

Title: Electoral Law Reform IA No: LAWCOM0029 Lead department or agency: Law Commission Other departments or agencies: Cabinet Office	Impact Assessment (IA)		
	Date: December 2014		
	Stage: Consultation		
	Source of intervention: Domestic		
	Type of measure: Primary legislation		
	Contact for enquiries: Public law team Henni Ouahes 020 334 5713		

Summary: Intervention and Options	RPC Opinion: RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as Two-Out?
N/A	N/A	N/A	No NA

What is the problem under consideration? Why is government intervention necessary?

Electoral laws are voluminous, set out in over 25 pieces of primary legislation, and much more secondary legislation. The law is fragmented, in part because of the election-specific way in which the laws are set out. A single policy development requires amending multiple measures, and can take many years to implement. This wastes time and resources. For end-users, the law is unclear and hard to access. Much of the law is outdated, or rendered overly complex due to repeated amendment over the years. Reform is required and, in some places, re-statement in order to ensure the law can perform its intended task - to guide conduct of elections and referendum so they are free and fair.

What are the policy objectives and the intended effects?

The policy objectives are: (1) simplification of the legal framework so that electoral laws are presented centrally within a rational framework of primary and secondary legislation, thus ensuring easier access and more effective implementation of policy changes; and (2) simplification and modernisation of electoral laws so they will be easier to understand and apply by the public, electoral administrators, and political participants.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 0: Do nothing.
 Option 1: Simplification and reform of the legal framework and content of electoral laws. In general terms, this involves restating existing legal provisions within a reformed legislative structure, and reforming those areas in which we make provisional reform proposals. This is our preferred option. Simplification and reform will ensure electoral law is fit for purpose. Option 0 would leave the current arrangements in place. In the long term, this would exacerbate the current problems, risking further cost, and undermining public confidence in outcomes of elections. Furthermore, the already voluminous array of electoral laws would continue to be added to. This is because any new electoral event, or the implementation of further policies in the context of electoral administration, would continue to require fresh legislation and/or comprehensive amendment of election-specific legislation. This would make electoral law even more difficult to understand, even for electoral administrators.

Will the policy be reviewed? It will not be reviewed. If applicable, set review date: Month/Year

Does implementation go beyond minimum EU requirements?			Yes / No / N/A		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro Yes/No	< 20 Yes/No	Small Yes/No	Medium Yes/No	Large Yes/No
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded:		Non-traded:

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis & Evidence

Policy Option 1

Description: Simplification and reform of the legal framework and content of electoral laws

FULL ECONOMIC ASSESSMENT

Price Base Year 2014	PV Base Year 2014	Time Period Years 10	Net Benefit (Present Value (PV)) (£m) N/A		
			Low: Optional	High: Optional	Best Estimate: N/A

COSTS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition)	Annual (Constant Price)	Total (Present Value)	Cost
Low						
High						
Best Estimate	N/A		N/A		N/A	

Description and scale of key monetised costs by 'main affected groups'

Transitional: Training costs will fall on central, devolved and local government in relation to their various responsibilities for administering elections and referendums.

On going costs: There are only minimal on-going costs in relation to electoral administration generally (second residences, combination). In relation to challenges to electoral events, there may be costs in relation to two proposals. The first is the proposal that there should be a public interest challenger able to take cases to the Electoral Court, rather than relying on a private party. The second is the proposal for the establishment of a structured system for informal complaints.

Other key non-monetised costs by 'main affected groups'

We have identified no non-monetised costs.

BENEFITS (£m)	Total (Constant Price)	Transition Years	Average (excl. Transition)	Annual (Constant Price)	Total (Present Value)	Benefit
Low						
High						
Best Estimate	N/A		N/A		N/A	

Description and scale of key monetised benefits by 'main affected groups'

There are no transitional savings.

Key on-going monetised benefits relate to the potential for substantial efficiency savings. These will benefit each of the central, devolved and local government bodies exercising responsibility for various elements of the system of electoral administration.

