

<b>Report to:</b>	Overview and Scrutiny Committee (Regulatory, Compliance and Corporate Services)	<b>Date of Meeting:</b>	Tuesday 1 November 2022
<b>Subject:</b>	Elections Act 2022		
<b>Report of:</b>	Assistant Director of Corporate Resources and Customer Services (Strategic Support)	<b>Wards Affected:</b>	(All Wards);
<b>Portfolio:</b>	Cabinet Member – Regulatory, Compliance and Corporate Resources		
<b>Is this a Key Decision:</b>	No	<b>Included in Forward Plan:</b>	No
<b>Exempt / Confidential Report:</b>	No		

**Summary:**

The report provides members with an update on the implications of the Elections Act 2022 on the conduct of future elections.

**Recommendation(s):**

That the report be noted.

**Reasons for the Recommendation(s):**

For members to be briefed on the implications the Elections Act 2022 on the local authority in preparation for the local and parish elections in May 2023 and future elections.

**Alternative Options Considered and Rejected:** (including any Risk Implications)

**What will it cost and how will it be financed?**

**(A) Revenue Costs**

Central government have confirmed that additional costs will be covered by the 'New Burdens' principles s detailed within the report.

**(B) Capital Costs**

**Implications of the Proposals:**

<p><b>Resource Implications (Financial, IT, Staffing and Assets):</b></p> <p>Please see the resource implications detailed within the report.</p>								
<p><b>Legal Implications:</b></p> <p>The Elections Act 2022 is now in force and the Council is obliged to follow its provisions and plan for the same.</p>								
<p><b>Equality Implications:</b></p> <p>The equality Implications have been identified and risk remains, as detailed in the report.</p>								
<p><b>Climate Emergency Implications:</b></p> <p>The recommendations within this report will</p> <table border="1"><tr><td>Have a positive impact</td><td>N</td></tr><tr><td>Have a neutral impact</td><td>Y</td></tr><tr><td>Have a negative impact</td><td>N</td></tr><tr><td>The Author has undertaken the Climate Emergency training for report authors</td><td>Y</td></tr></table>	Have a positive impact	N	Have a neutral impact	Y	Have a negative impact	N	The Author has undertaken the Climate Emergency training for report authors	Y
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**Contribution to the Council's Core Purpose:**

<p>Protect the most vulnerable:</p> <p>The provisions of the Elections Act will support the provision of inclusive elections. Please see further details within the body of the report.</p>
<p>Facilitate confident and resilient communities:</p>
<p>Commission, broker and provide core services:</p>
<p>Place – leadership and influencer:</p>
<p>Drivers of change and reform:</p>
<p>Facilitate sustainable economic prosperity:</p>
<p>Greater income for social investment:</p>
<p>Cleaner Greener</p>

## What consultations have taken place on the proposals and when?

### (A) Internal Consultations

The Executive Director of Corporate Resources and Customer Services (FD.6987/22) and the Chief Legal and Democratic Officer (LD.5187/22) have been consulted and any comments have been incorporated into the report.

### (B) External Consultations

None

### Implementation Date for the Decision

Immediately following the Committee meeting.

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### Appendices:

Appendix A - New Burdens coming into play after May 2023

### Background Papers:

There are no background papers available for inspection.

#### 1. Introduction

On 28 April 2022, the Elections Act 2022 received Royal Assent

The Act seeks to –

- require voters to show photo ID at polling stations before a ballot paper is issued.
- require Electoral Registration Officers (ERO) based in local authorities to issue free electoral identification documents – which is now called a 'Voter Authority Certificates' to eligible electors who apply for one.
- 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.
- extend accessibility to elections including requiring Returning Officers to take all reasonable steps to provide support for those with a disability in polling stations.

- 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.

Members should be aware that 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.

At this time, it is expected that Secondary legislation will pass through Parliament around the 6 November.

The majority of changes will result in a new financial burden being placed on the local authority. 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.

A summary of what we can expect to be funded is provided later in this report. However, at this stage we only have the cost lines that will be funded via the New Burdens Funding process. As policy is still being determined some elements may change or we are still awaiting further detail.

