

Meeting Council
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ELECTIONS ACT 2022

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1 PURPOSE

- 1.1 To update Members on the progress of the Elections Act 2022, that received Royal Assent on 28 April 2022

2 RECOMMENDATIONS

- 2.1 That the contents of the report be noted and that Members highlight any related matters for consideration.

3 BACKGROUND

- 3.1 The Elections Act 2022 will make a number of substantial changes to how Elections are administered. The provisions contained within the Act will apply at UK Parliamentary Elections in Great Britain, Local Elections and Referendums in England, and Police and Crime Commissioner Elections in England and Wales. Certain elements of the Elections Act will come into force at the next scheduled elections on 4 May 2023, with others expected to come into force from June 2023 onwards.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

- 4.1 The introduction of the Elections Act presents significant challenges to Returning Officers and Electoral Registration Officers. This report provides Members with details in respect of the provisions being introduced noting that some policy details have not been finalised, and legislation yet to be made.

5 IMPLICATIONS

Financial Implications

- 5.1 The Government has committed that, where changes in the Act will result in a new burden on local authorities, these costs will be initially covered in line with new burdens principles. However, at this stage we don't have all the details beyond confirmation of the cost lines that will be funded via the New Burdens Funding process. Indicative costs are not provided and remain subject to clearance. Funding mechanisms and payment timelines are being finalised by DLUCH.

Legal Implications

- 5.2 The Elections Act 2022 makes significant changes to how elections are administered. The Department for Levelling Up, Housing and Communities (DLUHC) are still developing the policy and secondary legislation, and more detail will be shared when it is available.

Risk Implications

- 5.3 The Association of Electoral Administrators' (AEA) have written to the Minister on several occasions, most recently on 29 September 2022 ([AEA-letter-to-Andrew-Stephenson-MP-29-09-2022.pdf \(aea-elections.co.uk\)](https://www.aea-elections.co.uk/letter-to-andrew-stephenson-mp-29-09-2022.pdf)), to continue to express their concerns. In their letters, they have stressed that "should there be any slip in the already tight timelines to introduce Voter ID, EROs, ROs and electoral professionals will struggle to deliver the trusted elections expected of them. With ROs individually and directly liable for the outcome of elections, a huge amount is being asked of them professionally and personally and should there be any additional timetable delays for whatever reason, the sector will have no choice but to recommend postponement."
- 5.4 The strong messages delivered by the AEA reflect the fact that key policy details are still yet to be confirmed and secondary legislation is still yet to be published. For example we are yet to receive documentation from the Electoral Commission in respect of comprehensive guidance, revised forms, or education and engagement campaigns, and on 12 September at an Elections Act Seminar, officers saw, for the first time, the functionality of the ERO (Electoral Registration Officer) Portal which will be used to process applications for voter ID. However it is still not clear how this will integrate with our Electoral Management Systems.

Staffing and Accommodation Implications

- 5.5 Additional staff will be required to administer the changes of the Elections Act, which Government recognises and is providing additional funding for. As mentioned previously, these details are being finalised.

Equalities and Diversity Implications

- 5.6 An Equality Impact Assessment has been undertaken by Government in respect of the Elections Bill. This is available to view at [Elections Bill equality ass \(parliament.uk\)](https://www.parliament.uk/elections-bill-equality-ass)

Policy Implications

- 5.7 Major policy changes will take place following implementation of the act and the subsequent Statutory Instruments. The secondary legislation is expected to be passed in November, to come into effect in mid-January 2023. The draft versions of these Statutory Instruments are currently out for consultation with the Electoral Commission and have also been shared with the AEA and SOLACE.

Information Technology Implications

- 5.8 Digital applications and paper applications will utilise the ERO Portal (EROP) to check National Insurance Numbers with the Department for Work and Pensions. There will also be a need for our Electoral Management Systems to work directly to the Central Government ERO portal, via an application programming interface (API).

6 DETAILS

- 6.1 The changes being introduced as part of the Elections Act 2022 will seek to:
- require voters to show photo ID at polling stations before a ballot paper is issued.
 - require Electoral Registration Officers based in local authorities to issue free electoral identification documents – so called 'Voter Authority Certificates' to eligible electors who apply for one.
 - extend accessibility to elections including requiring Returning Officers to take all reasonable steps to provide support for those with a disability in polling stations.
 - require postal voters to reapply for a postal vote every three years, replacing current rules of refreshing their signature every five years.
 - restrict the handling of postal votes, including limiting the number of postal votes an individual can hand in at a polling station or council office.
 - further limit the number of people someone may act as proxy for.
 - simplify and clarify the offence of undue influence.
 - change the voting and candidacy arrangements for EU voters.

- allow all British citizens living overseas to vote in UK Parliamentary elections, regardless of when they left the UK.
- 6.2 The provisions of the Elections Act that are imminent and are intended to come into force at the next scheduled elections on May 2023 are the requirement for voters to show photo ID in polling stations, the requirement for local authorities to issue free photo ID to eligible residents, and the requirement for RO's to take all reasonable steps to support voters with a disability in polling stations.
- 6.3 The Department for Levelling Up, Housing and Communities (DLUHC) are still developing the policy and secondary legislation, and more detail will be shared when it is available. Therefore, as policy is still being determined, some elements may change, or are awaiting further development.

