



BRIEFING PAPER

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Coronavirus: elections

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Summary

The coronavirus pandemic has had significant implications for elections in both 2020 and 2021. Local elections due in England in May 2020 were postponed. Early in 2021 there was speculation that the elections might be delayed again.

In February 2021 the UK government confirmed that the 2021 scheduled polls in England and those delayed from 2020 would go ahead on 6 May 2021. It also published a delivery plan to assist electoral administrators plan for those polls.¹

The Scottish and Welsh governments also stated their intentions that the devolved elections, for the Scottish Parliament and Senedd Cymru, scheduled for May 2021, should go ahead.²

This briefing explains how the elections due in 2020 were postponed. It also examines the impact of the pandemic on preparations for the 2021 English local elections and devolved elections, including the measures put in place in England, Scotland and Wales, to allow the elections to go ahead.

These measures include encouraging voters to apply early for **postal and proxy votes**. The deadline to apply for a postal vote for the elections in England and Wales is 5pm on Tuesday 20 April. The deadline in Scotland has been brought forward (see section 2.2) to 5pm on Tuesday 6 April.

The deadline to apply for a proxy vote is 5pm on Tuesday 27 April in all three countries. Voters must already be registered to vote. The deadline to register to vote for elections on 6 May is 23:59 on 19 April 2021.

Going to a polling station and working on the election, either in a polling stations, count venues or in related roles are legitimate reasons to leave your home if coronavirus restrictions are in place. Voters should wear a face covering in polling stations.

If a voter is ill or self-isolating as a result of coronavirus then they can make use of an **emergency proxy** in order to vote. Rules for emergency proxies have been temporarily altered. Normally they are only granted if you fall ill or are required to go away for work at short notice and applications must have supporting evidence from an employer or health professional.

For the elections in May voters who fall ill because of Covid, or a required to self-isolate because coronavirus, will be able to apply for an emergency proxy without needing to provide additional evidence. Emergency proxy applications can be made up to 5pm on polling day.

Candidates will need fewer signatures in support of **nomination papers**. This is aimed at reducing the amount of contact required between people. However, nomination papers still need to be delivered in person to the relevant returning officer within the specified times set out in law.

Campaigners will also need to take note of the separate guidance in England, Scotland and Wales on the need to maintain social distancing and what is allowed during campaigning:

¹ [Cabinet Office, May 2021 polls delivery plan](#), 5 February 2021

² House of Commons Library, [Coronavirus: Impact on 2021 elections](#), 27 January 2021

4 Coronavirus: elections

[Government's approach to elections and referendums during COVID-19 \(applies to England\)](#)

[Coronavirus \(COVID-19\): Scottish Parliament Election 2021 - campaign activity](#)

[Guidance to persons undertaking election campaigning activities in Wales during the Coronavirus pandemic](#)

1. 2021 polls

Summary

In early 2021 there had been speculation that the local elections in England and Scottish and Welsh Parliament elections may be delayed as a result of the continuing coronavirus pandemic, particularly because of the severity of the outbreak in January.

At the beginning of February, the UK Government confirmed that the elections in England and the police and crime commissioner elections in England and Wales would go ahead.

These are probably the most complex set of polls ever faced by returning officers in England. Many areas will see voters get ballot papers for at least two different polls and voters in some areas will receive four or more.

With complex polls and the need for social distancing at count venues it will mean that results will be declared less quickly than normal in many areas.

The devolved governments in Scotland and Wales also had made clear their intention that Scottish Parliament and Senedd Cymru elections should take place as planned. Both Parliaments also passed emergency legislation to allow the elections to be delayed as a last resort if the public health situation changed.

A joint statement from all three Governments in March 2021 said they were “working together across parties and with electoral partners and public health bodies to put in place a set of measures to ensure these polls are COVID-secure and voters can feel confident casting their vote”. This includes guidance on allowable campaigning activity, such as leafleting, as coronavirus related restrictions are eased.

All three governments have introduced measures to reduce the risk of coronavirus transmission and to make elections safer. These included reducing the number of signatures candidates needed to stand for elections in England, making provisions for emergency proxies for people affected by the virus, and extra funding for returning officers to run the elections.

Most of the legislative measures made in relation to the 2021 polls have been made using existing ministerial powers in electoral law. Emergency powers granted in 2020 related mainly to the postponement of polls due in 2020 (see sections 4, 5 and 6).

The Electoral Commission has provided guidance on delivering safe polls for returning officers. The guidance covers key aspects of the election process, such as polling station set up, absent voting and the counting of votes. It is also helping local authority elections staff to publicise postal voting options for people who might not want to visit a polling station.

Voters are encouraged to apply for postal or proxy votes in plenty of time to give election staff at local councils time to process the applications.

Official confirmation that the local elections in England and the Police and Crime Commissioner (PCC) elections in England and Wales were to go ahead came on 5 February 2021.³ Alongside the announcement, the Government published a delivery plan that outlined its commitments to help the electoral community deliver safe polls.⁴

The Electoral Commission has also published supplementary guidance to assist returning officers to plan for polls against the backdrop of the pandemic. These include considerations on planning, postal voting polling stations and count venues.

First Minister of Scotland, Nicola Sturgeon, said early in January the Scottish Parliamentary election should go ahead. But she also said any delays or changes to the way the elections are run “have to be done on a genuinely collaborative and cross-party basis.”⁵

First Minister of Wales, Mark Drakeford, also said in early January that the Senedd Cymru elections should be held.⁶

Both devolved administrations passed emergency legislation to delay elections as a last resort if the pandemic had not eased in time for the scheduled date in May. This legislation is outlined in Section 2.

1.1 What polls are due?

Thursday 6 May 2021 has been dubbed by some as ‘super Thursday’ as a result of the number of polls taking place. Polls already scheduled for May 2021 will go ahead as will those from May 2020 that were postponed as a result of the coronavirus pandemic.

The local elections delayed from 6 May 2020 are:

- PCC elections in England and Wales for/in 39 police force areas (it was originally 40 but the West Yorkshire PCC powers will be transferred to the elected mayor for West Yorkshire). In Essex, North Yorkshire, Northamptonshire and Staffordshire the role of PCC also now includes responsibility for fire and rescue services;
- Local elections for 115 principal councils (34 metropolitan boroughs, 59 district and 22 unitary authority council areas) in England.
- Greater London Authority (GLA) elections for London mayor and all seats on the London Assembly;
- Metro-mayoral elections in Greater Manchester, Liverpool City Region, Tees Valley and West Midlands;
- Single-authority mayoral elections in Bristol, Liverpool, and Salford.
- Parish council elections in some areas.

Some local referendums and council by-elections were also scheduled to take place on the same day.

The elections that are already scheduled for May 2021 are:

- Elections for all seats in the Scottish Parliament and Senedd Cymru;
- Whole county council elections in 21 two-tier counties and six unitary counties in England;
- Whole council elections in Doncaster and the Isles of Scilly;

³ [Written Statement HCWS773 \[Local elections\]](#), 8 February 2021

⁴ Cabinet Office, *May 2021 polls delivery plan*, 5 February 2021

⁵ *Holyrood*, *May election ‘should go ahead’, Nicola Sturgeon says*, 5 January 2021

⁶ BBC News, *Covid: New law for possible Senedd election coronavirus delay*, 4 January 2021

- Three combined authority mayors (West of England, West Yorkshire, and Cambridgeshire and Peterborough) and two single authority mayors (Doncaster and North Tyneside);
- Parish council elections in some parts of England; and
- Hundreds of local authority by-elections that could not be held as a result of the pandemic and were delayed by the Coronavirus Act 2020 (see section 6.1)

Figures collected by Democracy Club, a non-partisan, non-profit Community Interest Company, show there will be over 19,000 candidates contesting 5,000 principal council seats up for election in England in May 2021. These are district, unitary and county council seats. Over half of the seats (2,662) are rolled over from 2020. The total includes a record number of principal council by-elections, 352, taking place as a result of postponements during the pandemic. In addition, an estimated 2,000 parish/town council elections are taking place in England.⁷

County council elections in Cumbria, North Yorkshire, and Somerset, all two-tier counties, were scheduled to take place in May 2021 but these were postponed to May 2022. This was as a result of proposals for local government reorganisation in these counties. The Orders allowing for the postponement were made in February 2021.⁸ As a result, district council elections in Carlisle and South Lakeland, in Cumbria, and Craven, in North Yorkshire have also been postponed to May 2022. All three district councils elect their councillors by 'thirds' and would have been due to hold elections delayed from May 2020. However, all three councils are due to hold some local council by-elections on 6 May 2021.

1.2 A complex set of elections

The elections due in England in May 2021 will be a complex set of elections. This is as a result of elections scheduled this year being combined with those postponed from last year. It also as a result of the different electoral cycles and different types of local elections being held.

MSPs and MSs elected to the Scottish Parliament and Senedd Cymru will serve five-year terms. Local councillors in Scotland and Wales serve five-year terms. The next scheduled elections for local councils in both countries are May 2022.

This section briefly explains electoral cycles in England and the voting systems used.

