

The Association of Electoral Administrators



Response to the Government Policy Statement dated October 2016

“A democracy that works for everyone: British citizens overseas”

INTRODUCTION

- 1.1. The Association of Electoral Administrators (AEA) was founded in 1987 and is the professional body representing the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has some 1,933 members, the majority of whom are employed by local authorities to provide electoral registration and election services.
- 1.2. The AEA welcomes the opportunity to comment on the policy statement issued by the Cabinet Office setting out the Government’s intended approach to removing the current 15-year rule on British citizens living overseas voting in UK Parliamentary elections.
- 1.3. The AEA is primarily concerned about the effect of any proposed amendments to the law and/or process that would impact on electoral registration and the administration of elections and which might arise as a result of the changes proposed for overseas voters. Any such changes must be carefully considered in terms of their practical implications and the way in which they would be introduced and administered.
- 1.4. The responses provided in this paper set out the AEA’s initial views and suggestions on the implementation aspects and details of the proposed process.

DETAILED CONSIDERATION

2. Application process – page 6

2.1. **Paragraph 10. – “Applicants will continue to be able to make applications using the register to vote service on GOV.UK, as well as by using paper forms or (in some cases) by telephone.”**

2.2. Some practical issues were raised in our 2016 report *Pushed to the absolute limit: 2016 – the electoral year never to forget*¹ with regards to the GOV.UK online registration service:

“There will always be new housing developments being completed on a regular basis, which will make it difficult for the online registration service to be up-to-date with new addresses. This will also be a problem in the future when the proposed removal of the 15-year application restriction for overseas electors is enacted as postcodes from previous addresses from many years ago may no longer exist.”

2.3. This resulted in recommendation 5-8:

“The UK Government should investigate a suitable solution so that occupants of new developments or electors wishing to register where their former postcode cannot be found during their online application are given the facility to register online satisfactorily.”

2.4. We therefore reiterate the point that the GOV.UK online registration service will need to be adapted and improved to allow for overseas applications to be made online where the previous property may have been demolished and/or redeveloped.

¹ <http://www.aea-elections.co.uk/wp-content/uploads/2016/09/aea-rep-2016-pushed-to-the-absolute-limit-the-electoral-year-never-to-forget-with-links.pdf>

3. Identity verification – pages 6 and 7

3.1. **Paragraph 11 – “... They will also need to satisfy the electoral registration officer (ERO) that they are eligible to be an overseas elector, either in relation to being previously registered or being previously resident. This will be verified by the ERO. Annex A lists the requirements for applications and declarations.”**

3.1.1. The AEA raised significant concerns in our informal response in March 2016 in relation to determining residency for an overseas voter application but note that the Government wishes to dispense with a minimum period of residency. We therefore raise the following points.

3.1.2. The paper states that “... previous registration or being previously registered ... will be verified by the ERO.”

3.1.3. The existing provision of checking registration against ERO records within 15 years is already a challenging and resource-intensive process, usually undertaken in the period immediately ahead of a UK Parliamentary general election when the pressure on electoral administrators is at its most intense.

3.1.4. Serious consideration needs to be given to simplifying this verification process, not least as EROs will have limited (if any) access to electoral registers compiled before the current 15-year period. There may be many ways of addressing this issue but the AEA considers that the obligation on determining residence should fall on the applicant, not the ERO, particularly where they have left the UK outside the period in which the ERO has access to archived registers.

3.1.5. In addition, it would appear that the policy paper provides that the ERO will be required to make a determination with no provision for a hearing or appeal against that decision. We strongly urge the Government to address this apparent omission in an appropriate manner particularly given the current provisions for appeals against other decisions of the ERO in relation to registration matters.

The Association of Electoral Administrators



- 3.2. **Paragraph 12 – “Applicants who cannot provide a National Insurance number, or who cannot be verified against existing Government records, will be asked to provide a copy (or the original, at the ERO’s discretion) of their current British passport or documentary evidence. This is an additional step not included in the current system...”**
- 3.2.1. Whilst this provision is at the EROs’ discretion, there should be a consistent approach for the processing of all overseas applications who cannot provide a NINo or be verified against Government records.
- 3.2.2. An application made six months before a UK Parliamentary election should not be treated any differently to an application made on polling day minus 12, when it would not be practical or appropriate to ask for the original passport to be posted from abroad in time for their application to be determined and for the applicant to be able to vote at the election.
- 3.2.3. It would be more efficient to **require** applicants who cannot provide a NINo to also supply a copy of their passport at the point of application. The requirement “at the ERO’s discretion” to then supply the original would be limited to cases where there is extreme doubt as to the validity of the application and/or the passport. Such a requirement would thereby increase the consistency of approach across the UK.
- 3.3. **Paragraph 14 – “... and a requirement for the attestor to confirm they are aware of the criminal penalty associated with knowingly providing false information to an ERO.”**
- 3.3.1. Whilst the statement is welcomed, we question how likely it is that a false declaration will result in prosecution proceedings when the attestor as well as the applicant live abroad. There would be no way of checking if there is such a person living at the stated address abroad. Is a sworn statement sufficient security to prevent fraudulent applications when legal proceedings are very unlikely to be taken forward given that both the applicant and attestor are living abroad?

