

Graham Blew

T/C 15/1/15

From: administrator <administrator@kentalc.gov.uk>
Sent: 05 December 2014 08:34
Subject: DCLG Consultation on Parish Polls
Attachments: Parish_Poll_Consultation.pdf

Dear Member Councils

DCLG has just published its consultation on Parish Polls. It can be accessed via the following link <https://www.gov.uk/government/consultations/parish-polls> and is also attached as a pdf. **The deadline is 30 January 2015.**

For ease, the list of questions (pages 18 and 19) are as follows:

Q1. What are your views on the proposed trigger? The proposal is to provide in regulations that: *No poll shall be taken unless the poll is demanded by the majority of local government electors present at the meeting and the electors demanding a poll constitute not less than – 1) 10% of local government electors for the community, or 2) 60 electors (if 10% of electors exceeds 60)*

Q2. What are your views on the Government's proposal to modernise voting arrangements?

The proposal is to provide in regulations:

- that a poll must be open from 7 a.m. to 10 p.m.;
- that the same facilities for disabled people as used in other polls/referendums must be provided (e.g. allow documents to be translated into braille and provided in audio format, and the use of ramps at polling stations to make them accessible for disabled voters);
- that the poll may be conducted in accordance with such rules as applicable to the conduct of other polls as the Returning Officer considers appropriate, subject to the inclusion of postal and proxy voting for the poll being with the agreement of the parish council;
- that at the discretion of the principle council's Returning Officer, a parish poll may be combined, if timing permits, with another poll. In this situation a parish poll must be conducted according to the rules of the other poll.

Q3. Do you consider that the proposed criteria sufficiently tighten the subject matter so that a poll can only be held on a parish issue? The proposal is to provide in regulations that:

poll can be called on any question arising at a meeting which concerns affairs which relate to a parish council/meetings functions and meets the following criteria: 1. The subject matter was discussed at the parish meeting. 2. The subject matter directly affects those who live and/ or work in the parish; and 3. the parish council/meeting has the capacity to make a decision on the subject matter including any decision as a statutory consultee, but not including a decision simply to agree a declaratory statement on the matter.

Q4. What are your views on the proposals to:

A: Change the calculation date for the number of electors on the electoral register to 1 December - bringing calculation time in line with other legislation.

B: Provide that only one poll can be called on the same subject in a 12 month period.

C: Provide that principal councils should place the results on their website and also on parish and town council websites, where these are available.

D: Issue guidance and encourage Returning Officers to provide a parish with an estimate of costs once a poll has been called and election arrangements agreed.

E: Provide that after a poll has been called, the parish council should be able to publish a short, factual, balanced and objective statement about the question of the poll.

KALC will be finalising its response to the consultation at its Executive Committee meeting on 24 January 2015. If you do respond to the consultation, please send us a copy as we are particularly interested in your views on the proposed trigger set out in Q1.

Kind Regards

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Department for
Communities and
Local Government

Parish Polls

Consultation on the Government's intentions to modernise
parish poll regulations



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This consultation document and the consultation process have been planned to adhere to the Government Code of Practice on consultation.

An impact assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

Background and purpose

Topic

This is a consultation on the modernisation of parish polls, with the aim of bringing the process up to date and ensuring that parish polls continue to provide a legitimate method for local communities to have a voice on issues that directly relate to parish matters.

Scope of Consultation

This document sets out our proposals and seeks the views of the public, local authorities and the parish sector on questions regarding:

Section one: The trigger – the number or proportion of electors required to demand a poll.

Section two: The voting arrangements for parish polls.

Section three: The questions on which a poll can be held.

Section four: Consequential related matters.

Geographical Scope

This consultation relates to England only.

Basic Information

Who are we consulting?

This consultation paper invites comments from:

- Members of the public who live and/or work in parished areas.
- Parish council members.
- Parish council clerks and other employees.
- Parish meeting chairmen.
- Representatives of parish bodies.
- Principal local authorities and their officials especially those who have a role if a parish poll is called.

How to respond

Your response must be received by 30 January 2015.

Email responses should be sent to: parishgovernance@communities.gsi.gov.uk
or by post to Hannah Brook, 2nd Floor, Fry Building NE, 2 Marsham Street, London, SW1P 4DF.