Other key non-monetised benefits by 'main affected groups'

Retention of the current systems risks undermining the legitimacy of elections. The main non-monetised benefit lies in sustained or enhanced confidence in elections and thereby the maintenance or improvement of confidence in democratic institutions, providing stability and legitimacy. These benefits fall on the general public, the political and governmental system, and indirectly on all other economic and social actors.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5
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BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OITO? Yes/No	Measure qualifies as IN/OUT/Zero net cost
Costs:	Benefits:	Net:		

Evidence Base

Introduction

1. The electoral reform project is a tripartite law reform project undertaken by the Law Commission (for England and Wales) and the Commissions for Scotland and Northern Ireland. The project is split into three phases, with review points between phases. The first phase was a scoping exercise (conducted by the Law Commission), which reported on 11 December 2012. The second phase is the formulation of law reform proposals. Our Consultation Paper was published on 9 December 2014. The third phase, if approved, will constitute the development of draft legislation.
2. Our review of electoral law in the United Kingdom concerns:
 - (1) the law concerning the conduct and administration of 16 electoral events (12 types of elections and four types of referendums); and
 - (2) The apparatus for conducting electoral events, in particular the law concerning the registration of electors which underpins the right to vote at the above elections and referendums.
3. Specifically the project deals with all aspects of electoral administration:
 - (1) The preparation for polls, including designating electoral areas and registration of electors.
 - (2) The conduct rules for polls, including the process for nominations, polling and the count.
 - (3) Postal and proxy voting.
 - (4) Management and oversight of elections.
 - (5) Challenging elections, including electoral offences and candidate regulation.
 - (6) Referendums.
4. This is a preliminary impact assessment of our provisional reform proposals. Public consultation provides an opportunity to consolidate our evidence base to provide the basis for a robust impact assessment to accompany our recommendations for reform, and any eventual draft bill and final report.

Background

5. Electoral laws are set out over 25 discrete pieces of primary legislation, and yet more secondary legislation. There is therefore a significant volume of laws set out over a fragmented legislative framework.
6. The primary piece of election legislation is the Representation of the People Act 1983 (“the 1983 Act”). Its core provisions set out:
 - (1) the franchise for UK Parliamentary and local government elections,

- (2) the infrastructure for registering voters and running elections,
 - (3) the regulation of electoral campaigns, and
 - (4) the mechanism for challenging elections.
7. Schedule 1 to the 1983 Act contains the detailed rules, called election rules, governing the conduct of UK Parliamentary polls and counts. Every other set of election rules, for each particular species of election in the UK, is in secondary legislation. Separate primary and secondary legislation governs absent voting, and detailed electoral registration.
 8. From 1999 onwards, there was a great increase in the number of elections in the UK. All of these, and the current system of elections to the European Parliament, use a voting system other than first past the post.
 9. There was no systematic plan for dealing with this expansion in the number of elections, or for adapting the classical law to the new elections. The laws governing these elections were mostly contained in separate and distinct pieces of legislation, which largely repeat the content and structure of the 1983 Act provisions, and of the absent voting provisions and detailed regulations on registration.
 10. A consequence of taking this approach is that UK electoral law is voluminous and fragmented. There is a large amount of word for word repetition. Those drafting the new elections' laws essentially copied the classical rules contained in the 1983 Act, as well as the rules on absent voting and registration. Differences then creep into the discrete election-specific measures. Some are due to the need to "transpose" a classical law devised for first past the post to the new voting system, resulting in inconsistent transpositions in elections which use the same voting system, such as the party list system.
 11. This complexity results in legislative slip-ups, unintended consequences and confusion. An example is the deadline for registering in time to vote at an election. This had long been thought – by experts, administrators, the Electoral Commission, and Government – to be 11 days, the deadline derived from a mixture of the 1983 Act and secondary legislation. As a result of an amendment to the latter in 2006, the true deadline was 12 days, a fact that even experts did not discover until 2013.
 12. The current legislative framework is not only impractical for electoral administrators, it also poses problems for Governments seeking to change or develop electoral policy. Two examples illustrate this problem.
 - (1) Introducing a new election requires new legislation dealing with every aspect of conducting that election, incorporating provisions in the 1983 Act and elsewhere concerning absent voting and registration. The slightest slip-up harms the legal integrity of the election. The legislation governing Police and Crime Commissioner elections, for example, did not include a power to produce Welsh language ballot papers and emergency legislation providing that power had to be rushed through Parliament. Very little of such new legislation in fact addresses the particular characteristics of the new election. It would be much simpler if an existing electoral structure applied holistically to all elections. That would mean, for example, that an absent voter under pre-existing arrangements would automatically be an absent voter at the new election. Similarly, powers to use Welsh language ballot papers would not need to be specifically introduced for each new election.
 - (2) A much more common phenomenon is that Government policy evolves or changes. Changes to electoral law that have been made during the course of our review include a new provision ensuring that queuing electors can cast a

