
- 3.4 Every District Council is also required to appoint an Electoral Registration Officer with personal responsibility to maintain the Register of Electors, conduct the Annual Canvass and encourage electors in the electoral process. Part of this includes the recruitment of a number of staff known as Canvass Registration Assistants who make household visits to properties to confirm and encourage electoral registration. The Chief Executive has also been appointed the Electoral Registration Officer by the Borough Council.

REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

- 4.1 In order for the Council to remunerate the Returning Officer and the staff employed to carry out tasks during electoral events, a scale of fees needs to be determined.
- 4.2 The Department of Levelling Up, Communities and Housing (DLUHC) have been working with the Association of Electoral Administrators (AEA), the Society of Local Authority Chief Executives (SOLACE) and the Elections Fund Working Group (EFWG) to develop a pay structure for all staff working on elections that would be paid by Central Government at national polls.

- 4.3 The new guidance with indicative fees is currently in draft form and, through their local groups, has been provided to electoral administrators. Whilst the new guidance has not yet been published, DLUHC have indicated that it will be applicable across Great Britain for all national polls from 2 May onwards, when the Police and Crime Commissioner elections will be held (which will be combined with the all-out elections held in Stevenage on 2 May 2024).
- 4.4 The draft guidance provides a set of pay bands to the various roles undertaken at elections. DLUHC have stated that the set pay bands are intended to increase the consistency and transparency of staff payments at elections, and to reduce the number of observations the Elections Claims Unit (ECU) send concerning election accounts, allowing claims to be settled more quickly whilst ensuring that payments continue to reflect the work undertaken.
- 4.5 In advance of the next scheduled elections the current fees have been reviewed in accordance with the new guidance and aligned with the pay bands as set out by Central Government.

IMPLICATIONS

Financial Implications

- 5.1 The costs attributed to Borough Council elections are borne by the Council.
- 5.2 At national elections, such as UK Parliamentary or Police and Crime Commissioner elections, Central Government provide maximum recoverable amounts that can be claimed by local authorities for the relevant work undertaken. These claims are submitted to the ECU following the conclusion of the Poll.
- 5.3 For County Council elections, the costs are borne by Hertfordshire County Council.
- 5.4 Where a Borough Council election is combined with a national or County Council election, the costs of the elections are apportioned equally across the separate polls.
- 5.5 It is essential that the Returning Officer has sufficient resources to undertake the various statutory duties at an election. Electoral Services work within a budgetary framework where funds are allocated to support the work of the Returning Officer and Electoral Registration Officer for electoral events. The Borough Council's finance team have reviewed the proposed fees and are satisfied that these are in line with the budgetary framework as set for electoral services.
- 5.6 The proposals within this report will, therefore, enable the Returning Officer to meet their statutory duties.

Legal Implications

- 5.7 Under section 35(1) of the Representation of the People Act (RPA) 1983, 'every district council shall appoint an officer of the council to be the returning

officer for the elections of councillors of the district.' Other types of elections are covered by similar provisions within the RPA 1983.

- 5.8 Under Section 36(4) of the RPA 1983 it states that 'all expenditure properly incurred by a returning officer in relation to the holding of an election of a councillor for a principal area (that is a county, a district or a London borough) shall, in so far as it does not, in cases where there is a scale fixed for the purposes of this section by the council for that area, exceed that scale, be paid by that council.'
- 5.9 The Council therefore has a statutory obligation under the Representation of the People Act 1983 to provide the necessary resources to the Returning Officer to carry out their duties and deliver an efficient and lawful election.
- 5.10 The annual canvass, along with other statutory functions, is the responsibility of the Electoral Registration Officer and is contained within Sections 52-54 of the Representation of the People Act 1983 (RPA).
- 5.11 Whilst there is no specific delegation of setting fees other than for the Borough to reimburse for all expenditure properly incurred, it is considered good practice to have a scale of fees approved by Council.

