

Policy and Resources Committee	
Meeting Date	19 October 2022
Report Title	Voter ID reform – risks to May 2023 Elections
EMT Lead	Larissa Reed – Chief Executive (Returning Officer)
Head of Service	David Clifford
Lead Officer	Keith Alabaster - Elections Manager
Classification	Open
Recommendations	1. That the specific risks to the local elections in May 2023 arising from the implementation of Voter Identification be noted.

1 Purpose of Report and Executive Summary

- 1.1 This report raises the profile of the risks to the May 2023 local elections arising from the implementation of voter identification and brings them to Councillors' attention.

2 Background

- 2.1 The Elections Act 2022 sets in place the legislation to implement a number of changes to the conduct of elections including (but not limited to):

- Limits on postal vote handling;
- Removing the time limits on overseas voter registration;
- Increasing accessibility requirements in polling stations;
- EU Citizens voting and candidacy rights;
- Changing the frequency of absent voting refreshes; and
- Introducing photographic voter identification for polls.

- 2.2 It is the impact and associated risks of the introduction of photographic voter identification at polling stations that is considered here on the Council's May 2023 Elections.

- 2.3 Appendix A sets out the risk assessment of the changes as currently proposed going live in January 2023. Whilst the primary legislation is enacted (Elections Act 2022) the secondary legislation required to implement the changes and set the rules by which Voter Identification will work is not in place. To date a draft has not been made available. The secondary legislation will be significant as it will cut across hundreds of pieces of election legislation and will need to be of sufficient quality to enable elections with voter ID to take place.

- 2.4 Following the publication and adoption by parliament of secondary

legislation the Electoral Commission will provide national guidance and put together a national communication campaign for Voter Identification. That work cannot begin in any detail until the secondary legislation is in place.

What does the change involve?

- 2.5 At the May 2023 elections, in addition to being registered to vote, as now, electors voting in a polling station will be required to show photographic identification to the presiding officer or poll clerk in order to be issued with a ballot paper. This identification can take the form of a passport, a driving licence or one of several other government funded photographic identity documents.
- 2.6 To support this, from January 2023 the Council will be required to issue free Photographic Voter Identification documents to electors who request one. Estimates on volumes of the electorate who do not currently have a valid form of photographic identification range from 2-4% of voters. Any elector can request and receive a free Voter Identification document from the Council, the Department of Levelling Up Housing and Communities (DLUHC) are focussing communications in the application process to highlight to an applicant that they only need a Voter Identification document if they do not already have ID, but there is nothing to prevent those people from applying anyway.
- 2.7 The change will be supported by the launch of a new Government portal on www.gov.uk that will allow the electorate to register, request a Voter Identification document and apply for an absent vote online. The portal is still at an early phase of testing, but the principle is that elections team will access an administration element of the portal and approve applications before they come through to the Council's existing Electoral Management System (as registration applications do now). The voter identification document, which will be called a Voter Authority Certificate, will not be an ID Card. It will consist of an A4 paper document bearing the photo and including a variety of security features. Whilst the Council (on behalf of the ERO) will be issuing these documents, they will physically be supplied by an external contractor. Technically the document will not have an expiry date, but it will be recommended that it is renewed every 10 years, to keep the photo up to date.
- 2.8 There will also be provision for supplying Voter Identification documents to electorate in the run up to an election. This will include the provision of a temporary Voter Identification document by the Council with a permanent document to follow. In emergency situations a problem with Voter Identification will also be an allowable reason for an emergency proxy.

- 2.9 Due to the introduction of Voter ID, poll cards will also be changing (including the legislation on the form they need to take). Poll 'Cards' will also become A4 documents (letters), in order to capture the extent of information required to advise electors of voter identification requirements.
- 2.10 Postal votes and personal identifiers (signature and date of birth) will not be changing. However, with the application process for these moving online in July 2023 it is not clear how the personal identifiers will be provided in such a way that they will match a handwritten signature when a postal vote is submitted.
- 2.11 In order to implement these changes in polling stations training will be required for staff, particularly presiding officers, in order to understand the rules and requirements around accepting or rejecting Voter ID and dealing with challenge from the electorate. In order for training to be provided it will be necessary to have the secondary legislation and guidance from the Electoral Commission.

Assessing the Risk

- 2.12 We have started project planning and contingency planning for the election. This process allows any particular issues and risks to be identified and mitigations and actions to be considered early. Historically, Swale has been successful at running elections and we are always looking at ways we can improve processes and practices.
- 2.13 Appendix A sets out a focussed look at the specific impact of Voter Identification on the May 2023 elections. It is not the overall election risk assessment, and there will be additional risks to consider as part of election planning. Nor is it the overall risk assessment for the full implementation of the Elections Act 2022.
- 2.14 There are a significant number of red risks on the focussed assessment and as such it has been necessary to add a corporate risk register which will be reported through Policy and Resources Committee. The corporate element of the risk is that a failed election does not provide the Council with the Leadership and decision making it requires to function.
- 2.15 In addition, these risks are also being flagged to this Committee, not for their corporate impact but because of the risk to electoral integrity. Ultimately, if realised these risks would impact on both the practical ability to conduct successful polls, but also the integrity of the outcome. Specifically, the changes if not conducted properly, could disenfranchise voters and therefore undermine the election. Even if we

successfully deliver an outcome from these elections that enables the Council to function, its democratic integrity and mandate may be open to question.

