



THE ASSOCIATION OF ELECTORAL ADMINISTRATORS

**Report of review into the provision of
electoral services at Warwick District
Council**

**John Turner
Chief Executive**

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Report of review into the provision of electoral services at Warwick District Council

Part 1 - Introduction

1. In October 2015, the Association (AEA) was approached by Warwick District Council with a view to carrying out a review of the provision of electoral services by the Council. The Association was formally appointed to undertake the review and it was agreed that I would be the person to carry this out. By way of background, I am the Chief Executive of the AEA. Until 2004, I was the Returning Officer and Electoral Registration Officer for the City of Norwich.

2. The terms of reference for the review were based on a paper provided by the Council "Warwick District Council Electoral Services Feasibility Study 2015". The paper states that the reason for the study is to "To ascertain the most appropriate service delivery processes going forward, given the need to reduce costs for Warwick District Council and increase resilience within the small team."

The paper then indicates that the study should:

- Focus on the operations of Electoral Services, methods of electoral registration and details of elections, and processes used for these.
- Focus on the working relationship between Electoral Services and their contracted and non-contracted outside partners and the appropriate full use of systems which adds value to the Council.
- Focus on the provision of an appropriate Electoral Service which provides a value for money service for the Council and its residents.
- Position the service to allow for future development, in terms of service provision, staff resilience, their relationship between organisations the service works with or the service is provided for and define the resources required to deliver the service.

Part 2 – Background

3. Warwick D.C. covers an area in central Warwickshire based on the four towns of Kenilworth, Royal Leamington Spa, Warwick and Whitnash and includes the rural areas around those towns. It is bordered by the districts of Stratford upon Avon and Rugby, the metropolitan borough of Solihull and the city of Coventry.

The following facts relating to the Council are pertinent to the subject matter of

this report.

- There are some 100,668 electors on the Electoral Register;
- The Council has 46 members who are elected at all out elections held every four year, representing 22 wards;
- The Council is also responsible for the conduct of elections to 24 town/parish councils. At the last elections in 2015, there were contested elections in eight of the towns/parishes totalling 22 separate parish elections;
- Warwick District has a large student population based on the universities of Coventry and Warwick and Warwickshire college;
- The district has a sizeable European citizen base with 3,330 registered to vote;
- The number of postal voters at the May 2015 elections for the two parliamentary constituencies was 22,133;
- The area has two parliamentary constituencies;
- The response rate for the annual canvass for the electoral register in 2015 was 76%;
- The council uses electoral management software provided by Xpress.

4. For the purposes of the elections for the Council, the Chief Executive has been appointed as the Returning Officer. He has also been appointed as the Electoral Registration Officer (ERO) under the appropriate provisions within the Representation of the People Act 1983. As a result of this appointment, that officer automatically becomes the Acting Returning Officer for the Parliamentary elections held within the two constituencies administered by the District.

5. The staffing resource of the Elections Office is effectively 1.6 full time equivalent (f.t.e.) posts. This consists of a post of Electoral Services Manager supported by a post of an Electoral Services Officer (3 days per week). Additionally, there are two temporary posts of Electoral Services Officers (both three days a week), one based on a secondment from another service and one on a fixed term contract. The resources are supplemented at the time of the annual canvass and at elections by temporary assistance and by staff from the wider Democratic Services Team.

Part 3 – Methodology

6. In terms of conducting the review leading to this report, the following methodology was employed:

- a) collation of relevant written material relating to the arrangements for the provision of electoral services at the Council;
- b) assessment of the above material;

c) personal interviews with the Chief Executive, Democratic Services Manager and members of staff in the Electoral Services Team.

Part 4 – The Legal Position

The Electoral Registration Officer/Returning Officer

7. Each Council is required to appoint one of its officers as the Returning Officer for the purposes of local government elections at principal area level and to appoint one of its officers as the Returning Officer for the purposes of any parish council elections within the district's area.¹

8. The Council is also required to appoint one of its officers as the Electoral Registration Officer.² As explained above, the Electoral Registration Officer of the Council becomes the Acting Returning Officer for the purposes of the conduct of UK Parliamentary elections.³

9. The Council which has appointed that officer is required to provide the officer with sufficient resources to conduct local government elections and to pay the costs thereof.⁴ In terms of UK parliamentary elections, the costs are borne by Government through the Consolidated Fund.

