

**Elections Act 2022 – Voter Identification – Risk to
May 2023 Elections**

Final Decision-Maker	Democracy and General Purposes Committee
Lead Director	Angela Woodhouse, Director of Strategy, Insight and Governance
Lead Officer and Report Author	Ryan O’Connell, Democratic and Electoral Services Manager
Classification	Public
Wards affected	All

Executive Summary

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.

Purpose of Report

Noting

This report makes the following recommendations to this Committee:

That the specific risks to the local elections in May 2023 arising from the implementation of Voter Identification be noted.

Timetable

Meeting	Date
Democracy and General Purposes Committee	21 September 2022

Elections Act 2022 – Voter Identification – Risk to May 2023 Elections

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The successful and fair delivery of elections underpins everything the Council does. (A separate corporate risk relating to this matter has been reported to the Corporate Services Policy Advisory Committee)	Democratic and Electoral Services Manager
Cross Cutting Objectives	The successful and fair delivery of elections underpins everything the Council does.	Democratic and Electoral Services Manager
Risk Management	The contents of this report relate directly to risk management.	Democratic and Electoral Services Manager
Financial	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).	Democratic and Electoral Services Manager
Staffing	Identified mitigations to the risks identified include additional electoral services staffing and elections staffing.	Democratic and Electoral Services Manager
Legal	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. The risk assessment also takes into account	Interim Team Leader (Contentious and Corporate Governance)

	the possible legal implications arising from election challenge and the impact that could have.	
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.	Information Governance Team
Equalities	<p>An EqIA will be conducted when these changes are implemented.</p> <p>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.</p>	Equalities & Communities Officer
Public Health	None	Democratic and Electoral Services Manager
Crime and Disorder	The risk profiles include consideration of policing of polling stations on polling day and the likelihood of an increase in incidents.	Democratic and Electoral Services Manager
Procurement	None	Democratic and Electoral Services Manager
Biodiversity and Climate Change	None	Biodiversity and Climate Change Manager

2. INTRODUCTION AND 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.

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.

- 2.2 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.
- 2.3 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?

- 2.4 At the May 2023 elections, electors voting in a polling station will be required to show photographic identification to the presiding officer 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.
- 2.5 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% (roughly 2,500 to 5,000 electors in Maidstone). 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.
- 2.6 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 electoral services

staff 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).

- 2.7 The voter identification document 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 to be renewed to keep the photo up to date. This means that people will need to register annually, as now, but their voter identification document will not need to be renewed.
- 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 Every year a risk assessment, project planning and contingency planning are carried out in the Autumn for the following May election. This allows any particular issues and risks to be identified and mitigations and actions to be considered early. Maidstone is well practised at running elections and our assessments and planning are established 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 flag a corporate risk to Councillors via the Corporate Services Policy Advisory Committee. The Lead Member for Corporate Services and the Leader of the Council have been briefed on these risks. 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 are very likely to 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 will 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 The Democratic and Electoral Services Manager represents the South East and Kent on the Business Change Network to provide professional feedback and input on the proposals to DLUHC. Whilst the contents of those discussions is restricted, the risk assessments have been put together on the basis of publicly available information and Maidstone is in a privileged position of being one of a few authorities represented on that body and able to make evaluations on that basis.
- 2.20 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 (one month). This change does nothing to mitigate the risks and substantially misses the fundamental cause of the risks.
- 2.21 Elections are planned and administered on the basis of the law, rules and established practices and processes. Changes to elections, including changes to the law that underpin them need to be made in good time, so they can be understood, factored into planning and developed with

guidance. Further, where they are supported by ICT changes, such as the portal, there needs to be testing and confidence that the system works.

2.22 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.

2.23 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?

2.24 This report and risk assessment as a public document have been made widely available to the AEA, the South East Branch of the AEA, Kent Electoral Service Managers, the LGA and have been discussed with MPs.

2.25 Maidstone will be attending the Elections Act Seminar in Birmingham on 12 September 2022 and meeting DLUHC representatives in person where lobbying for change to the timetable will continue.

2.26 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. AVAILABLE OPTIONS

3.1 That the report be noted.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

4.1 That the report be noted, with comments and feedback from the committee welcome.

5. RISK

- 5.1 The risks associated with Voter Identification, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. That consideration is shown in Appendix A and identifies some risks assessed rated as "RED/BLACK". The assessment provides mitigation actions for those risks but they remain assessed as "High" or "Critical". However, our responses to this are limited to a lobbying role with Government and others, as this is a Government led project and our risk management has critical dependencies on their ability to deliver.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The Democratic and Electoral Services Manager is a South East/Kent representative on the Business Change Network with DLUHC.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 See 2.24 onwards.
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8. REPORT APPENDICES

Appendix A: Voter ID May 2023 Election Headline Risks

9. BACKGROUND PAPERS

- AEA Letter to the Rt Hon Greg Clark MP - <https://www.aea-elections.co.uk/wp-content/uploads/2022/07/Letter-to-Sec-of-State-Elections-Act-2022.pdf>
- Infrastructure and Projects Authority Annual Report 2022 - <https://www.gov.uk/government/publications/infrastructure-and-projects-authority-annual-report-2022>