



## Elections Bill 2021

### Summary of the Measures

**Voter identification** - Voters will be required to show an approved form of photographic identification before collecting their ballot paper to vote at a polling station for UK parliamentary elections in Great Britain, at local elections in England, and at Police and Crime Commissioner elections in England and Wales. A broad range of documents will be accepted including passports, driving licences, various concessionary travel passes and photocard parking permits issued as part of the Blue Badge scheme. Any voter who does not have an approved form of identification will be able to apply for a free, local Voter Card from their local authority. In Northern Ireland voters have been required to produce personal identification before voting in polling stations since 1985, with photographic identification being required since 2003. The Electoral Commission have noted: ‘Since the introduction of photo ID in Northern Ireland there have been no reported cases of personation. Voters’ confidence that elections are well-run in Northern Ireland is consistently higher than in Great Britain, and there are virtually no allegations of electoral fraud at polling stations’.

**Postal and proxy voting measures** - These measures will strengthen the integrity of absent voting by addressing issues that have been highlighted as matters of concern at recent elections. The new measures will require those using a postal vote on a long term basis to re-apply every three years. To negate ‘postal vote harvesting’ the Elections Bill bans political campaigners from handling postal votes. It also introduces a limit on the number of electors on behalf of whom a person may hand in postal votes to a returning officer or at a polling station. The Bill provides that a person may be appointed to act as a proxy for a maximum of four electors, and within that four, no more than two may be electors who are not overseas electors or service voters. Finally, the measures add security to remote voting and protect those at risk of having their vote stolen by extending the secrecy of the ballot requirements in polling stations to absent voting.

**Clarification of undue influence** - It is a core tenet of our democracy that electors should be able to cast their vote freely and safely. Although it is already an offence to unduly influence an elector, the outdated legislation requires modernising in order to provide electors with the protection they deserve. Therefore, the Bill clarifies and updates the offence so that:

- Undue influence encompasses a wide range of **harms**, such as physical violence, damage to a person’s property or reputation, undue spiritual pressure and injury, or inflicting financial loss.
- **Deceiving** an elector about the conduct or administration of an election or referendum can also amount to undue influence.
- **Intimidation** of electors is explicitly listed as a form of undue influence. This will address the concern of the Tower Hamlets Election Court which noted the current legislation “does not penalise thuggish conduct at polling stations of the sort that occurred in 2014”.

**Accessibility of polls** - To improve the electoral process for people with disabilities, the Bill places a new requirement on Returning Officers to consider a wider range of support for voters with disabilities in polling stations, supported through Electoral Commission guidance produced in partnership with the Government's expert Accessibility of Elections Working Group. The Bill also removes current restrictions on who can act as a 'companion' to support voters with disabilities to cast their vote in the polling station.

**Overseas Electors** - These measures will scrap the 15 year limit on overseas electors' right to vote in UK Parliamentary elections and enfranchise all British citizens overseas who were previously registered or resident in the UK. The Bill also delivers improvements and consequential amendments to the registration process for overseas electors, including the processes by which applicants have their identity and connection to a UK address verified. The registration period for overseas electors will be extended from one year to up to three years and electors will be able to reapply or refresh their absent vote arrangements (as appropriate) at the same time as renewing their registration. These changes will facilitate participation by making it easier for overseas electors to remain on the register with an absent vote arrangement in place.

**EU Voting and Candidacy Rights** - Now that the UK has left the EU, and with the ending of free movement and introduction of the new points-based immigration system in last year's Immigration and Social Security Coordination (EU Withdrawal) Act, the basis for an automatic grant of voting and candidacy rights to European citizens no longer exists. This measure will amend the local voting and candidacy rights of EU citizens in local elections in England and Northern Ireland, elections to the Northern Ireland Assembly and Police and Crime Commissioner elections in England and Wales (other local elections in the UK are devolved). Once these measures are introduced, in addition to satisfying the usual eligibility requirements which apply to all electors (e.g. age, residence etc.), EU citizens must be part of one of two groups to participate in the above elections. They must either:

1. be a citizen of an EU member state with which the UK has a voting rights agreement (currently Spain, Portugal, Luxembourg, Poland), or
2. have been continuously resident in the UK or Crown Dependencies since before the Implementation Period completion date - 31 December 2020.

