EXPLANATORY MEMORANDUM TO

THE LOCAL AUTHORITIES (CHANGES TO YEARS OF ORDINARY ELECTIONS) (ENGLAND) ORDER 2025

2025 No. 137

1. Introduction

1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Jim McMahon OBE MP, Minister of State for Local Government and English Devolution at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

2.2 Frances Kirwan, Deputy Director for Governance Reform and Democracy, at the Ministry of Housing, Communities and Local Government confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Governance Reform and Democracy Unit at the Ministry of Housing, Communities and Local Government email: LGreorganisation@communities.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The instrument postpones the May 2025 elections for specified local authorities in England to May 2026.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

5.1 The English Devolution White Paper ('the White Paper')[1], published on 16 December 2024, set out the Government's intention to deliver on its manifesto pledge to transfer power out of Westminster through devolution and to fix the foundations of local government.

[1] https://www.gov.uk/government/publications/english-devolution-white-paper-power-and-partnership-foundations-for-growth/english-devolution-white-paper

5.2 On 16 December 2024, following the publication of the English Devolution White Paper, the Minister of State for Local Government and English Devolution Jim McMahon OBE MP wrote to all councils in remaining two-tier areas and neighbouring small unitaries to set out plans for a joint programme of devolution and local government reorganisation.[2] The letter committed to announcing areas to be included in the Devolution Priority Programme, aimed at places ready to come together under the sensible geography criteria set out in the White Paper and wishing to progress to an accelerated timescale with a view to inaugural mayoral elections in May 2026. The letter explained that, in parallel, the Government would facilitate a programme of local government reorganisation for two-tier areas, and for unitary councils where there is evidence of failure or where their size or boundaries may be hindering their ability to deliver sustainable and high-quality public services. The Government would therefore invite proposals for reorganisation from all these areas, and adopt a phased approach to delivery, taking into account where reorganisation can unlock devolution, where areas are keen to move quickly or where it can help address wider failings.

5.3 Elections to all 21 county councils in two-tier areas in England are held every four years and are scheduled to take place in May 2025; there are no scheduled elections to two-tier district councils in May 2025. A further 12 elections are due in May 2025, to ten unitary councils, one metropolitan district and in the Isles of Scilly.

5.4 The 16 December 2024 letter acknowledged that for some areas, the timing of elections affects their planning for devolution, particularly alongside reorganisation, and that to help manage these demands, the Government would consider requests to postpone local elections. The letter set out that requests from councils to postpone local elections in May 2025 would only be considered "where this will help the area to deliver both reorganisation and devolution to the most ambitious timeframe – either through the Devolution Priority Programme or where reorganisation is necessary to unlock devolution or open up new devolution options". The deadline for requests was Friday 10 January 2025.

5.5 The Government has routinely postponed local elections in areas contemplating and undergoing local government reorganisation. In recent years this has been done in Buckinghamshire, Cumbria, North Yorkshire, Northamptonshire, Somerset and Weymouth and Portland.[3] Postponement has allowed councils to focus their resources on the process itself, enabling open conversations about proposals and avoiding elections to a council which may cease to exist. Instead, existing elected members will have their term of office extended for a short period to allow proposals to be developed for new unitary councils. Once these proposals are agreed upon, elections then take place at the earliest opportunity to the shadow authority.

5.6 Requests for postponement were received from 18 councils: the county councils of Derbyshire, Devon, East Sussex, West Sussex, Essex, Gloucestershire, Hampshire, Kent, Leicestershire, Lincolnshire, Norfolk, Oxfordshire, Suffolk, Surrey, Warwickshire, Worcestershire, and two unitary councils: Thurrock and Isle of Wight.

---

[2] https://www.gov.uk/government/publications/local-government-reorganisation-letter-to-two-tier-areas

[3] Buckinghamshire (S.I. 2018/1355): https://www.legislation.gov.uk/uksi/2018/1355/contents/made;
Cumbria (S.I. 2021/174): https://www.legislation.gov.uk/uksi/2021/174/contents/made;
North Yorkshire (S.I. 2021/175): https://www.legislation.gov.uk/uksi/2021/175/contents/made;
Somerset (S.I. 2021/176): https://www.legislation.gov.uk/uksi/2021/176/contents/made;
Northamptonshire (S.I. 2018/1324): https://www.legislation.gov.uk/uksi/2018/1324/contents/made;
Weymouth and Portland (S.I. 2018/256): https://www.legislation.gov.uk/uksi/2018/256/contents/made.

5.7 Each request was carefully considered in the context of the council's letter setting out how postponing the May 2025 elections would meet the criteria set out in the minister's letter of 16 December, namely to enable the council to make progress with reorganisation and devolution in parallel on the Devolution Priority Programme, or to speed up reorganisation and enable the area to benefit from devolution as quickly as possible once new unitary structures. Ministers also took into account wider representations they received on the issue of postponement (see paragraphs 7.3-5) and were clear that the bar for agreement is very high.