Election cycles in England

In England, councillors, directly elected mayors and police and crime commissioners (PCCs) are normally elected to serve four-year terms.

In May 2021, all elected candidates who should have been elected in the polls postponed from May 2020 will have their term of office reduced to three years so that the electoral cycles will be returned to their normal schedule. For example, PCCs and the Mayor of London elected this year will face re-election in 2024.

Councillors are elected to principal councils or parish councils (parish councils are sometimes known as town councils). There are different types of principal councils: county, unitary, district, metropolitan boroughs, and London boroughs.

⁷ Democracy Club, [English Local Elections briefing](#), 14 April 2021

⁸ See the *Somerset (Change to Year of Election) Order 2021*, the *North Yorkshire (Changes to Years of Elections) Order 2021*, and the *Cumbria (Changes to Years of Elections) Order 2021*

These councils have different electoral cycles. This will determine whether the councillors are elected in one go or over successive years. Councillors elected to serve on principal councils represent wards or electoral divisions. Wards will usually have 1, 2 or 3 councillors.

There are three cycles used by principal councils in England, known as 'thirds', 'halves' and 'whole':

- Thirds – where a third of councillors will be elected each year in three successive years with the fourth year where no elections take place.
- Halves – where half the councillors are elected every other year.
- Whole – where all councillors are elected at the same time once every four years.

Some areas are known as 'two-tier' areas, where there is a district council and a county council. The county council is the upper tier and the district is the lower tier authority and they will have different responsibilities. Other areas will have a single tier of principal authority. These are known as unitary authorities.

Two-tier county councils have whole council elections once every four years. In two tier areas, county councillors will normally represent a single-member electoral division.

Lower tier districts have different electoral cycles. About a quarter are elected by thirds, and almost 70% have whole council elections every four years. The majority of these districts will see their next elections in 2023. A small number of districts elect by halves.⁹ The number of district councillors per ward will vary.

London borough councils hold whole council elections once every four years, with the next scheduled elections in 2022. Most metropolitan boroughs elect by thirds. The exceptions are Birmingham (2022), Doncaster (2021) and Rotherham (which should have moved to whole council elections in 2020 but were postponed because of coronavirus), which elect the whole council every four years.

Unitary authorities are a mixture of whole council elections and thirds. About 70% of unitary authorities have whole council elections once every four years.¹⁰

Parish councils usually have whole council elections once every four years. Which year varies.

The Isles of Scilly and the City of London have separate arrangements.

Combined authorities do not have directly elected councillors. They are local government entities set up by two or more neighbouring councils. Directly elected combined authority mayors, sometimes called metro-mayors, lead the combined authority. The powers of each metro-mayor vary depending on the devolution deal that established the mayor. There is more information in the Library briefing, [Devolution to local government in England](#).

Directly elected single-authority mayors lead the council where they are elected. The mayor will appoint elected councillors to their cabinet to run services. The remaining elected councillors scrutinise the work of the mayor and their cabinet and hold them to account. There is more information in the Library briefing, [Directly elected mayors](#).

⁹ Based on information contained in the [Election timetable in England](#) published on the Gov.uk website

¹⁰ Ibid

The Mayor of London is directly elected by voters across all 32 London boroughs and the City of London. Directly elected members of the London Assembly, who also serve a four-year term, scrutinise the work of the mayor and hold them to account.

PCCs are elected in all police force areas across England and Wales (except London, Greater Manchester, and West Yorkshire – where the function is taken by the elected Mayor). PCCs set the local police forces' objectives and budgets and hold chief constables and their forces to account. Day to day operational responsibility for policing remains with the chief constables. See the Library briefing, *Policing in the UK*, for more information.

Elections were also due in the City of London in March 2021. Local elections in the Square Mile are unique and follow different rules. The City of London Corporation election have been postponed to March 2022. However, residents living in the City are eligible to vote in London Assembly and Mayoral elections in May.¹¹

Voting systems

There are two sets of voting systems in use in England and a third voting system is used in elections to the Scottish and Welsh Parliaments.

Councillors are elected using the first-past-the post electoral system. This is where the candidate with the most votes wins the seat. In wards where two seats up for election, the top two candidates will be elected, and three seats the top three candidates.

In wards where one seat is to be filled a voter can mark an 'X' by their preferred candidate. In wards where two seats are up for elections voters can mark two 'X's, and three seats three 'X's.

Directly elected mayors and PCCs are elected using the supplementary voting system. Under the supplementary vote, there are two columns on the ballot paper. Voters mark an 'X' in the first column against the name of their first-choice candidate and an X in the second column indicating their second preference (although they are not required to do so).

At the first count only first preferences are counted. If a candidate receives more than 50 per cent of the first preference votes then they are elected. If no candidate reaches a majority at the first stage then all but the two candidates with the most votes are eliminated. All ballot papers where the eliminated candidates were first choice are then re-counted by looking at the second preference. Second preferences are then re-allocated to the two remaining candidates and added to the first preference votes. The candidate with the most votes wins.

In London the mayoral ballots are counted electronically because of the number of ballots involved. At the previous election for Mayor of London, in 2016, over 2.5 million votes ballots were counted.

Scottish Parliament and Senedd Cymru elections use different voting systems to elect MSPs and MSs. This is called the additional member system (AMS). A brief explanation of AMS is provided on the [Scottish Parliament website](#).

Complexity

The combination of so many polls and the different voting systems in place mean that these will be some of the most complex polls ever held, particularly in England.

¹¹ City of London Corporation, [Forthcoming elections](#)

Most local authority election staff will be running at least two polls. For many areas this will be county council elections and police and crime commissioner elections. About 60 authorities will be running county, district and PCC elections.

Voters in Cambridge will be electing city councillors and county councillors, a combined authority mayor and the Cambridgeshire PCC. Voters in Bristol and Liverpool will be electing local councillors, a local authority mayor, a combined authority mayor and a PCC.

In some areas there may be additional votes for neighbourhood planning referendums, parish councils and by-elections for vacant seats.

If a council ward has a scheduled election and a by-election the top candidate wins the scheduled election and the second-place candidate wins the by-election. The by-election winner will serve a term equal to the length of term left that remained of the councillor who vacated the seat.

For electors there is the risk of confusion with multiple ballot papers and different voting systems.

For electoral administrators the complexity of administering multiple polls increases the risk for errors. In addition they have to contend with the likely increase in demand for postal and proxy votes in the run up to polls, difficulty in recruiting staff to work in polling stations and at counts and finding venues for them to vote in (see section 1.4).

Keeping staff and candidates safe while counting the votes in a Covid-secure way is also likely to slow the declaration of results. If capacity in count venues is reduced because staff have to be more spaced out, there will be fewer staff counting multiple polls. It will inevitably take longer.

1.3 Calls to delay again

At the beginning of 2021 there was speculation that the elections due in 2021 would need to be delayed. As the pandemic continued and the country continued to be under coronavirus lockdown measures, cases and deaths soared.

There had been some press speculation in January that ministers were considering delaying elections in England to June 2021.¹² This would have needed primary legislation similar to that passed in 2020. There is nothing in place to allow for the emergency postponement of scheduled elections. In the absence of any emergency changes to election law, returning officers would have been obliged to plan for and hold elections.

A survey of local authority chief executives, election managers and council leaders by the Local Government Information Unit (LGIU) found many councils were concerned about their ability to deliver polls. Two thirds of respondents were very concerned. The major concern was the uncertainty of knowing whether the polls were likely to go ahead. Plans for printing, employing polling station staff and booking venues all need to start months before polling day.

Other concerns included:

- Recruiting sufficient numbers of staff;
- Disenfranchising voters who had concerns about Covid;
- The ability for candidates to campaign;

¹² *Telegraph*, Local elections could be postponed until June. 14 January 2021

- Additional costs of running covid-safe elections;
- Staff safety; and
- Availability of polling station and count venues and the concern they may be potential “super-spreader” events.¹³

Speaking in January 2021 Jonathan Carr-West, the chief executive of the LGIU, said:

The worst scenario of all would be for government to push ahead only to have to make a U-turn late in the day, when councils will already have spent a fortune in money and time preparing. Better to take a bold decision now to delay the elections and use the additional time to ensure they can be run safely. Such measures should include the vaccination of poll workers and an expansion of postal voting. Public confidence in elections is an essential foundation of our democracy – once lost, it takes years to rebuild. That risk is not worth taking.¹⁴

Those arguing for the polls to go ahead highlight the need for the electorate to have its say on important issues. Academics Alistair Clark and Toby James, who have researched holding pandemic elections in other countries, note:

At some point, it becomes a question of whether postponing poses a threat to democratic freedoms. Some officials have had an extra year in office as a result of the first delay. These elections matter because they hold politicians to account and allow citizens to shape how public services are run.¹⁵

The academics had examined elections held in other parts of the world during the pandemic. They noted that short-term postponements were not always undemocratic because electoral integrity is likely to be undermined during a pandemic and costs would rise. However, they concluded that preparation and proper resourcing were key to allowing elections to go ahead safely. Key solutions, based on other countries that have successfully held elections during the pandemic, were enabling postal voting, allowing polling over several days and proper resources to allow for cleaning, hand sanitising and personal safety equipment for staff.¹⁶