Risk Implications

- 5.12 In order to comply with its Statutory requirements, the Returning Officer must ensure that they recruit and deploy a number of temporary staff to work at elections. Whilst the Returning Officer for the Borough Council has been able to staff elections sufficiently over recent years through proactive recruitment initiatives, many local authorities continue to struggle to find sufficient staff to fulfil these roles and to staff elections accordingly.
- 5.13 In addition, with the introduction of the Elections Act 2022, there have been wholesale changes to how elections are administered, in particular following the introduction of the requirement for voters to provide Photographic Identification at Polling Stations at elections. This has therefore made the roles at elections more challenging and complex, and in some cases these extra responsibilities and pressures have deterred people from taking on the roles. It is therefore important to maintain competitive rates when setting fees reflective of the roles undertaken, to maximise the opportunity to recruit adequate and competent staff.

Staffing and Accommodation Implications

- 5.14 If the scale of fees does not provide adequate reimbursement for the roles required at electoral events, then it will become extremely difficult for the Returning Officer to recruit staff to the various challenging roles, thus introducing significant risk in the electoral processes.

Service Delivery Implications

- 5.15 Elections are a no-fail public service. Without adequate provision provided to Returning Officers to employ sufficient staff to work in the various roles at an election, the risk is that the elections are not administered effectively and in accordance with the law and thus are subject to challenge.

Equalities and Diversity Implications

- 5.16 In preparing this report, due consideration has been given to the Council's statutory Equality Duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, as set out in Section 149(1) of the Equality Act 2010.

DETAILS

- 6.1 Returning Officers are statutorily independent of the local authority and are ultimately responsible for the efficient and effective running of elections. They are also responsible for accounting for the expenses incurred for the conduct of the elections in their area.
- 6.2 The Returning Officer is responsible, amongst other things, for:
- The publication of all election notices
 - The nomination process for candidates/election agents
 - The issue, receipt and opening of postal votes
 - The provision of polling stations and other venues
 - The appointment of election staff, including presiding officers, poll clerks, polling station inspectors, postal vote staff, count supervisors and count assistants
 - The verification, count and declaration of results
- 6.3 For national elections and referendums, the fee paid to the Returning Officer is set by statute and paid by Central Government. For local elections the fee is paid by the local authority.
- 6.4 DLUHC is responsible for national elections and have been working with various organisations who support Returning Officers and Electoral Services to develop new guidance on election fees. These groups have also included Returning Officers and Electoral Services Managers across the country, where the outcomes and draft guidance following these meetings have been disseminated by the various regional lead officers. This has enabled Returning Officers and Electoral Services Managers to feedback into this process.
- 6.5 In addition to the guidance on pay bands being introduced by Central Government, the electoral services team meet regularly with the electoral services teams within the county, where fees for electoral staff are discussed and benchmarking undertaken. These can then be taken into consideration when setting fees, along with the local circumstances of the local authorities. The pay bands being introduced by DLUHC provide a pay range that gives Returning Officers the flexibility for this to continue.
- 6.6 The Returning Officer for the Borough Council has been able to recruit sufficient staff for the differing roles at recent elections through various recruitment initiatives; however, staffing continues to be a significant cause for concern nationally across all local authorities. It is therefore important to ensure experienced staff are retained in the electoral process and that new staff recruited are provided with adequate training, support and guidance.

Succession planning for staff at elections is therefore vitally important and encouraging those to take on these highly important roles is essential. Setting competitive fees for the reimbursement of these roles is therefore one factor in ensuring competent staff can be recruited.

- 6.7 Further, the role of elections staff, particularly of Presiding Officers and Poll Clerks at polling stations, has changed significantly over recent years and is now at its most challenging following the various new requirements introduced by Parliament. It is therefore critical that the scale of fees are reflective of these changes, so that the Returning Officer is in the best position possible to recruit capable staff.
- 6.8 The scale of fees as set out in Appendix A are all within the range of the pay bands as set in the DLUHC draft guidance.
- 6.9 Whilst the draft guidance from DLUHC has not yet been published, we have been made aware that it is expected that they will begin launching the new fees and guidance in January 2024. Accordingly, the scale of fees needs to be approved in time for the next scheduled elections hence why this report has been included on the February Full Council meeting agenda.

APPENDICES

- A Electoral Services – Scale of Fees