10. The Returning Officer may appoint deputies to assist with the conduct of the election. Such deputies may be appointed with "full powers" (i.e. the power to undertake any duties which are formally the responsibility of the Returning Officer) or with "limited powers" (i.e. the powers specifically identified in the form of appointment).⁵

Relationship of the Electoral Registration Officer/Returning Officer to the Council

11. As noted above (paragraphs 7 to 9), a Council has to appoint one of its officers as the Returning Officer for its elections (or parish council elections) and then provide the necessary resources to allow that officer to properly conduct the election. Once appointed, the Returning Officer is in a statutory office and has a separate legal entity to that of the Council which appointed him/her. The same principle applies to that officer's appointment to the role of Acting Returning Officer (ARO) as it is held directly by virtue of the officer's appointment as Electoral Registration Officer.

¹ Representation of the People Act 1983 (RPA), section 35(1)

² RPA 1983, section 8

³ RPA 1983, section 28

⁴ RPA 1983, section 36(4)

⁵ RPA 1983, section 35(4)

12. On this basis, it could be suggested that the Electoral Registration Officer or the Returning Officer are not fettered by the Council's normal procedures in terms of carrying out electoral registration duties and conducting elections or subject to direction or instruction from members of the Council in respect of the discharge of the responsibilities falling to the statutory offices. This reflects the position enshrined in statute that an independent officer is responsible for the proper conduct of these matters "without fear or favour". This position was tested and confirmed by a case heard in the Queen's Bench Division of the High Court in 1993⁶ and involving Milton Keynes Borough Council and its Electoral Registration Officer.

Part 5 – The Findings of the Review

Introduction

13. The main findings of the review are set out below. The findings are based on the results of:

- (1) the interviews undertaken;
- (2) examination of the documents provided to me as part of the review.

Electoral Registration

17. The Electoral Registration Officer's (ERO) personal responsibilities include the following:

- the duty to maintain a list of UK Parliamentary and local government electors for the area for which s/he acts and to maintain a list of relevant citizens of the European Union entitled to vote at European Parliamentary elections
- the requirement to take reasonable steps to obtain information for that purpose
- the requirement to conduct an annual canvass
- the administration of absent voting applications
- the requirement to take steps to encourage participation by electors in the electoral process
- the requirement to meet such standards of performance as set by the Electoral Commission.

18. In terms of the maintenance of the electoral register, this largely includes three major elements:

- the transition to individual electoral registration

⁶ Case CO 1781/93

- the conduct of the annual canvass
- the process of rolling registration.

19. The IER system ⁷ was introduced in England and Wales from 10 June 2014. IER replaced the Household Electoral Registration system in 2015 to make the process of registration more convenient and more secure. IER requires each person to register individually, instead of one person in a household supplying the details of all the people living at that address. Online registration was available from the start of IER. One of the main aims is to help everyone who is eligible to vote to have control over their own registration.

20. The canvass is normally carried out between July and November in each year. The ERO is then required to publish a revised copy of the register by 1st December of each year. The main legal requirements relating to the annual canvass are that:

- applicants must be generally resident in the property for which they are registering
- the canvass is not concerned with prisons, mental hospitals or declaration electors
- the form is prescribed
- the ERO must send the form more than once to any address from which no response has been received and make on one or more occasions house to house inquiries.

21. I was advised that:

- Forms are processed as they are returned. This is particularly important in terms of any elections which may be called during the canvass period
- House to house inquiries are made on a routine basis
- Additional temporary office staffing resource is provided to cope with the canvass administration, largely clerical activities and scanning
- The 1 December deadline for publication of the revised register is always met.

The second bullet point is an important one as the Electoral Commission often draws attention to those authorities where this important step is not taken, either in full or part. As noted in the previous paragraph, the ERO is required to make house to house inquiries on one or more occasions. This is a statutory requirement under the provisions of section 9A of the Representation of the People Act 1983. This approach is normally undertaken at Warwick and therefore the ERO complies with this general "duty to take necessary steps".

⁷ <https://www.gov.uk/government/collections/individual-electoral-registration>

22. I would expect, as a minimum, the following documents relating to the electoral registration function to be in existence:

- Activity Plan (based on Electoral Commission template)
- Timetable for carrying out the canvass
- Risk register and assessment (based on Electoral Commission template)
- Integrity Plan
- Communications Plan

23. Good practice for the process for electoral registration should include:

- a comprehensive project plan
- a comprehensive timetable and action plan
- a lone working policy
- a participation plan with evidence of publicity
- an integrity plan based on the Electoral Commission's template
- evidence of activity undertaken in relation to the canvassing process in recent years
- detailed instructions for canvassers
- payment details for canvassers
- canvass response rates and evaluation records
- processes for using the i.t. system
- evidence of the return of performance standards data to the Electoral Commission

24. So far as I could ascertain, there is no single procedure manual for the electoral registration function although it could be argued that one could simply be created by using the above documents mentioned in paragraphs 22 and 23 as a basis for the preparation of such a manual.