The Government was asked an Urgent Question in the House of Commons on 13 January 2021. In her response the Minister, Chloe Smith, said that the Government was keeping the situation in England under review, saying:

Any change would require very careful consideration, including by this House, and would need to be based on robust evidence. There should be a high bar for any delay.¹⁷

The Minister also promised measures to ensure that people could participate, encouraging voters who might be shielding to apply for postal or proxy votes and would work with the Electoral Commission on guidance to help electoral administrators adapt to the public health situation. She also promised:

We will bring forward additional measures to support absent voting, including extending the ability to appoint a proxy, so that anybody who might be affected by covid-19 in the days before the poll is still able to make their voice heard.¹⁸

Responding for Labour, Cat Smith, wanted reassurance that if the elections did need to be delayed this would be communicated early. She also called safer voting methods to be

¹³ LGiU, *Can we hold free, fair and safe local elections in May?*, 24 January 2021

¹⁴ *Guardian*, *English council chiefs back postponement of May local elections*, 24 January 2021

¹⁵ Alistair Clark and Toby James, *UK government has delayed elections longer than most countries – and England still isn't ready to hold pandemic votes in May*, 8 January 2021 posted on The Conversation website

¹⁶ *Elections and COVID-19: Research from the Electoral Management Network & International IDEA*,

¹⁷ *Urgent Question [Elections: May 2021]*, 13 January 2021

¹⁸ *Ibid*, c312

introduced, including voting over multiple days and an all-postal ballot, and additional funding to help returning officers plan, saying

Clarity is urgently needed by local councils, electoral staff, candidates, campaigners and, of course, the public.¹⁹

On 20 January 2021, the *Telegraph* reported that the Government would allow the English elections to go ahead, with the paper reporting that:

the Government is now understood to have calculated that the lockdown measures will have eased sufficiently by Easter to allow candidates enough time to campaign before ballots are cast in May.²⁰

1.4 Measures introduced for 2021 polls in England

The UK Government's *May 2021 polls delivery plan*, published on 5 February, promised measures to ensure voters could cast their votes as safely as possible in May. Changes were also made to the nominations process for candidates to reduce the number of face-to-face contacts required and guidance was issued for campaigners.

The Government has also made clear that voting is a permitted, lawful reason to leave home during a period of general restrictions, as is working on election activity, for example staffing polling stations or counting votes.²¹ Premises that would otherwise be closed because of coronavirus restrictions can open if they are being used for polling stations or count venues. Track and trace is not required to operate in polling stations in England.²²

Everyone should wear a face covering in polling stations and at counts. However, voters refusing to wear a face mask in England should not be prevented from voting.²³

Proxy and postal votes

Proxy and postal votes will be available in the normal way. The Electoral Commission information for voters, [Elections in May 2021](#), gives more information and encourages voters to "apply early and give your elections team plenty of time to process your application".

The deadline to apply for a postal vote for the elections in England and Wales is 5pm on Tuesday 20 April. The deadline in Scotland has been brought forward (see section 2.2) to 5pm on Tuesday 6 April.

The deadline to apply for a proxy vote is 5pm on Tuesday 27 April in all three countries.

It is expected postal voting will be more popular than usual this year. Research undertaken in Scotland by the Electoral Commission estimated that up to 40% of voters were likely to vote in Scottish Parliamentary elections in May using postal ballots.²⁴ The figure in 2016 was 18%.²⁵

¹⁹ Ibid, c313

²⁰ *Telegraph*, Exclusive: Boris Johnson decides local elections should go ahead on May 6, 20 January 2021

²¹ See the *Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020* *Health Protection (Coronavirus) (Restrictions and Requirements) (Miscellaneous Amendment) (Scotland) Regulations 2021*, and the *Health Protection (Coronavirus Restrictions) (No. 5) (Wales) Regulations 2020*

²² See the *Health Protection (Coronavirus, Restrictions) (Local Authority Enforcement Powers and Amendment) (England) Regulations 2020*

²³ See the *Health Protection (Coronavirus) (Wearing of Face Coverings in a Relevant Place and Restrictions: All Tiers) (England) (Amendment) Regulations 2021*

²⁴ Electoral Commission, *Public attitudes towards voting in Scotland in the context of COVID-19*, August 2020

²⁵ Electoral Commission, *Results and turnout at the 2016 Scottish Parliament election*, 5 July 2016

Emergency Proxies

Emergency proxies usually have strict eligibility criteria. If you are registered to vote but fall ill or are required to work away from home after the normal deadline for requesting a proxy vote you can apply for an emergency proxy, but the application must usually be supported by evidence from your employer or a health professional.

Under these criteria someone self-isolating because they have tested positive or who had symptoms would not qualify for an emergency proxy. Nor would someone who has been required to self-isolate because they are shielding, live with someone who has symptoms or tested positive, or who has been contacted by NHS Test and Trace and told to self-isolate.

Legislation has been introduced in all three countries that will allow someone who is self-isolating as a result of the pandemic to apply for a proxy vote without the need to have a health professional provide supporting evidence.

The UK Government introduced the *Representation of the People (Proxy Vote Applications) (Coronavirus) Regulations 2021*. They have been approved by Parliament, and make the necessary changes for English local elections. The voter will not need to provide a positive coronavirus test. If someone has appointed a proxy, and the proxy is unable to attend a polling station, it will also allow a voter to change their nominated proxy.²⁶ The power to introduce the regulations came from existing electoral legislation and not as a result of the *Coronavirus Act 2020*.

The provisions for Welsh local government by-elections were introduced using a power in the *Coronavirus Act 2020* (see section 6.6). For Senedd Cymru elections the relevant rules were altered by section 14 of the *Welsh Elections (Coronavirus) Act 2021* (see section 2.2).

In Scotland similar provisions for emergency proxies for local government elections were introduced using existing powers for devolved elections in August 2020 by the *Representation of the People (Absent Voting at Local Government Elections) (Amendment) (Coronavirus) (Scotland) Regulations 2020*. For the Scottish Parliamentary elections the measures were included in the *Scottish Parliament (Elections etc.) (Miscellaneous Amendments) Order 2020*, made in December 2020 using existing powers.

The arrangement for Covid-related emergency proxies are temporary. The time limits vary between the different countries.

Nominations

The *Mayoral and Police and Crime Commissioner Elections (Coronavirus, Nomination of Candidates) (Amendment) Order 2021* was approved by Parliament in March 2021.²⁷ [A draft was tabled](#) by the UK Government on 8 February 2021 using powers in the various Acts that created the elected posts concerned.

The order temporarily reduces the number of signatures a candidate needs for their nomination papers to be valid in certain elections.²⁸ This is to reduce the need for movement and contact between prospective candidates and electors.²⁹

²⁶ [Draft explanatory memorandum](#) to the Representation of the People (Proxy Vote Applications) (Coronavirus) Regulations 2021

²⁷ House of Commons Votes and Proceedings, [2 March 2021](#) and House of Lords Minutes [4 March 2021](#)

²⁸ The draft regulations are subject to the affirmative procedure and must be approved by both Houses of Parliament to take effect.

²⁹ Draft [Explanatory memorandum](#) to the draft *Mayoral and Police and Crime Commissioner Elections (Coronavirus, Nomination of Candidates) (Amendment) Order 2021*

Police and crime commissioner candidates will require the equivalent of two registered electors per local authority within their PCC area to sign the nomination form instead of 100 in total. Signatures can be obtained from registered voters anywhere in the overall electoral area covered by the PCC.

Combined authority mayors will need two registered electors per local authority within the combined authority area instead of 100 in total. They must get two from each local authority within their area.

Directly elected mayors of a single authority usually need 30 signatures from registered electors to be validly nominated. Instead they will only need two signatures.

Similar arrangements have now been made to be made in relation to nomination papers for candidates standing to be principal local authority councillors and in the London mayoral election; in the *Local and Greater London Authority Elections (Coronavirus, Nomination of Candidates) (Amendment) (England) Rules 2021*.³⁰

Candidates standing to be a councillor will require two registered voters to sign the nomination papers, instead of the normal 10.

A candidate standing to be Mayor of London will require 66 signatures of registered voters instead of 330. This is two for each London borough and the City of London instead of 10 for each.

Existing rules for Scottish Parliamentary and Senedd Cymru candidates mean that they only need to sign their nomination paper and to have one signed witness. The *Welsh Elections (Coronavirus) Act 2021* removes the requirement for the witness for this election.

Campaigning

One of the concerns about conducting the elections, particularly before the official confirmation that the elections would proceed, was how candidates could interact with voters and campaign. The restrictions placed on people as a result of the pandemic vary between the nations of the UK.

