

Report to	County Council
Date of meeting	13 th April 2021
Lead Member / Officer	Councillor Hugh Evans, Leader
Report author	Gary Williams, Head of Legal, HR and Democratic Services
Title	Appointment of Electoral Registration Officer and Returning Officer

1. What is the report about?

- 1.1. The report is about the appointment of an Electoral Registration Officer and Returning Officer for Denbighshire.

2. What is the reason for making this report?

- 2.1. The Council needs to appoint an Electoral Registration Officer and Returning Officer to fulfil both roles pending the appointment of a new Chief Executive.

3. What are the Recommendations?

- 3.1. That Nicola Stubbins be appointed as Electoral Registration Officer for Denbighshire to hold office until the appointment of a new Chief Executive.
- 3.2. That Nicola Stubbins be appointed as Returning Officer for Local Government Elections in Denbighshire to hold office until the appointment of a new Chief Executive.

4. Report details

- 4.1. s8 Representation of the People Act 1983 requires the appointment of an officer of the Council as the Electoral Registration Officer for its area.

- 4.2. s35 Representation of the People Act 1983 requires the appointment of an officer of the Council as the Returning Officer for Local Government Elections for its area.
- 4.3. It is common practice in many local authorities for the Electoral Registration Officer and the Returning Officer to be the same person, which often results in a senior officer being appointed to both posts. In Denbighshire the practice has been to appoint the person who is Chief Executive to hold both posts.
- 4.4. Following the departure of the previous Chief Executive on 6th April 2021 it is necessary to appoint a senior officer of the Council to hold both positions until the appointment of a new Chief Executive.
- 4.5. Article 18 (2)(a) of the National Assembly for Wales (Representation of the People) Order 2007, as amended, designates the Returning Officer for Local Government Elections as the Returning Officer for a Senedd Cymru Constituency situated wholly within the County. Therefore, the Returning Officer for Local Government Elections within Denbighshire will also be designated as the Returning Officer for the Vale of Clwyd Senedd Cymru Constituency.
- 4.6. Regulation 2A Police and Crime Commissioner Elections (Functions of Returning Officers) regulations 2012 provides that where a Police and Crime Commissioner election is being held at the same time as a Senedd Cymru election, the Returning Officer for the relevant Senedd Cymru constituency will be the Local Returning Officer for the Police and Crime Commissioner election in that constituency area.
- 4.7. The Returning Officer for Parliamentary elections in this area is the High Sheriff for the Preserved County of Clwyd, however the High Sheriff is only able to carry out limited functions (subject to giving the requisite notice), such as receiving the writ from the Clerk of the Crown in Chancery and declaring the result following the counting of votes. The Returning Officers (Parliamentary Constituencies) (Wales) Order 2007 designates the Electoral Registration Officer for the County of Denbighshire as the Acting Returning Officer for the Vale of Clwyd Parliamentary Constituency.
- 4.8. Council should note that the Electoral Registration Officer and Returning Officer have statutory functions, and the responsibility for each role is one of a personal

nature and distinct from their duties as an employee of the council. Although appointed and employed by the Council, both roles are “Independent Officers of the Crown”. For example, the Electoral Registration Officer is personally responsible for the information held in the Register of Electors and holds a separate license to that of the County Council with the Information Commissioner’s Office. Similarly, the Returning Officer and not the County Council could be subject to an election petition at the Royal Courts of Justice following the result of an election.

5. How does the decision contribute to the Corporate Priorities?

5.1. There is no direct impact on the corporate priorities.

6. What will it cost and how will it affect other services?

6.1. There are no additional costs as a result of this decision.

7. What are the main conclusions of the Well-being Impact Assessment?

7.1. A well-being impact assessment is not required for this report.

8. What consultations have been carried out with Scrutiny and others?

8.1. There have been no consultations with Scrutiny.

9. Chief Finance Officer Statement

9.1. There are no direct financial implications of this report.

10. What risks are there and is there anything we can do to reduce them?

10.1. There is a risk that the Council will not have fulfilled its statutory duty to appoint an officer to these posts if an appointment is not made. There are Senedd Cymru elections due to take place on 6th May 2021.

11. Power to make the decision

11.1. s8 Representation of the People Act 1983

11.2. s35 Representation of the People Act 1983