2.16 The Government's own Annual Report on Major Projects 2021-22 produced by the Infrastructure and Projects Authority and based on information provided by DLUHC, assess the overall Electoral Integrity project as red (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1092181/IPA_AR2022.pdf page 58).

2.17 The Association of Electoral Administrators and others have informed DLUHC that the changes to Voter Identification risk the delivery of the May 2023 polls (<https://www.aea-elections.co.uk/wp-content/uploads/2022/07/Letter-to-Sec-of-State-Elections-Act-2022.pdf>)

“With key policy details still to be confirmed, and secondary legislation yet to be published, the Association of Electoral Administrators no longer believes it is possible to successfully introduce Voter ID in May 2023.”

2.18 Elections managers and Returning Officers from across Kent have met to ensure we have a consistent view and approach to these changes. The Democratic and Electoral Services Manager at Maidstone Borough Council represents the South East and Kent on the Business Change Network to provide professional feedback and input on the proposals to DLUHC. He has worked closely with the other Elections Managers to consider proposals and feedback. Whilst the contents of those discussions are restricted, the risk assessments have been put together on the basis of publicly available information and from the discussions with Returning Officers and Elections Manager.

2.19 In response to the feedback it received, and with a new Minister appointed, DLUHC responded to concerns on timescales of delivering for the May 2023 polls by moving the date for implementation back for issuing voter identification documents, and the new portal going live, from December 2022 to January 2023. This concern is that this change, whilst welcome does little to mitigate the risks and does not address the causes of the risks.

2.20 Elections are 'no fail' events. Unlike other projects where tolerances can be built into timescales and quality, in elections there are none. Elections must be delivered on time and provide a trusted result and outcome. Trust in election outcomes is critical to democracy and the authority with

which elected bodies act. In order to maintain that we would expect to already:

- Have the secondary legislation in place, and already have detailed Electoral Commission guidance for election planning;
- Have role requirements and training packages for staff available;
- Be using the new portal with staff training completed and bugs being reported and resolved; and
- Have sight of national communications to run for the start of 2023 so our communication plans can be put together.

2.21 All the risks in this risk assessment are exacerbated to beyond acceptable levels by being abutted up against the delivery for the May 2023 (the election period beginning officially at the end of March 2023).

What Next?

2.22 Many Councils in Kent are considering similar reports to this, there is no information in this report that has not be shared with the AEA, the South East Branch of the AEA, and the LGA. The Chief Executive is also raising this matter with both Swale MP's.

2.23 The identified mitigations will be put in place. Democratic and Electoral Services will be reviewed to ensure the most robust structure is in place to deliver the May 2023 elections, and a new temporary member of staff will be recruited for 2023 to help with the elections and delivery of new boundaries ahead of May 2024.

3 Alternative Options Considered

3.1 The other alternatives considered and rejected are. Not to operate the Voter ID system. This has been rejected as there is a requirement of the legislation that we undertake this change

4 Consultation Undertaken or Proposed

4.1 The Elections Officers and Returning Officers have responded to all the of governments consultations. We have not undertaken any external consultation.

5 Implications

Issue	Implications
Corporate Plan	The successful and fair delivery of elections underpins everything the Council does.

Financial, Resource and Property	There are no direct financial consequences from noting the report. However, the risk to elections could have significant financial consequences if realised, and some of the proposed mitigations need funding (i.e. extra electoral services staffing, and extra elections staffing).
Legal, Statutory and Procurement	The Elections Act 2022 is in place, with secondary legislation and Electoral Commission guidance to support the implementation of the Act to follow. The implications of not having the secondary legislation in good time or to sufficient quality have been considered in the risks.
Crime and Disorder	The risk profiles include consideration of policing of polling stations on polling day and the likelihood of an increase in incidents.
Environment and Climate/Ecological Emergency	None
Health and Wellbeing	The well being of elections staff and poll station staff need to be considered and mitigations to risk need to be put in place
Safeguarding of Children, Young People and Vulnerable Adults	None
Risk Management and Health and Safety	The contents of this report relate directly to risk management, and negative Health and Safety Implications need to be mitigated.
Equality and Diversity	An EIA will be conducted when these changes are implemented. There are concerns arising from the implementation of Voter Identification that it will disproportionately impact on certain groups more than others. This will be mitigated by actions we can take in terms of communications and ensuring our processes for issuing Voter IDs are as robust as they can be, but the overall implementation is a government project that we cannot change.
Privacy and Data Protection	There are privacy and data protection considerations arising from additional processes for Voter Identification. The full extent of these cannot be assessed at this point as not enough information is available. However, we will work with the Information Governance team on a DPIA once information is available.

6 Appendices

6.1 Appendix 1 sets out the risks.

7 Background Papers

7.1 None