At the point that the UK Government confirmed the elections would go ahead, on 5 February, face-to-face campaigning was not considered an acceptable reason to leave home under the coronavirus restrictions in place in England.³¹ Some questioned how could it be safe to hold elections if it was not safe to campaign.³²

When the Government announced its roadmap from lockdown it also published guidance on campaigning that would allow “for two months of outdoor campaigning in the run up to May’s polls, to support free and fair elections”.³³

The guidance applies to English elections only. Separate advice applies in Scotland and Wales (see Section 2).

The key elements are:

- From 8 March:

³⁰ These regulations are subject to the negative procedure at Westminster and therefore come into effect as stated on the statutory instrument unless objected to by either House of Parliament.

³¹ Letter from Chloe Smith MP to members of the Parliamentary Parties Panel, [Doorstep campaigning during the national lockdown in England](#), 22 January 2021

³² [Letter from the leader of the LGA Liberal Democrat Group to the Prime Minister](#), 3 February 2021

³³ Cabinet Officer, *The Government’s approach to elections and referendums during COVID-19*, 26 January 2021

Campaigners will be allowed to deliver leaflets.

Canvassers will be allowed to speak to voters on doorsteps but should follow guidance on how to stop the spread of coronavirus. Campaigners should ensure they follow guidance on the wearing of face coverings, keeping socially distanced at 2 metres, and sanitising hands between visiting different households. The Government advice is that “the number of campaigners operating together should be kept to an absolute minimum and a minimum 2 metres distance should be maintained between them at all times.”

Meetings to organise and plan campaigns should be held online or over the phone.

Hustings and public meetings must take place remotely

- From 29 March:

The provision for six people or two households to meet outdoors may support organisational work by campaigners and the holding of meetings outdoors. All campaigning activity will need to follow the relevant rules on gatherings and social distancing.

Doorstep activity will not change – canvassers should not enter people’s homes.

Other campaigning activity is also covered in the guidance. **Tellers**, the party workers that sit outside polling stations, will be permitted but must follow social distancing rules. They will also be required to follow any specific requirements put in place by elections staff, in particular the presiding officer at their polling station. This may involve tellers being required to remain within delineated areas outside of polling places.

Polling day **committee rooms**, a term which usually refers to a room, often in a private house, which is actually used on the day of the election itself to organise polling day activity for candidates, will be allowed. However, the government cautions they must be

undertaken in accordance with the prevailing guidance on gathering and hygiene and social distancing. Any such activity should be functional and not social. For example, a campaigner would only enter inside the building to meet the committee room organiser in order to collect election literature or drop off telling slips.

Campaigners sometimes offer lifts to polling stations for voters. The guidance is clear that campaigners should not offer lifts to anyone outside their own household or support bubble:

For elections, campaigners should not transport electors in private vehicles in order to access polling stations given the risk to public health. This means you should not offer lifts or facilitate car sharing. This is because car sharing has been identified as a particular risk of transmission.

It expected there will be a rise in postal voting at these elections. Current voluntary guidance says, “campaigners should never handle or take any completed ballot paper or postal ballot packs from voters”.³⁴ The 2021 guidance restates this position:

Campaigners should not collect postal ballots from electors for submission to the Returning Officer (known as ‘vote harvesting’). It is the Government’s intention to ban this practice altogether through legislation at the earliest opportunity.³⁵

Campaigning activity in Scotland and Wales will be governed by the devolved Governments’ own public health measure.

³⁴ Electoral Commission, *Code of conduct for campaigners: electoral registration, postal voting, proxy voting and polling stations*, undated

³⁵ Cabinet Officer, *The Government’s approach to elections and referendums during COVID-19*, 26 January 2021

On 2 March 2021, the Scottish Government confirmed leafleting could commence on 15 March, subject to the Scottish restrictions on social gatherings. Door-to-door campaigning is expected to be allowed from 5 April provided the current Stay at Home restrictions have been lifted and the infection rate across Scotland has fallen to 50 per 100,000. Street stalls, physical hustings and giving voters a lift to polling stations will not be permitted for the duration of the campaign.³⁶

The Welsh Government said that it is considering a relaxation to Covid rules to allow door-to-door campaigning ahead of the Senedd elections.

Use of schools as polling stations

Returning officers, who are independently responsible for delivering the polls, must provide and equip polling stations. The law states that returning officers may use, free of charge, a room in a school or a council building as a polling station.³⁷ This includes academies, free schools and nursery schools.

Schools cannot refuse such a request but it is up to the headteachers and their school governors whether a school shuts for the day. Considerations on whether or not to close the school will be based around pupil safety, access, and location of the room(s) to be used within the school. If pupils and the voting public can be kept apart and the school can control access to the non-polling station part of the school without interruption to education, it may be possible for the school to remain open.

Use of schools is sometimes unpopular. In October 2019, the Government wrote to returning officers encouraging them to avoid end-of-term disruption to schools by using alternative venues for the December election. The Government offered to cover additional costs of alternative venues. In some cases, the offer came too late but according to one survey the use of schools fell by about 10%.³⁸

In February 2021 a joint letter from the Cabinet Office and Department for Education was sent to headteachers and returning officers.³⁹ The letter again encouraged returning officers to find venues other than schools for polling stations where the school would close as a result of hosting a polling station. The Government highlighted the disruption to children's education as a result of the pandemic, saying the Government was "committed to minimising any further disruption to pupils' education".

Some have called for returning officers to stop using schools as polling stations. Geoff Barton, general secretary of the Association of School and College Leaders (ASCL), said following the call for returning officers to use alternative venues that, "should become a permanent state of affairs with schools only ever used for polls as a last resort when there is absolutely no other alternative."⁴⁰

Additional funding made available as part of the [May 2021 polls delivery plan](#) could be used to fund the extra cost of finding alternative venues. The Government's letter went on to say:

Should it be impossible to avoid using a school as a polling station, the additional funding set out above should be used to meet the costs of additional measures to minimise disruption in schools and costs of cleaning, including any cleaning to take place after polls close, so that schools can immediately reopen the following day.

³⁶ [Scottish Parliamentary Elections 2021: Statement by the Minister for Parliamentary Business](#), 2 March 2022

³⁷ [Representation of the People Act 1983](#), as amended, Schedule 1, Part 3, paragraph 22)

³⁸ [Schools Week, Use of schools as polling stations falls 10%](#), 12 December 2019

³⁹ [Use of school buildings for polls on 6 May 2021](#), 11 February 2021

⁴⁰ [Schools Week, £31m pledged to avoid using schools as polling stations during May elections](#), 11 February 2021

Returning officers are required to provide polling stations that must be within easy reach of all electors from across the polling district served by the polling station. They must also be, as far as possible, be accessible for disabled voters. In some areas only the local school meets these criteria.

Electoral administrators responded by saying that the announcement and additional funding by the Government had come too late to source alternative venues in some cases and that the printing of polling cards had already begun in some areas. The Chief Executive of the Association of Electoral Administrators wrote to the Government to express concerns that returning officers experience difficulty in finding enough suitable polling station venues in normal conditions:

For 6 May elections, this has understandably been compounded by the block-booking of many community and commercial venues as coronavirus testing or vaccination centres. In addition, in many cases, suppliers of temporary buildings do not have the capacity to assist and have cancelled election-related contracts as a direct result of responding to Covid demands.

The announcement of extra funding for coronavirus-related election expenses last week, while welcome, has come too late to affect the polling station booking process. It must also cover a host of additional expenses across each local authority area, not just venues.⁴¹

The letter went on to say:

For years, Returning Officers have been strongly encouraged by the Government to take account of the legal provisions in place and use publicly funded buildings to reduce the costs of elections.

1.5 Electoral Commission guidance

The Electoral Commission provides guidance for returning officers to assist them in performing their duties in line with performance standards.

In October 2020 it set out objectives, in consultation with electoral administrators, political parties and governments across Great Britain, for delivering successful elections in the pandemic.

As a result the Commission has provided supplementary guidance to assist returning officers to run safe elections. The guidance that reflects the impact of the pandemic on the following key components of election planning. The guidance is also being updated as the public health situation changes and as guidance from the three governments changes.

- [Absent voting](#)
 - Communicating to voters the option of postal and proxy voting;
 - Safe processing and delivery of postal vote packs and dealing with expected higher demand;
 - Communicating to candidates how postal vote opening sessions will be adapted;
 - Managing the emergency proxy process.
- [Polling stations](#)
 - Suitability, layout, sanitising equipment, cleaning, face coverings, social distancing and signage;
 - Communicating to voters what to expect to vote in safety in a polling station;

⁴¹ [Letter from AEA to the Minister for State for School Standards and the Minister of State for the Cabinet Office, 11 February](#)

- Any requirements for tellers situated outside polling stations.
- **Nominations**
 - How will candidates and agents be informed of requirements;
 - Managing pre-nomination briefings with candidates and agents be managed;
 - Delivery and inspection of nomination papers in person;
- **The verification and count process**
 - Setting up and operating venues that meet public health requirements;
 - Communicating to candidates and others how the count will be adapted;
 - Additional equipment, for example Perspex screen, floor markings to maintain social distancing, sanitisers and face coverings;
 - Who will be allowed at the count;

The supplementary guidance was, in part, informed by the Commission's observation of the small number of local government by-elections held in Scotland during the pandemic (see section 8).

