

London Borough of Tower Hamlets (Postal Voting) Pilot Order 2018

Made - - - - 22nd March 2018

Coming into force in accordance with Article 1

This Order is made in the exercise of the powers conferred by section 10(1) of the Representation of the People Act 2000 (“the 2000 Act”)(**a**).

The London Borough of Tower Hamlets (“the Council”) submitted proposals for a scheme under section 10 of the 2000 Act to apply to any election that will take place in relation to any vacancy in the membership of the Council or election of Mayor in the London Borough of Tower Hamlets with which that election will be combined, arising on the ordinary day of elections in 2018.

The Minister for the Cabinet Office modified the Council’s proposals and consulted the Council on the modifications, as required by section 10(1) of the 2000 Act.

The Minister for the Cabinet Office also consulted the Electoral Commission on the proposals, as required by section 10(1A) of the 2000 Act.

The Minister for the Cabinet Office makes the following Order:

Citation and commencement

1. This Order may be cited as the London Borough of Tower Hamlets (Postal Voting) Pilot Order 2018 and comes into force on the day after the day it is made.

Interpretation

2. In this Order and in any modification to an enactment made by this Order, unless the contrary intention appears—

“2000 Act” means the Representation of the People Act 2000;

“2001 Regulations” means the Representation of the People (England and Wales) Regulations 2001;(b)

“2006 Principal Areas Rules” means the Local Elections (Principal Areas) (England and Wales) Rules 2006;(c)

“2007 Mayoral Regulations” means the Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007;(d)

“the election” means any local government election that takes place arising from a vacancy in the membership of the London Borough of Tower Hamlets Council or election of Mayor in the London Borough of Tower Hamlets with which that election will be combined, arising on the ordinary day of elections in 2018.

(a) 2000 c. 2.
(b) S.I. 2001/341.
(c) S.I. 2006/3304.
(d) S.I. 2007/1024.

Conduct of elections

3.—(1) In relation to the election, the enactments governing the conduct of elections specified in the Schedules to this Order have effect subject to the modifications made by this Article.

(2) The provisions in Schedule 3 to the 2006 Principal Areas Rules set out in column (1) of the Table in Schedule 1 to this Order shall have effect subject to the modifications in column (2) of that Table.

(3) The provisions in Schedule 3 to the 2007 Mayoral Regulations set out in column (1) of the Table in Schedule 2 to this Order shall have effect subject to the modifications in column (2) of that Table.

(4) The provisions set out in column (1) of the Table in Schedule 3 to this Order shall have effect subject to the modifications in column (2) of that Table.

Duty to co-operate with the Electoral Commission

4.—(1) The returning officer for an election to which this Order applies must ensure that the Electoral Commission, and any person authorised by the Commission, is afforded access to any ballot paper, document, equipment, computer software, computer hardware, data stored electronically or place that is to be, is being, or has been used for the purposes of the election.

(2) Paragraph (1) shall apply only to the extent that the Electoral Commission reasonably requires access to the ballot paper, document, equipment, computer software, computer hardware, data stored electronically or place for the purpose of enabling the Commission to assess the election in question.

(3) Paragraph (1) shall not require the returning officer to give access without an order of the court, to any ballot paper, document, equipment, computer software, computer hardware, data stored electronically which, by reason of a requirement in any enactment, is contained within a sealed packet.

Chloe Smith
Minister for the Constitution
Cabinet Office

22nd March 2018

SCHEDULE 1

Article 3(2)

Modifications to Schedule 3 to the 2006 Principal Areas Rules

Table

<i>(1)</i> <i>Rule</i>	<i>(2)</i> <i>Modification</i>
22	After paragraph (1) insert— “(1A) The returning officer must include with the documents referred to in paragraph (1) a leaflet providing information to the voter about electoral integrity and the secrecy of the ballot. (1B) The leaflet referred to in paragraph (1A) must include, but is not limited to, the following information— (a) it is the voter’s responsibility to complete the ballot paper and postal voting statement himself; (b) the returning officer takes electoral fraud extremely seriously;
Postal ballot papers	

- (c) details of who to contact if a voter suspects electoral fraud;
- (d) a contact number through which persons can contact the returning officer about any issue relating to postal voting.

(1C) The returning officer may provide a translation into languages other than English of the leaflet referred to in paragraph (1A).¹

After rule 22 insert—

Verification after issue of postal ballot papers

22A. Within 10 days after issuing the first batch of postal ballot papers in accordance with rule 22, the returning officer must contact a selection of the people to whom they were issued, for the purpose of obtaining the following information—

- (a) to verify that the voter applied to vote by post;
- (b) to verify that the voter has received their postal ballot paper and postal voting statement;
- (c) to identify any problems with the voter receiving their postal ballot paper and postal voting statement;
- (d) to verify that the voter understands that the ballot paper and postal voting statement are for that voter to complete in secret;
- (e) to verify that the voter is aware of the returning officer’s contact details should the voter have any concerns about completing the ballot paper and postal voting statement.”