vote at a polling station before the poll is closed, moving the deadline for withdrawing from candidature at certain elections, and enabling Police Community Support Officers to enter polling stations. These were introduced by the Electoral Registration and Administration Act 2013, which amended the Parliamentary Elections Rules in the 1983 Act. However, to extend them to other elections, discrete pieces of secondary legislation had to be introduced amending the provisions governing those elections. Changing electoral policy is thus a slow and time consuming process.

Problem under consideration

The legislative framework

13. The way in which electoral law has developed in the United Kingdom has resulted in a massive body of law which is confusing, difficult to update and apply, and unnecessarily repetitious. Each time new legal provision is required, whether it be because of a new election or a significant change to the electoral system, new Acts and Statutory Instruments are added to subsisting law, and piecemeal reform is undertaken by modifying existing legislation. There has been no attempt to reform electoral law as a whole.

14. This results in a number of problems with the legislative framework:

- (1) **Fragmentation.** Rules for one election are spread across multiple different measures. Anyone wishing to understand or apply the law must constantly follow up cross-references to different statutes.
- (2) **Difficult to update.** Even the simplest changes or improvements to electoral processes involve a long and tortuous process. To continue with the example given above, the Electoral Registration and Administration Act 2013 amend schedule 1 to the 1983 Act. It received the fullest Parliamentary scrutiny, and required civil service time in terms of developing policy and drafting. Yet that change applies only to UK Parliamentary elections. In order to implement the policy in other elections, discrete amendments have been, and continue to be made, to twelve sets of election rules in total. These require further civil service time and resources. Once drafted, secondary legislation is subject of scrutiny by Parliament, despite the policy having received that scrutiny already. Meanwhile, for some elections, the current law is out of date. This is an inefficient and wasteful way to implement electoral policy.
- (3) **New elections need a whole new set of rules.** Each time a new election is introduced, the legislator must apply their mind to every aspect of election law. Since the rules for each election only apply to that election, new elections cannot simply adopt a generic set of rules which apply to all elections. Legislators must also consider how election rules interact with each other in the context of election-specific legislation. Provision made for combination of polls, and absent voting applications will necessarily cut across multiple elections.
- (4) **Conflict between existing provisions.** The mass of legislation can result in unintentional conflict between legal provisions, where a legislator makes provision for an area of electoral law without repealing an existing provision governing that area.

- (5) **Unjustified differences.** The election-specific approach also results in differences in election rules which are not justified by the voting system or a policy choice in relation to a particular election. Classical electoral concepts are modified to apply to different voting systems, such as the additional member system, but draughtsmen in Scotland and Wales have adapted these concepts differently.

Simplification, modernisation and reform

15. As explained above, much of the law on elections is based on legislation enacted in the 19th Century, which remains in force today with little modification. The Parliamentary Election Rules as appended to the Ballot Act 1872 are extremely similar to those which now regulate the running of UK Parliamentary elections under the 1983 Act. Society and the electoral landscape have changed in the intervening years; a much wider franchise and the advent of the digital age mean that some of the concepts still found in electoral law have become outdated.
16. Electoral laws which do not reflect modern reality can cause inefficient administration, or can lead to administrators not following the law where it does not make sense. We highlight the areas of the law which our out of date in our consultation paper, with examples ranging from the formalistic, inflexible nominations process, to out of date references to “telegrams”, or the antiquated “doctrine of votes thrown away” in the context of challenging elections.

Rationale for intervention

17. The complexity, inflexibility, and out of date nature of laws result in inefficiencies and real practical problems in electoral administration and implementing Government policy. More importantly, the shortcomings in the law undermine public confidence in the democratic process. On this basis there is a strong case for our main reform proposal of setting out electoral law within a central framework, and rationalising electoral laws across all elections.