For further information regarding this consultation or to request a hard copy please contact Hannah Brook by email: hannah.brook@communities.gsi.gov.uk or phone: 0303 444 1858.

We would encourage people to give a direct answer to the questions asked, but please feel free to comment on the other intentions expressed in this document. A government response outlining the findings as a result of this consultation will be published online in February 2015.

Confidentiality and data protection

Any responses to this consultation may be made public. If you do not want all or part of your response or name made public, please state this clearly in the response. Any confidentiality disclaimer that may be generated by your organisation's IT system or included as a general statement in your fax cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.

Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004). If you want other information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. The Department will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

Background information

What is a parish poll?

A parish poll is a democratic tool which allows for a ballot of local government electors in the parish to be called on any question arising at a parish meeting. Accordingly a parish poll should only be held on a question which it is appropriate for a parish to consider. Although non-binding, meaning that the results of the poll do not have to be followed, they provide an indication of support for, or opposition to, specific parish matters which helps to guide parish council decision-making.

What is a parish meeting?

There are two types of parish meetings; statutory parish meetings and extraordinary parish meetings. In parishes which are too small to have a parish council there must be two statutory parish meetings a year. For parishes with a parish council, one parish meeting a year must be held in addition to the meetings of the parish council. In all parishes extraordinary parish meetings can be convened throughout the year, by a parish chairman, by two parish councillors or, importantly for the calling of parish polls, by six or more local government electors.

Parish meetings are public gatherings where local electors can raise any matter affecting parish business; local electors also have the ability to vote on any question put before the meeting. In parishes without a parish council the parish meeting also forms the decision making body; whereas for parishes with a parish council, the elected members of the council are the decision making body— decisions and votes can only be taken by council members. Whilst the public have a right to attend, public participation is governed by the council's standing orders.

What procedures have been used in the past?

The legislation that governs parish polls is found in Section 150 of and Schedule 12 to the *Local Government Act 1972*¹ and *The Parish and Community Meeting (Polls) Rules 1987*². Amongst other things, that legislation states that:

- If a poll consequent on a parish meeting is required to be taken, the chairman of the meeting shall notify the principal council in which the parish is situated of the fact and that council shall appoint an officer of the council to be returning officer and shall run the poll.
- Polling is to take place between the hours of 4 in the afternoon and 9 at night on the day fixed by the returning officer, which shall not be earlier than the fourteenth day or later than the twenty-fifth day after the day on which the poll was demanded.

¹ <http://www.legislation.gov.uk/ukpga/1972/70/contents>

² www.legislation.gov.uk/uksi/1987/1/made

- The expense of a parish meeting, including the cost of any poll consequent on a parish meeting, shall be paid for by the parish council.
- A poll may be demanded before the conclusion of a parish meeting on any question arising at the meeting; but no poll shall be taken unless either the person presiding at the meeting consents or the poll is demanded by not less than ten, or one-third, of the local government electors present at the meeting, whichever is less³.

There is no provision for polling cards, postal or proxy votes, and although often provided, there is no requirement for adjustments for the disabled.

What issues have been identified?

Parish polls are a high cost consultation method; a survey of 150 parishes found that polls cost in the region of £5,000 - £8,000⁴. It is therefore important that they are properly run, are relevant to the parish residents, and form a real way to ascertain views and aid decision making. A number of problems have been identified with the system.

The trigger: the number of electors needed for a poll to be taken was very low. There is evidence that this low threshold has resulted in the poll process being inappropriately exploited. In one case a poll was called by 11 residents, the minority of those present at the meeting, and resulted in a poll turnout of 13%.

The voting arrangements: There are no provisions for proxy or postal votes and voting can only take place between the hours of 4-9pm. These procedures are out of date and may result in reduced participation.

The questions on which a poll can be held: Individuals have abused the current wide definition to call for polls on matters which are unrelated to the local area or the functions of a parish.