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After rule 29 insert—

Return of postal ballot papers

“Verification after opening of postal voters’ ballot box

29A. Not less than 5 days before the day of the poll, the returning officer must contact a selection of the postal voters whose postal ballot paper and postal voting statement have been returned to the returning officer, for the purpose of obtaining the following information—

- (a) to verify that the voter applied to vote by post;
- (b) to verify that the voter has received the postal ballot paper and postal voting statement;
- (c) to verify that the voter personally completed the ballot paper and postal voting statement and returned it to the returning officer;
- (d) to establish whether the voter had any concerns with completing their postal vote.

Cancellation of postal ballot paper in cases of electoral fraud etc.

29B.—(1) This rule applies where—

- (a) a postal ballot paper has been delivered to a postal voter under regulation 76 of the 2001 Regulations and the voter to whom that paper was delivered claims he—
 - (i) did not make an application to vote by post;
 - (ii) did make such an application, but has not received a postal ballot paper; or
- (b) a postal vote has been returned to the returning officer but the voter claims that he did not mark the ballot paper or complete the postal voting statement and return it to the returning officer.

(2) Where the returning officer is satisfied—

- (a) as to the identity of the voter making a claim described in paragraph (1); and
- (b) has no reason to doubt that claim;

the returning officer must cancel the postal ballot paper and postal voting statement issued to the voter.

(3) Where a postal ballot paper and postal voting statement is cancelled under paragraph (2) the returning officer must issue a replacement postal ballot paper and postal voting statement to the voter where that voter requests such a replacement.

(4) Where a person returns a postal ballot paper or postal voting statement that has been cancelled in accordance with paragraph (2), the returning officer must make up those documents in a separate packet and must seal the packet; and, if any further documents are returned that have been cancelled in accordance with that paragraph, the returning officer must unseal the packet, make it up with those further documents and then reseal it.

(5) The returning officer must keep a list for the purpose of recording postal ballot papers cancelled under this rule (“the list of cancelled postal ballot papers in cases of electoral fraud etc.”) and record on it—

- (a) the name and number of the elector as stated in the register of electors;
- (b) the number of the cancelled ballot paper;
- (c) the number of any replacement postal ballot paper issued under paragraph (3); and
- (d) where the postal voter is a proxy, their name and address.

(6) Subject to paragraph (7) below, regulations 72 (except paragraph (3)), 74, 75 and 76 of the 2001 Regulations apply to the replacement postal ballot paper issued under paragraph (3) as they apply to a postal ballot paper issued under rule 22 of this Schedule.

(7) Where a replacement ballot paper is issued under paragraph (3), the returning officer may hand the replacement ballot paper to the voter instead of delivering it in accordance with regulation 76 of the 2001 Regulations.

(8) Where a postal ballot paper is cancelled under paragraph

(2) on the grounds that the voter did not apply for a postal vote under Schedule 4 to the 2000 Act, the returning officer must notify the relevant registration officer of that fact.

(9) On completion of the counting of votes, the returning officer must forward to the relevant registration officer any sealed packets referred to in paragraph (4), endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the electoral area (or areas) for which the election (or elections) was held.

(10) This rule applies without prejudice to rule 78A (cancellation of postal ballot papers) of the 2001 Regulations.

(11) In this rule, relevant registration officer has the meaning given by rule 52(3) (delivery of documents to relevant registration officer).

Recording of Information

29C.—(1) The returning officer must record the following information in connection with the verification undertaken in accordance with rules 22A and 29A—

- (a) the number of people who were contacted under rule 22A;
- (b) the number of people who provided information under rule 22A;
- (c) the number of people who were contacted under rule 29A;
- (d) the number of people who provided information under rule 29A;
- (e) the number of people who confirmed when contacted under rule 22A that they did not apply to vote by post;
- (f) the number of people who confirmed when contacted under rule 29A that they did not apply to vote by post;
- (g) the number of people who confirmed when contacted under rule 22A that they did not receive a postal ballot paper;
- (h) the number of people who confirmed when contacted under rule 29A that they did not receive a postal ballot paper;
- (i) the number of people who confirmed that they did not return their postal ballot paper and postal voting statement where those documents had been returned to the returning officer;
- (j) the number of cases referred to the police relating to postal voting fraud;
- (k) the number of postal ballot papers issued but not returned.

(2) Within 20 days after the day of the poll, the returning officer must forward the information recorded under paragraph (1) to the Electoral Commission, and send a copy of that information to the Cabinet Office and to the London Borough of Tower Hamlets Council.