An EU citizen elected before these measures come into force, and who otherwise remains eligible, will be able to serve their full term Citizens of Cyprus and Malta, which are both EU and Commonwealth states, will retain the right to vote and stand as candidates in all elections for which the UK Government is responsible. The voting and candidacy rights of Irish citizens are also not affected by these measures, as these long-standing rights pre-date EU membership.

**The Electoral Commission** - To improve the parliamentary accountability of the Electoral Commission, the Bill makes provision for the introduction of a 'Strategy and Policy Statement', to be approved by the UK Parliament (with an affirmative vote). This Strategy and Policy Statement will provide the Electoral Commission with guidance they must have regard to in the discharge of their functions. The Bill also amends the function of the Speaker's Committee beyond its current limited remit to give it the power to examine the Commission's compliance with their duty to have regard to the Strategy and Policy

Statement. Finally, to avoid imposing an undue burden on taxpayers' funds and duplicating the work of the Crown Prosecution Service and Public Prosecution Service Northern Ireland, the Bill legislates to expressly prevent the Commission from bringing criminal prosecutions in England, Wales and Northern Ireland.

**Notional Expenditure** - Following the Supreme Court ruling on *R v Mackinlay and others* in 2018, the current rules in this area have led to widespread uncertainty and risk a democratic chilling effect by discouraging parties from campaigning in marginal constituencies. The Bill will amend the law to make it clear that candidates only need to report benefits in kind which they have actually used, or which they or their election agent have directed, authorised or encouraged someone else to use on the candidate's behalf and do not need to fear being responsible for benefits in kind, of which they had no knowledge. This clarification will also be extended to other campaigners who are subject to notional expenditure controls. This will defend the British tradition of party leader 'soapbox' visits. Expenditure which promotes an individual candidature will continue to count towards a candidate's own spending limit.

**Political finance** - These five measures improve and tighten three important components of the political finance framework: fairness, transparency and controls against foreign spending. These measures will complement separate Home Office forthcoming legislation to Counter State Threats, which will help tackle the evolving threat from hostile activity by states and actors.

- **Third-party campaigner registration:** This measure will introduce a new 'lower' tier of registration with the Electoral Commission for third parties spending above £10,000 across the constituent parts of the UK but less than the current per-country registration thresholds. Groups in this 'lower tier' would be subject to basic transparency requirements and would need to be UK-based or otherwise eligible to register (e.g. a registered overseas elector).
- **Restriction of all third-party campaigning to UK-based entities and eligible overseas electors:** This will restrict third-party campaigning during a regulated period to only those groups eligible to register with the Electoral Commission, even those spending below the registration threshold. This will remove the scope for spending by ineligible foreign third-party campaigners.
- **Ban on registering as both a political party and a third-party campaigner:** Campaigners can currently register as both a political party and third-party campaigner at the same time, allowing them to potentially make use of two spending limits. This measure will prohibit entities from appearing on both registers at the same time, to ensure this cannot happen.
- **Restrictions on coordinated spending between parties and third parties:** Currently, when one or more third parties work together on a campaign, they must all account for the costs. This new measure will extend similar principles to third-party campaigners and political parties who work together on a joint campaign, to ensure they cannot unfairly expand their spending limits by sharing costs.
- **Asset and liabilities declaration for the registration of new political parties:** This measure will introduce a requirement for new political parties to declare their assets and liabilities (if over £500) when registering with the Electoral Commission. This will allow for earlier public scrutiny of political party finances.

**Intimidation: new electoral sanction** - The Bill introduces a new electoral sanction to protect candidates, future candidates, campaigners and elected officeholders from intimidation and abuse, both online and in person. Under this new electoral sanction, someone convicted of intimidating a candidate, future candidate, campaigner or elected officeholder will face a five-year disqualification from standing for, being elected to and holding elective office. This five-year disqualification is in addition to the punishment for the underlying criminal offence of an intimidatory nature, such as a fine or imprisonment, depending on the severity of the intimidation.

**Digital imprints** - This measure introduces a new digital imprints regime, requiring political campaigners to explicitly show who they are and on behalf of whom they are promoting digital campaigning material. We have balanced the need to avoid unreasonably restricting the free speech of individuals, and avoid imposing disproportionate measures which would discourage political campaigning. Under the new regime, all paid for digital political material will require an imprint, regardless of who it is promoted by. Further to this, certain campaigners, such as elected representatives and political parties, will also require a digital imprint on their organic material if it constitutes digital election material, referendum material or recall petition material.