5.8 The Government agreed to postpone the local elections in eight council areas where it considers that postponement is essential for the delivery of the Devolution Priority Programme and complementary reorganisation. These areas are: East Sussex, Essex, Hampshire, Isle of Wight, Norfolk, Suffolk, Thurrock and West Sussex. In these areas plans for new Combined County Authorities, inaugural mayoral elections, and local government reorganisation will all be concurrent and working to a very ambitious timetable.

5.9 The Government also agree to postpone the local elections in Surrey: reorganisation is essential to unlocking devolution options and postponing the May 2025 elections would help deliver both reorganisation and devolution to the most ambitious timeframe. The English Devolution White Paper discontinued the Mayoral Single Local Authority model of devolution. In that context, and given the specific financial challenges, Surrey's path to devolution is significantly dependent on local government reorganisation.

5.10 The postponement is for one year, to May 2026, and the instrument adjusts the terms of office of existing councillors accordingly. In Thurrock, where May 2025 would have been the first whole council election, subsequent council elections will take place in 2030 and then every four years; in all other areas the postponement will not affect the timing of subsequent elections, and the next elections will be in 2029 with councillors elected in May 2026 serving a three year term.

5.11 Vacancies arising in the six-month period prior to the May 2025 elections would ordinarily have been filled at the May 2025 elections rather than by by-elections. The requirement for by-elections to fill such vacancies is reinstated by the postponement and this ensures there are no long-term vacancies on a council. For clarity, the instrument specifies that such by-elections must take place in the period between the coming into force of the instrument on 4 March 2025 and 1 May 2025.

5.12 The instrument also makes consequential amendments to legislation made by the Local Government Boundary Commission (England) implementing boundary reviews for local government electoral areas, to ensure that the new boundaries come into effect when the postponed elections take place. This will ensure any by-elections before May 2026 will be held on current boundaries.

What was the previous policy, how is this different?

5.13 In the recent past local government reorganisation has been considered by the government on a case-by-case basis, where invitations have been requested by local councils. Devolution has also proceeded on a deal-based approach with individual areas. The policy approach set out in the White Paper is more ambitious, on a larger scale and at a faster pace than previously. The postponement of elections is therefore on a commensurate scale.

5.14 In each precedent area mentioned in paragraph 5.5, local government reorganisation has subsequently been implemented. However, it should be noted that the

postponement of elections in no way pre-judges the outcome of a local government reorganisation process, or the Devolution Priority Programme. Rather, it is being done to ensure that both processes may proceed to the most ambitious timelines in the selected areas.

5.15 Where local government reorganisation is implemented, structural changes orders made under powers in the Local Government and Public Involvement in Health Act 2007 will set out the arrangements for elections to the current and future councils. The Government intends to move to elections to new shadow unitary councils as soon as possible as is the usual arrangement in the process of local government reorganisation. Where the devolution priority programme leads to the establishment of new combined county authorities, it is intended that mayoral elections will take place in May 2026.

6. Legislative and Legal Context

How has the law changed?

6.1 The Local Government Act 2000 ("the 2000 Act") anticipates that there may be occasions when it will be appropriate for the timing of elections of local authorities in England to be moved. Section 87 of the 2000 Act confers a power on the Secretary of State to change by order the years in which the ordinary elections of councillors of a specified local authority are to be held. An order may include provision to secure the retirement of councillors at different times from those at which they would otherwise have retired. Section 105 of the 2000 Act provides that an order may make incidental, consequential, transitional or supplemental provision which the Secretary of State considers necessary or expedient, which includes the power to apply an enactment with or without modification.

6.2 Article 2 of this instrument postpones the May 2025 elections to the specified councils to May 2026. The terms of office of existing councillors are adjusted accordingly by article 3. Subsequent years of election are not affected except in Thurrock where subsequent elections will take place in 2030 and every four years thereafter, and article 5(3) makes consequential amendments in respect of Thurrock to this effect.

6.3 Article 4 of this instrument makes consequential modifications to legislation governing the filling of casual vacancies in the office of councillor as a result of the postponement, where those casual vacancies had occurred prior to the coming into force of this instrument and had not been filled because the vacancies had occurred within six months of the end of the term of office of the councillor whose office had been vacated. Article 4(2) provides for a period of time in which such vacancies in local authorities can be filled by election, and article 4(3) provides that a person elected to fill such a vacancy is to retire in 2026.

6.4 Article 5(1) and (2) makes consequential amendments to instruments which make electoral division boundary changes relevant to the elections which are postponed, so that those changes take effect for the purpose of the elections in 2026 accordingly.

Why was this approach taken to change the law?

6.5 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 Prior to the publication of the White Paper and in response to the Chancellor's Budget statement that the White Paper would set out the Government's plans for working in

partnership with councils to move to simpler structures that make sense for their local areas[4], several councils wrote to ask the Government to postpone the May 2025 election because the timing of elections affected their planning for devolution, particularly alongside reorganisation.

7.2 The Minister of State for Local Government and English Devolution's 16 December 2024 letter to relevant councils (see paragraph 5.2) recognised these pressures and therefore invited requests from councils to postpone the May 2025 elections where councils made a clear commitment to delivering both reorganisation and devolution to the most ambitious timeframe. The deadline of 10 January, whilst tight, reflected the legislative timing requirements and the need to give certainty to voters, candidates and electoral administrators as soon as possible.

