

Teignbridge District Council
Full Council
29 November 2022
Part i / ii

Review of Election Fees and Charges

Purpose of Report

To seek approval to:

1. Apply the attached Scale of Costs (Appendix A) to District and Parish Council elections within the Teignbridge local authority area; and
2. Formalise the amount to be paid directly to the Returning Officer in respect of services rendered in the conduct of local elections.

Recommendation(s)

The Committee RESOLVES to:

- (1) Apply the Scale of Costs (Appendix A) to District and Parish Council elections within the Teignbridge local authority area; and
- (2) Remunerate the Returning Officer in accordance with the Scale of Costs (Appendix A).

Financial Implications

The financial implications are detailed in section 3.1
Martin Flitcroft, Chief Finance Officer and Head of Corporate Services
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Legal Implications

The legal implications are detailed in section 3.2
Paul Woodhead, Head of Legal Services and Monitoring Officer
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Risk Assessment

The risk implications are detailed in section 3.3
Cathy Ruelens, Electoral Services Manager & Deputy Returning Officer
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Environmental/ Climate Change Implications

There are no environmental/climate change considerations or implications.

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Electoral Services Manager

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Executive Member

Councillor Alan Connett

Appendices/Background Papers

Appendix A - Proposed Scale of Costs for 2023 District and Parish elections

Appendix B – Copy of DCC Scale of Costs as set for May 2021 elections (for comparison purposes)

1. Introduction/Background

The local authority is required to appoint a Returning Officer to conduct elections on its' behalf. The Returning Officer is personally, not corporately, 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 totally separate to their local authority duties. A Returning Officer may be held personally liable by the courts for any failure in their duty. The Teignbridge Returning Officer is the Managing Director (Head of Paid Service), in line with the Council's Constitution.

Returning Officers must be impartial and ensure that elections are run in accordance with law. A Returning Officer appointed by a District Council will normally 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 national and local referenda.

Returning Officers are responsible for delivering fair and open elections that deliver accurate results which are not challenged. In order to run local elections, the Returning Officer needs to directly employ and pay in excess of 500 staff with differing levels of responsibility, and hire a sufficient number of venues to use as polling stations and count centres. For example, staff are paid via a separate section of the iTrent system and all checking, verification work and calculation of payments and entitlements are carried out by the Returning Officer and Electoral

Services Manager. A payment file is then sent to the Payroll Manager simply for upload and payment by BACS. Any 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, including the right to work, holiday pay entitlement and access to a pension scheme. The Returning Officer is therefore entitled to recover a fee which recognises the level of responsibility and independent nature of the post, so it is important this is done fairly and transparently.

Full elections to Teignbridge District Council and all Teignbridge Town and Parish Councils occur every four years, with the next such elections scheduled to be held on Thursday 4 May 2023. The cost of these elections must be met in full by the District Council and there is provision in law for the District Council to reclaim an appropriate share of the costs from the relevant Town and Parish Councils. As there are no statutory provisions governing the level of fees and charges for these elections, they must be agreed, and fixed, by the District Council. The scale of fees currently being applied to District and Parish elections were last formally approved by the Policy and Resources Committee in 1991, some thirty one years ago. Since then they have been adjusted by inflation every four years, but are no longer fit for purpose. A revised and simplified Scale of Costs is therefore suggested for adoption, based on the most recent scale of costs set and approved by Devon County Council and applied to their elections in 2021.

It is proposed we refer to the Scale of Costs rather than the Scale of Fees, making it clear the amounts applied cover all the election costs, not just the fees paid to the Returning Officer and election staff. The most significant change is to how the allocation of the Returning Officer's fee is applied. In the current scale of fees, the Returning Officer is entitled to claim the entire fee, which was appropriate at a time when the Teignbridge electorate was considerably smaller and there was no postal voting on demand. The Returning Officer's fee was based on the size of the electorate and number of postal voters which, with today's numbers, results in an excessively high fee. Because of this, since 2011 there has been an informal understanding that the Returning Officer would only personally claim in the region of forty percent of the calculated fee, but this is a voluntary arrangement reliant on the goodwill of the Returning Officer. The proposed scale of costs still includes an amount based on the number of postal voters but the amount payable to the Returning Officer as part of their fee is greatly reduced. The suggested scale of costs would, instead, formally differentiate between the overall costs of running the election, and the amount the Returning Officer can claim as their personal fee for services, equating to around the same overall percentage as is paid under the current informal arrangement.