The Association of Electoral Administrators



3.4. **Paragraph 15 – “... This is inconsistent, and so under these new proposals, there will be a limit of any two attestations which an elector can make in support of an application for registration within a given period.”**

3.4.1. The AEA welcomes this proposed change to allow for greater consistency.

4. Address verification – page 7

4.1. **Paragraph 17 – “... This connection can be one of previous registration or residence.”**

4.1.1. Greater clarification is required in relation to which address an overseas elector should register at. For example, if an overseas elector was registered at a previous address but then moved to a different address before leaving the UK whereby they did not register, which address should they register at?

4.1.2. To avoid confusion, this should be specifically defined as the most recent UK address that the applicant last resided at, which might not necessarily be the last address at which they were registered.

4.2. **Paragraph 18 – “... For most (and an increasing proportion over time) this will be verified by the ERO checking previous electoral registers ...”**

4.2.1. The requirement to keep copies of previous revisions of registers for more than 15 years, whether it be in data or paper format, will have resource implications in the format of increased ICT server capacity or physical storage area.

4.2.2. Local authorities are increasingly moving towards open plan office space with reduced storage areas. As a result, paper versions of electoral registers may be stored off site at local archive services, which introduces potential logistical difficulties such as distance and access.

4.2.3. The checking of previous revisions of registers based on the existing 15-year period is already resource intensive and time consuming for EROs. Some applications contain vague or incorrect previous addresses which can cause problems in checking the register. With the removal of the 15-year rule, this is likely to increase as applicants are more likely to forget the date they were last registered and the precise address as time goes by.

The Association of Electoral Administrators



4.2.4. Our post-election report "Elections and Individual Registration – The challenge of 2015" and our post-election and EU referendum report: "Pushed to the absolute limit: 2016 – the electoral year never to forget" highlight some of the issues in relation to incorrect dates and addresses being provided along with the checking of registers under the current 15-year rule. The following quote from our 2016 report is relevant:

"Overseas electors are registering in respect of random addresses that they're not registered at within the last 15 years, and giving us different addresses to 'try' to see if they can register in respect of those."

4.2.5. The implications on the processing time required for overseas applications, the volumes that will be received with the removal of the 15-year rule and other practical issues such as checking the previous registered address older than 15 years all need to be seriously considered when drafting the changes in legislation.

4.2.6. Other issues which will affect the checking of previous revisions of registers include:

- local government reorganisation;
- polling district reviews;
- ward boundary reviews;
- the demolition and/or redevelopment of properties;
- street/house renaming/renumbering;
- limited local authority records being available.

4.3. **Paragraph 18 – "... This can be either documentary evidence (annex B) lists the acceptable forms), or an attestation, in which a qualifying elector signs to say the applicant was registered at the relevant address."**

4.3.1. "Documentary evidence". As outlined previously, "residence" needs to be defined. Supplying a single piece of evidence at a single point in time as outlined in Annex B does not prove residency. For example, an overseas elector may invest in a property before leaving the UK but may not have lived there, and yet will have a "solicitor's letter confirming house purchase", and are also likely to have a "local authority council tax bill". Further comments are made under Annex B below.

4.3.2. "Qualifying elector". Clarification is required as to whether this means qualifying elector living in the UK or living abroad? If it relates

to living abroad, the same points outlined in our response to paragraph 14 above (3.3.) would apply. The AEA has significant concerns that this provision is open to abuse with no way of checking the validity of the attestation.