The Commission found that the experience of returning officers from the by-elections was that planning and delivery was more complicated due to factors including:

- Staff being largely home based which made co-ordinating activity more difficult
- The need to risk assess and adapt key proceedings and venues to ensure that physical distancing requirements could be met
- The need to reduce face to face contact and instead deliver video briefings for candidates and training for polling and count staff remotely
- The requirement for additional safety equipment and measures within polling places and count venues.⁴²

⁴² Electoral Commission, [Conducting elections under coronavirus restrictions](#), 8 January 2021

2. Scottish and Welsh Parliamentary elections 2021

2.1 Scotland

On December 23 2020, the Scottish Parliament passed the [Scottish General Election \(Coronavirus\) Bill](#). Royal Assent was granted and the Bill [became an Act](#) on 29 January 2021.

This gives Scottish Ministers the power to make emergency provisions in relation to the May 2021 elections to the Scottish Parliament as a result of the ongoing pandemic. It also allows for the Scottish Parliament elections in 2021 to be delayed by up to six months under certain circumstances. The Scottish Parliament Information Centre (SPICe) [produced a briefing on the Bill](#), which highlights the main provisions of the Bill as follows:

- bringing forward the deadline for postal vote applications;
- giving a power to Scottish Ministers so that they may provide, by regulations, for an all-postal election to be held;
- changing the dissolution date of the Scottish Parliament to 5 May 2021, or the day immediately before any delayed poll;
- allowing Scottish Ministers to make regulations to hold polling over multiple days;
- making arrangements for the first meeting of the new Parliament and the election of a new Presiding Officer;
- giving a power to the Presiding Officer of the Scottish Parliament to postpone the 2021 election by up to 6 months in certain circumstances and allow for the same measures as set out above to apply if the election is postponed.

If the Presiding Officer plans to exercise powers to delay the poll he must first consult with:

- Scottish Ministers;
- the Electoral Commission;
- the convener of the Electoral Management Board for Scotland; and
- the Chief Medical Officer of the Scottish Administration.

On 11 February 2020, the Electoral management Board for Scotland (EMB) issued its latest review on whether the Scottish government should consider making regulations for holding the poll over multiple days. The EMB's position was that "that a single day should be sufficient to allow polling to be conducted safely and without unacceptable queues or congestion".⁴³ To help with this the EMB has directed returning officers in Scotland to allocate a maximum of 800 electors to each polling station.⁴⁴

The Scottish Government has published guidance on how to campaign safely, [Coronavirus \(COVID-19\): Scottish Parliament Election 2021 - campaign activity](#)

⁴³ Electoral Management Board for Scotland, [Advice following further assessment of the need for multiple days of polls – 28 January 2021](#)

⁴⁴ Scottish Parliament Election 2021- [Additional Directions to Returning Officers and Electoral Registration Officers](#) from the Convener of the Electoral Management Board for Scotland 3 February 2021

2.2 Wales

The Welsh Government has introduced similar emergency legislation to that introduced in Scotland. The legislation, the *Welsh Elections (Coronavirus) Bill*, was introduced on 27 January 2021 and passed its [final Senedd stage](#) on 10 February 2021. The Senedd Research Service has [produced a briefing on the Bill's provisions](#).

The main provisions will enable the Llywydd (Presiding Officer) to postpone the Senedd elections due in May 2021 for up to six months if necessary. The Bill also allows for postponement of Senedd and local council by-elections between May and November 2021 if required.

As noted in section 1.4, proxy voting arrangements for Senedd elections will be temporarily altered: emergency proxies as a result of coronavirus symptoms or the need to self-isolate will be made available without the need for a medical professional to attest to the application.

The Bill also alters the nomination arrangements for candidates to reduce the number of contacts between candidates and returning officers. Nominations can be delivered on the candidate's behalf with prior notice. The consent to nomination form, a required additional document in order to be validly nominated can be delivered electronically for this election. Nomination forms themselves must still be delivered to the returning officer in person.

There are key differences to the Scottish legislations, for example around dissolution arrangements. The Senedd Bill also makes no changes to arrangements for postal voting deadlines. However, the Bill includes provisions to give Ministers the power to make further provisions in secondary legislation if required.

The Welsh Government issued a statement on 5 March 2021 outlining the criteria they would use to delay the Senedd elections. They would be based on the public health situation and the preparedness for the polls. Public health criteria key indicators will be:

- Confirmed case rates;
- Hospital capacity;
- Feedback from local health professionals (including incident management teams or outbreak control teams);
- Feedback from local authority leaders and other local partners;
- Rates of change in the Alert Level Indicators;
- The progress of the vaccination programme; and
- Incidence of variants of concern.

Election preparedness criteria would be:

- Advice from the Welsh Government's Chief Medical Officer regarding the impact of the current spread of the virus on the safe running of the poll;
- Feedback from Returning Officers, the Electoral Commission and other stakeholders on the impact of the pandemic on the logistics of running the election, for example relating to the availability of staff and venues or capacity to process absent votes; and

- The timing of the Police and Crime Commissioner elections.⁴⁵

In March 2021, the Welsh Government announced an additional £1.5 million would be made available to returning officers to cover the costs of additional staff and equipment to ensure public health in polling stations and count venues.⁴⁶

The Welsh government also published [Elections: coronavirus guidance](#). It provides FAQ style information for voters in Wales. A separate document for campaigners is also available, [Guidance to persons undertaking election campaigning activities in Wales during the Coronavirus pandemic](#)

⁴⁵ Welsh Government, [Written Statement: Criteria to be used by the First Minister for determining whether it is necessary or appropriate to postpone the poll for the 2021 Senedd election for a reason relating to coronavirus under section 6 Welsh Elections \(Coronavirus\) Bill](#), 5 March 2021

⁴⁶ Welsh Government press release, [£1.5 million to ensure covid-secure Senedd election](#), 22 March 2021

3. Calls to postpone the elections in 2020

The Electoral Commission [wrote to the Government](#) on 12 March 2020 calling for the postponement of local elections due in May:

The risks to delivery that have been identified are such that we cannot be confident that voters will be able to participate in the polls safely and confidently, nor that campaigners and parties will be able to put their case to the electorate. We therefore call on the Government to take steps to provide early clarity to all those with an interest in the electoral process; and on the available information and position we recommend the Government now delay the 7 May polls until the autumn.⁴⁷

The Association of Electoral Administrators (AEA), the body that represents electoral administration staff, also asked for certainty on the potential postponement of the polls. It [wrote to the Government](#) on 10 March 2020 and highlighted some of the risks of holding a poll in the midst of a serious coronavirus outbreak:

- The delivery of the polls could be put at risk if returning officers and their staff become ill and need to self-isolate. As elections were due in all parts of England and Wales the possibility of staff from another area assisting may have been limited;
- Candidates must deliver nomination paper in persons. If some council premises needed to close candidates may be unable or unwilling to deliver their nomination papers;
- Polling stations only have a relatively small number of people in them at any one time, but across polling day hundreds of people would be in attendance. The AEA sought guidance on best practice about measures to sanitize polling stations;
- Election counts involves large numbers of people gathered in one place. If people are reluctant or unable to attend the counts the transparency of the electoral process could be called into question;

Staff may be unwilling or unable to staff polling stations.⁴⁸

[Research by](#) Alistair Clark and Toby James, two leading academics specialising in electoral administration, found that of polling station staff, about 25% are retired; two-thirds are female; and their average age will be mid-50s.⁴⁹ The AEA reported that some staff were already turning down polling station work.

Another issue highlighted by the AEA was the availability of specialised suppliers. There is a relatively small number of specialised suppliers that are able to deliver electoral services, such as printing ballot papers, postal voting packs, polling cards and specialised electoral software. If these had to scale back their services or close completely there would be a risk to returning officers that they would not be able to successfully deliver their polls.

⁴⁷ Electoral Commission, [Letter: Coronavirus and its impact on the May polls](#), 12 March 2020

⁴⁸ AEA, [Letter to Chloe Smith MP](#), 10 March 2020

⁴⁹ Democratic Audit, [It was right to delay England's local elections, but we must consider the wider impact of Covid-19 on electoral administration](#), 16 March 2020

4. The *Coronavirus Act 2020*

On 13 March 2020 the Government confirmed that the local elections in England and police and crime commissioner elections in England and Wales [would be postponed](#) for a year. This was as a result of the coronavirus outbreak and the Government promised legislation to postpone the elections for 12 months.⁵⁰

4.1 The requirement for legislation

Postponing the elections in May 2020 required emergency primary legislation.

As noted above, in the absence of any emergency changes to election law, returning officers would have been obliged to plan for and hold elections.