The provisions contained within the Elections Act will apply at:

- UK Parliamentary elections in Great Britain
- Local elections and referendums in England (this included Mayoral elections)
- PCC elections in England and Wales

We know that Voter Identification in polling stations and accessibility to elections requiring Returning Officers (RO) to provide support for those with a disability in polling stations will come into effect for May 2023, so this report will concentrate on those two areas along with proposed funding to support such, but will touch on what impact the other provisions of the Act will bring moving forward.

## **2. Voter Identification in Polling Stations**

Electors will have to show an approved form of photo identification before voting.

Photographic identification that can be used to vote include passport, driving license, immigration document, a PASS card, Ministry of Defence Form 90, concessionary travel pass (excluding railcards) and national ID card.

Work/student passes, railcards and photocopies of identification documents or pictures on mobile phones will not be acceptable

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 ERO.

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.

There will be three varieties of “Voter Authority Certificate” - the Voter Authority Certificate, the temporary Voter Authority Certificate and the Anonymous Electors Document (AED).

Electors will have a range of options to choose from when applying for a Voter Authority Certificate - 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.

The deadline to apply for a voter authority certificate will be set at 5pm at 6 working days ahead of the poll (the day of the poll is not included).

The photographic identification does not to be in date to be used – it just needs to bear a likeness to the voter.

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 licences and aims to keep the photo up to date.

In the 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.

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.

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.

No other person other the presiding officer and poll clerk may inspect the document unless permitted by the elector.

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

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.

The application service for Voter Authority Certificates is expected to commence from January 2023 – it will be called the 'Get ready to vote in person' service on GOV.UK Voter Identification expected to be in place at elections from 4 May 2023

DLUHC research is suggesting that around 2-4% of people may require identification issued by the ERO – for Sefton this translates to approximately people 4,300 to 8,600 electors. 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.

DLUHC have also suggested that each application could take up to 8 minutes of staff time to process. If we have to process, say 5,000 applications, that equates to 40,000 minutes or 666 hours of staff working time.

### **3. Polling Station Accessibility**

ROs will have a general responsibility to take all reasonable steps to support voters with disabilities.

The Electoral Commission will produce guidance (final version expected end of January 2023) to aid RO's 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.

Draft guidance produced by the EC makes it 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

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

However, we are not limited to only providing the equipment listed above and still need to consider whether other types of equipment could also be provided to polling stations such as hearing induction loop, audio devices and information in easy read format. The EC have advised that we should not reduce or remove any equipment that we have provided to support disabled voters at polling stations in our area at previous polls. The provisions for voters to be assisted by a companion will be extended to allow anyone over the age of 18 to assist.

In addition to equipment, the EC draft guidance states that we should provide accessibility awareness training for all staff who interact with voters, including staff who support electoral services, to help improve their understanding of the needs of those with disabilities and the importance of clear communication. It is also vital that our training for polling station staff addresses the importance of being aware of accessibility needs of voters at the polling station and what steps they should take to support them.

We also need to consider how we provide and promote information about the voting process and support available to voters. For example, we could:

- Provide information on the location of polling stations
- Provide advance information on voting at the polling station on council website
- Include additional information on poll cards and making information accessible
- Provide accessible sample ballot papers

#### **4. New Burdens Funding**

There will be three funding mechanisms for the new burdens being brought about by the Elections Act:

- Grants – allocated to Local Authorities based on a funding allocation model in the form of a single yearly payment
- Justification Led Bids (JLBs) – fund released to LAs retrospectively based on a justification led bid (evidence of spend)
- Hybrid – proportion of the allocation will initially be distributed early in the year by grant. Later in the year, a bidding process will be undertaken where LAs can claim the value of additional funds required, along with evidence of spend.
- The funding will be made to Local Authorities via Section 31 Grants. A “letter of comfort” from DLUHC has been received to confirm that funding will be made and we are now waiting to receive guidance on costs and our grant determination letter in October 2022 with our initial new burdens funding being received in November 2022.

Impact on the RO, ERO, Electoral Services Team and Local Authority

Voter Authority Certificate application process on electoral services team

- This additional process will require the electoral services team to process and validate Voter Authority Certificate applications and send them for printing via a new digital service.
- The deadline to apply for an electoral identity document will be set at six working days ahead of poll.

