

ELECTIONS COMMITTEE		
Report Title	Electoral Legislation	
Key Decision	n/a	Item No.
Ward	n/a	
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Class	Part 1	Date: 7 November 2011

1. Purpose

This report is intended to provide the committee with an update on current and proposed legislation impacting elections and electoral registration

2. Recommendation

That the Committee note this report.

3. Background

As the committee is aware the Coalition Government introduced a raft of proposed legislation which will result in the transformation of electoral registration and potentially the delivery of elections. The Parliamentary Boundary Review and Polling District review are both under way and are the subject of separate reports submitted concurrently.

4. Absent Voter identifier refresh

4.1 Under the Representation of the People (England and Wales) Regulations 2001 Electoral Registration Officers (EROs) must, by 31 January each year, send every person who remains an absent voter and whose signature held on the personal identifiers record is more than 5 years old, a notice requiring them to provide a fresh signature. There are provisions for reminders but the deadline for a response is by the beginning of March each year. If they do not respond by then the elector must be removed from the register, informed of the cancellation and should be given a new absent voting application form.

4.2 Lewisham will conduct its first Absent Voter identifier refresh in January 2013 as it collected personal identifiers after January 31 2007. Our estimate is that just over 11,000 out of a total of 21,021 currently registered postal voters will be requested to provide a new signature. Strenuous efforts will be made to secure a good response and thereby minimise any effect on the number of absent voters on the register.

5. Individual Elector Registration (IER)

5.1 The Government published a White Paper in June 2011 putting forward its proposals for the introduction of IER which included draft legislation. There has been little change to the voter registration system since the early twentieth century except for the introduction of rolling registration in 2001 and the provisions in the Electoral Administration Act 2006 to enable electors to register up until 11 working days before an election.

5.2 IER, as currently proposed, will certainly transform the way electoral registration will be delivered. Coupled with the Parliamentary Boundary review it could have significant impact on the electoral landscape after the proposed fixed term Parliamentary elections in May 2015.

5.3 The original provisions for IER were published in the Political Parties and Elections Act 2009 and proposed IER on a voluntary basis before a decision was made on whether to introduce it on a compulsory basis. The Coalition Government have speeded up its introduction by proposing to make it compulsory from 2014. The government's stated objectives are to tackle fraud and to maintain accuracy and to ensure completeness of the register.

5.4 The proposals are

- IER should replace the annual canvass which takes place between 1 September and 1 December annually whereby one person completes a single registration form on behalf of everyone at their address.
- To be registered under IER, applicants for registration will have to provide a date of birth (DOB) and National Insurance Number (NINO). These will have to be checked against an underlying data base through a continuing data matching process. Once verified the NINO will have to be deleted from the ERO's records. Note that there is no provision to provide a signature and it is not mandatory to register. The no signature requirement will make it easier to introduce multi channel registration.
- The Electoral Registration Data Schemes Order 2011 (The Order) approved 22 data matching pilots specifying the areas (local authorities), the authorities (government departments) and data to be matched. The results of the pilots are to be evaluated by the Cabinet Office and Electoral Commission. The data matching schemes involve comparing electoral registers with data from public authorities including the Department for Work and Pensions, Department for Transport, Department for Education, HM Revenue and Customs.

- It is to be a new criminal offence to disclose any information provided for verification purposes.
- There are provisions for the ERO to accept other forms of evidence of identity should individuals be unable or unwilling to provide the specified identifying information but there may be a requirement to attend the Registration Office.
- Once registered there is no compulsion to re-register. EROs will be required to maintain the accuracy of the register by carrying out periodic data matching exercises and sending out a Household Enquiry Form. This will ask the householder if the details on the form are correct. If the householder identifies new occupants, individual registration forms will then have to be sent to these individuals.

5.5 Transitional arrangements will be key to the success of IER. The first IER canvass will begin on the 1 July 2014 and conclude when a revised register is published on the 1 December 2014. From July 2014 the ERO will send a personally addressed IER application to every elector on the register. Where there is no currently registered elector at an address or where the ERO believes that the entry is no longer correct, a Household Enquiry Form will be sent to the household to identify eligible electors. The ERO's duties under section 9A of the RPA 1983 to take all necessary steps to comply with the general duty of maintaining the register will continue to apply. That involves sending the Household Enquiry Form more than once, making house to house enquiries and inspecting records the ERO is permitted to inspect.

- Personally addressed IER forms will then be sent to electors identified by responses to the Household Enquiry Form or data matching exercises. Persons can respond to an invitation to register by indicating that they do not wish to be chased. There is no compulsion to register but there is a requirement to respond to the Household Enquiry Form.
- Electors who fail to respond to the 2013 canvass will be removed if they fail to respond in 2014 under existing provisions to delete two year non responders. Otherwise, electors who fail to respond to the first IER canvass in 2014 will remain on the electoral register and be carried forward, as will those who fail to complete the IER forms properly..
- During the canvass of 2015 the ERO will send an IER application form to anyone who failed to respond or failed to complete an IER application successfully in 2014. If they fail to respond they will be removed from the register when it is published in 2015.