25. The introduction of IER presents a major change to the way in which electoral services are provided. Change management of this nature will require a review of the permanent resources required for electoral services.

26. Three issues arise from the review of this function.

a) Office staffing resource – There does not appear to be any contingency arrangement or resilience within the current permanent staffing structure. This means that all the knowledge and experience is restricted to the two members of staff within the current establishment. If either of these members of staff were to be absent for any significant length of time during the three months of the canvass period, it is difficult to see how the statutory requirements could be satisfactorily met.

b) Resources - Although there is no suggestion that adequate resources are

not being made available for the electoral registration function, it is an area of concern that the pressures on local government finance generally and within the authority itself could affect the ability of the ERO to carry out the canvass in the same way and with the same results in future years. As noted above, the ERO is under a duty to take the necessary steps. Those steps should be taken and the costs of so doing have to be met by the Council. This was the point of law tested by the Milton Keynes case. It is important that all those eligible to be registered are in fact registered and this now takes on even more importance as the final transition to individual registration is made over the next 12 months.

c) Procedure manual – The fact that there is no single procedure manual for electoral registration is a major concern which is closely linked to the issues raised in b) above. It is important from a succession planning viewpoint and for contingency planning reasons. It is also important in terms of being able to measure processes and actions against that which is documented and required. Without this tool, it is virtually impossible for those responsible for the overall management of the function to determine whether the appropriate and necessary actions have been taken and in accordance with a properly agreed work plan and timetable.

Absent Voting

27. The ERO is responsible for the administration of absent voting applications. These are largely for postal votes but also include proxy voters as well. At the elections in May 2014, there were nearly 55,000 absent voters – this equates to some one in five electors using absent voting facilities.

28. The administration of absent voting is carried out as part of the use of the electoral management software (EMS). The postal vote packs are produced by another external contractor. A quality control system is in place for both to check the postal vote packs before they are despatched. The checking of postal voting statements when postal votes are opened is by use of specialist software supplied and supported by the same company that provides the EMS. No problems were identified in terms of the performance of the EMS contractor used for dealing with absent voting requirements (scanning of returned statements). However, a problem with the printing of the postal ballot papers for one ward occurred at the May 2015 elections. It should be noted that this contract ends in June 2016 and procurement of the new contract is underway.

Elections

29. The Returning Officer (RO) must be impartial and his/her role is to ensure that the conduct of an election is in accordance with the law. If the RO fails to

perform certain of the duties satisfactorily, e.g. the counting of the votes, then his/her conduct may well be the subject of court action. As noted in paragraph 11, the RO's responsibility is one of a personal nature distinct from his/her duties as an employee of the council. The parameters of the responsibility are defined by legislation and a breach of duty is a summary offence subject to a £5,000 fine. There can, on the other hand, be no action for damages against the RO.

30. Elections in Warwick are organised on the basis of a very detailed Project Plan prepared by the Electoral Services Manager on behalf of the Returning Officer. The plan was based on the template provide by the Electoral Commission. The planning for the UK Parliamentary election and the local government elections in May 2015 was based on this approach. Good practice for the process for the conduct of elections should include:

- Project plan
- Risk register
- An action list duly completed on a regular basis
- Postal vote opening plan and instructions
- Engagement and participation plan
- Integrity plan
- Polling station training presentation
- Ballot box collection arrangements
- Polling station guidance manual
- Polling station protocol
- Close of Poll instructions
- Guidance Notes for Tellers
- Inspecting Officers' instructions
- Election day telephone log
- Count instructions
- Results document
- Process for the storage, security and inspection of election documents
- Post election review meeting minutes

31. A comprehensive procedure manual for the elections function does not appear to exist.

32. I have been provided with a copy of an internal audit report from November 2015 on the conduct of local elections. The report is thorough and paints a picture of an effective and efficient electoral service in terms of the administration, management and conduct of elections in the Warwick D.C. area. There are no issues identified in the report which would give me any cause for concern.