In response to representations on the above matters, provisions were added to the *Local Audit and Accountability Act 2014* to modernise parish polls. Section 42 of the Act allows the Secretary of State to make new regulations about polls consequent on parish meetings, including:

- the questions arising at a meeting on which a poll may be demanded;
- the circumstances in which a poll may or must be taken (including provision as to the number of local government electors who must demand a poll for a poll to be taken); and
- the conduct of a poll.

³ This requirement was removed by section 42(2) of the Local Audit and Accountability Act 2014.

⁴ Figures from 2012 Society of Local Council Clerks survey.

The Act also removes the current trigger requirements and allows for the creation of new regulations covering the poll process, which may cover the application of existing electoral legislation to parish polls (such as procedures for postal voting).

Intentions for Regulations

As set out by Ministers to Parliament, the Government intends to issue new regulations to modernise the parish poll process whilst maintaining the essence of this important democratic tool and preserving the mechanism of calling a poll at a parish meeting. The new regulations will replace The Parish and Community Meeting (Polls) Rules 1987.

In modernising parish polls the Government is minded to:

- increase the trigger for the number of electors needed to call a poll, to limit vexatious, unnecessary and otherwise inappropriate use;
- update the voting arrangements to improve access and modernise the polling procedure to bring mechanisms in line with other local government polls; and
- more closely define the question on which a parish poll can be held to ensure questions posed are on appropriate local issues.

Previous Engagement

The enabling provisions in the Local Audit and Accountability Act 2014 were debated in Parliament. We have also discussed the policy with the National Association of Local Councils, the Society of Local Council Clerks and certain other interested parties prior to this consultation.

Section One - The trigger

- 1.1 Under the Local Government Act 1972 a poll may be demanded before the conclusion of a parish meeting on any question arising at the meeting.
- 1.2 The previous trigger requirement in operation stated that no poll shall be taken unless either the person presiding at the meeting consents or the poll is demanded by not less than ten, or one-third, of the local government electors present at the meeting, whichever is less. In a parish meeting with only six people in attendance, a poll could be called by as little as two people. This trigger was particularly minimal when compared to the average parish size of 150-70,000 people. This led to a number of instances where polls have been called by individuals exploiting the trigger threshold to vexatiously or inappropriately pursue particular personal agendas which are not shared by a majority of other local people. As mentioned in one case, 11 people called for a poll resulting in a turnout of 13% of voters. In another parish of over 25,000 electors, 10 people out of the 100 present at a parish meeting, called for a parish poll which resulted in a turnout of 4%. As all costs of the poll are met by the parish and normally paid from precepts, such abuse can have large financial consequences for parish councils and tax payers.
- 1.3 The Government proposes to create a new trigger which increases the numbers of electors needed to call for a parish poll, in order to ensure that polls are not inappropriately pursued by small groups of people but rather held on matters of genuine local concern. We also propose that the trigger preserves the mechanism of calling a poll at a parish meeting,
- 1.4 The Government proposes to make regulations about the circumstances in which a poll may be taken. In these regulations, the Government proposes the following provision:
No poll shall be taken unless the poll is demanded by the majority of local government electors present at the meeting and the electors demanding a poll constitute not less than –
1) 10% of local government electors for the community, or
2) 60 electors (if 10% of electors exceeds 60)
- 1.5 This trigger would mean that a parish poll is triggered when the majority of electors present at the meeting demand a poll, and the electors demanding the poll also constitute 10 percent of the electors for the parish. Using this trigger we estimate that the smallest number of people needed to trigger a poll would be 15.
- 1.6 This option provides a higher trigger threshold than the previous trigger in use and offers a solution which is representative to parish size. We intend to have

a requirement for a maximum limit, as even a very small percentage of the larger parish populations could create administrative difficulties in organising meetings and the counting of hands/verification. A similar form of trigger is currently used to trigger community polls in Wales.

1.7 When formulating the trigger, a number of factors were taken into consideration, including the number of people who could be reasonable expected to physically fit into a room which is available for a parish meeting; the number of votes by show of hands that could be practically counted at a meeting; and the number of people who could be verified against the electoral register as local government electors to satisfy that the trigger has been reached.

