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| Priority | Medium |
| Event specific | No |
| Action required | Yes |
| Area | England |
| Retain | Until replaced |

Circular EC37/2007

Local Government and Public Involvement in Health Act 2007: new powers for local authorities in England concerning electoral, boundary and other matters

4 December 2007

For the attention of:

The Electoral Registration Officer

District, metropolitan borough and London borough authorities in England
Unitary authorities in England

The Acting Returning Officer

Parliamentary constituencies in England

The Returning Officer

District, metropolitan borough and London borough authorities in England
Unitary authorities in England

For the information of:

The Electoral Registration Officer

Unitary authorities in Wales
Unitary authorities and joint boards in Scotland

The Acting Returning Officer

Parliamentary constituencies in Wales

The Returning Officer

Parliamentary constituencies in Scotland
Unitary authorities in Scotland and Wales

The Chief Electoral Officer

Northern Ireland

Overview

1. The recent passage of the Local Government and Public Involvement in Health Act 2007 will give local authorities in England certain new powers concerning electoral, boundary and some other related matters. The majority of these powers will be commencing on 30 December 2007.
2. The following information from the Electoral Commission should be read in conjunction with the Act itself and the explanatory notes to the Act, both available from the Office of Public Sector Information (OPSI) website. See:
www.opsi.gov.uk/acts/acts2007/pdf/ukpga_20070028_en.pdf
www.opsi.gov.uk/acts/acts2007/en/ukpgaen_20070028_en_1.htm
3. It is understood that the Local Government Association (LGA) will also be issuing guidance on, among other matters, the issues discussed in this circular. We understand that the LGA guidance will be issued early in the New Year.
4. The information contained in this circular principally concerns:
 - Electoral cycles;
 - Number of members per ward;
 - Changing the name of an electoral ward or division;
 - Administrative boundaries;
 - Community governance reviews (formerly parish reviews); and
 - Potential to combine elections in 2009.

Electoral cycles

5. The Act¹ confers new powers on local authorities to alter their electoral cycles, with certain exceptions. In outline terms:
 - County councils and London boroughs cannot alter their electoral cycles;²
 - District councils that hold whole-council elections every four years cannot (with 11 exceptions – see paragraph below) alter their electoral cycles;³
 - Metropolitan district councils, which are currently all required to hold elections by thirds, will be able to resolve in future to hold whole-council elections; the earliest such whole council elections could take place would be 2010;⁴
 - Those non-metropolitan district councils and unitary district councils that currently hold elections by thirds will be able to resolve in future to hold whole-council elections; the earliest such whole-council elections could take place would be 2011.⁵

¹ Local Government and Public Involvement in Health Act 2007, Part 2

² The Act is silent on the electoral cycles of county councils and London boroughs

³ The Act is generally silent on the electoral cycles of those district councils which currently hold whole-council elections

⁴ Section 32 and section 34(5)(a)

⁵ Section 32 and section 34(5)(b)

- The seven non-metropolitan district councils (Adur, Cheltenham, Fareham, Gosport, Hastings, Nuneaton & Bedworth and Oxford) that currently elect by halves (half the council every two years) will be able to resolve in future to alter their electoral cycle to whole-council elections.⁶
6. Any metropolitan or non-metropolitan district council that currently holds elections by thirds and which decides to resolve in future to hold whole-council elections will be able to revert to elections by thirds if it decides that whole-council elections are not appropriate for their area.⁷
 7. Any of the seven non-metropolitan district councils that currently elects by halves and which decides to resolve in future to hold whole-council elections will be able to revert to elections by halves or elections by thirds if it decides that whole-council elections are not appropriate for their area.⁸ However, these councils are not able to move directly between elections by halves and elections by thirds.
 8. With 11 exceptions, all district councils that currently hold whole-council elections every four years cannot alter their electoral cycles. However, eight shire district councils (Broadland, Eastbourne, East Devon, Hinckley & Bosworth, Mid Sussex, Oadby & Wigston, Tonbridge & Malling and West Dorset) and three unitary districts (Leicester, North Somerset and Torbay) will be able to resolve in future to revert to elections by thirds, due to those 11 authorities having used that method of election at some stage since local government reorganisation in 1974.⁹
 9. If any local authority resolves to move away from whole-council elections it will need to notify the Electoral Commission.¹⁰ It is then the responsibility of the Electoral Commission to make an Order changing the electoral cycle to elections by halves or elections by thirds; the local authority can not do this itself. Before making such an Order, the Commission will consider whether the Boundary Committee for England (BCFE) should be directed to undertake an electoral review of the authority concerned (see paragraph 18 below).
 10. Local authorities that resolve to move away from either elections by thirds or elections by halves to whole-council elections also need to notify the Electoral Commission.¹¹ However, no Electoral Commission Order is required for a move to whole-council elections.
 11. The Electoral Commission's view on local government electoral cycles, published in our January 2004 report *The cycle of local government elections in England* is that all local authorities in England should hold whole-council elections once every four years.
 12. If you think your local authority is likely to want to alter its current electoral cycle using the new provisions in the Act, you are advised to contact Archie Gall to discuss this further (contact details are at the end of this circular).