33. Three issues arise from the review of this function.

- a) **Office staffing resource** – The same issue as raised in paragraph 26b applies to the elections function. Given the current arrangements, if one member of staff were to be absent for any significant length of time during the five months or so of the preparation for and conduct of the elections, it is difficult to see how the statutory requirements could be met.
- b) **Procedure manual** – The fact that there is no procedure manual for the conduct of elections is a matter for concern which is closely linked to the issues raised in a) above. It is important from a succession planning viewpoint and for contingency planning reasons. The various documents which currently exist in relation to the elections function should be converted to a procedure manual. The same comments as in paragraph 24d apply.
- c) **Elections control and review** – A full post election review on a lessons learned basis and to identify any new actions that need to be taken should be carried out after each election. Regular election based meetings take place between the Returning Officer, Deputy Returning Officers and the Electoral Services Manager during the election period. In addition to that, a systematic approach to reporting needs to be introduced so that progress reports are made to senior management on a regular basis. The record of the post election review meeting needs to be annotated with timetabled completion dates and a responsible officer for each action.

Information Technology support

34. The internal arrangements for I.T. support and back up appear to work well as do most of the arrangements with the electoral management software contractor. I was advised that that the ballot paper export file from Xpress is not ideal. This is because the format led to the print suppliers to have to manually take apart files and rebuild them. It was this process that led to a problem of the incorrect candidate party logo appearing on the ballot paper for one ward. This also caused problems with the large ballot papers and ballot papers for block voting at the count, both of which I understand are mentioned in the Council's final review report of the election. I further understand that the Electoral Commission indicated to the Council that this was not uncommon when working with the Council's EMS contractor no matter who the printer was.

Election fees

35. The Representation of the People Act 1983 (RPA) makes provision for Orders to be made entitling an Acting Returning Officer at a parliamentary election to receive a fee in respect of the services rendered by that officer (section 29). For

such elections, this is achieved by reference to a Returning Officers' Charges Order. This Order sets out how such a fee is calculated and the maximum amounts which can be claimed.

36. For local government elections, it is usual for the above practice to be replicated by reference to a similar scale of election fees adopted and approved by the local authority in question. Section 34 of the RPA 1983 provides that every principal area local authority shall appoint one of its officers to be the Returning Officer for purposes of elections to that authority. Section 36 provides that the cost of such elections shall be met by that authority provided that the expenditure does not exceed any scale fixed by the Council for the purposes of meeting the costs of the election. It follows that, if no such scale exists, there is no limit on the level of expenditure. For that reason, it is sensible in financial and budgetary terms to have an approved scale. It also adds transparency to the electoral administration process and removes doubt of what can legitimately be paid to officers responsible for and working within the process. Warwick D.C. has adopted and approved a scale of election fees for elections to the Council and to the Town/Parish Councils within the area. This approach accords with good practice. For example, in "Managing Electoral Services" formerly issued by the Electoral Commission, it was suggested that a scale of fees should be fixed and agreed annually. The same advice is provided by the AEA in its Foundation Course manual (module EA3, paragraph 10.11).

Development and Capacity Issues

37. The current staffing structure of the Elections Team undoubtedly delivers the services required both for electoral registration and the recent elections. However, I have a serious concern about how that happens and whether there is sufficient capacity to deal with the challenges presented by IER, further changes to the franchise and the various elections and the European Union referendum to be held over the next four years.

38. My analysis of the present situation identifies two major issues, namely:

- a) The lack of contingency and resilience particularly in relation to the Electoral Services Manager and the next most senior post
- b) The uneven spread of work carried out by members of the team which, in itself, contributes to further resilience issues at a lower level.

39. To accommodate the changes that would be necessary to deal with the issues identified above, I would recommend that an urgent review of the current structure of the Elections Team is undertaken with a view to:

- addressing the issues that have arisen as a result of this review

- future proofing the provision of electoral services given the significant changes that lie ahead over the next few years
- considering the changes to the structure and the overall resource that would be necessary to meet the significant challenges that lie ahead.

40. Such a review needs to consider the approach that should be taken to the way in which the team is organised with clear lines of reporting and responsibilities. To operate effectively, a function of this nature needs to be properly resourced with well-trained staff that have a sufficient level of knowledge and expertise. This equally applies to those who have management responsibility for the service.

41. Additionally, those responsible for the day to day management of the service and those working within it need the support of a proper staff development plan to build up the necessary expertise and knowledge within the service. The plan needs to identify the qualifications and training requirements at all levels. It further needs to ensure that the appropriate staff take full advantage of the services available to keep abreast of and up to date with legislative and administrative change and to ensure that good practice is embedded within the culture of the organisation.