1.8 In addition to changing the trigger, the Government proposes to remove the ability for the person presiding at the meeting, alone, to call a poll. The Government considers that this should be replaced by a provision which allows for a poll to be called on an appropriate issue if the majority of the members (councillors) of a parish council agree, in order to make the process more democratic. These measures will help to stop vexatious use and ensure that tax payers' money is used appropriately.

Question:

Q1. The proposal is to provide in regulations that:

No poll shall be taken unless the poll is demanded by the majority of local government electors present at the meeting and the electors demanding a poll constitute not less than –

- 1) 10% of local government electors for the community, or
- 2) 60 electors (if 10% of electors exceeds 60)

What are your views on the proposed trigger?

Section Two - The voting arrangements

- 2.1 The polling rules are found in *The Parish and Community Meeting (Polls) Rules 1987*⁵. The Rules state that voting can only take place between the hours of 4 p.m. - 9 p.m. There is no provision for polling cards, postal or proxy votes, and although often provided, there is no requirement for adjustments for the disabled. Once a poll has been called it must be held within 14-25 days.
- 2.2 It is the Government's view that these polling procedures operate as barriers to participation and are in need of modernisation. The Government believes that polls of genuine local concern warrant modern polling procedures which are transparent and accessible.
- 2.3 Parish polls are carried out on behalf of the parish by their principal council⁶. All costs incurred by the principal council in carrying out a parish poll are met by the parish concerned. Parishes will normally pay for the poll from their precept, so costs are funded directly from tax payers' money.
- 2.4 Additional voting arrangements are likely to increase the cost of a poll, for example, extending voting hours will require polling stations to be rented for longer periods of time, with polling clerks paid to cover the extra hours. However, increasing the trigger and guaranteeing that the subject matter on which a poll can be called is relevant will ensure that polls are only triggered on matters of genuine local concern and therefore are more likely to represent value for money.
- 2.5 When considering the proposal below, please bear in mind the non-binding nature of parish polls which differentiates them from some other local referendums.

Proposal:

In the proposed regulations about the conduct of a poll the Government intends to provide:

- that a poll must be open from 7 a.m. to 10 p.m.;
- that the same facilities for disabled people as used in other polls/referendums must be provided (*e.g. allow documents to be translated into braille and provided in audio format, and the use of ramps at polling stations to make them accessible for disabled voters*);
- that the poll may be conducted in accordance with such rules as applicable to the conduct of other polls as the Returning Officer considers appropriate, subject to the inclusion of postal and proxy voting for the poll being with the agreement of the parish council;

⁵ <http://www.legislation.gov.uk/uksi/1987/1/made>

⁶ A principal council is the district, unitary or borough council to whom local residents in the parish pay their council tax.

- that at the discretion of the principle council's Returning Officer, a parish poll may be combined, if timing permits, with another poll. In this situation a parish poll must be conducted according to the rules of the other poll.
- 2.6 This approach would modernise arrangements and increase accessibility. Other arrangements that may be included in a poll include postal, proxy voting, polling cards and any other statutory conduct measures consequent on a local government referendum.
- 2.7 Postal and proxy voting would potentially increase flexibility and access to polls, allowing those who are unable to vote in person to do so. However, due to the time needed to administer them, if these arrangements were selected as an appropriate procedure for any poll, we intend to allow for the period of time between calling and holding that poll to be extended from 14-25 days to 22-35 days. Given the expense of providing for postal and proxy voting, the proposed regulations would specify that any decision to use postal and proxy voting must be agreed by the parish council.
- 2.8 If polling cards were selected, they would need to be sent to the residents of all local electors and would help in advertising the forthcoming poll. However, providing polling cards would increase costs and they are not required for parish council elections. The proposed regulations would therefore not make polling cards mandatory for parish polls, but instead give discretion to the Returning Officer of the principal authority to judge whether it would be appropriate. Due to the time needed to produce the polling cards and deliver them, if this method were chosen we intend to allow for an increase in the period between calling and holding a poll.
- 2.9 If timings permitted, combining a parish poll with other polls (for example local elections) could reduce costs as the costs of polling stations and staff, for example, would be shared with other councils.

