

Information Digest



Date: 3 February 2023

Update on the Elections Act 2022

Councillor Alan Barrow (Executive Member for Corporate Services and Finance).

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1. Reason for the Report

- 1.1 To provide an overview of the changes introduced by the Elections Act 2022, so far as they are relevant to the organisation of elections for the Borough Council.

2. Recommendation

- 2.1 That the report be noted.

3. Executive Summary

- 3.1 The Elections Act 2022 ('the Act') received Royal Assent on 28 April 2022. The Act contains various provisions which will impact upon the administration and conduct of elections in the United Kingdom.
- 3.2 The main provisions which will impact upon the administration of Council elections are: 1) a requirement for photographic identification for voters, 2) changes to the postal vote process 3) improved accessibility for people with disabilities 4) changes to the process for voters voting by proxy, and for British citizens who live overseas.
- 3.3 The provisions are subject to phased implementation. The voter ID provisions went live on Monday 16th January 2023, the voter accessibility provisions will be implemented in time for the Local Elections in May. The provisions in respect of overseas voters are scheduled to come into force in August 2023.

4. How this report links to Corporate Priorities

- 4.1 Not applicable

5. Alternative Options

- 5.1 Not applicable

6. Implications

Financial Comments

- 6.1 The additional resource costs have been incorporated into the Council's medium term financial plan. A reserve fund has been established in respect of the Local Elections in May. The Government has indicated that 'new burdens' funds will be available to offset the additional costs associated with the new provisions and the funds will be used where available.

Legal Comments

- 6.2 This report sets out the key changes to electoral administration and conduct to ensure the Council meets its obligations under the Elections Act 2022 and subsequent secondary legislation in the form of Regulations, and to ensure that the Council meets its obligation (under section 54 of the Representation of the People Act 1983) to provide sufficient resources to the Electoral Registration Officer.

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Web Links and Background Papers

<https://www.legislation.gov.uk/ukpga/2022/37/contents/enacted>

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7. Detail

- 7.1 The Elections Act 2022 received Royal Assent on 28 April 2022 and contains various elements which will impact on how elections are administered and conducted in the UK. The scope of the Act is wide ranging and covers the following main areas which will impact the conduct of Council elections:

Voter Identification

- 7.2 The Voter Identification Regulations came into force on the 22nd December 2022. Voters will be required to show an approved form of photographic identification before collecting their ballot paper at a polling station. The Council has now begun to receive applications for voter identity certificates to be used in cases where voters do not have an approved form of identification. Residents can apply for a certificate through a central government online portal, the portal is linked to the Council's system for checking against the electoral register. When an application is approved, the certificate is printed at a central location and posted to the voter. The voter can arrange to collect a certificate from Council offices instead.
- 7.3 Voters do not need a certificate if they have a copy of an approved document already. The list of approved documents includes passports, driving licences and bus passes. A full list of approved documents is available on the [Electoral Commission's website](#). The primary criteria for accepted forms of identification is focused on ensuring that they are suitably secure (i.e. not easy to falsify or acquire with false information) and must contain a photograph of the elector in order to enable personal recognition. Expired documents can be used so long as the photograph is still consistent with being able to identify the voter.

7.4 A national communications campaign has now commenced and includes targeted communications and guidance issued by the Electoral Commission. The Council's internal communications team has also been engaged to raise the profile of the new arrangements.

Postal Voting

7.5 There are 3 three main areas where the current arrangements will change:

- Postal voters will be required to make a fresh application for a postal vote every 3 years, instead of the requirement to refresh their signatures every 5 years under the current rules.
- Political parties and campaigners will be banned from handling postal votes to ensure the security of the ballot.
- There will be a limit on the number of electors on behalf of whom a person may hand in postal votes at a polling station.

7.6 By reducing the period that electors will have to reapply for a postal vote, the Government is seeking to ensure that a person's eligibility to vote by post will normally be reviewed and confirmed once every Parliament. The Government it also seeking to reduce the inefficiency and wasted cost of postal votes being sent to 'out of date' addresses, and where it is said that they are vulnerable to interception and fraud.

7.7 The Act makes provision for a restricted number of postal votes to be permitted to be handed in at polling stations. Under the current regime, by permitting a high number of postal votes to be handed in, this could facilitate electoral fraud and undermine the integrity of elections. The Government is still seeking views on the appropriate number, and this will be determined in the secondary legislation.

