

EXPLANATORY MEMORANDUM TO
THE CITY OF BIRMINGHAM (SCHEME OF ELECTIONS) (AMENDMENT)
ORDER 2015

2015 No. 666

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. **Purpose of the instrument**

The City of Birmingham (Scheme of Elections) Order 2015 provides a new scheme for the holding of the ordinary elections of councillors of all wards of the City of Birmingham from 2017. It also provides for the parish of New Frankley to have parish council elections in 2017. This Order amends the City of Birmingham (Scheme of Elections) Order 2015 so that the first elections will take place in 2018.

3. **Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments**

None.

4. **Legislative Context**

4.1 Section 85 of the Local Government Act 2000 (“the 2000 Act”) prescribes three options for the scheme for the ordinary elections of councillors of a principal council. For all three options the term of office of councillors is four years. The essential characteristics of the three schemes can be summarised as:

(a) a scheme under which elections are held in a given year and every fourth year after it, and all councillors are elected and retire together (“whole council elections”),

(b) a scheme under which elections are held in a given year and every second year after it, and one half of the councillors are elected in each year in which elections are held (“election by halves”), or

(c) a scheme under which elections are held in a given year and every year after it other than every third year after it, and one third of the councillors are elected in each year in which the elections are held (“elections by thirds”).

4.2 Section 86(A1) of the 2000 Act provides that the Secretary of State may by order make provision to secure that the scheme for the ordinary election of councillors of a principal council in England is a scheme of whole

council elections. “Principal council” means a county council, a district council or a London Borough Council (see section 84).

4.3 Section 87 of the 2000 Act provides a power to the Secretary of State to change the years in which the ordinary elections of councillors of any specified local authority are to be held, but which does not change the scheme which prevails for the ordinary elections of those councillors. “Local authority” means a principal council or a parish council (see section 84).

4.4 “Ordinary day of election” means the first Thursday in May (see section 37 of the Representation of the People Act 1983) subject to the power of the Secretary of State by order to specify a different date in certain circumstances.

4.5 Sections 86(7) and 87(3) of the 2000 Act provide that any order which changes the scheme or year of ordinary elections of councillors may also make provision for members to retire at different times than that which they would otherwise have retired.

5. Territorial Extent and Application

This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 The policy background to the Order that is being amended was set out in the Explanatory Memorandum for the City of Birmingham (Scheme of Elections) Order 2015 (S.I. 2015/43) which can be found at www.legislation.gov.uk/ukSI/2015/43/memorandum/contents. In short the Kerslake review found a series of deep rooted and serious problems. The change in the electoral cycle was recommended by the Kerslake review to enhance the council’s ability to change and adapt, to provide greater stability in decision making, to aid long term planning and vision and to strengthen the council’s ability to take strategic decisions thereby enhancing its capacity to change and adapt. It was considered appropriate to make that change as soon as practicable - in 2017. This approach was accepted by the council who stated “we recognise and accept the broad thrust of all the recommendations in the report”.

7.2 Having whole council elections in Birmingham in 2017 would result in elections being held in a year in which generally no elections are held in metropolitan district councils. The pattern of elections in such councils is generally that councils are elected by thirds with elections in 3 years out of 4 –

the pattern being 2014, 2015, 2016; no elections in 2017 and then elections in 2018, 2019, 2020; no elections in 2021; and so on. It has been suggested that, whilst a change to the pattern of elections in Birmingham is fundamental for the reasons described in the paragraph above, there would nevertheless be benefits in keeping 2017 and each fourth year after it free of local elections. If 2017 was an election year in Birmingham it would mean that, in those years, only one out of the 7 West Midlands authorities would be holding an election – potentially confusing to the electorate across the West Midlands.

7.3 Furthermore, by delaying the change to whole council elections to 2018, the situation is avoided of councillors being elected for a term of only one year. This would have happened if the whole council elections were in 2017 in regard to the third of the council elected in 2016. For these reasons therefore the Government is bringing forward an amending Order to the City of Birmingham (Scheme of Elections) Order 2015 (S.I. 2015/43) which will have the effect of moving the change to whole council elections from 2017 to 2018. For the reasons explained in the Explanatory Memorandum that accompanied the earlier Order we have ensured that the parish of New Frankley will continue to hold elections at the same time as the city council.

- Consolidation

7.4 No consolidation is necessary.

8. Consultation outcome

8.1 The Government does not consider that any consultation over that already undertaken prior to the City of Birmingham (Scheme of Elections) Order 2015 (S.I. 2015/43) is necessary.

9. Guidance

9.1 The Department does not intend to issue any guidance alongside this instrument. However, the Department will continue its close dialogue and liaison with the Council.

10. Impact

10.1 This instrument has no impact on the public sector, business, charities or voluntary bodies.

10.2 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The Department will continue to maintain a close dialogue and liaison with the Council.

13. Contact

Maggie Crosby at the Department for Communities and Local Government
Tel: 0303 444 2573 or email: maggie.crosby@communities.gsi.gov.uk can answer any queries regarding the instrument.