Scheduled local elections can be moved using existing powers but these powers require the secondary legislation allowing it to go ahead to be made at least 15 months in advance.⁵¹ Previously the date of local elections have been moved using different powers. Local elections across Great Britain in May 1986 were delayed by a week by *Representation of the People Act 1985*, passed in July 1985.⁵² In years when the UK held European Parliamentary elections, in 2004, 2009 and 2014, the local elections were moved so that polls could be combined on the same day. The 2004 change was made using one off powers in *Local Government Act 2003*.⁵³ The 2009 and 2014 dates were changed using powers created in the *Local Government and Public Involvement in Health Act 2007*.⁵⁴

The date for elections for specific local authorities can be changed using separate powers. These are usually the result of a local government reorganisation in a specific area.

The last time there was an emergency postponement of scheduled local elections was during the outbreak of foot and mouth disease in livestock across the UK in 2001. On that occasion the *Elections Act 2001*, postponed local elections in England, Wales and Northern Ireland for one month.⁵⁵

4.2 Provisions in the Bill

The emergency legislation introduced by the UK Government to deal with the outbreak, was the *Coronavirus Bill* (Bill 122 2019-21). The Bill was introduced on Thursday 19 March 2020 and passed all its Commons stages on Monday 23 March. The Lords stages of the Bill were held on 24 and 25 March. The *Coronavirus Act 2020* gained Royal Assent on 25 March 2020.

Included in the legislation were provisions to delay the elections. It also made provisions to delay the decennial electoral registration canvas that was due in Northern Ireland in 2020. The Bill also allowed for unscheduled electoral events, such as by-elections in devolved elections and recall of MP petitions, to be delayed. No scheduled local elections were due to take place in Scotland, Wales, and Northern Ireland.

⁵⁰ Cabinet Office press release, [Postponement of May 2020 elections](#), 13 March 2020

⁵¹ Sections 37, 37ZA and 43 of the *Representation of the People Act 1983*, as amended

⁵² Section 18 (1), which was subsequently been repealed as it was redundant

⁵³ [Section 103](#)

⁵⁴ Section 60 of the 2007 Act inserted new sections, 37A and 37B into the *Representation of the People Act 1983*

⁵⁵ The Elections Bill 2000-01 was introduced on 3 April 2001 and completed all its Commons stages on 4 April 2001. Lords stages were completed on 9 April and Royal Assent granted on 10 April 2001

The postponements of any of these electoral events could not go beyond 6 May 2021.

The main provisions are summarised below in the Bill as introduced. The Government also [released a statement](#) which outlined the main provisions of the Bill in relation to postponing elections.⁵⁶

Clauses 57-66 of the *Coronavirus Bill*, as introduced, dealt with electoral matters.

Clause 57 of the Bill applied to England and Wales and would postpone local elections for the various types of elections due on 7 May 2020 by one year to 6 May 2021. As noted above scheduled local elections were due in some parts of England and PCC elections were due in England and Wales.

It allowed for existing councillors to serve an additional year and for those elected in 2021 who should have been elected in 2020 to serve a three-year term instead of the normal four-year term.

The London Mayor, London Assembly members, other elected mayors and police and crime commissioners elected in 2021 will also all serve a three-year term.

This is to allow the normal electoral cycles to be restored once the current crisis is over.

Clause 58 would give the Secretary of State power to make regulations to postpone any relevant by-elections or local referendums that may be required in the relevant period. This period is from the passing of the Bill to 6 May 2021.

Relevant elections or referendums are by-elections for local council elections in England, the Mayor of London and directly elected mayors in England, GLA members, police and crime commissioners. PCC elections are not devolved and remain the responsibility of the UK Government.

It also applies to local government by-elections in Northern Ireland. Elections in Northern Ireland are an excepted matter and are therefore the responsibility of Ministers in the UK Parliament. Local council by-elections are rare in Northern Ireland as vacancies are normally filled by co-option. There were no scheduled local elections due in Northern Ireland in 2020.

Relevant referendums covered by this clause were local referendums in England triggered following local petitions, council tax referendums and on neighbourhood development plans.

Powers to postpone contained in this clause may be exercised more than once, up to the time limit of 6 May 2021.

Clause 59 would extend to the whole of the UK and allows petition officers and Ministers to postpone [Recall petitions](#).

Under the [Recall of MPs Act 2015](#), MPs can face a recall petition under certain circumstances: if an MP is sentenced to a jail term; suspended from the House at least 10 sitting days (or at least 14 days if sitting days are not specified) following a report and recommended sanction from the Committee on Standards; or convicted of an offence under section 10 of the [Parliamentary Standards Act 2009](#) (making false or misleading Parliamentary allowances claims).

If the Speaker of the House of Commons is notified that one of the triggers has been met under the 2015 Act, this clause would relax the requirement on the petition officer (the local returning officer who will run the recall petition) to initiate a petition. Normally a

⁵⁶ [Postponement of electoral events: Written statement - HCWS174](#)

petition officer must start a petition on the 10th working day after they have received notification from the Speaker that a petition is required. Instead, from the passing of the Act, they may start the petition at a later date, but no later than 6 May 2021.

If a petition has been started but subsequently requires postponing, then the clause also gives power to the Secretary of State to delay the petition, again to no later than 6 May 2021.

Clause 60 would allow a Minister to make any consequential or supplementary regulations related to clauses 57-59. The Explanatory Notes give examples of the sort of supplementary matters that may be required:

- a. the handling of nominations of candidates;
- b. the handling of postal ballots;
- c. the terms of office of incumbent office holders, which might need to be extended in the event of an election being postponed;
- d. the handling of expenses of persons other than local authorities (e.g. candidate expenses);
- e. compensation of local authorities or candidates incurring additional expenditure as a result of the Act.⁵⁷

Any regulations made under these four clauses are subject to the [negative procedure for SIs](#).

Regulations made under this clause would be able to make retrospective provision, to deal with situations where an election timetable has automatically been triggered. This would, for example, enable provision to be made disapplying (after the event) certain statutory steps that should have been taken in the run-up to the original poll date. It would also allow regulations under this clause to amend, repeal or revoke statutory provisions (including primary legislation).

Clause 61 would postpone the date of the 2020 canvass of Northern Ireland electors by a year. In Northern Ireland the electoral register is maintained through a process of continuous registration, with the addition of a canvass which must take place at least every ten years from 2010. After 2021 the clause re-establishes the decennial pattern from 2030.

The clause also requires the Chief Electoral Officer (CEO) of Northern Ireland to notify the Secretary of State of any Northern Ireland Assembly by-elections before the CEO sets a date for that election.

Clauses 62 would allow the Llywydd/Presiding Officer to delay any by-election required for constituency seats in the Senedd Cymru. Normally constituency by-elections must be held within three months of the vacancy arising.⁵⁸ The provision allowed the Llywydd to require a constituency by-election “as soon as reasonably practicable” and this could be outside the normal three-month window but no later than 6 May 2021. The Llywydd must first consult with Welsh ministers.

Regional list seats are filled by appointing the next person from a party list from the previous Senedd general election and were unaffected by this legislation.⁵⁹

⁵⁷ *Coronavirus Bill 2019-21, Explanatory notes, para 469, p57*

⁵⁸ *Section 10 of the Government of Wales Act 2006*

⁵⁹ *Section 11 of the Government of Wales Act 2006*

Clauses 63 and 64 would make similar provisions to those in 57-59 for Welsh ministers to postpone local council by-elections by making secondary regulations, and to make supplementary provision if required in Wales up to 6 May 2021.

Clauses 65 would allow the Presiding Officer of the Scottish Parliament to delay by-elections for constituency seats. As in Wales, constituency vacancies must normally be filled within three months and list seat vacancies are filled from party lists from the previous election.⁶⁰

Clause 66 would make provisions for returning officers to delay local government by-elections in Scotland. Normally a vacancy would be filled within three months. Instead a returning officer could delay a by-election already in progress or could select a date for a by-election outside of the normal three-month timeframe. They would have to consult the Electoral Management Board for Scotland and Scottish ministers. There were no scheduled local elections due in Scotland in May 2020.

There were a small number of local polls underway in March 2020 that were not be covered by the Bill's provisions. The Government statement released on 19 March noted these and said that it would support returning officer who decided to suspend their polls, saying:

Running a poll in present times is likely to come with significant concerns about the wellbeing of those involved, which may be unfair to both staff and the public. As such it would be both reasonable and consistent with the national position to suspend any poll scheduled within this period, including those due to take place today, Thursday 19th March.

The Government will give its full support to Returning Officers and others running polls who make the decision to suspend their polls. We have consulted with the Crown Prosecution Service (CPS), who have assured me that prosecution in these circumstances is highly unlikely.⁶¹

4.3 Government amendments

During the committee stage of the Bill in the Commons a number of Government amendments were agreed to. These were agreed to without division.⁶²

Following amendments and additional clauses being added to the Bill in the Commons, the Bill, as introduced in the House of Lords, made provisions for postponing elections in clauses **59-70**.

