**EXPLANATORY MEMORANDUM TO**

**THE LOCAL ELECTIONS (NORTHERN IRELAND) (AMENDMENT) ORDER 2020**

**2020 No. [XXXX]**

## 1. Introduction

1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1 The Order amends the law that applies to local elections in Northern Ireland. It removes the requirement that each candidate's home address must be disclosed and published during the election process and be included on the ballot paper. It also removes the requirement that candidates' surnames are printed in all capital letters on ballot papers. Finally, it amends various electoral forms so that the names of the appropriate council on those forms need only be finished with the word "Council" (rather than the words "District Council").

## 3. Matters of special interest to Parliament

***Matters of special interest to the Joint Committee on Statutory Instruments.***

3.1 None.

***Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)***

3.2 The territorial application of this instrument is limited to Northern Ireland.

3.3 This instrument concerns candidates to Northern Ireland local government elections only and it has no application elsewhere in the UK.

## 4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Northern Ireland.

4.2 The territorial application of this instrument is Northern Ireland.

## 5. European Convention on Human Rights

5.1 Robin Walker, Minister of State at the Northern Ireland Office, has made the following statement regarding Human Rights: "In my view the provisions of the Local Elections (Northern Ireland) (Amendment) Order 2020 are compatible with the Convention rights."

## 6. Legislative Context

6.1 Schedule 5 (the "Local Election Rules") to the Electoral Law Act (Northern Ireland) 1962 currently requires that the home address of a candidate in a Northern Ireland local election must be included on their nomination form (rule 5(2)) and their consent

to nomination form (form 2). Rule 12 of the Local Election Rules requires that that address must be published in the statement of persons nominated. Rule 16(a) provides that the ballot paper shall contain the names and other particulars of the candidates as shown in the statement of persons nominated. Similar arrangements around publication of home addresses were previously in place for Parliamentary and Northern Ireland Assembly elections. However, these arrangements were amended by the Political Parties and Elections Act 2009, which introduced provision that enabled candidates to withhold their home address from publication.

6.2 The Local Election Rules currently require that candidates' surnames are printed in all capital letters on ballot papers for Northern Ireland local elections (see paragraph 10 of the ballot paper printing instructions specified in form 4 of the appendix of forms to the Local Election Rules).

6.3 A number of electoral forms used in Northern Ireland local elections presently require that references to local councils on those forms end with the words "District Council". These forms include ballot papers, directions as to printing the ballot paper, declarations of identity, poll cards, postal poll cards, proxy poll cards, proxy postal poll cards, certificates of employment, declarations made by the companions of voters with disabilities (all of the foregoing forms are specified in the appendix of forms to the Local Election Rules), proxy papers (which are specified in Schedule 1 to the Local Elections (Northern Ireland) Order 1985), and declarations of identity at combined polls (which are specified in the Schedule to the Elections Act 2001).

## 7. Policy background

***What is being done and why?***

7.1 This instrument will provide consistency across all electoral events in Northern Ireland as candidates' addresses are not published in Assembly or Parliamentary elections in Northern Ireland.

7.2 This order achieves that objective by removing the requirement for candidates' home addresses to be included on nomination papers and consent to nomination forms. This requirement is replaced with a non-public "home address form" that includes details of the candidate's home address and addresses that qualify them to stand in the election. A candidate may state on the home address form that they do not want their home address to be made public. In such cases, it is that area that the candidate's address is in (instead of the candidate's home address) that will appear in the statement of persons nominated and the ballot paper.

7.3 At a time when there is a perception of growing threats to elected representatives, the changes will increase the level of protection for Northern Ireland electoral candidates at local elections. This should remove any potential barrier to participation in politics in Northern Ireland for someone who may otherwise feel unable to stand for a local election if, for any reason, they did not want their home address to be published.

7.4 The Committee on Standards in Public Life (CSPL) in its December 2017 Report 'Intimidation in Public Life A Review by the Committee on Standards in Public Life' recommended:

"The government should bring forward legislation to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper."

7.5 The Government accepted this recommendation in its response to the CSPL report published in March 2018. The Government indicated that it would look to bring forward secondary legislation at a suitable opportunity to remove the requirement for candidates standing as local councillors to have their home addresses published on the ballot paper. The Government wishes to avoid capable individuals being deterred from standing for office because they believe the process risks their safety or makes them vulnerable to abusive activity.

7.6 Electors have a right to be assured that a candidate in a local election has a tie to the area in which they stand for election. To balance that right with the aim to provide protection for candidates the measure will ensure that candidates will be required to provide their home address on a separate (and not public-facing) form. That form will be used by the Chief Electoral Officer who will verify that a candidate has a local tie and provide assurance in that regard. The ballot paper will state the relevant area in which the candidate lives.

7.7 In addition, the order will remove the present requirement that candidates' surnames are printed in all capital letters on ballot papers. This will ensure that a candidate's name on the ballot paper can appear as the candidate would normally spell it. This will provide for cases where a capital letter is not usually at the beginning of the name, for example, a small "h" at the beginning and a large 'O' following.

7.8 Finally, the order will reflect changes to the names of councils in Northern Ireland by amending the description of local councils on local ballot papers so that the term 'district council' is no longer mandatory. The order will provide instead that a Council can print its official name, for example a Borough or City Council.

## 8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## 9. Consolidation

9.1 This instrument does not consolidate any current legislation.

## 10. Consultation outcome

10.1 The Northern Ireland Office consulted the Electoral Commission, the Information Commissioner and the Chief Electoral Officer for Northern Ireland. The engagement included consultation on the policy proposals, handling of candidates' personal information and a subsequent consultation on the draft statutory instrument.

10.2 None of the bodies with whom we consulted raised any concerns about the policy. Both the Electoral Commission and the Chief Electoral Officer for Northern Ireland, respectively the regulator and returning officer for local elections in Northern Ireland, welcomed the provisions of the instrument.

## 11. Guidance

11.1 Both the Electoral Commission and the Electoral Office for Northern Ireland provide guidance for prospective candidates in advance of local elections which will fully explain the requirements in respect of both nomination form and home address form

as well as the effect of signing a statement that they do not wish their home address to be made public

## 12. Impact

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 An Impact Assessment has not been prepared for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

## 13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## 14. Monitoring & review

14.1 The Electoral Office for Northern Ireland will monitor the impact of the measures. The Chief Electoral Officer is required to report annually to the Secretary of State for Northern Ireland and that report will highlight any issues arising from the implementation of the measures in this SI.

## 15. Contact

15.1 Katherine Herrick at the Northern Ireland Office (Telephone 020 7210 6483 or katherine.herrick@nio.gov.uk) can be contacted with any queries regarding the instrument.

15.2 Holly Clark, Deputy Director for Elections Policy at the Northern Ireland Office, can confirm that this Explanatory Memorandum meets the required standard.

15.3 Robin Walker, Minister of State at the Northern Ireland Office, can confirm that this Explanatory Memorandum meets the required standard.