

Returning Officers fees and expenses

1. Purpose of Report

- 1.1. 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. In cases where such a scale has been fixed, the scale must not be exceeded. Traditionally the common scale used across Wiltshire was updated every two years, but this was last reviewed in November 2008 in preparation for the new Council elections.
- 1.2. Generally the present scale is fair and workable, but there are a few areas where an improvement is recommended. These are set out below.

2. Background

- 2.1. Under the regulations, elections are categorised as either "local" (i.e. parish, district, county or unitary) or "Parliamentary" (i.e. Westminster, European, and by implication the AV referendum and the new Police and Crime Commissioner elections). These "Parliamentary" elections have their own fees and charges, set by the Ministry of Justice under Order, and lie outside the Council's remit. Expenditure on these elections is reclaimed from government via a very detailed claims procedure, which scrutinises all expenditure for accuracy and reasonableness.
- 2.2. The council's existing scheme for local elections is appended at A. Prior to 2006, polling hours were different for local elections, and polling staff fees were set at a percentage of the "parliamentary" elections. Now that polling hours are standardised, the polling staff fees are set at the latest nationally approved Parliamentary rates.
- 2.3. The Wiltshire scale is regularly monitored against other councils, although it is hard to get a like for like direct equivalent, because very few councils have the geographical or electorate size that we have. It would be dangerous to slavishly follow any single model – some councils have fees based on a rate per elector which would result in Returning Officer fees being 100% higher than the current Wiltshire scheme for a single tier election, which would clearly not be appropriate.

- 2.4. The better starting point to monitor fees would be to look at the amounts set for Returning Officer fees by the Ministry of Justice for European and Parliamentary elections. The Wiltshire scale accords well with the principles and amounts of the Ministry of Justice rates, and results in fees considerably lower than many of those benchmarked.
- 2.5. Appendix B shows a scale proposed for 1 April 2013. All amounts are maxima, i.e. the scale is required to show the maximum amount recoverable from the Council. For example, many parish vacancies result in uncontested elections, but no fee is paid, showing a considerable saving each year.

3. Deputy Returning Officers (new)

- 3.1. It is important to recognise the difference between Deputy Returning Officers with Full Powers, and Deputy Returning Officers with Limited Powers. As the names imply, a Full Deputy has all the powers of the Returning Officer, but the powers of a Limited Deputy are confined to those conferred on him under the delegation. Typically a Deputy with Limited Powers would be appointed to oversee a major process, e.g. a remote count, but the extent of the delegation can be as broad or as limited as the Returning Officer wishes. For convenience, both types of Deputy tend to be referred to as a DRO.
- 3.2. It is quite usual for councils to appoint a Deputy with Full Powers, often more than one, even in a small council. The Returning Officer could be unavailable for the conduct of part or the whole election, which in the case of a Parliamentary election is just over three working weeks, and the responsibilities and liabilities of the Returning Officer commence with many statutory procedures and notices well in advance of polling day. Secondly, there are key stages in the process which should be overseen by the Returning Officer, e.g. the receipt of nominations and postal voting, plus on a wider level every part of the conduct of the election is open to challenge. Given the logistics of the operation in Wiltshire, it is not feasible to contemplate an election without at least two Deputies with Full Powers, which represents a considerable reduction from the previous system of a Returning Officer and Deputy in each of the five councils.
- 3.3. The present scheme adequately recognises the position of a DRO with Limited Powers to run a count, either for a casual vacancy or for main elections. However in 2009, there was some difficulty in recognising the position of a DRO with Full Powers in that the DRO fee listed refers to the count, not the full election process. For completeness, it is felt a new heading should be added to the scale of fees and charges, setting the fees of a Deputy with Full Powers at a figure not exceeding one third of the Returning Officers fees.
- 3.4. In submitting claims to the Election Claims Unit for the 2010 Parliamentary elections and the 2011 AV referendum, the Returning Officer's policy and practice for determining the breakdown of fees to Full and Limited Powers Deputies was included with the claim, and this was settled in full without dispute. It can therefore be demonstrated that the principles of Wiltshire's DRO fees for both Full and Limited Deputies have

passed scrutiny at national level for the national elections, and can reasonably be adopted in to the local scale of fees and charges with confidence.