Voter Identification

- 6.4 Electors will be required to show an approved form of photo ID before receiving their ballot paper at the polling station. It is understood that photographic identification which can be used includes passport, driving license, immigration document, a PASS card, Ministry of Defence Form 90, concessionary travel pass (excluding railcards) and national ID card.
- 6.5 Work/student passes, railcards and photocopies of identification documents or pictures on mobile phones will not be acceptable. The photographic identification does not need to be in date to be used, it just needs to bear a likeness to the voter.
- 6.6 If electors cannot provide one of the required forms of identification as set out in legislation, they will be able to apply for a free 'Voter Authority Certificate' from their respective Electoral Registration Officer (ERO).
- 6.7 The Voter Authority Certificate is likely to be an A4 paper-based document with inherent security features. It will display the elector's name and photograph, the date of issue and the issuing local authority.
- 6.8 Electors will have a range of options to choose from when applying for a Voter Authority Certificate; either in person, by post or online, ensuring accessibility for all electors. Regardless of the way a person applies, there will be a check as to the person's electoral registration status, and their identity will need to be confirmed.
- 6.9 The deadline to apply for a Voter Authority Certificate will be set at 5pm, 6 working days ahead of the poll.
- 6.10 Voter Authority Certificates will not have an expiry date but will include a recommended renewal date, with words along the lines of "This document is only valid so long as the photograph remains a good likeness of you – we therefore recommend that you apply for a new document before [10 years after issue date]". 10 years has been used as this is the standard length of validity for passports and driving licenses and aims to keep the photo up to date. The Voter Authority Certificate would not need to be renewed should the person move to another Local Authority Area.

- 6.11 In the unfortunate event that an elector loses all their forms of identification before the deadline for applications for a Voter Authority Certificate has passed, or if their identification is stolen, destroyed or damaged beyond use, they may apply for a Voter Authority Certificate using the usual application routes.
- 6.12 If they lose their identification after the deadline for applications for a Voter Authority Certificate, the ERO will have the ability to allow the appointment of an emergency proxy for that polling day.
- 6.13 After the 6-day deadline, there will be provision for EROs, at their discretion, to provide a temporary Voter Authority Certificate in contingency situations; this will only be in situations where the usual printing and distribution process is disrupted but where an elector's application has already been processed, determined and sent to the supplier
- 6.14 This temporary document will be valid only for the relevant polling day and the elector will need to collect it in person from the ERO's office (or other delivery or collection arrangement as agreed with the ERO).
- 6.15 Polling stations will be required to have a private area for the elector to produce identification in private if requested. Privacy screens may be used for this purpose.
- 6.16 A presiding officer must refuse to give an elector a ballot paper if they have reasonable doubt that the photographic identification does not look like the elector, or if they reasonably suspect the documents to be forged.
- 6.17 A refusal to deliver the ballot paper to the voter is final and may not be questioned in any way. A refusal to deliver the ballot paper to a voter is subject to review on an election petition.
- 6.18 The Voter Authority Certificate application process is due to launch in January 2023.
- 6.19 Current research undertaken by the Government suggests that around 2% of people may require identification issued by the ERO; however, the figure could be much higher than this and there is nothing preventing a person who already has an acceptable form of photo ID applying for a Voter Authority Certificate.
- 6.20 In respect of the Voter Authority Certificate process:
- The Government has contracted a Print Supplier for production and dispatch of substantive Voter Authority Certificates.
 - Digital applications and paper applications will utilise the ERO Portal (EROP) to check National Insurance Numbers with the Department for Work and Pensions.
 - Local Authorities will need the capability to process and print temporary Voter Authority Certificates.
- 6.21 Information on these requirements will also be included on the Poll Card, which will now be A4 to allow for all the additional information on voter ID.
- 6.22 The Electoral Commission will:

- run the national public communications campaign to raise awareness of the requirement to show identification and remind the public to bring their identification with them when they vote; and
- support those without eligible identification to understand how and when they can apply for an electoral identity document.

Voter Accessibility

- 6.23 The Electoral Commission will produce guidance (final version expected end of January 2023) to aid Returning Officers in providing reasonable support to aid disabled people to vote in polling stations. The Commission's guidance will recommend a range of support that should be made available to voters with disabilities, and this will be developed in conjunction with organisations representing disabled voters and those from the electoral sector.
- 6.24 The draft guidance makes clear that the RO has a legal obligation to provide:
- A notice inside and outside the polling station providing instructions on how to vote at the election
 - A notice in each polling booth providing information on how to mark the ballot paper at the election
 - At least one large sample copy of the ballot paper must be displayed inside the polling station
 - An enlarged hand-held copy of the ballot paper
- 6.25 It also states that the following equipment should, as a minimum, be provided to all polling stations:
- Chair/seating – this provides a place to rest for voters who cannot stand for long periods and a seat for voters who would like to take some time to think before entering the polling booth
 - Magnifiers – these increase the size of the text on a document providing support for voters who are visually impaired to vote independently
 - Tactile voting device – this provides support for voters who are visually impaired to mark their vote on the ballot paper in the correct place.
 - Polling booth at wheelchair level – helps to ensure that voters who use a wheelchair are able access a lower writing surface to ensure they can cast their vote in secret in a booth that is accessible
 - Staff name badges – these help voters more easily identify that a person is a member of staff in the polling station and is someone they can approach for assistance
 - Pencil grip – these can help voters with dexterity impairments to more easily hold and use a pencil independently
 - Ramps (for buildings with steps) – these support access to a polling station for voters who use a wheelchair or have difficulty using steps