- Postal voters who fail to register under IER in 2014 will lose the right to use this method of voting but will be able to vote at a polling station
- From the 1 July 2015 the annual canvass will request data on all persons resident in every household. The first step in the annual canvass in 2015 to all properties will be for the ERO to send a Household Enquiry Form, the timing for dispatch of which under current proposals will be a matter for the ERO.
- There will be no requirement in 2015 for electors who have successfully registered under IER to repeat the process . They will remain registered unless they notify the ERO that they have moved, the annual canvass suggests they are no longer resident, or information from other data matching sources prompts the ERO to make additional enquiries.
- The likely impact of IER on numbers on the electoral roll is likely to be significant. When introduced in Northern Ireland by the Electoral Fraud (Northern Ireland) Act 2002, numbers fell on the electoral roll by an average of 10.5%. Given the transient nature of the population in parts of the Borough, the fall in the electoral roll here may be higher, particularly amongst those who cannot, or are not prepared to disclose such personal details as the identifiers require. By definition it is likely to be a much more difficult task to gain responses from all members of a household in the absence of an element of compulsion.

5.6 The Fixed Term Parliaments Act 2011

This Act passed into law on the 15 September 2011. In summary it

- Fixes the date of the next General Election as the 7 May 2015 and every 5 years thereafter
- Provides for General Elections to be held earlier if either two-thirds of all MPs vote in favour of dissolution or there has been a vote of no confidence in the Government and a Government has failed to gain the confidence of the House of Commons within 14 days

5.7 The Police Reform and Social Responsibility Act 2011

This Act also passed into law on 15 September 2011. It replaces Police Authorities with directly elected Police and Crime Commissioners. It does not effect London Boroughs, where the Mayor of London is the Police Commissioner. However it is worth noting that it uses the single transferable voting system (STV).

STV is a form of proportional representation for multi member seats whereby voters rank their preferences on a ballot paper. Candidates

do not need a majority to win, just a known quota or share of the votes determined by the size of the electorate and the number of available seats.

Elections will take place in 41 Police authorities in November 2012.

5.8 Draft House of Lords Reform Bill

In May 2011 the Government published proposals for a reformed House of Lords. The proposals contained the draft House of Lords Reform Bill and a White Paper setting out detailed options for a reformed House of Lords. In summary the proposals include

- A House consisting of 300 members each eligible for a term of three Parliaments. The draft bill proposes that membership would be 80% elected and 20% appointed, although the White Paper leaves the way open for 100% elected House.
- It is proposed that elections will use the STV system. The White Paper does not rule out the possibility of using a list based system.
- Multimember electoral districts are based on national and county boundaries.
- A third of members will be elected at each election with the first elections taking place on 7 May 2015, the scheduled date for the next General Election.
- Elections would normally take place on the same day as a General Election

5.9 Draft legislation for pre legislative scrutiny

The Government has also published draft legislation on a number of electoral administration provisions for pre legislative scrutiny by the Political and Constitutional Reform Committee of the House of Commons. They are

- To extend the parliamentary timetable from 17 to 25 working days
- To make changes to the polling places and district reviews to bring them into line with the set Parliamentary terms of 5 years. Under draft provisions a local authority must carry out and complete a review of all the polling stations places and districts for UK Parliamentary elections in its area within the period of 16 months beginning the 1 October 2013 and then within the period beginning 16 months beginning with 1 October every fifth year after that.
- To address the issue preventing joint party candidates from using party emblems on ballot papers.

On the 14 September the Government published a Command Paper putting forward additional reforms for pre legislative scrutiny. They are:

- Removal of the automatic postponement of parish and community elections when they fall on the same day as local government elections and either a European or Parliamentary elections thus making combination of elections easier.
- Mandating 100% postal vote checking. Currently legislation provides for a minimum 20% check but LBL in common with most authorities routinely check 100%.
- Extend emergency proxy voting facilities to those called away on business or military service

5.10 Recall of MPs

The Cabinet office are working up proposals to introduce a power of recall allowing voters to force a by election where an MP is found to have “engaged in serious wrong doing” and having had a petition calling for a by election signed by 10% of constituents.

5.11 Law Commission

The Law Commission is about to commence a review of electoral law which hopefully will consolidate what has been referred to as “byzantine” legislation. This will probably result in the publication of a White Paper in 2017 with a view to being made law in time for scheduled Parliamentary elections in May 2020.

5.12 Localism Bill

Proposals in the Localism Bill contain many opportunities for local referenda. Though it seems unlikely that referenda on ‘local matters’ set out in Part 4 of the Bill will make it onto the statute book (following Government acceptance of a Lords amendment), the provisions relating to Council Tax referenda, neighbourhood planning referenda and referenda on governance arrangements remain in place.

5.13 Local Referendums Bill

This is a private members bill sponsored by Zac Goldsmith. It is due to have its second reading in the House of Commons in January 2012. It proposes that referendum results on local issues will be binding on local authorities. Referenda may be called by 10% of Local Government electors in an authority at the time a petition is presented. Given the likely amendments to the Localism Bill, it is doubtful whether this will proceed.

6. **Financial implications**

The annual postal vote refresh can be absorbed within the Electoral registration budget, However the funding and resource requirement for the introduction of IER needs to be carefully assessed and negotiated with Government.

With regard to funding for elections we are becoming increasingly aware of the Cabinet Office's attempts to drive election costs down. This is manifesting itself in the number of queries authorities are receiving in respect of their claims for the Referendum in May 2011 and Parliamentary elections in 2010. There may ultimately be conflict between cost restrictions and the commitment of this Authority to ensure that these are run well.

7. Legal implications

These are dealt with in the body of the report.

8. Crime and disorder implications

There are no crime and disorder implications arising.

9. Equalities implications

There are no equality implications arising.

10. Environmental implications

There are no environmental implications arising.

11. Background documents and originator

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