#### Accessibility

- In order to take all reasonable steps to support voters with disabilities through supplying appropriate equipment and adaptations – the electoral services team needs to consult and engage with other council departments and key stakeholders who are best placed to inform on what practical steps can be taken by the Returning Officer.
- Assistance from departments such as equalities, access officers who have expertise in what measures would be helpful to put in place will be required.
- In addition, it would be sensible to consult and engage with local disability groups to form constructive working relationships and feed their expert opinions into what support is required within our area.
- If it is determined that additional equipment is needed to support voters with disabilities - which is likely to be the case – this equipment will need to be procured and subsequently stored. Assistance may be sought from the Council's procurement team and depending on the size and volume of equipment required an assessment of storage requirements will need to be undertaken by the Council's facilities team.

## 5. Communication

There is a need to ensure that electors are aware of new requirements well in advance of polling day in addition to candidates and agents. New Burdens funding does include additional money for local public awareness to promote Voter ID but not on scale where we are able to make direct contact with all households.

- Electors will need to be fully aware that photo ID is now required to vote at Local and Parish elections in May 2023 what constitutes an acceptable form of photo ID and what they need to do to apply for a Voter Authority Certificate if they do not possess a valid form of photo ID.
- While there will be national campaigns provided by the Electoral Commission, there will inevitably be a need to provide localised communication activity to link into this national campaign. This will place prolonged resource implications on both communication and electoral services teams with targeted communications required from January 2023 following the launch of the Voter Authority Certificate application process up to and including polling day.
- Communication activities linked to voter identification will be an ongoing feature for several years after its introduction until it becomes established as a 'business as usual' practice for electors.

We will provide a dedicated page on our website for each election that contains accessible content to help voters who want to know more about voting at the polling station.

## **6. Polling Day Implications**

Difficulties recruiting staff, polling station suitability

The Returning Officer and the electoral services team will need to put processes in place for checking voters' photographic ID at polling stations from relevant polls taking place from May 2023.

The requirement for polling station staff to have to check ID, determine whether it's acceptable and in some instances, where the ID is not deemed to be acceptable, refuse the elector a ballot paper places increased responsibilities on them.

There are other burdens on polling station staff to including the: potential introduction of new equipment for voters with disabilities - additional requirement for polling station staff to learn how to use and administer correctly.

The requirement to check ID and use new equipment in the Act will certainly require further training for all polling station staff going forward and is likely that the fees paid to polling station staff will need to be reviewed to ensure they are sufficient and take account of additional complexity being placed upon them.

It is likely that this new responsibility may deter some experienced staff from wanting to work at polling stations. This is further compounded by the likely need for additional polling station staff to provide capacity for checking ID and for other responsibilities introduced by the Act.

This would have several implications including risk to running elections if we cannot get sufficient staff to work. The churn of staff working for the Returning Officer is high now and at times it is difficult to recruit staff to work in polling stations. It is likely there will be a requirement to undertake extensive recruitment campaigns to attract sufficient staff; increased training needs if large volume of staff are new.

The additional time required per elector to check ID (as well as other tasks introduced by the Act) may result in us needing additional polling stations to ensure adequate numbers of electors are allocated to a station considering the new requirements.

In addition, in order to ensure that electors who cover their faces for religious or other sensitive reasons are not deterred from voting, there will need to be facilities in every polling station that allows the electors ID to be verified in private. This may take the form of a separate area within the station or by using privacy screens.

The potential need for new and/or additional polling stations will place a burden on the electoral services to review whether existing polling stations can accommodate the new requirements introduced by the Act and where there is need for changes or additional stations, a polling district review would need to be undertaken.

A polling district review is a large undertaking with required consultation with electors and disability groups. This would place significant pressure on the electoral services team if they were expected to carry out the review while also implementing the changes required by the Act.

## Mitigation

All of the above require additional resources in terms of staff, training and equipment to enable the new processes to be implemented successfully. This will be particularly relevant in the weeks leading up to polling day where the elections team is already at full capacity without this additional unknown burden to accommodate.