- 3.5. The fees for Deputy Returning Officers with Limited Powers (count), for both local and Parliamentary elections result in payments to those DRO's (Limited) which are broadly the same as for other councils, indicating that the local scale and the Returning Officer's Parliamentary formula are realistic and robust.

4. Counting Assistant (B3 and B4)

- 4.1. Polling hours were changed in 2006, with a close at 10pm instead of 9pm. Although polling staff double up as counting staff for casual vacancies, it is still necessary at larger casual vacancies to find additional count staff, especially where counting sheets are required, as this is a very time consuming task. It is not felt that the current fee of £15 an hour before tax is appropriate, and £20 per hour would be more reasonable. Casual vacancy counts do not normally exceed two hours.

5. Count supervisor (new)

- 5.1. Count fees for main elections are calculated by reference to the scale and then apportioned back according to the hours worked. However for casual vacancies, it is not always possible for the DRO at a larger count to both supervise the process and undertake all the non-count activities including liaison with candidates and accounting for all the secure paperwork. It is usual for one of the more experienced count staff to be nominated to assist the DRO, and it is felt this should be recognised.
- 5.2. This would be a new fee, and would not always be payable, as smaller counts would probably allow the DRO to undertake those tasks without additional help.

6. Mileage (update)

- 6.1. Mileage rates have changed considerably over the years, and it is felt it would be much better to tie them to HMRC rates

7. Parish polls (update for consistency)

- 7.1. Parish polls can be demanded under the 1972 Local Government Act, and are regulated by their own set of rules. With changes in election regulations over the last few years, parish polls retain a lot of the characteristics of elections from many years ago, e.g. no postal voting, no poll cards. Ballot papers still have to have counterfoils, and stamping instruments are still used.
- 7.2. The present scale of fees and charges addresses most of the issues, but for completeness, headings B3, B4, B5, B10 and B11 (subject to paragraph 6.1 above) should be brought into line with the rates for parish

elections. Half fees are payable to polling staff, because polling hours are reduced to 4pm to 9pm.

Equalities Impact of the Proposal

7.3. There are no equality implications arising from this report.

8. Risk Assessment

8.1. There are no significant risks attached to these proposals, and the maintenance of an up to date set of fees and charges caps the expenditure permitted on elections.

9. Financial Implications

9.1. There are unlikely to be any significant financial consequences arising from this review.

10. Legal Implications

10.1. It is not a legal requirement to have a scale of fees and charges, but the presence of one effectively regulates the Returning Officer's maximum expenditure to be paid by the Council.

10.2. Legal advice confirms that the payments to the Returning Officer and Deputies with Full Powers are currently superannuable, and the relevant deductions have been made since 2009

11. Recommendations

It is recommended:

11.1. A new heading be included in the scale of fees and charges for the payment of Deputy Returning Officers with Full Powers, and the level be set at one third (33.3%) of the Returning Officer's fee according to the scale.

11.2. Fees for counting assistants be raised from £15 per hour to £20 per hour.

11.3. A new heading be introduced to enable count supervisors at casual vacancy counts, where appropriate, to be paid at a rate of £25 per hour.

11.4. Mileage rates for all elections and polls be set at the HMRC rate in force at the time

11.5. Headings B3, B4, B5, B10 and B11 (subject to paragraph 6.1 above) relating to parish polls should be brought into line with the rates for parish elections

11.6. Other than the amendments set out above, no change be made to the 2009 scale of fees and charges, with the new scheme to take effect from 1 April 2013

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Background Papers

None

Appendices

A – Scale of fees and charges from April 2009
B – Scale of fees and charges proposed from 1 April 2013