42. There is also the question of the actual formal establishment of the Elections Office. As a rough rule of thumb from my past experience, I consider that, in addition to the manager, there should be one member of staff for around every 40,000 electors. On that basis and given the electorate of the District, the establishment should be 2.5 members of staff plus the manager post. This would represent an increase of more than doubling the current establishment.

43. Although temporary staff are used at peak times, I believe that it is also less than satisfactory to rely on such staff. Temporary staff are never likely to be as reliable or effective as permanent staff, require more training and supervision and place greater demands on the system as a whole. In addition, the use of temporary staff does not necessarily provide value for money.

44. In considering any new structure, I would suggest that the Council refers to the Electoral Commission publication "Designing a new Electoral Service". Pages 21 to 25 deal with staffing issues and provide clear and sensible advice on these matters.

Senior Management approach

45. As part of the review process, I had meetings with the Chief Executive and the senior manager responsible for the service. The outcome of those meetings indicated that some careful thought and consideration had been given to the

corporate and strategic direction for the provision of electoral services within the authority. This is encouraging as it is not always the case that senior managers within local government demonstrate such a careful interest in the provision of these services.

Involvement of other areas of Council

46. There are clearly skills and expertise held within other areas of the Council which are usefully employed to assist and support the Elections Team in its major responsibilities relating to the conduct of elections and also at canvass time in respect of the compilation and maintenance of the electoral register. These include but are not restricted to the following services:

- Logistics (In relation to securing venues etc. for major events such as the parliamentary election count and in terms of storage required for election purposes and a secure area for electoral documents)
- Communications (In relation to the provision of public information and dealing with the media)
- Human Resources (In relation to the recruitment and employment of staff, both permanent and temporary)
- Information Technology (In relation to the support required for the electoral management software systems)
- Finance (In relation to election accounts)
- Payroll (In relation to the payment of election and electoral registration fees to temporary staff).

47. Where the above services are employed as part of the elections process, representatives of those services are invited to Project Board meetings, as appropriate. Subject to the nature of the involvement, this would be either as a permanent member of the Board or on an as and when required basis.

48. I am advised that the Council is likely to move to smaller office accommodation. This raises an issue in relation to the first bullet point in paragraph 46. It is critical to the proper working of an elections office that there is sufficient and secure space in which to carry out the day to day activities of the office and for the storage of both equipment and historical documents that are required to be kept for legal reasons. The issue which arises is that careful consideration needs to be given to the space requirements for the Elections Team in terms of the move to new office accommodation.

Part 6 – Conclusion

49. My overall conclusion from this review is that Warwick D.C. already has in place the necessary arrangements to be considered a well performing authority in

terms of the delivery of electoral services. It has demonstrated its ability to provide effective and efficient electoral services. The Council could easily aspire to exemplar status as a model of how to deliver high quality electoral services within the challenging environment now faced by local government.

50. The undertaking of this review is a positive step in itself given that it indicates a desire by the Council to examine the current arrangements and to identify areas for improvement or change. The various issues identified as a result of this process now need to be addressed. The issues of resources, management arrangements and adopting good practice in terms of documenting the processes and full compliance with statutory requirements are critical to effecting any improvement to the present position.

51. Aspiring to an ethos of continuous improvement and delivering that improvement should become the normal course of events in terms of the provision of these key elements of the democratic process. Attention to detail is critical to good electoral administration. The recommendations which I make relating to resources and procedural approach need to be implemented to ensure that the Council and its officers are not exposed to undue risks or problems in the future. The issues identified in this report simply underline the importance of ensuring that good practice within electoral administration needs to be followed at all times and that the electoral services function is properly resourced.

Part 7 – Recommendation

52. That the issues outlined in this report as part of the review process and summarised below are considered and acted upon.

Electoral Registration

- a) A review of the permanent staffing structure is undertaken.
- b) Appropriate resources are provided to enable the Electoral Registration Officer to ensure that the necessary statutory steps are undertaken.
- c) A procedure manual for electoral registration is produced and maintained.

Elections

- a) A review of the permanent staffing structure is undertaken.
- b) A procedure manual for the conduct of elections is produced and maintained.
- c) The lessons learnt from the elections in May 2015 are fully used in preparing plans for future elections.

Involvement of other areas of Council

- a) The plan for physical space for the Elections Team in any new office

accommodation is carefully considered to ensure that the space is sufficient and provides for efficient and effective working arrangements.

John Turner

**Chief Executive
Association of Electoral Administrators**

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