Policy objective

18. Our policy objectives are:

- (1) **Centralising the legislative structure:** Electoral law should be set out within a centralised framework for all elections and referendums, within a hierarchy of primary and secondary legislation.
- (2) **Rationalisation:** The law for elections should be rationalised so that shared elements are stated holistically for all elections, and differences due to policy or voting system are properly addressed within that framework.
- (3) **Flexibility:** Electoral laws should be such that future policy developments, or new electoral events, can be “slotted in” within the centralised framework, thus avoiding the need to lay down comprehensive laws, “re-inventing the wheel” for new elections, local referendums, or the initiation of a national referendum.
- (4) **Simplification:** The content of electoral laws should be simplified so that they can be readily understood and applied, and to avoid confusion or the risk of error.
- (5) **Modernisation:** Outdated principles and approaches should be replaced by laws that are relevant to modern circumstances and needs.

Main stakeholders

19. The main stakeholders in this project are:

- (1) members of the public who are or will be entitled to vote in elections and referendums;
- (2) Electoral administrators (registration and returning officers and their staff);
- (3) Political participants (candidates, agents, and their staff; political parties);
- (4) the Electoral Commission;
- (5) Government;
- (6) legal advisers;
- (7) the judiciary and wider justice system.

Scale and scope

20. At the first stage of the project, we conducted a scoping consultation to determine the appropriate scope of the reform. A scoping consultation paper was published on 15 June 2012. Conclusions as to the scope of the project were set out in a scoping report published on 11 December 2012. We concluded that the elections listed below should be within the scope of the project.

Which elections?

21. The review considers these elections to public office in the United Kingdom:

- (1) UK Parliamentary elections;
- (2) European Parliamentary elections;
- (3) Scottish Parliamentary elections;
- (4) Northern Ireland Assembly elections;
- (5) National Assembly for Wales elections;
- (6) Local government elections in England and Wales, including:
 - (a) Principal area local authority elections; and
 - (b) Parish and town councils and community council elections;
- (7) Local government elections in Scotland;
- (8) Local government elections in Northern Ireland;
- (9) Greater London Authority elections;
- (10) Mayoral elections in England and Wales; and
- (11) Police and Crime Commissioner elections in England and Wales.

Costs associated with elections

22. No one Government body has oversight for all elections. Although the Cabinet Office is responsible for legislating for and overseeing UK and EU Parliamentary elections and national referendums, other Government departments have oversight over other events. They include the Home Office (for Police and Crime Commissioner elections) and Department for Communities and Local Government (for local and Mayoral elections, and local referendums and parish polls), while the Scotland, Northern Ireland and Wales office have responsibility for Scottish Parliamentary, Northern Ireland Assembly and local elections in Northern Ireland, and Welsh Assembly and local government elections and referendums in Wales respectively. The Scottish Parliament has legislative competence for local government elections in Scotland, and the Scottish Ministers have order making powers in respect of those elections and some aspects of Scottish Parliamentary elections. The Welsh Assembly has competence over electoral arrangements for local authorities in Wales, except the franchise, electoral registration and administration. When it comes to the cost of elections, it is important to distinguish between certain aspects of the conduct of the elections.

23. Overt electoral administration costs fall into three categories

- (1) **Electoral registration:** the permanent, year-round form of electoral administration performed by registration officers, the costs of which are borne by local authorities in Great Britain. These are paid out of the central government grant to local authorities, although the transition to individual electoral registration after 2013 did see some ring-fencing of costs to oversee that transition. In Northern Ireland, the costs incurred by the Chief Electoral Officer are met by Parliament.
- (2) **The administration of polls:** This is the task, contingent on an electoral event being in course, of running the poll by returning officers. In Great Britain, local government staff administer polls, and incur expenses in doing so. For some elections another institution may ultimately be responsible for meeting those costs; for example, the Cabinet Office meets the fees and charges of returning officers at UK Parliamentary elections under section 29 of the 1983 Act.
- (3) **Publicity costs:** costs associated with candidates' legal entitlement to free mailings to electors, the production of a candidate booklet or hosting a website on which election addresses are published. These arrangements differ at different elections.

24. None of our provisional proposals affect the cost of election publicity at (3) above. These costs are reasonably well documented, since, for example, the Cabinet Office is responsible for that cost and some elections and it can be reported. The challenge lies in establishing the cost at (1), a year-round cost met by local government in Great Britain, and (2), which depends on the election type in question, data as to which is only available through fees and charges paid for certain elections, and not others.

