

THE ELECTIONS BILL 2021

Executive Summary

This paper forms a briefing report for the Members of the Committee on the recently published Elections Bill which proposes a range of new measures seeking to ensure the security of the ballot of future elections. As Members will be aware, Woking Borough Council participated in the Government's Voter Identification pilot, the findings of which have informed some of the proposals in the new Bill.

This report is simply for information; the Bill had its first reading on 5 July 2021 and still has a number of stages to go through before being enacted. Updates will be made through the Council's Elections and Electoral Registration Review Panel and a further briefing paper will be prepared once the Bill has been enacted.

Recommendations

The Committee is requested to:

RESOLVE That the report be noted.

The Committee has the authority to determine the recommendation set out above.
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Background Papers:	None.
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1.0 Introduction to the Elections Bill 2021

1.1 New legislation which seeks to strengthen the integrity of UK elections and protect democracy was introduced in Parliament on Monday, 5 July 2021. The legislation will:

- Deliver on the Government's manifesto pledges to protect democracy;
- Make sure elections are secure, modern and fair; and
- Adopt a series of measures including the securing the ballot, introducing digital imprints and tightening up rules on electoral intimidation

1.2 The Government is intending to ensure that, collectively, the measures will serve to reassure electors that their vote, regardless of the method they choose to use, is secure.

2.0 Summary of the Measures Proposed by the Bill

2.1 A range of new measures are proposed as part of the Elections Bill, with the objective of ensuring the electoral arrangements are up-to-date, including tighter new laws to stamp out the potential for electoral fraud, make the overall approach more transparent and further protect elections from foreign interference. The key measures proposed are summarised below.

Voter identification

2.2 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.

2.3 A broad range of documents will be accepted including passports, driving licences, various concessionary travel passes and photocard parking permits issued as part of the Blue Badge scheme. Any voter who does not have an approved form of identification will be able to apply for a free, local Voter Card from their local authority.

Postal and proxy voting measures

2.4 The proposed measures will require those using a postal vote on a long term basis to re-apply every three years. The current legislation requires postal voters to provide a new signature every five years in order to refresh their original postal vote application. Furthermore, to negate 'postal vote harvesting', the Elections Bill proposes to ban political campaigners from handling postal votes.

2.5 The Bill also introduces a limit on the number of electors on behalf of whom a person may hand in postal votes to a returning officer or at a polling station.

2.6 The Bill provides that a person may be appointed to act as a proxy for a maximum of four electors, and within that four, no more than two may be electors who are not overseas electors or service voters.

Clarification of undue influence

2.7 Although it is currently an offence to unduly influence an elector, the Government's Bill argues that the outdated legislation requires modernising in order to provide electors with a high level of protection. The Bill therefore seeks to clarify and update the offence so that:

- Undue influence encompasses a wide range of harms, such as physical violence, damage to a person's property or reputation, undue spiritual pressure and injury, or inflicting financial loss.
- Deceiving an elector about the conduct or administration of an election or referendum can also amount to undue influence.
- Intimidation of electors is explicitly listed as a form of undue influence.

Accessibility of polls

- 2.8 To improve the electoral process for people with disabilities, the Bill places a new requirement on Returning Officers to consider a wider range of support for voters with disabilities in polling stations, supported through Electoral Commission guidance.
- 2.9 The Bill also removes current restrictions on who can act as a 'companion' to support voters with disabilities to cast their vote in the polling station.

Overseas Electors

- 2.10 The measures will scrap the 15 year limit on overseas electors' right to vote in UK Parliamentary elections and enfranchise all British citizens overseas who were previously registered or resident in the UK. The Bill also seeks to deliver improvements and consequential amendments to the registration process for overseas electors, including the processes by which applicants have their identity and connection to a UK address verified.
- 2.11 The registration period for overseas electors will be extended from one year to up to three years and electors will be able to reapply or refresh their absent vote arrangements (as appropriate) at the same time as renewing their registration. These changes will make it easier for overseas electors to remain on the register with an absent vote arrangement in place.

EU Voting and Candidacy Rights

- 2.12 Now that the UK has left the EU, and with the ending of free movement and introduction of the new points-based immigration system, the basis for an automatic grant of voting and candidacy rights to European citizens no longer exists. This measure will amend the local voting and candidacy rights of EU citizens in local elections in England and Northern Ireland, elections to the Northern Ireland Assembly and Police and Crime Commissioner elections in England and Wales (other local elections in the UK are devolved).
- 2.13 Once the measures have been introduced, in addition to satisfying the usual eligibility requirements which apply to all electors (e.g. age, residence etc.), EU citizens must be part of one of two groups to participate in the above elections. They must either:
 - 1. be a citizen of an EU member state with which the UK has a voting rights agreement (currently Spain, Portugal, Luxembourg, Poland), or
 - 2. have been continuously resident in the UK or Crown Dependencies since before the Implementation Period completion date – 31 December 2020.
- 2.14 An EU citizen elected before these measures come into force, and who otherwise remains eligible, will be able to serve their full term. Citizens of Cyprus and Malta, which are both EU and Commonwealth states, will retain the right to vote and stand as candidates in all elections for which the UK Government is responsible. The voting and candidacy rights of Irish citizens are also not affected by these measures, as these long-standing rights pre-date EU membership.

The Electoral Commission

- 2.15 To improve the parliamentary accountability of the Electoral Commission, the Bill makes provision for the introduction of a 'Strategy and Policy Statement', to be approved by the UK Parliament. This Statement will provide the Electoral Commission with guidance it must have regard to in the discharge of its functions.
- 2.16 The Bill also amends the function of the Speaker's Committee beyond its current limited remit to give it the power to examine the Commission's compliance with its duty to have regard to the Strategy and Policy Statement. Finally, to avoid imposing an undue burden on taxpayers' funds and duplicating the work of the Crown Prosecution Service and Public Prosecution Service Northern Ireland, the Bill legislates to expressly prevent the Commission from bringing criminal prosecutions in England, Wales and Northern Ireland.