- 4.3.3. In addition, whilst it is accepted that, under the current system, there are likely to be attestors available to an overseas elector who can attest and confirm that they know the person and they are who they say they are, the same position is not likely to be the case for the address verification proposals.
- 4.3.4. Under the current proposals, the attestor must sign to confirm the applicant was registered at the relevant address. We question how many would actually know that the applicant was registered even recently as only the ERO is likely to know this information. Even if the requirement regarding "registered" was changed to "resident", we question how many attestors would actually know that the applicant was resident at a specific address in the UK over 15 years ago?
- 4.3.5. As outlined in our response to paragraph 18 above (4.2.), experience shows that many overseas applicants struggle to remember their actual address within the 15-year rule at present.
- 4.3.6. The AEA has significant concerns that this provision is open to abuse. In the run up to the deadline to register at a UK Parliamentary election and especially with late applications, it is likely that this option will be the only option or the easiest option available given the tight timescales. There are also concerns as to integrity, with the possibility of increased applications via this route in a marginal UK parliamentary constituency.
- 4.4. **Paragraph 19 – "... they will instead need to provide an attestation in which an eligible elector signs to confirm that they would have been eligible to register at the relevant address."**
- 4.4.1. We would refer you to our comments in response to paragraph 18 above (4.2.).

The Association of Electoral Administrators



5. Costs – page 8

5.1. **Paragraph 27 – “... The Government intends to provide funding for electoral registration officers’ costs which are incurred as a result of the new policy in accordance with the new burdens doctrine. Further details will be announced in due course.”**

- 5.1.1. The AEA welcomes the proposal that the Government intends to provide funding as a result of the new policy. However, the funding formula will need to take into account the significant increased resources required in staff time to check and process applications along with the storage of registers over 15 years as outlined previously. Given that this change is not time limited, the additional funding will need to be provided on an annual basis.
- 5.1.2. Removal of the 15-year rule is likely to result in increased volumes of applications resulting in a significant new burden to local authorities.
- 5.1.3. Funding will need to be provided by the UK Government in relation to these issues not only in a UK Parliamentary election year but in all other years as overseas electors are renewed annually, not once every five years.
- 5.1.4. In addition, and although welcomed from an administrative perspective, given that, under the new proposals, the overseas renewals process is being made simpler, there will be an impact on the increased volume of renewals being received each year.
- 5.1.5. The AEA looks forward to working with the Cabinet Office on calculating a suitable formula so that the ERO costs associated with the new policy are fully met.

5.2. **Paragraph 28 – “£0.7m to make changes to electoral management software used by Electoral Registration Officers to allow them to process applications from, and to record registrations of, electors newly made eligible, and to process renewals of registration made through the online service on GOV.UK.”**

- 5.2.1. Standing alone, this estimate seems high when compared with the £0.1m to change the online registration service (GOV.UK). This comment is based on the understanding that the software used by EROs already processes overseas applications, records registrations

of electors newly made eligible and processes renewals under the current 15-year rule.

- 5.2.2. The Government needs to ensure that they achieve value for money. It is also essential that the electoral management software suppliers are consulted on the draft proposals and practical details.

6. Annex A

- 6.1. Annex A sets out in a table the information that an applicant will need to provide. Page 6, paragraph 7 states *"The Government intends to franchise **any** British citizen overseas who was previously resident or registered to vote in the UK."*
- 6.2. Therefore, children who left the UK and are British will have the ability to register as overseas electors following the proposed change. The ERO will not be able to check previous revisions of registers as they would have been too young to register when they left the UK.
- 6.3. We question whether in such cases, Annex A should ask for details of the parent's or guardian's names (including any previous name if applicable) to assist the ERO as part of the residency check and establish a link to the appropriate parliamentary constituency.
- 6.4. **Page 11 – "xi. Which of the following addresses the applicant is registering in respect of, and the details of this address: A... B... C..."**
"xii. An indication of when they were last resident or registered (as applicable) at the address in xi."
 - 6.4.1. As outlined in our response above under address verification, page 7, paragraph 17 (4.1.), greater clarification is required to avoid confusion in relation to which address an overseas elector should register at.
 - 6.4.2. To avoid confusion, this should be specifically defined as the most recent UK address that the applicant last resided at, which might not necessarily be the last address at which they were registered. It may therefore be better to rephrase the above questions to help establish which address they are entitled to register at, i.e. which was their most recent UK address that they resided at before leaving the UK.

The Association of Electoral Administrators



6.5. **Page 11 – “xiii. An address at which the applicant may be contacted.”**

6.5.1. In addition to this question, the applicant should also be required to provide an email address and contact telephone number for communication. Close to an election, it will be necessary to communicate via email or telephone because of the limited timescales. See also our comments relating to section xix below.

6.6. **Page 12 – “xvii. Passport details (number and date of issue) or further nationality details if do not have current British passport – Useful to allow for possibility of security and nationality checking.”**

6.6.1. We question how EROs will be able to check the passport details provided in an application as they currently do not have access to passport data?

