

Elections Act 2022 (Law & Governance, Kath Richards)

Synopsis of report:

The purpose of this report is to provide Members with an update on the Elections Act 2022, which includes the introduction of voter ID cards and giving votes for life for overseas electors.

The Elections Act contains various other proposals (and not just voter ID) which will impact on how all elections are conducted in the UK. The Act was given Royal Assent in April 2022.

This will have an impact on the May 2023 Borough elections.

Recommendations:

- **That the report be noted**
- **To decide whether an all-member briefing should take place**

1. Context and background of report

- 1.1 Two of the many functions undertaken by the Council are providing support to the Electoral Registration Officer (ERO) to enable them to discharge the registration of voters and providing support to the Returning Officers (RO) for various elections to enable them to conduct such elections e.g., Borough Elections, County Council Elections and Parliamentary Elections.
- 1.2 Both of these functions are governed by a substantial amount of legislation. Since the legislation was first designed to regulate these matters, society has moved on and technology has progressed. The Elections Act 2022 (the Act) is designed to introduce a series of changes to modernise certain aspects of the law which governs voter registration and elections to reflect the needs of a modern democracy.
- 1.3 The Elections Act 2022 deals with the administration and conduct of elections which are designed to strengthen the integrity of the electoral process; about overseas electors; about voting and candidacy rights of EU citizens. It also deals with the Electoral Commission's functions in relation to criminal proceedings. There are provisions about the regulation of expenditure for political purposes; about disqualification of offenders for holding elective offices and about information to be included in electronic campaigning material.

2. Report and, where applicable, options considered and recommended

- 2.1 The purpose of this report is to provide Members with an update on the Act, which includes the introduction of voter ID cards and giving votes for life for overseas electors.
- 2.2 The Act contains various other proposals (and not just voter ID) which will impact on how all elections are conducted in the UK. It was given Royal Assent in April 2022.
- 2.3 This will have an impact on the May 2023 Borough elections. The Act's scope is far more wide ranging than just about voter ID and covers the following main areas:
 - Require voters to show photo ID at polling stations before a ballot paper is issued.

- Require EROs based in local authorities to issue free voter identification documents to those without a valid form of photo ID.
- Require postal voters to reapply for a postal vote every three years, replacing current rules whereby a postal voter must refresh their signature every five years. In addition, it will seek to restrict the handling of postal votes by Campaigners and limit the number of postal votes an individual can hand in at a polling station (currently suggested that this could be limited to two).
- Further limit the number of people someone may act as proxy for (again the suggestion is this be around two but not yet confirmed).
- Allow all British citizens living overseas to vote in UK Parliamentary elections, regardless of when they left the UK.
- Change the voting and candidacy arrangements for EU voters.
- Extend accessibility to elections including requiring ROs to take all reasonable steps to provide support for those with a disability in polling stations.
- Simplify and clarify the offence of undue influence as well as introducing a new offence around intimidation of candidates, campaigners and elected office holders from intimidation and abuse.
- The introduction of a new digital imprints' regime requiring campaigners to explicitly show who they are and on behalf of whom they are promoting (in a similar way to printed material).

2.4 It will also cover other areas such as improving the accountability of the Electoral Commission and setting up a new framework around expenditure and party-political financing.

Timeline

2021	
05-Jul-21	First reading of the Elections Bill in the House of Commons
2022	
18-Jan-22	Launch of first Business Change Network Event
February - Mar-22	Roundtables with Civil Society Organisations
	Passage of the Elections Bill through the House of Lords
28-Apr-22	Royal Assent of the Elections Act 2022
05-May-22	Local elections in England, Scotland and Wales and Assembly election in Northern Ireland
From July 2022	Secondary Legislation in Parliament
Nov-22	Accessibility statutory instruments made – changes will apply to polls from May 23 onwards
	Notional Expenditure statutory instruments made – changes will apply to polls from May 23 onwards
	Political Finance statutory instruments made – changes will apply to polls from May 23 onwards
2023	
Jan-23	EC SPS laid before Parliament
	Voter Identification statutory instruments made – voter identification will be required in polling stations for polls held from May 23 onwards

	Go Live of application service for electoral identity documents
By 4 May 2023	First Past the Post voting system introduced for any Mayoral elections in England and Police & Crime Commissioner (PCC) elections in England and Wales held on or after 4 May 2023 (including by-elections)
04-May-23	Local elections in England (Including Local Authority Mayoral), and other applicable elections including local elections in Northern Ireland
Jun-23	EU citizens' Voting and Candidacy Rights (EUVCR) changes take effect
EC Strategy and Policy Statement takes effect	
Jul-23	Postal Voting rule changes statutory instruments made, and changes take effect
	Proxy Voting rule changes statutory instruments made, and changes take effect
	Overseas Electors statutory instruments made, and changes take effect
	Online absent vote applications statutory instruments made and take effect
	Online Absent Vote Applications Service Go Live
Autumn 2023 (date TBC)	Postal Vote Handling rules statutory instruments made, and changes take effect
	Absent Vote Secrecy rules statutory instruments made, and changes take effect
Nov-23	Clarification of Undue Influence statutory instruments made, and changes take effect
	Intimidation: new electoral sanction statutory instruments made, and sanction takes effect
	Digital imprints statutory instruments made, and new regime takes effect
Dec-23	EUVCR - Final removal of ineligible EU nationals on publication of Revised Register
2024	
02-May-24	Local elections in England and Wales (including PCC elections, Mayoral and Combined Authority)

Voter Identification

- 2.5 Voters will be required to show an approved form of photographic identification before collecting their ballot paper to vote at a polling station for UK Parliamentary elections in Great Britain, at local elections in England, and at Police and Crime Commissioner elections in England and Wales.
- 2.6 This is likely to be extended to all other polls such as Parish and Neighbourhood Planning Referendums once the secondary legislation is published.