In order to mitigate the risk, a review of the Electoral Services team is ongoing to ensure there is sufficient capacity and resilience to contend with the Act, with measures being put in place for future succession planning within the team.

## **7. Impacts for Elected Members**

The requirement for electors to have photo ID in order to vote will need to be widely communicated by a variety of stakeholders.

While there will be national campaigns provided by the Electoral Commission, there will inevitably be a need to provide localised communication activity undertaken by the ERO and RO to link into this national campaign. Elected Members, Candidates and Election Agents will be asked to support this and help get the message out to the electorate.

For all elections where ID is required Elected Members, Candidates and Election Agents may wish to include reminders in campaign literature and inform campaigners to remind electors on the doorstep to take their photo ID to the station or advise how they can apply for an electoral identity document.

Members may also want to include information from January 2023 onwards about the electoral identity document application process in councillor's newsletters or social media posts.

Members should remind your polling and election agents that only the presiding officer and poll clerk can inspect a voter's photographic ID unless the voter permits someone else to do so. Where a presiding officer refuses to deliver a ballot paper to the voter – their decision is final and may not be questioned in any way. A refusal to deliver a ballot paper to a voter is subject to review on an election petition only.

### Beyond May 2023:

In addition to voter identification, sharing information at the appropriate time on the new requirements to complete a new postal vote application every 3 years, the limits to how many postal votes can be handed in at a polling station by an individual or how many people a person can act as proxy for would be most appreciated.

In addition to making your campaigners aware of changes to the voting process, they also need to understand political parties and campaigners will be banned from handling postal votes. It may be beneficial to have briefings ahead of any elections to make them

aware of the new requirements. In addition to the consequences for them, you and the electors' postal votes if they breach the restriction.

The move to allow electors to apply for an absent vote online (as well as by paper) will potentially bring benefits to candidates standing in elections with it being easier to direct electors to a website to complete their postal vote application rather than needing to collate names to ask the ERO to send forms out to electors. The link to the online postal vote application may also be something that could be promoted on social media and include in future campaign literature to help make voting more accessible for electors.

#### 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.

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.

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.

## **8. Summary**

The Elections Act will present numerous challenges for the RO, ERO, Elections Team, the wider council, Elected Members, Candidates and Election Agents.

Challenges that may be faced in recruiting enough polling station staff especially suitably qualified staff will also need to be considered along with an appropriate rate of pay to recognize the increased responsibility.

It has long been the case that electoral services teams cannot continue to work in isolation due to the ever-growing scale and complexity of elections – the Elections Act further cements the need to review our approach to elections to ensure all aspects of the Act are successfully implemented.

### **New Burdens coming into play after May 2023**

#### Absent Voting

- The new requirement to verify the identity of each absent vote application will potentially lead to longer processing times for applications. Furthermore, the requirement to provide a new application every 3 years instead of a signature refresh every 5 years is likely to be more of a burden.

#### Online Absent Vote Applications

- This change has the potential to lead to an increase in the number of postal votes – leading to more postal votes to issue and open at elections. The biggest risk is surge immediately before an election and the delay it could cause issuing ballot papers.

#### Overseas Electors

- The requirement on the ERO and the electoral services team to determine applications of people who have not been resident in the UK for more than 15 years will require them to check past copies of the register (where available), use local records or request attestations – all of which will bring substantial burden to the election team and may require assistance from other council departments with relevant records.

#### EU Citizen Voting and Candidacy Rights

Extensive communications with EU electors will need to be taken to ensure they understand the new criteria particularly if it is determined they are no longer eligible to vote as well additional training for our canvass staff to ensure they are aware of the requirements for EU electors wishing to register to vote.

It has been confirmed that an EU citizen who is currently an elected member, that:

- An EU citizen elected to office before the measures in the Act come into force, and who otherwise remains eligible, will be able to remain in office for their full term, irrespective of immigration status, and irrespective of whether they qualify under the new eligibility criteria - Unless they become disqualified because of another reason.
- For EU citizens elected after these measures come into force, the Act provides that the individual must have leave to enter or remain, or not require such leave. Should they lose this status they will no longer qualify to stand or serve as a candidate.