Fees and charges orders

25. Fees and charges orders are issued in advance of certain elections, the cost of which falls to be met by Government. These specify what constitute a returning officer's services in respect of an election: conducting the election, discharging the returning officers' duties and making arrangements for the election. They specify a maximum amount recoverable for the returning officer's services as specified in the order and any expenses associated with the election, including providing and paying staff, conducting the poll and count and any ancillary expenses. The amounts are specified with respect to the region that a returning officer is responsible for.

26. The Secretary of State has a discretion to pay over the maximum recoverable amount if it was reasonable for the returning officer to incur the extra charge and the expense or charge is reasonable. The actual amounts spent may also differ where other elections take place in the area on the same day and polls may be combined and costs shared with other funding bodies such as local authorities. Some examples of recent fees and costs orders issued are:

- (1) European Parliamentary Elections (Returning Officers' and Local Returning Officers' Charges) (Great Britain and Gibraltar) Order 2014 SI 2014 No 325;
- (2) Police and Crime Commissioner Elections (Local Returning Officers' and Police Area Returning Officers' Charges) Order 2012 SI 2012 No 2378;
- (3) Scottish Parliament (Returning Officers' Charges) Order 2011 SI 2011 No 1013;
- (4) National Assembly for Wales (Returning Officers' Charges) Order 2011 SI 2011 No 632; and
- (5) Parliamentary Elections (Returning Officers' Charges) Order 2010 SI 2010 No 830.

The available data

27. Institutional responsibility for the cost of electoral administration being complex, and the various tasks involved in electoral administration being funded by different streams, means there is very little data on the cost of elections. The 2013 Cabinet Office report on returning officers' expenses in England and Wales concentrates on the costs it is responsible for – those of administration of polls and candidates' mailings for the 2009 European Parliamentary elections (£90.3 million), the 2010 UK Parliamentary general elections (£99.1 million), and UK Parliamentary by-elections since 2010 (£2.5 million).

28. By contrast, the Electoral Commission's reports on the cost of electoral administration in Great Britain are concerned with the costs incurred by local government electoral administrators. They exclude, therefore, the costs of candidates' mailings. They do not include the cost of electoral administration in Northern Ireland or the cost of local government elections in Scotland – and, we infer, the cost of other devolved elections in Scotland.

29. The first challenge in assessing the impact of electoral law reform is to compile figures for the cost of electoral administration – registration, the administration of polls – for all elections within scope.

30. The second is to estimate the hidden costs within electoral governance, such as the cost of managing electoral legislation, and implementing policy for all elections. We noted that a central reform aim, and important benefit of reform, will be a more consistent and streamlined legislative framework, thus simplifying and making more predictable the tasks of stakeholders such as Government departments and the Electoral Commission. This is likely to have a beneficial costs impact, but the current cost of maintaining legislation is hidden.

31. The final challenge is to take into account non-monetised costs within electoral law. These are the intangible and non-pecuniary benefits of a simplified and more modern set of laws, such as accessibility of electoral rules to the general public, or the reduction in the likelihood of administrative errors which might adversely impact upon public confidence in electoral administration and outcomes.

32. Table 1 below sets out the total costs recorded by the Electoral Commission for four financial years covered in two reports on the costs of electoral administration.¹ These are based on surveys sent to local authorities, along with guidance on their return. The reliability of the data thus depends on the accuracy of responses. Nevertheless, it illustrates the relatively stable cost of electoral registration compared to the variable cost of administering elections, which depends on the incidence of particular polls in any given year.

