EXPLANATORY MEMORANDUM TO

THE POLICE AND CRIME COMMISSIONER ELECTIONS (AMENDMENT) (NO.2) ORDER 2014

2014 No. 1963

1. 1.1 This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This instrument allows for booklets containing candidates' election addresses to be delivered to residential premises in the event of a Police and Crime Commissioner (PCC) by-election on a trial basis. It also extends existing provisions relating to the publicising of ordinary elections (held every four years) to by-elections.

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

3.1 None.

4. Legislative Context

4.1 The instrument amends the Police and Crime Commissioners Elections Order 2012 (S.I. 2012/1917) (the "2012 Order") which sets out the rules governing the conduct of elections of PCCs in England and Wales. The 2012 Order is made under sections 58 and 154 of the Police Reform and Social Responsibility Act 2011, which allows Orders to be made in relation to the conduct of PCC elections.

4.2 Publicity at ordinary PCC elections is currently covered by Article 52 and Schedule 8 to the 2012 Order. These provide for election addresses to be included on a website maintained by or on behalf of the Secretary of State during an ordinary election.

5. Territorial Extent and Application

5.1 The instrument applies in England and Wales.

6. European Convention on Human Rights

6.1 Lord Taylor of Holbeach, Lords Minister and Minister for Criminal Information, made the following statement regarding Human Rights:

"In my view the provisions of The Police and Crime Commissioners Elections (Amendment) (No. 2) Order 2014 are compatible with the Convention rights."

7. Policy background

7.1 Part 1 of the Police Reform and Social Responsibility Act 2011 provides for the establishment of a directly elected PCC for every force in England and Wales outside London. The core functions of the PCC are to secure the maintenance

of an efficient and effective police force, and to hold the chief constable to account for the exercise of his functions.

7.2 The November 2012 elections took a "digital by default" approach to publishing candidate information. An election address provides a means of conveying a candidate's policy and views to electors. Under the 2012 Order, each candidate at an ordinary PCC election is entitled to have an election address included on a website (provided they meet certain deadlines), and the Secretary of State must ensure that the website is accessible and properly protected. The Secretary of State must provide printed (including large print and braille) and audio versions of candidates' election addresses on request. Printed copies may also be made available in local authority offices and public libraries. Under Article 52(4) of the 2012 Order, the Secretary of State must take appropriate steps to promote public awareness of the existence of the website and the availability of printed and other versions of candidates' election addresses.

7.3 Ahead of the next round of elections in 2016 the Government's intention is to trial the mailing of candidate information booklets to all residential premises in a police area in the event of a PCC by-election. Each candidate standing for election as PCC in their force area would be entitled to have the election addresses contained in the booklets.

7.4 This trial will allow the Government to evaluate whether the delivery of election booklets to residential premises significantly raises voter awareness about the candidates standing in a PCC election.

7.5 The instrument will allow:

- Election booklets containing candidates' election addresses to be distributed to residential premises during the first election held to fill the office of police and crime commissioner in which the date of the poll in the election occurs after the coming into force of the Order.

- Election booklets to be delivered to all residential premises. To ensure value for money, a single election booklet will be delivered to each premises except for residential premises which include more than one dwelling where it is intended that the appropriate number of election booklets will be delivered under the arrangements made with the delivery agent.

- The Police Area Returning Officer to prepare and cause to be delivered the election booklets as soon as reasonably practicable after the publication of the statement of persons nominated.

- The Police Area Returning Officer to seek a reasonable sum from the candidates towards the cost of printing the election booklet. This is consistent with other comparable elections. Candidates will still be able to stand without having their election address included in the booklet if they wish to avoid paying the contribution to the cost of printing or prefer to produce leaflets and distribute them directly.

- The provision of the 'Choose my PCC' website for future by- elections in the same way that it is available for ordinary PCC elections.

- The possibility of making election booklets available in other premises to which the public normally have access in the police area during any future PCC elections, in addition to local authority offices and public libraries as allowed under the 2012 Order.

7.6 Although each PCC candidate in Welsh force areas will determine whether to submit their election addresses bilingually, Police Area Returning Officers have a duty to translate any standard text for residential premises. No legislative change is required on this point.

7.7 The Home Office will pay for the majority of the costs of any PCC by-election that takes place until November 2015. Providing candidate information booklets for a by-election in an average sized police force area is expected to cost the Home Office £0.3m, and £1m in a larger area.

7.8 It is the Government's intention that this instrument will apply to the PCC by-election in the West Midlands police area. Distributing booklets to residential premises in the West Midlands police area is expected to cost around £1m, in addition to the anticipated cost (£3m) of running the by-election itself.

8. Consultation outcome

8.1 The Electoral Commission has been consulted on the instrument and they are supportive.

8.2 In addition, we have consulted informally with representatives of the Association of Electoral Administrators and Police Area Returning Officers regarding the proposal to trial booklets and they were also content.

9. Guidance

9.1 Revised guidance relating to the conduct of a PCC by-election where booklets are to be provided will be circulated by the Home Office to all Police Area Returning Officers.

10. Impact

10.1 The instrument does not have any impact on business, charities or voluntary bodies.

10.2 As set out at paragraph 7.7 above, providing candidate information booklets for a by-election in an average sized police force area is expected to cost the Home Office £0.3m and £1m in a larger area.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not create new regulatory burdens for small business.

12. Monitoring & review

12.1 The Home Office will evaluate the impact of the trial and measure against data collected after the 2012 elections. The Electoral Commission has been consulted on the proposed approach to evaluation.

12.2 The Home Office will track the performance of any marketing campaign that is run to raise awareness of the by-election. Members of the public will be asked about their awareness and use of the election booklet. In tracking the performance of any awareness raising activity during the by-election, the evaluation would isolate those who say they are aware of the booklet only so its impact can be assessed.

12.3 More generally, the Cabinet Office keeps all electoral legislation under review to ensure it continues to support electors' participation in elections and effective electoral administration. Furthermore, the Law Commission is undertaking a review of electoral legislation. It issued a scoping report on 11 December 2012 and expects to issue a consultation on reforming the law in late 2014.

13. Contact

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