7.3 The Government received requests to postpone elections from 18 councils (para 5.6). Each request set out why postponement would enable the council to make progress with both reorganisation and devolution to the most ambitious timeframes. The main justifications presented were to free up officer and councillor capacity, and to ensure the necessary stability, to undertake the two significant programmes of work in parallel. This work would require considerable time to build the most effective collaboration locally, and to develop the most effective business cases for reorganisation, whilst at the same time ensuring the integrity of existing services in the safest possible manner. It was noted that the expected period for public consultation and partner engagement would coincide with the period running up to and through the planned election period where it would not be possible for effective consultation to be undertaken whilst elections to affected councils were underway. Elections would also introduce the risk of unsettling the political collaboration and commitment that has been established. It was also argued that the arrangement of elections, induction of new members and provision of equipment for them whilst knowing that they will not serve a full term of office does not appear to be the best use of public money or limited officer capacity when budgets are already stretched. Some councils also pointed to the precedents for postponing elections in the context of preparations for local government reorganisation (see paragraph 5.5).

7.4 In addition to the requests from councils, there was a significant amount of correspondence, largely opposed to postponement, from other councils in some of the areas, from political groups within councils and from members of the public, as well as a campaign letter in relation to East Sussex, West Sussex and Kent (estimated at around 900) and a petition presented to Parliament in relation to West Sussex (number of signatures not supplied by Parliament). Additional petitions were underway to the Secretary of State opposing postponement of elections in Hampshire (around 1200 signatures) and the Isle of Wight (around 1600 signatures). In Essex, a similar petition, but directed to the council, commenced before their vote to request a postponement, had reached around 4,600 signatures by the end of January. There was an Urgent Question on local government reorganisation in the House of Commons on 15 January, which was repeated in the House of Lords on 16 January. MPs and Peers also wrote to ministers and laid a number of Parliamentary Questions. Some of the questions and correspondence were framed in the wider context of local government reorganisation and devolution and some were focused exclusively on the question of postponement.

7.5 Support for postponement of elections was largely limited to the councils requesting postponement. Some questions and correspondence were neutral, typically asking

[4] Published 30 October 2024. Page 58: https://www.gov.uk/government/publications/autumn-budget-2024

about the process and timing of the decision, often in the context of the uncertainty created for local areas, or in the case of correspondence from MPs, forwarding correspondence from constituents for response. The majority of views expressed were opposed to postponing elections, including in letters from several groups of MPs (Devon, East Sussex, Oxfordshire, Surrey). Opposition was grounded in terms of the removal of democratic rights of voters and questions about the ongoing democratic mandate of incumbent councillors, particularly where significant decisions on the future of an area are to be taken; in some instances, arguments were expressed in party political terms. Some representations also pointed to the possibility that future council elections would also be postponed where local government reorganisation proceeds, leading to extended periods without elections and longer terms of office for incumbent councillors.

7.6 As noted in paragraph 5.6, each request was carefully considered, alongside the criteria set out in the minister's letter of 16 December, and the representations received on the question.

7.7 The requests that have been agreed each set out a clear case for postponement based on capacity to deliver both devolution and local government reorganisation to the most ambitious timeframes as set out in the minister's letter of 16 December. In the cases of East Sussex, Essex, Hampshire, Isle of Wight, Norfolk, Suffolk, Thurrock and West Sussex, these councils are to be included in the Devolution Priority Programme and will also be invited to submit local government reorganisation in the autumn. In the case of Surrey, postponing the May 2025 elections will help councils in the area deliver sustainable unitary local government to the most ambitious timeframe, and enable the area to benefit from devolution as quickly as possible once new unitary structures are in place.

7.8 All other requests were judged not to have met the high bar ministers set for postponing elections. As set out in the minister's written statement to Parliament of 5 February 2025 (HCWS418)[5], "these are not taken forward either because:

The area was not considered to currently meet the criteria for the Devolution Priority Programme; or

The area is already part of a (Mayoral) Combined County Authority, so an election delay was not considered essential to delivering both reorganisation and devolution to the most ambitious timeframe; or

Some areas need to take forward further discussions to reach agreement on devolution plans and so the postponement of the election in these areas is not considered essential to deliver both reorganisation and devolution to the most ambitious timeframe."

7.9 The decision in relation to each council's election is effectively an all-or-nothing decision, so mitigation is not available.

8. Applicable Guidance

8.1 No guidance is necessary to accompany the Order; the councils concerned have been notified of its making.

[5] https://questions-statements.parliament.uk/written-statements/detail/2025-02-05/hcws418

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because no, or no significant, impact is anticipated on businesses.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument does not affect these bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on the public sector should be positive as it will save the costs of holding elections for new councillors who may serve only a short term of office and ensure the councils can prioritise the resources effectively.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 There is no plan to monitor or review this legislation as its purpose is limited to the rescheduling of the specified local elections from May 2025 to May 2026.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).