Table 1: Electoral administration costs (£ millions)

	Electoral registration (A)	Elections (B)	Administration (A+B)
2007/08			
England	67.3	67.9	135.2
Scotland	10.1	16.3	26.4
Wales	3.7	3.6	7.3
GB	81.1	87.7	168.9
2008/09			
England	68.8	48.4	117.1
Scotland	10.1	2.2	12.2
Wales	4.0	4.8	8.8
GB	82.8	55.4	138.2
2009/10			
England	69.8	76.7	146.6
Scotland	8.5	8.6	17.1
Wales	3.9	4.1	8.0
GB	82.3	89.5	171.8
2010/11			
England	72.3	90.6	162.9
Scotland	8.3	11.6	19.9
Wales	4.9	4.5	9.4
GB	85.5	106.7	192.2

Source: Electoral Commission

¹ Electoral Commission, *The Cost of Electoral Administration in Great Britain* (June 2010). We also use figures, disclosed in advance, that we understand will appear in the Electoral Commission's second report, not yet published at the time of writing, on the cost of electoral administration in Great Britain for 2009/2010 and 2010/2011. A report on the cost of administering referendums (which the figures at table 1 do not take into account) will also be available.

Policy options

33. Two options are considered as follows:

- (1) Option 0 – Do nothing
- (2) Option 1 – Simplification and reform of the legal framework and content of electoral laws.

Description of Options

Option 0 – Do Nothing

34. Under this option the legal framework and the content of electoral laws would remain unchanged.

35. The problems with the current law, outlined above, would therefore persist:

- (1) Fragmentation of election rules,
- (2) Difficult to update,
- (3) New elections need a whole new set of rules,
- (4) Conflict between existing provisions,
- (5) Unjustified differences between election-specific provisions.

Option 1 - Simplification and reform of the legal framework and content of electoral laws.

36. This option would ensure that the law governing the conduct of elections and referendums is modern, simple, and fit for purpose.

37. Our overarching provisional proposal is that electoral law should be centrally set out for all elections, with fundamental or constitutional matters contained in primary legislation, and detailed rules on the conduct of elections contained in secondary legislation. In addition, we provisionally propose that electoral laws should be rationalised into a single and consistent framework, maintaining within it the existing differences that are due to use of a particular voting system, or certain policies.

38. Many of our provisional proposals concern rationalising discrete aspects of electoral law centrally for all elections. We consider that this will bring clear costs benefits to the overt costs of maintaining electoral legislation, as well as to some non-monetised costs, such as the difficulty of accessing and understanding electoral law for voters and political participants. In addition, it will substantially reduce the risk of a serious failing in electoral arrangements that could cause very serious non-monetised damage to the UK's democracy.

39. The particular features of rationalisation include:

- (1) a clearer framework for all elections and referendums;
- (2) a single electoral register and absent voting framework applying to any and all elections and referendums;

- (3) central expression of core rules in primary legislation, and secondary legislation for shared rules across elections, including a standard timetable for elections
- (4) consistent expression of transposition of classical rules for different voting system.

Costs and Benefits

40. This impact assessment identifies both monetised and non-monetised impacts of intervention, with the aim of understanding the overall impact on society and the wider environment. The costs and benefits of each option are measured against the “do nothing” option. Impact assessments place a strong emphasis on valuing the additional costs and benefits in monetary terms (including estimating the value of non-market goods and services). However there are important aspects that cannot sensibly be monetised such as environmental impacts on health and well-being.
41. The impact assessment process requires that we make an assessment of the quantifiable costs and benefits even when there is insufficient material on which to base those calculations. Where possible we have spoken to practitioners to inform our view of the likely aspects to be affected by the change in policy. It has, nonetheless not been possible to obtain even a rough indication of numbers at this stage.
42. We are grateful for the assistance of stakeholders, in particular the Electoral Commission and the Cabinet Office, so far. We intend to use the consultation period (closing on 31 March 2015) to gather better data, seeking to obtain more figures for the overt cost of electoral administration (both electoral registration and conduct of polls), as well as estimates of monetised but hidden costs (such as those involve in maintaining electoral legislation). We will also seek to list non-monetised costs of electoral administration.
43. As a result of the current lack of evidence we focus on outlining the cost and benefit areas that we anticipate will be affected by our proposed policy change.

Costs of Option 0

44. Option 0, do nothing, would leave the current arrangements in place. We consider in the long term this would exacerbate the current problems, risking further cost. Principally, the introduction of any new electoral event, and of further policies in the context of electoral administration, would continue to require, respectively fresh and comprehensive legislation, or comprehensive amendment of election-specific legislation.
45. Given that option 0 is the “do-nothing” option the additional costs and benefits of option 0 are, by definition, zero.

The costs and benefits of option 1

Costs

Transitional costs

Training

46. Training costs will fall on central, devolved and local government in relation to their responsibilities for administering elections and referendums.

