

EXPLANATORY MEMORANDUM TO
THE LOCAL ELECTIONS (PRINCIPAL AREAS) (ENGLAND AND WALES)
(AMENDMENT) (ENGLAND) RULES 2018

2018 No. 1308

AND

THE LOCAL ELECTIONS (PARISHES AND COMMUNITIES) (ENGLAND AND WALES) (AMENDMENT) (ENGLAND) RULES 2018

2018 No. 1309

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instruments

- 2.1 The instruments amend the rules that apply to local government and parish council elections. The rules are amended to remove the requirement that each candidate's home address must be published during the election process and be included on the ballot paper. They also remove the requirement for each candidate's qualifying address to be published during that process. A candidate's qualifying address is the address that qualifies the candidate to stand for election.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)

- 3.2 As the instruments are subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

4. Extent and Territorial Application

- 4.1 The territorial extent of the instruments is England and Wales.
- 4.2 The rules apply only to elections that take place in England. The instruments therefore apply only to England.

5. European Convention on Human Rights

- 5.1 As the instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

6. Legislative Context

- 6.1 These instruments are being made to amend the Local Elections (Principal Areas) (England and Wales) Rules 2006 (S.I. 2006/3304), which set out the rules for elections to the council of a principal area (that is a county, district or London borough) and the Local Elections (Parishes and Communities) (England and Wales) Rules 2006 (S.I. 2006/3305), which set out the rules for parish council elections.
- 6.2 Candidates in those elections are required to be nominated by a nomination paper. Under the current rules, that paper must include a candidate's home address. Those addresses will be published in the statement of persons who have been nominated to stand for election and also on the ballot paper.
- 6.3 The changes made by these instruments mean that in future all candidates in these elections will be able to request that their home address is not made public. In addition, candidates will in future provide their 'qualifying addresses' separately. A candidate's qualifying address is the address that qualifies the candidate to stand at that election – it may be, for example, a work address or the address at which the candidate is registered to vote.
- 6.4 These instruments also make various consequential amendments to the rules set out in the two sets of 2006 Rules.

7. Policy background

What is being done and why?

- 7.1 The Committee on Standards in Public Life (CSPL) in its December 2017 Report 'Intimidation in Public Life A Review by the Committee on Standards in Public Life' recommended:

“The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. Returning Officers should not disclose the home addresses of those attending a count.”
- 7.2 The Government accepted this recommendation in its response to the CSPL report published in March 2018. The Government indicated that it will look to bring forward secondary legislation at a suitable opportunity to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. The Government also stated that this practice should be applied equally to all those standing for election to public office and should apply to those standing at any level of local authority elections including for mayoral positions. The Government wishes to avoid capable individuals being deterred from standing for office because they believe the process risks their safety, or makes them vulnerable to abusive activity.
- 7.3 We are laying separately before Parliament statutory instruments that implement identical changes for combined authority mayoral elections and local authority mayoral elections in England. The instruments amend the Combined Authorities (Mayoral Elections) Order 2017 (S.I. 2017/67) and the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007 (S.I. 2007/1024).

- 7.4 These instruments that are the subject of this explanatory memorandum make changes in relation to local government and parish council elections. Currently, at these polls candidates are required to have their home address appear on the ballot paper.
- 7.5 These instruments will provide that candidates standing at local government and parish council elections can elect not to have their home addresses published on the ballot paper. Where a candidate elects that their home address is not made public, the candidate must provide a statement of residence based on the local authority area (or country) within which the candidate lives, rather than having to include a specific address. This will be in line with the existing provisions in place for candidates at UK parliamentary elections. It is planned to have the changes in place so that they apply for the local elections in England scheduled for May 2019 and all future local elections in England after then.
- 7.6 Currently, at local elections a candidate's 'home address in full' is required to be included on the nomination form. As a result of the changes, this will no longer be required on the nomination form. The candidate will be required to provide their home address on a separate 'home address form'. The candidate may require that the address is not made public (ie not included on the ballot paper or in the statement of persons nominated). If the candidate requires their address not to be made public, the candidate must state the name of the "relevant area" (as defined in the instruments) in which they live and this will appear on the ballot paper and certain other election documents instead of the home address.
- 7.7 We have considered the level of location information that is appropriate for a candidate to provide. It can be argued that with larger authorities such as Birmingham and Manchester giving the name of the local authority may not be seen as very informative for voters. That said, stating the ward where the candidate lives may not be very meaningful for voters, given that public knowledge of wards and their geographical location may be sketchy and also that the candidate does not need to live in the ward they are contesting, and they may not necessarily live in the local authority area in which they are standing, if their qualification arises from their main place of work being located in the local authority in question. Also, there is the concern that providing the ward may not assist the aim of avoiding potential for intimidation or abuse if this information can be used to readily identify someone's actual address by reference to the local ward electoral register, for example, given that some wards may contain a relatively small number of electors.
- 7.8 For parish council elections, a parish council can form a single electoral area or be divided into wards. Also, a candidate can live outside of the parish and be eligible to stand for election for the Parish Council.
- 7.9 We wish to adopt a consistent approach for all local polls on the alternate information to be provided that supports the aim to give security to candidates who do not wish their home address to be made public and appear on the ballot paper. We therefore propose that candidates who wish to withhold their home address should instead give the name of the "relevant area" within which their home address is located. We propose that candidates living in England will use the relevant one of the following areas as the alternative to their home address:
- a district in England for which there is a district council;
 - a county in England in which there are no districts with councils;
 - a London borough;