- Temporary alerters or doorbells for any doors that are required to remain shut during the day (for example, fire doors) – these provide a way for voters to let polling station staff know that they need assistance to open the door so they can access the polling station
- Appropriate lighting – some polling station venues have good lighting but others may need additional lighting at the desk; to ensure that voters can clearly see the faces of staff, and in the polling booths; to support voters with visual impairments to be able to read and complete the ballot paper.
- Reserved parking spaces reserved for voters with disabilities (where parking is available at the venue) – this ensures that disabled voters can park as close as possible to the polling station

Absent Voting

- 6.26 Political parties and campaigners will be banned from handling postal votes. There will also be a limit on the number of postal votes a person can hand in at polling stations or council offices (the limit will be set out in secondary legislation and is expected to be 5, plus the person's own postal vote).
- 6.27 Postal voters will need to make a fresh application every three years. Currently, electors are required to refresh their signature every 5 years.
- 6.28 The application process for absent voters will include a process for verifying identity, in a similar way to individual registration.
- 6.29 Electors will be allowed to act as proxy for no more than four people, of which no more than two can be 'domestic' electors (i.e. not overseas or service electors).
- 6.30 Secrecy and postal vote handling rules are expected to be in place after the May 2023 polls, most likely coming into force Autumn 2023.
- 6.31 Change to the three yearly application process will be transitional, starting from January 2024.
- 6.32 Postal vote application and new proxy limit expected for May 2024 polls

Online Absent Vote Applications and Verification

- 6.33 Electors will be able to apply for an absent vote online (as well as by paper). Both online and paper applications will include a process for verifying the applicant's identity, which will be similar to the current process for individual electoral registration applications.
- 6.34 The postal vote online application service is estimated to be available from July 2023

EU Citizens' Voting and Candidacy Rights

- 6.35 EU citizens will no longer automatically be entitled to register to vote, vote, and stand for election.

- 6.36 Two groups of EU citizens will retain their rights:
- ‘qualifying EU citizens’ from countries with reciprocal agreements, and who have leave, or do not require it, to remain in the UK. Currently these are Luxembourg, Poland, Portugal and Spain.
 - ‘EU citizens with retained rights’ who were resident in the UK before 1 January 2021
- 6.37 This does not affect Irish, Maltese and Cypriot citizens
- 6.38 The new rules will apply at local government elections, PCC elections and referendums in England.
- 6.39 Expected to be in place from Spring 2024 for elections in May 2024.
- 6.40 From June 2023, the ERO will need to review existing EU electors and process applications in line with new eligibility criteria
- 6.41 As yet the process for the review is still in development and we are awaiting more details.

Overseas Electors

- 6.42 The 15-year limit on voting rights for British citizens living overseas will be removed.
- 6.43 Overseas electors will be able to register at an address where they were previously registered, or if they were never registered, where they were last resident
- 6.44 The registration period will be increased to 3 years, and renewals will be linked to a fixed point of 1 November
- 6.45 Applies at UK Parliamentary elections
- 6.46 Expected to be in place from Spring 2024 for elections in May 2024.

Undue Influence

- 6.47 The Government wishes to simplify and clarify the offence of undue influence. Someone is guilty of undue influence if they use, or threaten to use, force or violence to make someone vote a certain way, or not vote at all. The proposed changes would make it simpler for the police to take action when allegations of undue influence are made.
- 6.48 The government plans to clarify the offence by setting out the ways someone might be found guilty of undue influence. There will be a broader definition of the offence, clarifying the types of illegal behaviour which people may use to unfairly influence someone’s vote. This may include physical violence, damage to someone’s property or damage to their reputation.
- 6.49 The proposals will apply to all campaign activity, including printed materials, and extend to anyone who seeks to intimidate a voter either inside or outside a polling station.
- 6.50 This is expected to come into force in November 2023.

Summary

- 6.51 The implementation of the Elections Act will present numerous challenges for the RO, ERO, elections team and wider council. A variety of considerations will need to be given across a range of areas, including the managing of voter ID and the issuing of temporary Voter Authority Certificates; Core and election staff resources, including the recruitment and training of those staff; and communication and engagement; all against the backdrop of ever-changing timescales and developing policy.
- 6.52 While there will be national campaigns provided by the Electoral Commission, there will inevitably be a need to provide localised communications by the ERO and RO to link into the national campaign.

BACKGROUND DOCUMENTS

None.

APPENDICES

None.