

Part A – Context

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1 Introduction

1.1 The purpose of this guidance is to assist Returning Officers with the practice and procedure of running a local government election in England and Wales.

1.2 This guidance is not meant as a comprehensive guide to the relevant election law, and no expression of views on the part of the Electoral Commission can alter the application of any legislation to any particular case. Returning Officers, Electoral Registration Officers and their own legal advisers must reach conclusions based on the details of any particular case. While the Commission has a statutory power to provide advice, questions of the final interpretation of the law are ultimately a matter for the courts. A court would have regard to any guidance provided by the Commission.

1.3 This guidance principally needs to be read alongside:

- Local Government Act 1972 (as amended)
- Representation of the People Acts 1983, 1985 and 2000 (all as amended)
- Representation of the People (England and Wales) Regulations 2001 (as amended)
- Electoral Administration Act 2006
- Local Elections (Principal Areas) Rules 2006
- Local Elections (Parish and Communities) (England and Wales) Rules 2006

1.4 The guidance covers:

- **legislative requirements** – a guide to what Returning Officers must do, with reference to the relevant legislative provisions, including any new legislation
- **practical advice** – what Returning Officers should do in order to ensure consistency and good practice
- **information** – contextual and background information where no action is required

1.5 This guidance covers electoral law and practice in England and Wales only. It does not cover local government elections in Scotland or Northern Ireland. Also, this guidance does not cover the election of directly elected mayors to local authorities.

1.6 There is always the potential that the poll at a local government election will be combined with the poll at another election. Full guidance is provided in Part G, 'Combination of polls'; however, throughout the guidance, boxes highlighting specific combination issues are included alongside the relevant text.

2 Legislation

2.1 The relevant legislation for local government elections in England and Wales is shown in Table 1 below.

Table 1: Relevant legislation

Full title	Abbreviation	Summary
Local Government Act 1972	LGA 1972	This Act includes details of qualifications and disqualifications for candidates at local government elections.
Representation of the People Act 1983 (as amended)	RPA 1983	This Act contains provisions relevant to the franchise and its exercise, the conduct of elections, the election campaign and legal proceedings.
Representation of the People Act 1985	RPA 1985	This Act contains provisions relevant to the conduct of elections.
Representation of the People Act 2000 (Schedule 4)	RPA 2000	This Schedule specifically covers the requirements for absent voting applications.
Political Parties, Elections and Referendums Act 2000 (as amended)	PPERA	This Act, which established the Electoral Commission, covers the registration of political parties, and campaign and election expenses.
Representation of the People (England and Wales) Regulations 2001 (as amended)	RPR 2001	These regulations make provisions in respect of a number of areas, including electoral registration and absent voting.
Representation of the People (Combination of Polls) (England and Wales) Regulations 2004 (as amended)	RPR 2004	These regulations make provisions for the combination of different types of election or referendum.

Table 1 (cont.): Relevant legislation

Full title	Abbreviation	Summary
Local Elections (Principal Areas) (England and Wales) Rules 2006	LEPAR 2006	These rules cover the conduct of principal area local government elections.
Local Elections (Parish and Communities) (England and Wales) Rules 2006	P&C Rules 2006	These rules cover the conduct of parish and community council elections.
Electoral Administration Act 2006	EAA	This Act makes provisions in relation to the registration of electors, standing for election, the administration and conduct of elections, the retention of information by the Electoral Registration Officer, the regulation of political parties and encouragement of participation in elections.
Local Government and Public Involvement in Health Act 2007	LGPIH Act 2007	This Act allows the UK Parliament, by order, to move the ordinary day of local government elections in England if a European Parliamentary election is due that year. It also provides for Community Governance Reviews and allows casual vacancy rules to be altered due to impending structural or boundary change.
Political Parties and Elections Act 2009	PPEA	This Act amends previous legislation, including changing electoral registration for elections during the canvass.