Proxy voting

7.8 Currently, someone can act as a proxy for up to two electors and an unlimited number of close relatives. Under the Act, irrespective of any close relationship, voters will only be allowed to act as a proxy for 2 electors and 2 overseas electors. Anyone acting as a proxy for more electors will be guilty of an offence. These provisions are expected to be finalised and come into force after May 2023.

Overseas electors

7.9 British citizens living overseas are currently entitled to be registered to vote in UK Parliamentary elections. These are known as overseas voters. Overseas voters must register in the constituency in which they were registered before leaving the UK. Registration must be renewed annually for up to 15 years after leaving. People who left more than 15 years ago are currently ineligible to register to vote. The Act removes the 15 year rule.

7.10 The Act makes provision to allow all British citizens who had previously been resident in the UK to register, not just those who were registered before they

left. Other changes are designed to make the renewal process easier for overseas voters. Detailed secondary legislation is expected to be brought forward in 2023 with newly eligible overseas voters eligible to vote from 2024.

Voting and candidacy rights of European citizens

7.11 During the UK's membership of the European Union, it was a requirement of membership that EU Citizens living in the UK could both stand and vote in local elections across the UK. These rights were reciprocated to UK citizens living in all EU Member States. The Government's approach, now that the UK has left the European Union, and Freedom of Movement has ended, is that EU citizens' voting and candidacy rights in local elections need to be updated to reflect this. As such the automatic grant of voting and candidacy rights to European citizens is no longer applicable. Once these measures are implemented, the following two categories of EU citizens will be able to participate:

- Citizens of an EU member state with which the UK has reciprocal arrangements (a voting rights agreement currently with Spain, Portugal, Luxembourg, Poland), or;
- EU citizens who were resident in the UK at the end of the Implementation Period completion date (31 December 2020) and have retained lawful immigration status. When the new franchise comes into force, Electoral Registration Officers will be required, in line with their existing statutory duties, to remove from the register those EU citizens who are not eligible to be registered to vote.

7.12 The provisions above will apply to the local elections and referendums in England and to the Police and Crime Commissioner elections although this part of the Act is not yet in force.

Accessibility

7.13 The Act seeks to improve the electoral process for people with disabilities, placing a new requirement on Returning Officers to consider a wider range of support for voters with disabilities in polling stations. This will be supported through the Electoral Commission's guidance produced in partnership with the Government's expert Accessibility of Elections Working Group. The Act removes current restrictions on who can act as a 'companion' to support voters with disabilities to cast their vote in the polling station and will allow the elector greater choice.

7.14 Currently an elector's companion must be a close relative or a qualified elector. The current legislation requires Returning Officers to provide very specific equipment solely to support voters with sight loss, which excludes disabled voters with other conditions. In future Returning Officers will be required to provide each polling station with equipment as is reasonable to enable, or make it easier for, voters with sight loss to vote, as well as people with other disabilities. The provisions in respect of accessibility will be in force by the May 2023 elections.

- 7.15 The Government is proposing 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.
- 7.16 The government plans to clarify the offence by setting out the ways someone might be found guilty of undue influence. Under the new proposals there would 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.
- 7.17 The proposals will apply to all campaign activity, including printed materials, and would extend to anyone who seeks to intimidate a voter either inside or outside a polling station.

The introduction of a new digital imprints

- 7.18 Electoral law currently states that printed election material must contain details known as 'an imprint' that show who has produced and paid for the material. The UK Government is proposing that the imprints rules be extended to include most digital material.
- 7.19 The imprint would need to include the name and address of the person or group promoting the material, and whether they are promoting it on behalf of someone else. As is currently the case for printed election material, digital imprints would be required on political material all year round, and not just in the run up to an election.
- 7.20 The resource implications of the proposals outlined above will be more fully considered when the secondary legislation is published. Where possible, the additional work will be absorbed from existing resources and the government's new burdens fund.

Summary

- 7.21 The Elections Act 2022 makes changes to the process of administering elections. The parts relevant to the Local Elections in May 2023 include the voter ID provisions and the accessibility provisions. The elections team is working with partners including the Electoral Commission, to establish methods of controlling the processes to ensure the administration of the Local Elections complies with the changes outlined above.