- 2.7 A broad range of documents will potentially be accepted including passports, driving licences, various concessionary travel passes and photocard parking permits issued as part of the Blue Badge scheme.
- 2.8 Prior to its introduction (likely to be in May 2023) it is planned that there will be comprehensive, targeted communications and guidance by the Electoral Commission.
- 2.9 As mentioned previously a major concern is that the first-time electors will be asked to produce photographic ID will be at the scheduled Parliamentary General Election in 2024.
- 2.10 Any awareness campaign is likely to have to continue for several polls until such a time that voter ID becomes “business as usual” as is the case in Northern Ireland where voters have been required to produce personal identification before voting in polling stations since 1985, with photographic identification being required since 2003.

Local Voter ID cards

- 2.11 Where an elector does not have any form of photo identification, an elector can apply for one, free of charge, from their local authority via the ERO.
- 2.12 Current research is suggesting that around 2% of people may require identification issued by the ERO. In Runnymede this equates to 1300 electors.
- 2.13 The deadline for applying for a free, local voter card will be set out in the subsequent secondary legislation but the current proposal is 5pm on the day before polling day.
- 2.14 However, for an area like Runnymede that could have implications depending on demand. Whatever the deadline will be the Government must ensure that it is practicable for electoral administrators.
- 2.15 The current thinking is that voter ID will be in place for the May 2023 polls. If that is the case then the ability to apply for a voter ID card from local authorities should have been in place by the Autumn of 2022, unfortunately the implementation of the policy has been moved to January 2023 and the application for the Voter Card is now expected to go live then. This need to be in place no later than then, to allow electors to apply for voter ID cards well in advance.
- 2.16 There is potential for there to be a digital solution so electors can apply for a card online in the same way that someone can register online. This is currently being explored but it is still at an embryonic stage. Regardless of any possible digital solutions numerous issues remain especially as you get nearer to polling day and how applications for voter ID cards will be processed. It is suspected that this will ultimately be a burden that will pass to local authorities and ROs and is likely to be very resource intensive. The deadline for voter cards will be set at six working days ahead of a poll, which follows the principals of other deadlines relating to elections, including those for registering to vote and for applying for an absent vote. This will enable central management of production and delivery, and provide adequate time for postal delivery to application, thereby removing the pressure on the elections staff to produce unknown volumes of temporary documents in the immediate leadup to a poll. EROs will be able to allow the appointment of an emergency proxy up until 5pm on polling day for those electors who had photographic identification they intended to use but are in the situation where it is no longer available to them after the deadline for applications has passed.
- 2.17 An additional implication is around what measures will be taken to ensure those who cover their faces for religious or other sensitive reasons will not be deterred from voting due to the introduction of voter identification. ROs will need to ensure that there is a facility in all polling stations that allows electors ID to be verified in private, which at

present not all do. As part of that ROs will also need to consider how polling stations are staffed.

Postal Voting

- 2.18 There are 3 three main areas where the current arrangements will change:
- Postal voters will be required to re-apply every 3 years.
 - To negate 'postal vote harvesting' political campaigners will be barred from handling postal votes.
 - Introduction of a limit on the number of electors on behalf of whom a person may hand in postal votes at a polling station.
- 2.19 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. In effect a permanent postal vote will cease to exist.
- 2.20 In addition, it is seeking to reduce the inefficiency and wasted cost of postal votes being sent to out-of-date addresses, where it is said they are vulnerable to interception and fraud.
- 2.21 The current proposal is that in addition to their own postal vote, an individual will be able to hand in the postal votes of up to two domestic electors. The thinking behind this is that 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 election. The Government is still seeking views on the appropriate number, and this will be finally determined in secondary legislation.
- 2.22 The new Postal Vote Handling and Secrecy measures will now be implemented after the May 2023 polls, most likely coming into force in Autumn 2023.

Proxy voting

- 2.23 Currently, someone can act as a proxy for up to two electors and an unlimited number of close relatives. The Act proposes that, irrespective of any close relationship, a person can only act as a proxy for 2 domestic electors and 2 overseas electors. Anyone acting as a proxy for more than the prescribed number of electors will be guilty of an offence, which it is presumed will be criminal in nature.