If the proposed scale of costs is accepted it is recommended that rather than increasing the Returning Officer's fee by inflation in future years, as is the case currently, it is increased in line with the average annual pay award which is normally less than inflation. All other staff fees are set in line with those paid at the most recent national elections and are uplifted in line with any local

government pay awards and/or increases to the national minimum wage during the intervening period.

2. Groups Consulted

There were attempts to introduce a new fees structure in both 2010 and 2014 ahead of the elections held in 2011 and 2015 respectively. At the time Town and Parish Councils were consulted and the feedback received was that the charges to Towns and Parishes should be fair and transparent. All of those that responded did feel that the Returning Officer's fee, as detailed in the actual scale, was excessively high, so limiting and formalising the amount personally claimed by the Returning Officer, as recommended in the new scale of costs, would address this issue.

The most recent Devon County Council Scale of fees was used as a basis for setting the proposed Teignbridge Scale of Costs.

3. Implications, Risk Management and Climate Change Impact

3.1 Financial

There is a financial implication for Teignbridge Council.

- i. The current increase applied to the overall Returning Officer charges represents a 2.1% increase, which is considerably lower than inflation.
- ii. The legal requirement to pay holiday pay to election staff and show it separately on the payslip whilst ensuring the minimum wage is met, will add up to 12.07% to some staff fees.
- iii. It is unknown by how much the actual and necessary costs may increase in the current economic climate. Using the costs incurred at the Devon County Council elections and Police and Crime Commissioner elections in 2021 and the most recent Town Council by-election as an indicator, suggests an overall increase in the region of 21% could be expected.
- iv. There is a risk that under the existing Scale of Fees a Returning Officer may claim the entire fee to which they are entitled. For example, in 2019 the Returning Officer was entitled to claim a total of £16,278.64 in respect of the District Council elections but took £7,149.00 under the informal arrangement. Using the proposed scale and assuming all wards are contested and the current number of postal voters remains the same, the fee for May 2023 is likely to be in the region of £8,800.00, but using the existing scale it would be in the region of £18,000.00. For comparison purposes, at the 2021 County Council elections the Teignbridge Returning Officer received £8,624.00 in respect of services

rendered. The proposed new Teignbridge Scale of Costs would, therefore, formally align the Returning Officer fee with that received from the County Council.

- v. In 2019 the budget for the district election was £150K and the actual spend was £140K. Based on an anticipated overall increase in costs of 21% we would expect the cost to the district council to increase to £170K in 2023 requiring an additional £20K to be added to the budget.

There is also a financial implication for Town and Parish Councils within Teignbridge.

- i. Town and Parish Councils are likely to see a similar overall percentage increase to the District Council, although a number of parishes will have uncontested elections so will not incur anywhere near the same level of charges.

3.2 Legal

There is a legal risk to the Council not having an appropriate scale of costs in place. All elections, both national and local, have an agreed scale of costs/fees in place ahead of each election so that the costs can be transparently monitored and those who are entitled to receive a fee have clarity on what they will receive.

3.3 Risks

- i. If the proposed Scale of Costs is not accepted the Returning Officer will continue to use the existing Scale of Fees. The most significant risk is that a Returning Officer will claim the entire fee; and
- ii. In the event of a legal challenge, the Council will leave itself open to the accusation that the Scale of Fees agreed in 1991 are outdated and not fit for purpose.

3.4 Environmental/Climate Change Impact

There are no implications relating to the environment or climate change.

4. Alternative Options

Local authorities are reluctant to share details of the payments made to their Returning Officers at local elections. So far, no district council in Devon has been willing to share this information. Therefore, other than fees paid at national elections, the only relevant scale we have sight of is the scale of costs set by Devon County Council and the fees paid by them to the Devon District Council Returning Officers when running elections on their behalf.

5. Conclusion

Fees at national elections are normally based on the total electorate and number of postal voters. The fees for a general election are reviewed and set by parliament and we reclaim our costs and the RO fee from the Election Claims Unit. However, at a general election the RO is only paid to administer one electoral area which consists of just two thirds of the total Teignbridge electorate – the Newton Abbot parliamentary constituency. One third of the Teignbridge electorate forms part of the Central Devon parliamentary constituency so those electors are passed to West Devon District Council who administer that constituency. Therefore, the fee payable for a general election is not an appropriate basis to use when comparing it to the complexity of running the combined district and parish elections, when elections for 81 separate areas are held over the entire Teignbridge area.

The Devon County Council scale of costs allows a set amount for each electoral area plus an amount per elector and postal voter, which seems a fair comparison to the district and parish elections and a reasonable basis for setting our own scale of costs. This provides openness, transparency and a reasonable comparison for calculating the Returning Officer's fee.