- the City of London (including the Inner and Middle Temples);
 - the Isles of Scilly.
- 7.10 It is proposed that if the candidate lives in Wales they would state the borough or county borough within which their home address is located. If the home address of the candidate is in Scotland, they would state the local government area within which their home address is located. If the home address of the candidate is in Northern Ireland, the candidate would state the local government district within which their home address is located. If the home address of the candidate is outside of the UK, they would state the country within which their home address is located.
- 7.11 This information would appear on the ballot paper, and also on the statement of persons nominated and notice of poll.
- 7.12 Currently, a candidate must also consent to their nomination by submitting a consent to nomination form. The candidate must give their home address on the form. Additionally, the form includes four statements that set out criteria for standing, and a candidate must comply with one of them in order to be eligible to stand. The candidate must indicate the statement(s) that are applicable to them, and qualifies them to stand, and provide the relevant qualifying address for each statement that is applicable to them.
- 7.13 The consent to nomination form must also be attested by one witness and the witness must sign and include their name and address on the form. Under the proposed changes, candidates will no longer be required to disclose addresses of any description on the consent to nomination form. Candidates will be required to indicate which of the four statements are applicable to them. The witness will no longer be required to give their address on the form. These addresses (for candidates and witnesses) are to be disclosed instead on the separate home address form.
- 7.14 It is proposed that candidates will be required to deliver to the Returning Officer by the deadline for nominations the completed home address form along with the nomination form and consent to nomination form. Failure to provide the completed home address form would invalidate the candidacy – this is in line with the provisions for UK Parliamentary elections.
- 7.15 The instruments require the destruction of home address forms by Returning Officers for security reasons after a specified period.
- 7.16 The statement of persons nominated currently requires the candidate’s home address to be disclosed on this notice; this will no longer be required. Where a candidate chooses on the home address form that their address is not made public the “relevant area” in which the candidate’s address is situated (as given on the home address form) will appear instead on the statement of persons nominated.
- 7.17 The notice of poll requires the notice to include the particulars of the candidates as they appear on the statement of persons nominated. This would currently include the candidate’s home address but the amendment to the statement of persons nominated will follow through to the notice of poll, and the area in which the candidate’s home address is situated will appear on this notice instead of the home address.
- 7.18 Currently, at local government and parish council elections, after the close of nominations and before the date of the poll, during ordinary office hours, any person may inspect and take copies of, or extracts from, nomination papers and consents to nomination.

- 7.19 It is not proposed to make significant changes to the nominations process at local government and parish council elections. It is proposed that changes are made that are necessary to implement the proposals concerning home addresses on ballot papers at these elections that are consistent with the approach taken at UK Parliamentary elections.
- 7.20 We therefore propose to continue to allow nomination forms and consent to nomination forms to be open to public inspection. These forms though will in future no longer contain addresses of any description in relation to candidates and witnesses.
- 7.21 It is proposed that certain authorised persons will be able to inspect home address forms, in the period following close of nominations and before polling day. To be consistent with the procedure at UK Parliamentary elections, and to provide for transparency in the nominations process, we will specify that at local government and parish council elections during the above period the following specified persons may inspect (though not take copies of) the home address form of any candidate standing at the poll:
- Candidates;
 - Election agent, proposer or seconder of a candidate;
 - Where a candidate is their own election agent, a person nominated by the candidate.
 - At parish council elections, where a candidate does not appoint an election agent, a person nominated by the candidate.
- 7.22 We propose to make changes to certain prescribed forms at local government and parish council elections as a consequence of the proposed changes, as follows:
- Ballot paper – the image of the ballot paper needs to give an example of a candidate not giving their home address, with the name of the area where they live appearing instead.
 - Nomination paper - the prescribed form needs to be amended so that the home addresses of candidates do not appear on this form.
 - Consent to nomination form – the prescribed form needs to be amended so that the home and qualifying addresses of candidates do not appear on this form. The candidate would still be required to state which of the four statements listed on the form is applicable to them, though not give their home/qualifying address. The address of the witness will no longer appear on this form.

8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

- 8.1 These instruments do not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 The Law Commission has conducted a review into the desirability and feasibility of reforming and consolidating electoral law. The Government is working with the Law Commission on taking forward this programme of work.

10. Consultation outcome

- 10.1 The Electoral Commission has been consulted on these instruments as required by sections 7(1) and (2)(d) of the Political Parties, Elections and Referendums Act 2000. We have also shared details of the proposed changes with the Association of Electoral Administrators (AEA), Society of Local Authority Chief Executives (SOLACE) and the Parliamentary Parties Panel.
- 10.2 The Electoral Commission agree that these changes should help to reduce the risk of abuse and intimidation of mayoral election candidates and their families. There is broad support among stakeholders for the proposed changes. The AEA suggested some changes to the drafting of the consent to nomination form in each instrument to make the wording clearer which we have taken into account in the final versions of the forms.

11. Guidance

- 11.1 The Electoral Commission issues guidance to electoral administrators and candidates relating to the administration and conduct of local government and parish council elections and will update the guidance as necessary in light of the changes set out in these instruments ahead of the local elections scheduled to be held in May 2019.

12. Impact

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 There is no, or no significant, impact on the public sector.
- 12.3 An Impact Assessment has not been prepared for this instrument because there is no impact on business.

13. Regulating small business

- 13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

- 14.1 The approach to monitoring of this legislation is that the Electoral Commission will produce reports on the administration and conduct of local government and parish council elections, and the Cabinet Office will consider any findings or recommendations made by the Electoral Commission about the changes in these instruments that will apply at those polls. The Cabinet Office will continue to keep all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration.

15. Contact

- 15.1 Peter Richardson at the Cabinet Office Telephone: 020 7271 6433 or email: peter.richardson@cabinetoffice.gov.uk can be contacted with any queries regarding these instruments.
- 15.2 Simon James, Deputy Director for the Elections Policy area, at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Chloe Smith MP, Minister for the Constitution at the Cabinet Office can confirm that this Explanatory Memorandum meets the required standard.