Clauses 59 and 65 were added to the Bill during the Commons Committee stage, listed as Government New Clauses 17 and 18 respectively. These relieved returning officers and others of liability over any existing polls that were scheduled to take place after 15 March 2020 but before the provisions of the Bill are enacted. It gave clarity to returning officers who had abandoned polls as a result of the pandemic. These applied to elections and referendums in England (Clause 59) and elections in Wales (Clause 65).⁶³

Government amendments 27 and 31 amended Clauses 60 and 64, as introduced. These were the clauses to allow UK Government or Welsh Government ministers to make supplementary provisions. The amendments ensured that regulations under this clause are capable of relieving returning officers, presiding officers and others of liability for defaults in relation to postponed elections under the terms of the Bill from its enactment until 6

⁶⁰ Sections 9 and 10 of the *Scotland Act 1998*

⁶¹ [Postponement of electoral events: Written statement - HLWS169](#)

⁶² [HC Deb 23 March 2020](#)

⁶³ [HC Deb 23 March 2020, c154-5](#)

May 2021. The amended clauses were renumbered **Clauses 63 and 68** in the Bill as introduced in the House of Lords.

Postponement of elections to the General Synod of the Church of England

The *Coronavirus Bill* was also amended at Committee stage in the Commons to postpone elections to the General Synod of the Church of England, which had been due to take place this summer.

The last Synod was elected in 2015 and would therefore have expired in July 2020. New clause 1 stated that:

Her Majesty may by Order in Council, at the joint request of the Archbishops of Canterbury and York, postpone to the date specified in the Order the date on which the Convocations of Canterbury and York stand dissolved for the purposes of the Church of England Convocations Act 1966.

New clause 1, tabled by the Second Church Estates Commissioner, Andrew Selous MP, also states that if either the Archbishop of Canterbury or York is unable to request such an Order in Council, then the “power may be exercised by the senior bishop of the province”, determined in accordance with the *Bishops (Retirement) Measure 1986*.

Penny Mordaunt, the Paymaster General, said the new clause was “consistent with the approach that the Government have taken to other elections”.⁶⁴

The new clause was **Clause 84** of the Bill as introduced in the House of Lords.

5. Summary of provisions contained in the Bill

Provision	Clause numbers		Section numbers
	Bill as introduced in the Commons	Bill as introduced in the Lords	<i>Coronavirus Act 2020</i>
Indemnity against abandoned polls in England	n/a	59	59
Postpones scheduled election in England due in May 2020 and PCC election in England and Wales	57	60	60
Power to postpone local by-elections and referendums in England and local government by-elections in Northern Ireland	58	61	61
Postpones Recall of MP petitions	59	62	62
Power to make supplementary regulations in England	60	63	63
Postpones Northern Ireland electoral registration canvass to 2021	61	64	64
Indemnity against abandoned polls in Wales	n/a	65	65
Power to postpone any by-election required for constituency seats in the Senedd Cymru	62	66	66
Power to postpone local government by-elections in Wales	63	67	67
Power to make supplementary regulations in Wales	64	68	68
Power to postpone by-elections for constituency seats in Scottish Parliament	65	69	69
Power to postpone local government by-elections in Scotland	66	70	70
Postponement of General Synod elections	n/a	84	84

6. Subsequent regulations

Several pieces of secondary legislation were made using powers contained in the Act. These are summarised below.

6.1 The *Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020*

The *Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020* were made on 3 April 2020.

They were made using the powers conferred by sections 61 and 63 of the Act and came into force on 7 April 2020. They made the necessary regulations for the postponement of by-elections and local referendums relating to local authority governance changes and neighbourhood planning until 6 May 2021. They covered by-elections and local referendums in England and police and crime commissioner by-elections in England and Wales.

As noted in section 4, the *Coronavirus Act 2020* had already made the necessary similar provisions to cancel the scheduled ordinary election in May 2020 and by-elections already in progress at the time of the passage of the Bill.

By-elections

The relevant by-elections were those required after 15 March 2020 until 6 May 2021 and were for principal councils, parish councils, constituency members of the Greater London Authority, the Mayor of London, elected mayors, combined authority mayors in England. They also covered police and crime commissioner elections in England and Wales.

The requirements to hold by-elections are spread across various pieces of legislation and would normally take place within 35 days of the vacancy being declared. The exception is where a vacancy occurs less than six months before an ordinary election where the seat would have been up for election anyway.⁶⁵

The Regulations ensured that returning officers may not be subject to criminal liability for breach of duty in relation to by-elections that were due to be held in the period after 24 April (section 59 of the 2020 Act removed liability for elections due to be held from 15 March to 24 April 2020).

The Regulations also made the required changes to the terms of those subsequently elected to fill the vacant seats in May 2021. This ensures

⁶⁵ See the [Explanatory Memorandum](#) to the Regulations, section 6

the vacant seats that are filled in this period revert to the existing normal four-year electoral cycle for the election of councillors, mayors and GLA members. For example, a councillor with under one year left to serve may vacate their seat at the same time as a councillor with three years left to serve. When the by-elections are held in May 2021 the new councillor returned for each seat will serve the appropriate amount of time so that their seat is next contested in the appropriate electoral cycle.

In addition, the Regulations clarified the position relating to a police and crime commissioner vacancy that existed prior to the postponement of elections. In Cambridgeshire, an acting Commissioner was appointed by the Police and Crime Panel in line with the *Police Reform and Social Responsibility Act 2011* in November 2019, following the resignation of the PCC elected in May 2016. The Acting PCC, Ray Bisby, took up the post on December 2019.⁶⁶ He was due to be replaced by the PCC elected in May 2020.

As noted above, by-elections are normally required within 35 days of a position become vacant, but a by-election would not be held within 6 months of the date of the next ordinary PCC elections.

Normally if a PCC was incapacitated or suspended and an Acting PCC was appointed, the maximum term in these circumstances would be 6 months. If the original PCC did not return to the post within 6 months the post would become vacant and a by-election would be required.⁶⁷ The 2011 Act is silent on what would happen in the circumstances brought about by the coronavirus because it did not envisage the cancellation of an ordinary poll, where an Acting PCC was appointed within 6 months of the ordinary day of poll. The Regulations clarify that the vacant PCC post will remain vacant until May 2021 and that the Acting PCC may continue in post.⁶⁸

Local referendums

The relevant referendums covered by these regulations were:

- Any [local advisory referendum](#) under section 116 of the *Local Government Act 2003*;
- Those relating to [changing the governance arrangements](#) of a local authority under section 9MB or section 9MC of the *Local Government Act 2000*;
- Any [Neighbourhood Planning referendums](#) held under schedule 4B of the *Town and Country Planning Act 1990*.

These regulations were subsequently amended by the *Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales)*

⁶⁶ Office of the Police and Crime Commissioner for Cambridgeshire, *Acting Police and Crime Commissioner for Cambridgeshire and Peterborough appointed*, 16 December 2019

⁶⁷ Chapter 6 of the *Police Reform and Social Responsibility Act 2011* contains the relevant provision.

⁶⁸ *Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020*, Regulation 10

(Amendment) (England) Regulations 2021, made on 18 January 2021. The 2021 regulations amended the provisions on governance arrangements referendums to allow a small number of governance referendums to go ahead on 6 May 2021. The 2020 regulations had provided that governance petitions may not be validly presented to a council during the period beginning with 16 March 2020 and ending with 5 May 2021. However, a small number of petitions had been submitted, for example in Croydon, and the 2021 regulations allow these petitions to be considered valid. It means governance referendums can be held on 6 May 2021.⁶⁹

6.2 The *Local Government (Coronavirus) (Structural Changes) (Consequential Amendments) (England) Regulations 2020*

The *Local Government (Coronavirus) (Structural Changes) (Consequential Amendments) (England) Regulations 2020* were made on 15 April 2020. The regulations amended the structural changes orders that make provision for new unitary councils in Buckinghamshire and Northamptonshire.

In absence of the May 2020 elections, these Regulations made provision for the membership and governance arrangements for Buckinghamshire Council and for the Northamptonshire shadow authorities until 10 May 2021. The new unitary authorities, with councillors elected on 6 May 2021 would then take up their responsibilities.

6.3 The *Local Government (Coronavirus) (Postponement of Elections) (Wales) Regulations 2020*

The *Local Government (Coronavirus) (Postponement of Elections) (Wales) Regulations 2020* were made by the Welsh Minister for Housing and Local Government using the powers of the *Coronavirus Act* conferred (section 67 and 68). They were made on 27 April 2020.

The regulations postpone by-elections for council seats in Wales, both principal unitary authority seats and those on community councils, that would have been required between 16 March 2020 to 31 January 2021. Instead the regulations allow for the by-elections to be held within the period 1 February 2021 to 16 April 2021.

As a result of the ongoing pandemic, these dates were subsequently amended. The *Local Government (Coronavirus) (Postponement of Elections) (Miscellaneous Amendments) (Wales) Regulations 2021* to delay by-elections until the period 1 March 2021 to 6 May 2021. The 2021 regulations were made on 27 January 2021.

⁶⁹ [Explanatory Memorandum](#) to the *Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) (Amendment) (England) Regulations 2021*, section 7

The regulations also include a provision to indemnify returning officers against liability for failing to hold any by-elections covered by the regulations.