Question:

Q2. The proposal is to provide in regulations:

- that a poll must be open from 7 a.m. to 10 p.m.;
- that the same facilities for disabled people as used in other polls/referendums must be provided (*e.g. allow documents to be translated into braille and provided in audio format, and the use of ramps at polling stations to make them accessible for disabled voters*);
- that the poll may be conducted in accordance with such rules as applicable to the conduct of other polls as the Returning Officer considers appropriate, subject to the inclusion of postal and proxy voting for the poll being with the agreement of the parish council;
- that at the discretion of the principle council's Returning Officer, a parish poll may be combined, if timing permits, with another poll. In this situation a parish poll must be conducted according to the rules of the other poll.

What are your views on the Government's proposal to modernise voting arrangements?

Section Three - The questions on which a poll can be held

- 3.1 Currently a parish poll may be demanded before the conclusion of a parish meeting on any question arising at the meeting. The question for the poll is decided at the meeting. Accordingly, a parish poll should only be held on a question which it is appropriate for a parish to consider. However, individuals have misused the current wide definition to call for polls on matters which were unrelated to the local area or the functions of a parish. For example, polls have been called on national policy issues which a parish council cannot change. This has resulted in inappropriate polls at substantial cost to local tax payers.
- 3.2 Once a poll has been demanded at a parish meeting the chairman of the meeting notifies their principal council. Following a number of parish polls on national political issues, guidance was issued recommending that parish chairmen advise their principal council if they do not feel the topic of the poll is a parish affair, and suggesting that the Returning Officer of the principal council could then refuse to hold a poll on this question.
- 3.3 It is necessary to ensure that polls are called on topics that were discussed at the meeting, affect those who live and work in the parish and relate to parish functions. Placing previous guidance into legislation and adding defining criteria aims to guarantee the electors' voices are protected but prevent tax payers' money from being wasted.
- 3.4 In the proposed regulations about the questions arising at a meeting on which a poll can be demanded, the Government intends to provide that:
A poll can be called on any question arising at a meeting which concerns affairs which relate to a parish council/meeting's functions and meets the following criteria:
1. The subject matter was discussed at the parish meeting;
2. the subject matter directly affects those who live and/or work in the parish; and
3. the parish council/meeting has the capacity to make a decision on the subject matter including any decision as a statutory consultee, but not including a decision simply to agree a declaratory statement on the matter.
- 3.5 To further prevent inappropriate polls being called, the Government intends to allow the Monitoring Officer of a principal council to have discretion to reject a poll which they feel does not meet the legal criteria. The Monitoring Officer's proposed role would not be to monitor citizens' democratic rights, but to solely judge whether the subject matter on the poll is within the range of subject matters for which the legislation provides.
- 3.6 It is suggested that the discretion to make this decision goes to the Monitoring Officer, rather than the Returning Officer as it is the Monitoring Officer's

responsibility to oversee a principal council's compliance with its legislative obligations.

- 3.7 If it was deemed by the Monitoring Officer that a poll did not meet the legislative requirements, it is proposed that they should inform the parish meeting/council, along with the listed poll requesters of their decision and reasoning.

Question:

Q3. The proposal is to provide in regulations that:

A poll can be called on any question arising at a meeting which concerns affairs which relate to a parish council/meetings functions and meets the following criteria:

1. The subject matter was discussed at the parish meeting.
2. The subject matter directly affects those who live and/ or work in the parish; and
3. the parish council/meeting has the capacity to make a decision on the subject matter including any decision as a statutory consultee, but not including a decision simply to agree a declaratory statement on the matter.

Do you consider that the proposed criteria sufficiently tighten the subject matter so that a poll can only be held on a parish issue?

Section Four - Consequential related matters

4.1 Following discussions with representatives from interested parties we have identified other areas which could be updated to strengthen polling procedures and improve people's knowledge of and access to parish polls.

A) Calculating the number of electors on the electoral register

4.2 The date for calculating the number of electors in parishes differs from other local authority areas. We therefore intend to change and standardise the date for calculating the number of electors on the electoral register to 1 December. This will bring the calculation time in line with other legislation.

B) Multiple polls

4.3 A further concern was where multiple polls on the same question have been called in succession, as people were unhappy with the result or the council's actions. In line with other legislation⁷ on referendums we intend to prevent this outcome. We suggest that only one poll can be called on the same subject in a 12 month period. This will prevent inappropriate use while recognising that situations may change over time which warrants holding a poll on a similar topic.