Overseas electors

- 2.24 The measures contained in the Act will scrap the 15-year rule. Currently, to register as an overseas elector an individual must be a British citizen resident outside the UK who has been registered to vote in UK Parliamentary Elections as resident in the UK within the previous 15 years or left the UK when they were too young to have registered to vote, provided their parent or guardian was registered at the place where they were last resident in the UK. This is also subject to a 15-year limit, from when the individual left the UK, and the new measure will enable all British citizens overseas who were previously registered or resident in the UK to participate in UK Parliamentary elections.
- 2.25 The registration period for overseas electors will be extended from one year to up to three years (currently an overseas elector needs to reapply every year) and electors will be able to reapply or refresh their absent vote arrangements (as appropriate) at the same time as renewing their registration.

- 2.26 However, the Act does not address the current issue around overseas electors where the limited timetable relating to elections allows very little time for ballot papers to be sent overseas and then completed and returned by the close of poll. As it currently stands there is an unrealistic expectation to what can be achieved which often leads to complaints.

Voting and candidacy rights of European citizens

- 2.27 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.
- 2.28 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.
- 2.29 This change is unlikely to come into effect until 2023 This measure will amend the local voting and candidacy rights of EU citizens in local elections, as well as the Police and Crime Commissioner and Combined Authority polls.
- 2.30 Once these measures are implemented, in addition to satisfying the usual eligibility requirements which apply to all electors (e.g., age, residence etc.), the following two categories of EU citizens will be able to participate:
- Citizens of an EU member state with which the UK has a voting rights agreement (currently 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.
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- 2.31 When the new franchise comes into force, EROs 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.

Accessibility

- 2.32 The Act also seeks to improve the electoral process for people with disabilities by placing a new requirement on ROs to consider a wider range of support measures 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.
- 2.33 The Act also 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. Currently an elector's companion must be a close relative or a qualified elector.
- 2.34 The current legislation requires ROs to provide very specific equipment solely to support voters with sight loss, which excludes disabled voters with other conditions. In future ROs 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.

Simplify and clarify the offence of undue influence as well as introducing a new offence around intimidation of candidates, campaigners and elected office holders from intimidation and abuse.

- 2.35 Currently there are no details as to exactly what this will look like although this topic has tragically come back to the forefront following recent events. As soon as more information becomes available, officers will let Members know.

The introduction of a new digital imprints

- 2.36 Under these proposals campaigners will need to explicitly show who they are and on behalf of whom they are promoting on any material published online in a similar way to the current requirement regarding printed material. Failure to do so is likely to be a criminal offence as it is under the current regime.

3. Risk and Implications

- 3.1 There are still numerous “unknowns” and as such the biggest concern at this stage is the “cumulative effect”. With all these measures coming in or about the same time the issue will be how EROs and ROs address the additional responsibilities and demands being placed on staff both in the polling stations and in core election offices especially at a General Election where already the system is already under tremendous pressure.
- 3.2 EROs and ROs will need to review how they train polling station staff and how they will deal with voter ID to ensure that the changes are dealt with in a consistent way. It is also possible that many staff will see this as another responsibility which makes the job of Presiding Officer/Poll Clerk unattractive. ROs consistently struggle to recruit polling station staff.
- 3.3 The Council will also need to look at the structure of the core election team as the burden at the most critical part of the election will have been increased significantly with the changes proposed by the Act. Consequently, it may well be that for election periods, staffing in the core election office may need to be increased. That does raise the question of finding suitable staff with the necessary experience and knowledge.
- 3.4 The Government has acknowledged that where the 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 the Council does not know what that funding will look like.
- 3.5 The Council benefits from its Head of Electoral Services being on the national expert panel which is tasked with working out how to implement these changes at the coalface. This gives the authority an insight into the implications at an early stage.

4. Policy framework implications

- 4.1 The delivery of voter registration and the conduct of elections underpins the operation of democracy. The measures contained in the Act contribute to the public confidence and participation in those two processes.

5. Resource implications/Value for Money

- 5.1 Discussions are currently being finalised regarding funding to carry the extra burdens on Returning Officers. It is anticipated that the grant will cover most costs, but if this is not the case then a further report will be submitted to the committee.

6. Legal implications

- 6.1 The Council is required under legislation to provide support to the ERO and RO to discharge their personal duties. The measures contained in the 2022 Act impose various

obligations on the person who holds those two posts. The Council is therefore legally required to provide the support to enable them to comply with their legal obligations.

7. Equality implications

- 7.1 This report outlines legal changes which will be introduced. Until proposals are drafted to implement those changes it is not possible to determine whether there will be any impact on people with protected characteristics. When actual measures are introduced, they will need to be assessed in line with the Council's existing policies.

8. Environmental/Sustainability/Biodiversity implications

- 8.1 Until detailed plans are drawn up to implement the measures contained in the Act it is not possible to assess the Environmental impacts of these proposals. Clearly a move to undertaking activities online will reduce the need to use paper but that beneficial impact may be offset to a degree by the need to produce voter ID.

9. Conclusions

- 9.1 As indicated in the body of the report, the measures contained in the 2022 Act are designed to create public confidence in the voter registration and election processes. The Council, via its legal obligation to provide support to the ERO and RO, is obliged to assist those offices to deliver the obligation placed upon them by the legislation.

(To resolve)

Background papers

None