(3) The recipient of the information recorded under paragraph (1) may only use the information for evaluating the pilot scheme or other electoral purposes.

(4) The information recorded under paragraph (1) may not be disclosed to any person other than—

- (a) for the purposes of evaluating the pilot scheme or other electoral purposes;
- (b) in proceedings relating to an election petition; or
- (c) in relation to an investigation into electoral fraud.¹

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Orders for the production of documents

In paragraph (1)—

- (a) at the end of subparagraph (a) omit “or”;
- (b) after subparagraph (a) insert—

“(ab) for the inspection or production of any ballot papers cancelled under rule 29B in his custody;
or”

In paragraph (8), after “ballot papers” insert “, or any ballot papers cancelled under rule 29B,”

SCHEDULE 2

Article 3(3)

Modifications to Schedule 3 to the 2007 Mayoral Election Rules

Table

<i>(1)</i> <i>Rule</i>	<i>(2)</i> <i>Modification</i>
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Interpretation

In paragraph (1), insert in the appropriate place—

““electoral area” means the local government area in which the election is held;”

““postal voter” means an elector who is entitled to vote by post, or a proxy who is entitled to vote by post; and voter is to be construed accordingly;”

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Postal ballot papers

After paragraph (1) insert—

“(1A) The returning officer must include with the documents referred to in paragraph (1) a leaflet providing information to the voter about electoral integrity and the secrecy of the ballot.

(1B) The leaflet referred to in paragraph (1A) must include, but is not limited to, the following information—

- (a) it is the voter’s responsibility to complete the ballot paper and postal voting statement himself;
- (b) the returning officer takes electoral fraud extremely seriously;
- (c) details of who to contact if a voter suspects electoral fraud;
- (d) a contact number through which persons can contact the returning officer about any issue relating to postal voting.

(1C) The returning officer may provide a translation into languages other than English of the leaflet referred to in paragraph (1A).¹

After rule 24 insert—

Verification after issue of postal ballot papers

24A.—(1) Within 10 days after issuing the first batch of postal ballot papers in accordance with rule 24, the returning officer must contact a selection of the people to whom they were issued, for the purpose of obtaining the following information—

- (a) to verify that the voter applied to vote by post;
- (b) to verify that the voter has received their postal ballot paper and postal voting statement;
- (c) to identify any problems with the voter receiving their postal ballot paper;

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After rule 31 insert—

“Verification after opening of postal voters’ ballot box

31A. Not less than 5 days before the day of the poll, the returning officer must contact a selection of the postal voters whose postal ballot paper and postal voting statement has been returned to the returning officer, for the purpose of obtaining the following information—

- (a) to verify that the voter applied to vote by post;
- (b) to verify that the voter received the postal ballot paper and postal voting statement;
- (c) to verify that the voter personally completed the ballot paper and postal voting statement and returned it to the returning officer;
- (d) to establish whether the voter had any concerns with completing their postal vote.

Cancellation of postal ballot paper in cases of electoral fraud etc.

31B.—(1) This rule applies where—

- (a) a postal ballot paper has been delivered to a postal voter under regulation 76 of the 2001 Regulations and the voter to whom that paper was delivered claims that he—
 - (i) did not make an application to vote by post;
 - (ii) did make such an application, but has not received his postal ballot paper; or
- (b) a postal vote has been returned to the returning officer but the voter claims that he did not mark the ballot paper or complete the postal voting statement and return it to the returning officer.

(2) Where the returning officer is satisfied—

- (a) as to the identity of the voter making a claim under paragraph (1); and
- (b) has no reason to doubt that claim;

the returning officer must cancel the postal ballot paper and postal voting statement issued to the voter.

(3) Where a postal ballot paper and postal voting statement is cancelled under paragraph (2) the returning officer must issue a replacement postal ballot paper and postal voting statement to the voter where that voter requests such a replacement.

(4) Where a person returns a postal ballot paper or postal voting statement that has been cancelled in accordance with paragraph (2), the returning officer must make up those documents in a separate packet and must seal the packet; and, if any further documents are returned that have been cancelled in accordance with that paragraph, the returning officer must unseal the packet, make it up with those further documents and then reseal it.

(5) The returning officer must keep a list kept for the purpose of recording postal ballot papers cancelled under this rule (“the list of cancelled postal ballot papers in cases of electoral fraud etc.”) and record on it—

- (a) the name and number of the elector as stated in the register of electors;
- (b) the number of the cancelled ballot paper;
- (c) the number of any replacement postal ballot paper issued under paragraph (3); and
- (d) where the postal voter is a proxy, their name and address.