6.7. **Page 12 – “xix. (Optional) The applicant’s email address and telephone number.”**

6.7.1. The AEA considers that this information should be mandatory on all applications.

6.7.2. At present, there is no requirement for an applicant to register to provide an email address. If an email address were to be supplied, it would allow requests for documentary evidence to be sent to the applicant via this medium thereby saving considerable time and resource, especially in the case of overseas electors.

6.7.3. Our report *Pushed to the absolute limit: 2016 – the electoral year never to forget* highlighted this as an issue at the EU referendum as evidenced by the following quote:

“The register to vote website should make the email address a compulsory field to complete. Applicants should not be able to submit applications unless info provided. This would prove especially helpful when dealing with the overseas applicants when a query arises.”

The Association of Electoral Administrators



6.7.4. This resulted in recommendation 5-14:

"All applications to register made through the digital service should be required to supply an email address as part of their application. This data field should be mandatory and not discretionary as at present."

7. Annex B – page 14

7.1. Annex B lists the various documents that can be used as documentary evidence in relation to an address.

7.2. We are concerned that supplying a single piece of evidence at a single point in time as outlined in Annex B does not prove residency particularly having regard to the definitions provided in section 5 of the Representation of the People Act 1983. For example, from the list where only one piece of evidence needs to be produced, it states:

"Solicitor's letter confirming house purchase or land registry confirmation, or an official copy of the land register or other proof of title."

This only confirms that the applicant owned the property and does not prove they actually lived there. It may have been purchased as an investment or a future home for when they return to the UK.

7.3. Similarly, *"Local authority tax bill (e.g. council tax bill)"* does not confirm residency.

The applicant may rent out the property and therefore the local authority tax bill could be paid by the landlord who has never lived at the address.

7.4. As regards the list where two pieces of evidence need to be produced, it would be very easy with modern technology to create an *"employment document, such offer of employment or reference"* or a *"school, college or university (or UCAS) document, such as offer of a place, or confirmation of attendance."*

7.5. In addition, it should be noted that some people travel around the world and use a UK address e.g. parent's address for correspondence but may not have actually lived there.

7.6. Clarification is needed as to whether the documentary evidence provided is to be taken at face value or checked by the ERO? If the latter and, in considering the points made above, EROs are likely to

find themselves in very difficult situations when attempting to validate the evidence provided.

- 7.7. Consideration therefore needs to be given to providing documentary evidence to cover a specific period of time as defined in the meaning of “residency” as outlined above.

8. Annex C

8.1. Page 15 – Identity attestation F. “Confirm that the person signing the attestation is aware of the criminal penalty for providing false information to a registration officer.”

- 8.1.1. As outlined in our response to paragraph 14 above (3.3.), whilst the statement is welcomed, we question how likely it is that a false declaration will result in prosecution proceedings when the attestor as well as the applicant live abroad.

- 8.1.2. There would be no way of checking if there is such a person living at the stated address abroad. Is a sworn statement sufficient security to prevent fraudulent applications when legal proceedings are unlikely to be taken forward as a result of both the applicant and attestor living abroad?

8.2. Page 16 – Attestation of previous residence A. “Confirm that the applicant was resident at the address at which they are applying to register.”

- 8.2.1. As outlined in our response to paragraph 18 above (4.3.), we question how many attestors would actually know that the applicant was resident at a specific address in the UK over 15 years ago?
- 8.2.2. As previously identified, experience shows that a number of overseas applicants struggle to remember their actual address within the 15-year rule at present. Whilst family members may recall the details of their previous address, the attestation has to be made by a registered elector and who is not the spouse, civil partner, parent, grandparent, brother, sister, child or grandchild of the applicant as outlined under section b on page 16.