C) Announcement of the result

4.4 Following the conclusion of the parish poll and the count of the votes cast, the Returning Officer from the parish's principal council, who is in charge of the poll, must announce the results. So that the outcome is made available to as many residents as possible, we propose that principal councils should place the results on their website (many do so in any event) and also on parish and town council websites, where these are available.

D) Poll cost estimates

4.5 Another issue is that it is difficult for parishes to know how much a poll will cost, and to plan for this expenditure. Conducting a poll without knowledge of the cost implications for the parish and its taxpayers is not conducive to the efficient management of resources. We therefore intend to issue guidance to Returning Officers encouraging them to provide a parish with an estimate of costs, once a poll has been called and election arrangements agreed.

⁷ Local Government Act 2000: <http://www.legislation.gov.uk/ukpga/2000/22/contents>

E) Informing voters

4.6 Lastly, once a poll has been called a parish council enters a period of heightened sensitivity limiting what information the authority can communicate regarding the poll. Councillors themselves and the local campaigners can publish and disseminate material on the questions. While taxpayers' money should not be spent on campaigning by the council, feedback has indicated that allowing a short, factual, balanced statement to be issued by the parish council could be helpful in creating more informed voters. It would be necessary for the principal council's Monitoring Officer to approve such a statement.

Question:

Q4. What are your views on the proposals to:

A: Change the calculation date for the number of electors on the electoral register to 1 December - bringing calculation time in line with other legislation.

B: Provide that only one poll can be called on the same subject in a 12 month period.

C: Provide that principal councils should place the results on their website and also on parish and town council websites, where these are available.

D: Issue guidance and encourage Returning Officers to provide a parish with an estimate of costs once a poll has been called and election arrangements agreed.

E: Provide that after a poll has been called, the parish council should be able to publish a short, factual, balanced and objective statement about the question of the poll.

List of Questions:

Q1. What are your views on the proposed trigger?

The proposal is to provide in regulations that:

No poll shall be taken unless the poll is demanded by the majority of local government electors present at the meeting and the electors demanding a poll constitute not less than –

- 1) 10% of local government electors for the community, or*
- 2) 60 electors (if 10% of electors exceeds 60)*

Q2. What are your views on the Government's proposal to modernise voting arrangements?

The proposal is to provide in regulations:

- that a poll must be open from 7 a.m. to 10 p.m.;
- that the same facilities for disabled people as used in other polls/referendums must be provided (*e.g. allow documents to be translated into braille and provided in audio format, and the use of ramps at polling stations to make them accessible for disabled voters*);
- that the poll may be conducted in accordance with such rules as applicable to the conduct of other polls as the Returning Officer considers appropriate, subject to the inclusion of postal and proxy voting for the poll being with the agreement of the parish council;
- that at the discretion of the principle council's Returning Officer, a parish poll may be combined, if timing permits, with another poll. In this situation a parish poll must be conducted according to the rules of the other poll.

Q3. Do you consider that the proposed criteria sufficiently tighten the subject matter so that a poll can only be held on a parish issue?

The proposal is to provide in regulations that:

A poll can be called on any question arising at a meeting which concerns affairs which relate to a parish council/meetings functions and meets the following criteria:

1. The subject matter was discussed at the parish meeting.
2. The subject matter directly affects those who live and/ or work in the parish; and
3. the parish council/meeting has the capacity to make a decision on the subject matter including any decision as a statutory consultee, but not including a decision simply to agree a declaratory statement on the matter.

Q4. What are your views on the proposals to:

A: Change the calculation date for the number of electors on the electoral register to 1 December - bringing calculation time in line with other legislation.

B: Provide that only one poll can be called on the same subject in a 12 month period.

C: Provide that principal councils should place the results on their website and also on parish and town council websites, where these are available.

D: Issue guidance and encourage Returning Officers to provide a parish with an estimate of costs once a poll has been called and election arrangements agreed.

E: Provide that after a poll has been called, the parish council should be able to publish a short, factual, balanced and objective statement about the question of the poll.

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