On-going costs

47. Most of our discrete reform proposals which are not concerned with rationalisation, are likely to be neutral as to overt costs. However, we consider that the following proposals and (depending on the answer), questions may result in a net, albeit minimal, cost compared to current arrangements:
1. In relation to electors applying to register at a second residence, we ask whether the law should lay down factors to be considered, and whether applicants should make a declaration in support of their claim to be registered in respect of a second residence. This would could require further administrative costs, borne by registration officers, which would only marginally be offset by savings in the cost of producing and posting a second set of postal voting papers.
 2. In our provisional view, any elections coinciding in the same area on the same day must be combined. In the (rare) cases where combination is not permitted by law, or in the (even rarer) cases where combination is discretionary and returning officers do not decide to combine polls, combination will, in general, save costs on polling, although that is subject to further investigation of the (generally accepted) proposition that combination saves costs.
 3. If recommended, the public interest petition process will have ongoing costs, since legal challenge in the public interest may be brought at public expense via the petitioner process where it would not otherwise have been.
 4. If recommended, we consider that there will be some cost in administering an informal complaints review procedure.

Benefits

Transitional benefits

48. No transitional benefits have been identified.

On-going benefits

49. The cost of maintaining the legislation, including of implementing new policy, will be centralised. It will no longer require successive amendments of election specific legislation, and the consequent resources required by Government to do that, and Parliamentary time to scrutinise changes at every round. A policy decision will be made, primary or secondary legislation drafted, and once scrutinised by Parliament, it will become law for all elections. Similarly, our proposals relating to local referendums will mean updating the law concerning these will be much simpler.
50. The cost of introducing a new type of election, or of instigating a referendum, will also decrease. As to an election, what will be required will be to select the franchise and voting system, and to incorporate the new election within the centralised framework. As to calling a national referendum, there will no longer be any need to “reinvent the wheel” in the instigating Act in order to invoke the existing registration and absent voting framework, and to lay down detailed rules for the conduct of the referendum poll.
51. We think simplifying the law in several areas will have beneficial impacts on hidden costs of understanding and applying the law by administrators, participants and the wider public: for example, as relates to the grounds for challenging elections, which are presently extremely unclear.

52. We also consider that the liberalisation of certain methods of communication, for example allowing the nomination paper to be delivered by email, would result in reduced transport and staff costs when compared to the current system.

Questions for consultees: Call for evidence

Until we are able to establish the overt costs of electoral administration, and to estimate the hidden costs of current arrangements, we will not be able fully to assess positive and adverse costs of our proposals and questions. We therefore look forward to input during consultation in order to arrive at firmer and costed conclusions in the impact assessment accompanying our recommendations for reform.

We consider that we will require input in particular from:

1. Electoral administrators to assess the cost borne by local authorities when conducting polls they are responsible to pay for, and when undertaking electoral registration and absent voting tasks which are met by local government;
2. Government, when assessing the cost of maintaining the legislation and implementing policy;
3. The Electoral Commission and other electoral bodies to assess the cost of dealing with the complex and fragmented set of laws;
4. The judicial system, lawyers and judiciary when assessing the cost of the current legal challenge system; and
5. Political parties when assessing the cost for candidates of researching, and complying with, electoral law.

Specific Impact Tests

An impact assessment must consider the specific impacts of a policy option upon various groups within society. These specific tests refer to the implementation of Option 1.

Statutory equality duty

We do not think that the proposed reform will have an adverse equality impact on any social groups as defined by their race, religion or belief, sexual orientation, gender, age or disability. Some proposals will enhance the ability of disabled people to take a full part in the democratic process.

Competition

We do not anticipate that there will be any particular effect, whether positive or negative on competition.

Small business

We do not anticipate that there will be any particular effect, whether positive or negative, on small business.

Environmental impact and wider environmental issues

We do not anticipate that there will be any particular effect, whether positive or negative on competition.

Health and well-being

We do not anticipate that there will be any particular effect, whether positive or negative on health or well-being.

Human rights

We do not anticipate that there will be any human rights implications.

Justice system

There may be some impacts on the justice system as a result of our proposals in relation to challenges to elections. Quantification of these changes will be part of developing a more detailed impact assessment.