- 8.3. **Page 16 – Attestation of previous status – “They will be able to provide their armed forces staff number, or other details of their employment, to allow the ERO to verify their professional status.”**
- 8.3.1. How will the ERO be able to check their armed forces staff number when the ERO does not have access to armed forces records?
- 8.4. **Page 17 – “F iv. Who has not already signed attestations for two applicants since their last entry in the register or since the last revised version of the register was published under section 13(1) of the 1983 Act, whichever is most recent.”**
- 8.4.1. Whilst the AEA welcomes the proposed change to “two applications” to allow for greater consistency, it is likely that the attestation route will be far greater with overseas applicants than with domestic applicants as a result of the formers’ circumstances. Therefore, we question how the restriction to two applications will be monitored and checked considering the attestor is likely to be abroad and could be eligible to attest overseas applications made with any ERO across the UK.
9. **Annex D – page 19**
- 9.1. **“If the elector is renewing on GOV.UK, they will be able to declare that the information pre-populated in the reminder sent to them by the ERO remains true, rather than re-entering their address (for example). This will further reduce the information required for a renewal.”**
- 9.1.1. The above statement indicates that overseas applications can be renewed online by declaring that the information pre-populated in the reminder remains true.
- 9.1.2. However, at present, only a new overseas application can be made online as the online service is not available for the renewal of overseas applications. Instead their renewal application must be made on paper or, alternatively, the applicant is required to go through the whole process of applying online as a new overseas application.
- 9.1.3. This issue has already been raised with the Cabinet Office especially in view of the significant volumes of overseas registrations that will be due for renewal next year (2017) following their application to vote in the EU referendum in June.

- 9.1.4. In addition, applicants need to be made aware that, if they do not renew their application before their registration expires, they will be required to make a full new application, which may include repeating the attestation routes. Legislation needs to clearly state that, if there is a lapse in their overseas declaration, it will need to be a new application.

10. Other General Comments

10.1. Appeal procedures

- 10.1.1. The paper does not outline any appeal procedures or appeal hearings if the ERO decides to reject an application.

10.2. Deadline to apply to register as an overseas elector and absent voting arrangements

- 10.2.1. The registration deadline at present is polling day minus 12.
- 10.2.2. At both the EU referendum in June this year and at the UK Parliamentary election in 2015, the processing and checking of overseas applications was a challenge based as it was on the 15-year rule.
- 10.2.3. In view of this time limit being removed, consideration needs to be given to the deadline being brought forward for overseas electors to register so that it allows sufficient time to process and check previous revisions of registers, followed by documentary evidence or attestations being provided, if necessary. In addition, sufficient time is required to arrange for any absent vote arrangements to be put in place so that the overseas elector can cast their vote at the election or referendum in time for it to be counted.
- 10.2.4. In our 2015 and 2016 reports, we highlighted that there was a significant staff resource required to process and check whether overseas electors had been registered within the local authority area in the last 15 years.
- 10.2.5. Other issues included overseas electors not arranging absent voting facilities in time. Some electors registered too late for their postal vote to be received and returned in time to be included in the count whereas a number failed to put in place absent vote arrangements at all, with some reported as expecting to be able to vote online having successfully registered online and others appointing a proxy who

themselves lived some distance from the local authority area in which the overseas elector was registered.

- 10.2.6. With the removal of the 15 year rule these issues are likely to increase. These issues were reflected in our recommendations in our 2016 report (5-17, 5-18 and 6-6):

"The Cabinet Office should review the wording on the registration website to ensure it clearly explains the issues relating to registration, and absent voting administration and options."

"The UK Government should consider the registration and absent vote deadlines for overseas electors especially in view of the proposed introduction of legislation to remove the current limit of 15 years. Proper consideration needs to be given to the election timetable to allow a suitable practical solution to allow time for the significant volume of applications to be processed, so that "last minute" applicants are still able to cast their vote with absent votes being received and returned in time to be counted."

"The UK Government should consider ways in which overseas electors are encouraged, or indeed required, to make suitable absent vote arrangements at the time they register to vote."

10.3. **Volumes**

- 10.3.1. Of the estimated five million Britons living abroad, does the Government have an indication of how many will apply to be overseas electors in the run up to a UK Parliamentary election or national referendum if the 15-year rule were to be removed?
- 10.3.2. A concern would be the capacity to process and check all the overseas applications especially close to the deadline based on the volumes of overseas applications at the EU referendum in June and at the last UK Parliamentary election.

The Association of Electoral Administrators



CONCLUSION

11. The AEA looks forward to working with the Government, the Electoral Commission and other key stakeholders in identifying and addressing the issues that arise as the policy is further developed.
- 11.1. This is a longstanding commitment arising from our bilateral meeting with Cabinet Office officials on 18 January 2016. At that meeting, it was suggested and agreed that the AEA would meet with appropriate officials from the Cabinet Office and that to discuss the processing and practical implications relating to the removal of the 15-year rule to assist with drafting of legislation. It was further agreed that the Electoral Commission would be invited to such a meeting.
- 11.2. In our response to the consultation in March 2016, we highlighted this and the AEA still awaits and looks forward to attending such a meeting.

John Turner
Chief Executive

3 November 2016