6.4 The *Postponed Elections and Referendums (Coronavirus) and Policy Development Grants (Amendment) Regulations 2020*

The *Postponed Elections and Referendums (Coronavirus) and Policy Development Grants (Amendment) Regulations 2020* were laid before Parliament and made on 1 September 2020.

Elections and local referendums

The regulations give legal certainty to areas of electoral law where the postponement of the 2020 elections had created gaps. As noted above, the legislative framework for elections does not normally make provisions for postponement of a scheduled poll.

The main effects of the regulations are as follows:

- **Postal ballots** – The regulations made provisions for postal ballots that may have been sent and returned for some council by-elections and neighbourhood planning and business referendums before the 2020 polls were postponed to have no effect. Documents will be sealed and destroyed after 12 months unless a court orders otherwise. When the polls eventually take place voters will have to fill in new postal ballots.
- **Candidates** – Some candidates who were to stand in May 2020 had already become candidates under electoral law at the point the polls were postponed. The regulations ensured they are not treated as candidates for the purposes of the 2020 polls and therefore are not subject to spending return and donation and loans rules as candidates. Some candidates may still be classed as regulated donees for the purposes of donations and loans if they already held elected office. The regulations extend the deadlines for reporting donations and loans for these donees to ensure no one commits an offence for late reporting as a result of the postponement.
- **Returning Officers expenses** – Returning Officers for police and crime commissioner elections are reimbursed from central government for election expenditure (hiring polling stations, printing of election stationery, polling station and count staff wages). In the event a poll does not occur there is no provision for reimbursement for costs incurred up to the point of postponement. The regulations make provisions to ensure that the Cabinet Office can reimburse relevant costs necessarily incurred by Returning Officers for the efficient and effective running of the polls up to the point when the elections were postponed. These regulations do not apply to local council elections as these are funded through local authority budgets.

Policy Development Grants

The regulations also made provisions for [Policy Development Grants](#) (PDGs). Alterations to the PDGs use powers conferred on ministers by section 12(5) of the *Political Parties, Elections and Referendums Act 2000*.

PDGs are a grant scheme available to registered political parties who have two or more MPs in the House of Commons. The Electoral Commission has an annual budget of £2 million from the UK Parliament to allocate to political parties as a Policy Development Grant. The grants give political parties the funds to develop policies to include in their election manifestos.

Half of the grant is distributed on the basis of a formula that uses the number of registered electors in each of the four nations of the UK each year. This was usually the register published on the 1 December each year.

The regulations make permanent changes to the rules for calculating PDGs (in the *Elections (Policy Development Grants Scheme) Order 2006*, as amended) so that in future the registers to be used are those from the 2 February each year, starting from 2021.

6.5 The General Synod of the Church of England (Postponement of Elections) Order 2020

The [General Synod of the Church of England \(Postponement of Elections\) Order 2020](#) was made on 20 May 2020 using powers in section 84 of the *Coronavirus Act 2020*.

The Order postponed the elections to the General Synod of the Church of England, which had been expected to be held in the autumn of 2020. The existing General Synod will be dissolved on 21 July 2021 thereby triggering the next election.

An additional statutory instrument was made in October 2020. The [General Synod of the Church of England \(Postponement of Elections\) \(Amendment\) Order 2020](#) was made to alter the terms of office for the Cathedrals Fabric Commission for England. This was because they are terms linked to the dissolution of the General Synod.

6.6 The Local Government (Coronavirus) (Postponement of Elections) (Wales) (No. 2) Regulations 2020

The [Local Government \(Coronavirus\) \(Postponement of Elections\) \(Wales\) \(No. 2\) Regulations 2020](#) were made on 1 December 2020 using powers conferred by section 68 of the 2020 Act. The regulations make additional provisions relating to any local government by-elections that were postponed by the *Local Government (Coronavirus) (Postponement of Elections) (Wales) Regulations 2020*.

The provisions include dealing with documentation and postal ballots already issued in a postponed by-election. They also included provisions to temporarily alter the reasons for allowing an emergency proxy. Emergency proxies are only allowed in certain circumstances, if a voter has a medical or employment emergencies. These regulations allow for shielding or self-isolation as a result of the coronavirus pandemic to a permitted reason for applying for an emergency proxy in Welsh local government by-elections. The provisions on emergency proxies are temporary (for two years) and must be reviewed by 1 October 2021.

These regulations were subsequently amended by the *Local Government (Coronavirus) (Postponement of Elections) (Miscellaneous Amendments) (Wales) Regulations 2021*. The 2021 regulations further delayed postponed local government by-elections in Wales (see above) and also substituted the relevant dates in the *Local Government (Coronavirus) (Postponement of Elections) (Wales) (No. 2) Regulations 2020*.

7. Other legislation

As the pandemic went on it had impacts on other aspects of elections and electoral registration during 2020. The main impact was on the ability of electoral registration officers to conduct the annual canvass of electors in Great Britain.

Additional legislation was also required for parish polls. These had been omitted from the 2020 Act and the need secondary legislation to postpone them came to light in the autumn of 2020.

7.1 Electoral registration – annual canvass

Northern Ireland has different rules around electoral registration and Section 64 of the *Coronavirus Act* had already postponed the decennial canvass of voters in Northern Ireland to summer of 2021.

In Great Britain the annual canvass usually results in the publication of a new register on the 1 December each year. Work is carried out over the summer, typically from 1 July to 1 December, by electoral registration officers to ensure electoral registers are as accurate and complete as possible. The exception to this is where a poll is held in their area between 1 July and 1 December, when the deadline for publication of the revised register is automatically extended to 1 February the following year.

As the pandemic had a significant impact on the work of local authorities, including diverting staff resources and many staff working from home, extra time was given to electoral teams to conduct the 2020 annual canvass using powers in the *Representation of the People Act 1983*, as amended.

This resulted in three statutory instruments being made in September 2020: The *Representation of the People (Electoral Registers Publication Date) Regulations 2020*; the *Representation of the People (Electoral Registers Publication Date) (Coronavirus) (Scotland) Regulations 2020*, and the *Representation of the People (Electoral Register Publication Date) (Wales) (Coronavirus) Regulations 2020*.

7.2 Parish polls

The *Local Government Act 1972* permits a poll, a local parish referendum, to be held on any matter at the request of ten electors, or one third of electors present (whichever is the lower number) at the parish meeting.

Section 42 of the *Local Audit and Accountability Act 2014* permits the Secretary of State to amend these provisions by regulations. The Library briefing, *Parish and town councils: recent issues* has more information.

Parish polls are different to other electoral events: polling hours are from 4pm to 9pm; there are no poll cards; ballot papers must be stamped; there is no provision for postal voting, and they could not be held in the same polling station as a parish or district council elections.

Postponing of parish polls was not included in the *Coronavirus Act*. The *Parish and Community Meetings (Coronavirus) (Polls) (Amendment) (England) Rules 2020* were subsequently made in November 2020 to postpone parish polls as a result of the ongoing pandemic. These were made using the powers in the *Local government Act 1972*, as amended, rather than the *Coronavirus Act*. The Rules postpone parish polls until 6 May 2021, or such date within 25 working days of that date as the returning officer chooses. The explanatory memorandum to the 2020 Amendment Rules noted that parish polls were omitted from the Coronavirus Act:

The omission did not come to light until October 2020, when local authority returning officers reported that electors in a few parishes were seeking, or were likely to seek, that a parish poll be held in a parish within their area.⁷⁰

⁷⁰ [Explanatory memorandum](#) to the *Parish and Community Meetings (Coronavirus) (Polls) (Amendment) (England) Rules 2020*

8. Scottish local government by-elections

Powers related to local government elections in Scotland are devolved. However, the Scottish Parliament approved a legislative consent motion on 24 March 2020.⁷¹ This allowed the UK Parliament to make the necessary provisions to delay devolved Scottish by-elections as part of the *Coronavirus Act 2020*. No scheduled polls were due but the legislation dealt with the possibility of vacancies for local government and Scottish Parliament constituency seats (Parliamentary lists seats are filled without by-elections).

Section 70 of the Act allowed returning officer to delay local council by-elections. Unlike in England and in the subsequent regulations for Wales, by-elections were not delayed until a particular date. Returning officers had to fix a new date as soon as reasonably practicable in consultation with the Electoral Management Board for Scotland (EMB) and Scottish ministers.

Eight council by-elections were held in Scotland between 1 October and 26 November 2020. Others that were due to be held in the same period were delayed again, with some scheduled to take place in March 2021.⁷²

The Electoral Management Board for Scotland (EMB) provided guidance for returning officers in Scotland to aid them in their risk assessments of whether or not to proceed with a by-election. The decision ultimately rests with the returning officer. The EMB's view in September 2020 was that "that to support local democracy, wherever possible, polls should not be further postponed if they can be held safely."⁷³

⁷¹ [Official Report 24 March 2020, Motion S5M-21322](#)

⁷² [Electoral Management Board for Scotland, Log of council by-elections 2021](#)

⁷³ [Electoral Management Board for Scotland, Supplementary Guidance for Returning Officers on Delivering Local Authority By-Elections in a Covid-19 Context, September 2020](#)

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