⁶ Section 32 and section 34(5)(b)

⁷ Section 39

⁸ Section 37

⁹ Section 39(2)

¹⁰ Section 42

¹¹ Section 36

Number of members per ward

13. Any local authority that holds whole-council elections every four years will be able to request that the Electoral Commission directs the BCFE to undertake a fresh electoral review, with a presumption in favour of recommending single-member wards or divisions.¹² Those local authorities that hold elections either by thirds or by halves will not be able to make such a request.
14. If the Electoral Commission decides to direct the BCFE to undertake such a review, it does not necessarily mean that a uniform pattern of single-member wards will result, as the BCFE must take other factors into account, in particular the levels of electoral equality and community identity and interests¹³. However, all other matters being equal, the BCFE must look to establish a pattern of single-member wards.
15. Any district council that is considering requesting the Electoral Commission to direct the BCFE to conduct an electoral review for the purposes of introducing single-member wards or divisions should contact Archie Gall (contact details are at the end of this circular).
16. Metropolitan district councils are currently required to return a number of councillors per ward that is divisible by three, which in practice means a uniform pattern of three-member wards. The Act gives the BCFE the flexibility in future to recommend any number of members per ward (effectively one, two or three members per ward) as part of an electoral review of a metropolitan district council.¹⁴
17. Metropolitan district councils that wish to move away from a uniform pattern of three-member wards will require a full electoral review by the BCFE. A partial review, affecting just some wards in a local authority area, will not be possible.
18. The Act amends the statutory criteria for all electoral reviews so that in making any recommendations for changes to electoral arrangements to the Electoral Commission, the BCFE should reflect the electoral cycle of a local authority when considering how many councillors are to be returned from each ward.¹⁵ A cycle of elections by thirds means a presumption in favour of three-member wards while a cycle of elections by halves means a presumption in favour of two-member wards.
19. However, as with the single-member ward reviews, this does not necessarily mean that a uniform pattern of two-member wards (where there are halves) or three-member wards (where there are thirds) will result, as the BCFE must take other factors into account, in particular the levels of electoral equality and community identity and interests¹⁶. This will apply to all future electoral reviews of district councils that hold elections by halves or thirds, whether or not they have recently moved to that cycle.

¹² Section 55

¹³ Section 55(6)

¹⁴ Section 58

¹⁵ Section 56

¹⁶ Section 13(5) of the Local Government Act 1992

20. Any district council that wishes further information on future electoral reviews should contact Archie Gall (contact details are at the end of this circular).

Changing the name of an electoral ward or division

21. The Act gives local authorities the power¹⁷ to resolve to change the name of electoral areas (wards or divisions) in their area if it is at least five years since the Electoral Commission has made an Order in relation to the ward or division name. If the Electoral Commission has made an Order in relation to that ward or division name in the previous five years then the Commission's agreement must first be obtained in relation to a proposed change.
22. Any changes to ward or division names made by local authorities must be notified to the Electoral Commission, the Boundary Commission for England, the Office of National Statistics, Ordnance Survey and, if in a two-tier area, the relevant county or district council.¹⁸ To notify such changes to the Electoral Commission please contact the Commission's regional manager for your region (contact details are at the end of this circular).

Administrative boundaries

23. The Act contains provisions¹⁹ relating to administrative boundary reviews of principal local authority areas by the BCFE. In future, the BCFE will be able to carry out such reviews at the request of a local authority, at the request of the Secretary of State, or on its own initiative.
24. The responsibility for implementing any boundary changes by Order will rest with the Secretary of State, although she is not obliged to implement any changes and will also have the power to ask for a further review. The Secretary of State will also have the power to modify the BCFE's recommendations.
25. If any local authorities are contemplating requesting the BCFE to undertake an administrative boundary review, please contact Archie Gall (contact details are at the end of this circular).

Community governance reviews

26. The Act gives powers²⁰ to district councils, unitary county councils and London boroughs to undertake community governance reviews and implement the outcome by local Order – this includes the abolition or creation of new parishes, or altering the boundaries between existing parishes (or between parished and unparished areas). The Electoral Commission and DCLG expect to issue guidance²¹ to local authorities on such reviews at the end of 2007.
27. Where a local authority makes a local Order in consequence of a community governance review, it is required to inform the Secretary of State, the Electoral

¹⁷ Section 59

¹⁸ Section 59(6)

¹⁹ Section 8

²⁰ Section 82

²¹ Section 100

Commission, the Office of National Statistics, Ordnance Survey and, if in a two-tier area, the county council.²²

28. Undertaking a community governance review and implementing the changes by Order will not automatically adjust the boundaries of district wards and/or county divisions. If a local authority wants consequential changes made to the boundaries of their wards or divisions, the authority will need to request that such changes be made through an Order by the Electoral Commission.
29. If any local authorities are undertaking a community governance review which may result in changes to the boundaries of district wards and/or county divisions, please contact the Commission's regional manager for your area (contact details are at the end of this circular).

Potential to combine elections in 2009

30. There is a new power²³ for the Secretary of State to make an Order moving the date of local government elections to the same date as European Parliamentary elections in years when they are scheduled to take place. Any Order to combine elections in 2009, the next year that European Parliamentary elections are scheduled, would need to be made a minimum of six months before the date of the local government elections (scheduled for Thursday 7 May 2009), that is, by 7 November 2008.

Contact details:

31. For further information please contact, as appropriate:

Archie Gall at agall@electoralcommission.org.uk

Or the regional manager for your area:

South of England:

Phillippa Saray at psaray@electoralcommission.org.uk (or 020 7271 0682)

South West of England:

Adrian Green at agreen@electoralcommission.org.uk (or 01392 332879)

Midlands:

Alison Chappell at achappell@electoralcommission.org.uk (or 02476 820087)

North of England:

Barbara Hill at bhill@electoralcommission.org.uk (or 01904 567991)

This circular was approved by Andrew Scallan, Director of Electoral Administration and Boundaries.

²² Section 96(7)

²³ Section 60