Notional Expenditure

- 2.17 The current rules in this area have led to widespread uncertainty and risk discouraging parties from campaigning in marginal constituencies. The Bill will amend the law to make it clear that candidates only need to report benefits in kind which they have actually used, or which they or their election agent have directed, authorised or encouraged someone else to use on the candidate's behalf and do not need to fear being responsible for benefits in kind, of which they had no knowledge. This clarification will also be extended to other campaigners who are subject to notional expenditure controls.
- 2.18 Expenditure which promotes an individual candidature will continue to count towards a candidate's own spending limit.

Political finance

- 2.19 The following five measures seek to improve and tighten three important components of the political finance framework: fairness, transparency and controls against foreign spending. The measures will complement separate Home Office forthcoming legislation to Counter State Threats, which will help tackle the evolving threat from hostile activity by states and actors.
- **Third-party campaigner registration:** This measure will introduce a new 'lower' tier of registration with the Electoral Commission for third parties spending above £10,000 across the constituent parts of the UK but less than the current per-country registration thresholds. Groups in this 'lower tier' would be subject to basic transparency requirements and would need to be UK-based or otherwise eligible to register (e.g. a registered overseas elector).
 - **Restriction of all third-party campaigning to UK-based entities and eligible overseas electors:** This will restrict third-party campaigning during a regulated period to only those groups eligible to register with the Electoral Commission, even those spending below the registration threshold. This will remove the scope for spending by ineligible foreign third-party campaigners.
 - **Ban on registering as both a political party and a third-party campaigner:** Campaigners can currently register as both a political party and third-party campaigner at the same time, allowing them to potentially make use of two spending limits. This measure will prohibit entities from appearing on both registers at the same time.
 - **Restrictions on coordinated spending between parties and third parties:** Currently, when one or more third parties work together on a campaign, they must all account for the costs. This new measure will extend similar principles to third-party campaigners and political parties who work together on a joint campaign, to ensure they cannot unfairly expand their spending limits by sharing costs.

- **Asset and liabilities declaration for the registration of new political parties:** This measure will introduce a requirement for new political parties to declare their assets and liabilities (if over £500) when registering with the Electoral Commission. This will allow for earlier public scrutiny of political party finances.

Intimidation: new electoral sanction

- 2.20 The Bill introduces a new electoral sanction to protect candidates, future candidates, campaigners and elected officeholders from intimidation and abuse, both online and in person. Under this new electoral sanction, someone convicted of intimidating a candidate, future candidate, campaigner or elected officeholder will face a five-year disqualification from standing for, being elected to and holding elective office.
- 2.21 This five-year disqualification is in addition to the punishment for the underlying criminal offence of an intimidatory nature, such as a fine or imprisonment, depending on the severity of the intimidation.

Digital imprints

- 2.22 This measure introduces a new digital imprints regime, requiring political campaigners to explicitly show who they are and on behalf of whom they are promoting digital campaigning material. The Government has sought to balance the need to avoid unreasonably restricting the free speech of individuals, and avoid imposing disproportionate measures which would discourage political campaigning.
- 2.23 Under the new regime, all paid for digital political material would require an imprint, regardless of who it is promoted by. In addition, certain campaigners, such as elected representatives and political parties, will also require a digital imprint on their organic material if it constitutes digital election material, referendum material or recall petition material.

3.0 Process for the Bill to be Passed into Law

- 3.1 Summarised below is the process the Bill will need to take before being enacted (<https://bills.parliament.uk/bills/3020#timeline>).

Stage 1	The House of Commons <ul style="list-style-type: none">• 1st reading• 2nd reading• Committee stage• Report stage• 3rd reading
Stage 2	The House of Lords <ul style="list-style-type: none">• 1st reading• 2nd reading• Committee stage• Report stage• 3rd reading
Final stages	Consideration of amendments Royal Assent

- 3.2 The passage of the Bill will be monitored by the Council and updates provided if necessary to the Council Elections and Electoral Registration Review Panel.

4.0 Corporate Strategy

- 4.1 The work of the Election's Team falls within the Corporate Strategy's priority of 'Engaging with our Communities'. The changes within the Bill would have a substantial impact on voters if passed into legislation and will require a significant level of public engagement and support, both nationally and locally, to raise awareness of the changes.
- 4.2 In particular, the changes which would affect electors voting at Polling Stations and those voting by post will need to be comprehensively communicated to residents to minimise any inconvenience. The Borough of Woking, however, has the benefit of having participated successfully in the Government's pilot scheme for voter identification, the communications element of which will be built upon should the Bill be passed.

5.0 Implications

Finance and Risk

- 5.1 There are no financial or risk implications arising from this report.

Equalities and Human Resources

- 5.2 There are no equalities or human resource implications arising from this report.

Legal

- 5.3 This report has been reviewed by Legal Services who have not raised any issues.

6.0 Engagement and Consultation

- 6.1 The passage of the Bill through the House of Commons and the House of Lords does not offer any opportunities for consultation. The purpose of this report is to brief the Members of the Overview and Scrutiny of the aims of the new Elections Bill, noting that one of the key elements – the introduction of voter identification – has been developed following the pilot scheme held in Woking.
- 6.2 Details of the Bill will also be shared with the Members of the Council's Elections and Electoral Registration Review Panel, together with a final report once the Bill has been passed.

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