

Draft Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012

31 January 2012

Background

Under the Localism Act 2011, the Secretary of State is required to consult the Electoral Commission before making any regulations containing a question to be asked at local referendums on council tax increases.

A proposed referendum question was sent to the Commission for consultation on 30 September 2011, and we published our assessment of the question proposed by the Secretary of State on 9 December 2011. We recommended that the question wording should be revised to aid understanding by voters and reduce the risk of bias.

Our assessment was informed by research with voters and consultation with interested groups and individuals including plain language experts. The full assessment report and research findings are available on our website at <http://www.electoralcommission.org.uk/elections/referendums>.

On 13 December 2011 a further revised question was sent to the Commission for comment. We understand that the revised wording was suggested by the Government in order to address its concern that the wording which we recommended did not fully reflect the fact that any council tax increase would already have been set by the time a referendum is held.

We considered the Government's revised wording, but noted that a) it had not been subject to research with voters and b) did not meet our criteria for clear, simple and neutral questions. We concluded that the revised question which we had recommended in December should be used. Our response to the Government setting out our views is also available on our website.

The Commission has previously assessed proposed questions for referendums in 2011 on the powers of the National Assembly for Wales and the voting system for UK parliamentary elections, as well as the questions for referendums on local governance arrangements in England. Our recommendations have previously been accepted by the Government and fully reflected in legislation.

The Electoral Commission's views on the proposed referendum question specified in Schedule 1 to the Regulations

We recommend that Parliament does not approve the Draft Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012.

The question included in the draft Regulations is substantially different to the proposed question on which we were originally consulted. It includes new wording which has not been subject to research with voters or consultation with interested groups or individuals.

The Government has set out in the explanatory memorandum to the draft Regulations its view that “the alternative question proposed by the Commission did not make sufficiently clear that voters are voting on a council tax increase that has already been set by the authority in question, with bills already issued based upon the ‘excessive increase’.”

While we agree that voters need to understand how and why any referendum has been required, we do not believe that the wording of the question should attempt to explain fully this detailed contextual information.

Because the specific wording of the question included in the draft Regulations has not been tested with voters or plain language experts, it is not possible to assess properly whether it is clear, simple and neutral.

We are concerned that the explanation in the proposed question that the relevant authority “has decided to increase the amount it charges” may cause confusion and increase scepticism about the purpose and outcome of the referendum. Our research indicated that people felt this wording meant they would not have a choice over the level of council tax, and that it would rise by the higher percentage regardless of the outcome of the referendum because the decision had already been made.

We therefore consider that the question included in the draft Regulations risks introducing an unknown level of complexity and potential bias to these referendums, particularly given evidence of current very low levels of awareness and understanding of council tax policy among voters.

The Government should withdraw these draft Regulations and lay new draft Regulations specifying a revised referendum question which more fully reflects the recommendations made in our assessment report published on 9 December 2011.

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