2.2 The guidance should be read in conjunction with the legislation referred to in the above table and any other legislation to which it refers. For example, the RPA 1983 has within it a reference to the Postal Services Act 2000 in relation to the definition of 'universal service provider'.

2.3 All references to the relevant provisions of electoral legislation made throughout the manual will be contained in footnotes, using the abbreviations shown in the above table.

3 The electoral framework

Timing of elections

3.1 Ordinary local government elections in England and Wales are held on the first Thursday in May every year unless changed by Order of the Secretary of State.¹ Local government councillors are elected for a four-year period and the council seats that are up for election are those that were last contested four years ago.

3.2 Different councils have different electoral arrangements, with some electing all their councillors every four years (for example, London boroughs) and some electing a third of their councillors every year (known as elections by thirds) for three years with one year with no elections (for example, in many district council areas where the county council election year occurs in the fourth year). Some councils elect by halves, with elections for half of their councillors every two years.

3.3 Parish and community councils have elections for all of their councillors every four years, and this is typically combined with a district council election year.

3.4 Community Governance Reviews may alter the four-yearly cycle when the boundary or structure of the parish or community council is altered.²

3.5 By-elections can additionally take place at other times. 'Casual vacancies and by-elections' below explains how casual vacancies can arise and sets out how by-elections are called and how the timetable is created.



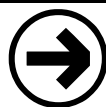
In this guidance, the term 'ward' is used to describe the electoral area for any local government election. It should be read as 'division' in elections for unitary and county councils where that term is used for the division of that local authority into electoral areas. It should also be considered as the term for the electoral area for elections to a parish or community council when the parish or community is not warded.

3.6 In some areas, parish or community council elections will also be held on the same day as the ordinary local government election. However, when a UK or European Parliamentary general election occurs on the date of the ordinary local government election, the poll for any parish or community elections due on that date is postponed for three weeks.

¹ Section 37, RPA 1983; Section 60, LGPIH Act 2007.

² LGPIH Act 2007.

Timetable



The Commission produces a timetable for ordinary local government elections which will be available at www.electoralcommission.org.uk/guidance/resources-for-electoral-administrators/local-elections.

Casual vacancies and by-elections

Casual vacancies

3.7 A casual vacancy occurs when a person who is an elected councillor ceases to be a councillor as a result of their death or resignation or because they become disqualified or are no longer qualified to remain elected.

3.8 A casual vacancy usually, but not always, leads to a by-election to fill the seat on the council with a new member.

Actions that create a casual vacancy

Resignation

3.9 A councillor can resign at any time by giving written notice of their resignation to the proper officer of the authority. In the case of a parish or community councillor, the notice needs to be given to the chair of the parish council unless the person resigning is the chair, in which case notice has to be given to the parish council.³

3.10 There is no particular wording required for the resignation letter as long as the meaning is clear that the councillor is resigning with immediate effect. The resignation takes effect as soon as the notice of resignation is received by the proper officer or chair of the parish council, and this is the date on which the casual vacancy arises. There is no provision for a resignation to be withdrawn once it has been given.

Failure to sign the declaration of office

3.11 Once elected as a councillor, a person must sign a declaration stating that they accept the position of councillor (and will abide by the council's Code of conduct) before they can sit or vote at any council meeting. The wording of this declaration is prescribed.⁴

3.12 The declaration must be made by the person elected as a county, district or borough councillor, and delivered to the proper officer of the authority within two months of the polling day for the election.⁵ In the case of a parish or community councillor, the declaration has to be made before or at the first meeting of the parish or community council to which they have been elected,

³ Section 84, LGA 1972.

⁴ Section 83, LGA 1972.