(6) Subject to paragraph (7) below, regulations 72 (except paragraph (3)), 74, 75 and 76 of the 2001 Regulations apply to the replacement postal ballot paper issued under paragraph (3) as they apply to a postal ballot paper issued under rule 24 of this Schedule.

(7) Where a replacement ballot paper is issued under paragraph (3), the returning officer may hand the replacement ballot paper to the voter instead of delivering it in accordance with regulation 76 of the 2001 Regulations.

(8) Where a postal ballot paper is cancelled under paragraph (2) on the grounds that the voter did not apply for a postal vote under Schedule 4 to the 2000 Act, the returning officer must notify the relevant registration officer of that fact.

(9) On completion of the counting of votes, the returning officer must forward to the relevant registration officer any sealed packets referred to in paragraph (4), endorsing on each packet a description of its contents, the date of the election to which it relates and the name of the electoral area (or areas) for which the election (or elections) was held.

(10) This rule applies without prejudice to rule 78A (cancellation of postal ballot papers) of the 2001 Regulations.

(11) In this rule, relevant registration officer has the meaning given by rule 57(3) (delivery and retention of documents).

Recording of Information

31C.—(1) The returning officer must record the following information in connection with the verification undertaken in accordance with rules 24A and 31A—

- (a) the number of people who were contacted under rule 24A;
- (b) the number of people who provided information under

rule 24A;

- (c) the number of people who were contacted under rule 31A;
- (d) the number of people who provided information under rule 31A;
- (e) the number of people who confirmed when contacted under rule 24A that they did not apply to vote by post;
- (f) the number of people who confirmed when contacted under rule 31A that they did not apply to vote by post;
- (g) the number of people who confirmed when contacted under rule 24A that they did not receive a postal ballot paper;
- (h) the number of people who confirmed when contacted under rule 31A that they did not receive a postal ballot paper;
- (i) the number of people who confirmed that they did not return their postal ballot paper and postal voting statement where those documents had been returned to the returning officer;
- (j) the number of cases referred to the police relating to postal voting fraud;
- (k) the number of postal ballot papers issued but not returned.

(2) Within 20 days after the day of the poll, the returning officer must forward the information recorded under paragraph (1) to the Electoral Commission, and send a copy of that information to the Cabinet Office and to the London Borough of Tower Hamlets Council.

(3) The recipient of the information recorded under paragraph (1) may only use the information for evaluating the pilot scheme or other electoral purposes.

(4) The information recorded under paragraph (1) may not be disclosed to any person other than—

- (a) for the purposes connected with evaluating the pilot scheme or other electoral purposes;
- (b) in proceedings relating to an election petition; or
- (c) in relation to an investigation into electoral fraud.”

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Orders for production of documents

In paragraph (1)—

- (a) at the end of subparagraph (a) omit “or”;
- (b) after subparagraph (a) insert—

“(ab) for the inspection or production of any ballot papers cancelled under rule 31B in his custody, or”

In paragraph (9), after “ballot papers” insert “, or any ballot papers cancelled under rule 31B,”

SCHEDULE 3

Article 3(4)

Modifications to other enactments

Table

<i>(1) Provision</i>	<i>(2) Modifications</i>
<i>2000 Act</i>	
Schedule 4, paragraph 3 Absent vote at election for definite or indefinite period	In subparagraph (5)— (a) at the end of paragraph (c) omit “or”; (b) after paragraph (d) insert— “or, (e) if he is informed by the returning officer for any election to which the London Borough of Tower Hamlets (Postal Voting) Pilot Order 2018 applies that the person has notified that returning officer that he did not apply to vote by post.”
Schedule 4, paragraph 7 Voting as proxy	In subparagraph (9)— (a) at the end of paragraph (c) omit “or”; (b) after paragraph (d) insert— “or, (e) if he is informed by the returning officer for any election to which the London Borough of Tower Hamlets (Postal Voting) Pilot Order 2018 applies that the person did not apply to vote by post as proxy.”
<i>2006 Principal Areas Rules</i>	
Rule 2(1) Interpretation	Insert in the appropriate place— “electoral area” means the local government area in which the election is held;” ““postal voter” means an elector who is entitled to vote by post, or a proxy who is entitled to vote by post; and voter is to be construed accordingly.”
Rule 4 Combination of Polls	For rule 4 substitute— “4. In any poll at the election of councillors to which the London Borough of Tower Hamlets (Postal Voting) Pilot Order 2018 applies, the rules set out in Schedule 3 to these Rules as modified by that Order shall apply.”
<i>2007 Mayoral Rules</i>	

Rule 4

For rule 4 substitute—

Combination of polls

“4. In any poll at a Mayoral election to which the London Borough of Tower Hamlets (Postal Voting) Pilot Order 2018 applies, the rules set out in Schedule 3 to these Rules as modified by that Order shall apply.”