

The Association of Electoral Administrators



Freedom of Information Request – Voter ID

1 Introduction

- 1.1 We have received numerous queries from members about a recently issued Freedom of Information (FOI) request from The Runnymede Trust. A copy of the FOI can be found in [Appendix A](#).
- 1.2 We have produced this information sheet to help you consider how to respond if you choose to do so.

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2 Returning Officer and Electoral Registration Officer Exemption

- 2.1 [Section 1 of the Freedom of Information Act 2000](#) ([Section 1, Freedom of Information \(Scotland\) Act 2002](#)) (FOIA from now on) provides for the general right of access to information held by public authorities. They also specify the conditions which need to be fulfilled before an authority is obliged to comply with a request.
- 2.2 [Schedule 1 of the FOIA](#) sets out the list of public authorities required to respond to FOI requests.
- 2.3 While a local authority, assessor or valuation joint board is required to comply with FOI requests, there is no requirement for an Electoral Registration Officer (ERO) or Returning Officer (RO) to do so.
- 2.4 This is because EROs and ROs work independently of the local authority, assessor or valuation joint board. They are therefore not subject to the FOIA. [as laid out in the final paragraph of the ICO definition document for principal local authorities.](#)
- 2.5 It should be recognised that although the ERO and RO are exempt from the FOIA 2000, much of the resource necessary to deliver activities is provided by their appointing local authority. There will therefore be occasions where an FOI request made to the local authority that, on the face of it, relates to ERO or RO responsibilities will need to be responded to, e.g. where the enquiry relates to financial support provided to the ERO or RO, where services are procured through corporate procurement arrangements, etc.
- 2.6 For the Runnymede Trust FOI, **question six** requests information on the public information campaign the council is undertaking to inform voters about the new voter ID requirements. **As the question directly relates to actions of the council, to comply with the legislation, we consider you should provide the information requested.** It may also be worth pointing out that detailed information could only be shared from January onwards once the Electoral Commission's national campaign launched, and the Voter Authority Certificate application portal opened.
- 2.7 As questions one to five relate to ERO and RO functions, they can legitimately refuse to respond on the grounds the information

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requested is held by them and not the local authority and is therefore not subject to the FOIA.

- 2.8 While it is considered good practice to be transparent and generally provide the information requested by an FOI, the ERO/RO is under no legal obligation to do so and can refuse any such request where it relates to information held by them.
- 2.9 If your ERO/RO decides to take this approach, you are only required to provide an answer for question six. You can state no response will be provided for questions one to five due to them relating to data held by the ERO/RO, who is not listed in Schedule 1 of the FOIA as being subject to FOI requests.

3 FOI Response Tips

- 3.1 The AEA's position is that wherever possible, EROs and ROs should be transparent and provide information where it does not cause undue pressure on the delivery of services.
- 3.2 If your ERO/RO decides they do not wish to use their exemption for questions one to five of the FOI, we have provided the following tips to help you provide a reply as quickly and as easily as possible.
- 3.3 **Question one states:**
'How many Voter Authority Certificates (VACs) has the council issued, how many applications has it rejected, and what is the demographic profile of those applications, both accepted and rejected?'
- 3.4 An application for a VAC is made to the ERO and not the council (in accordance with Section 13BD (2) of the Representation of the People Act 1983). The Department of Levelling Up, Housing and Communities (DLUHC) have confirmed that 'issued' requires the VAC be printed by the government contracted printer once determined by the ERO. Therefore, the council has not issued or rejected any VACs as it is not within their remit to.
- 3.5 There is no requirement on EROs to record how many VACs they have issued or applications they have rejected. You may have kept your own local total, but given there is no legal requirement to do so you do not need to disclose this information. You may however do so.
- 3.6 Alternatively, you could refer them to the [Gov.UK VAC performance dashboard](#) that provides applications data since the system went live on 16 January 2023. The information isn't broken down into local authority area but does provide an overall breakdown by age group.
- 3.7 There is no requirement on EROs to record the demographic profile of applications. You will not be able to provide this data as it is not available to you.
- 3.8 **For question two** – this information is readily available on the Electoral Commission's website. You can link to both the Electoral Commissions guidance for [EROs](#) and [ROs](#) to highlight the guidance that has been received to date.
- 3.9 **For question three** – at the time of the request, it is highly unlikely polling station staff will have been trained for 4 May polls. It would be legitimate to state training will take place in the coming

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weeks and will cover all aspects of each role, including but not limited to new voter ID and accessibility requirements.

- 3.10 **For question four** it is likely you can easily answer whether a report has gone to full Council or a Council committee on preparedness for Voter ID and provide a link to any report on your authority's committee management system.
- 3.11 **Question five** implies a private room is required in each polling station to satisfy the ability to check photo ID in private. It should be noted the legislation requires ROs to ensure each polling station contains an area in which voters can produce proof of identity in private. Therefore, there is no requirement to provide a private room, simply a private area, which could mean via a privacy screen or other alternative. It may be helpful to state in line with Electoral Commission guidance that polling stations have been assessed to determine how to accommodate this new requirement and provide a private area for voting.
- 3.12 It should also be noted that **question five** also implies a private room will only be used for people who cover their faces in public. It may be helpful to point out any elector can request to have their photo ID checked in private. The elector is not required to give a reason for this request and polling station staff are not to ask why an elector wants to have their ID checked in private.

Appendix A – FOI Request

1. How many Voter Authority Certificates (VACs) has the council issued, how many applications has it rejected, and what is the demographic profile of those applications, both accepted and rejected?
2. Can you confirm that the Chief Executive, acting in their role as the Returning Officer, and/or the Elections Department of your council, has received guidance from the Electoral Commission and/or the Department of Levelling Up Housing and Communities about implementing the new voter ID legislation for the May 4th elections?
3. Can you confirm a) all polling station staff have been trained on implementing the new processes and if so, b) what that training has entailed?
4. Can you confirm whether the Chief Executive, in their role as Returning Officer, has presented a report on preparedness for the Voter ID requirements to the full council or any other appropriate committee of the council? Has this included a risk assessment and mitigation plan? (If yes, please can you supply a copy of that report?)
5. Can you confirm whether an audit has been undertaken of all proposed polling stations to identify a private room for those people who, for whatever reason, cover their faces in public? What was the outcome of this audit if it has happened? (For example, have any polling stations been found to be unsuitable, and if so, how many?)
6. Has the council undertaken a public information campaign to inform voters about the new Voter ID requirements?