⁵ Section 83(1) and (2), LGA 1972.

although the parish or community council can, if it wishes, agree to it being made at a later meeting.⁶

3.13 If no declaration of acceptance is made and delivered within the two-month period, or within the time allowed by the parish or community council, then the seat automatically becomes vacant.⁷

Failure to attend meetings

3.14 If a councillor fails to attend any meetings of the authority for a period of six months, without being subject to one of the conditions listed below, they will cease to be a member of the authority.⁸

3.15 The conditions are where:

- the authority has resolved during the period to excuse a particular councillor from missing a meeting⁹
- the councillor is serving in the armed forces at a time of war or emergency and the Secretary of State decides that they should not lose their seat due to their service¹⁰
- the councillor is suspended from office¹¹

3.16 Qualifying meetings are not only full meetings of the council: any meetings of the local authority, its committees or joint boards are also qualifying meetings. Where a councillor acts as a representative of the local authority within another organisation, attendance at any meetings of that organisation is considered as attendance at a qualifying meeting provided that the councillor is a member of the organisation concerned. Attendance at any such meeting is sufficient to end any previous period of absence and start the six-month period afresh.

3.17 Once a councillor has missed meetings for a period of six months, without being covered by one of the conditions listed above, the council must formally declare the seat to be vacant. This must be done immediately, six months after their last attendance. The date of the vacancy is the date on which the council makes the declaration.¹²

Death of a councillor

3.18 A casual vacancy arises on the date of a councillor's death.¹³

⁶ Section 83(4), LGA 1972.

⁷ Section 83, LGA 1972.

⁸ Section 85, LGA 1972.

⁹ Section 85(1), LGA 1972.

¹⁰ Section 85(3), LGA 1972. The council should not declare a councillor who may be protected by this provision to have lost their seat without liaising with the Secretary of State.

¹¹ Section 85(3A), LGA 1972.

¹² Section 86, LGA 1972.

¹³ Section 87, LGA 1972.

Disqualification

3.19 There are a number of disqualifications to being an elected member that may apply to a sitting councillor during their term of office. Typical examples are:

- taking up paid employment with the council to which they are elected
- taking a politically restricted post in any local authority
- becoming the subject of a bankruptcy restrictions order or debt relief restrictions order
- being sentenced to a period of imprisonment of three months or more without the option of a fine instead

3.20 Where someone becomes disqualified from acting as a councillor, the authority must declare the seat to be vacant as soon as possible after it becomes aware of the fact.¹⁴ Where the disqualification relates to conviction, time must be allowed for any appeal to be made and dealt with, and the casual vacancy only arises once the relevant time period has expired.

Judgement under the Local Government Act 2000

3.21 The Local Government Act 2000 provides for councillors to be suspended or removed from office. The Adjudication Panel for England or the Adjudication Panel for Wales may disqualify a person from being elected or a councillor to remain a member of a local authority.

Date of casual vacancy

3.22 Tables 2 and 3 explain how the date of the vacancy is deemed to occur.

Table 2: Calculating the date of the casual vacancy

Reason for vacancy	Date the casual vacancy is deemed to occur
Death of councillor	Actual date of the death of the councillor.
Resignation	Date on which the written resignation is received by the proper officer.
Failure to accept office	Principal area council – two months after polling day. Parish or community council – immediately after the first meeting of the parish/community council, unless that meeting agrees that the acceptance may be made at a later meeting (in that case immediately after that meeting).


¹⁴ Section 86, LGA 1972.

Table 2 (cont.): Calculating the date of the casual vacancy

Reason for vacancy	Date the casual vacancy is deemed to occur
Failure to attend meetings	Date on which the local authority declares that there is a vacancy due to a councillor failing to attend meetings for six months.
Otherwise disqualified or no longer qualified	Date on which the High Court or local authority declares that the councillor is disqualified or is no longer qualified.
	Conviction – when the time period for an appeal has elapsed or, if an appeal is made, when the appeal is dismissed.
Election court decision	Date of the certificate by an election court stating that the election was void.
Decision under the Local Government Act 2000	Date on which any appeal against a ruling under the Local Government Act 2000 is dismissed or when an appeal is not made, after the last time for making an appeal.

Losing a qualification

3.23 There are a number of qualifications that an individual must comply with in order to be eligible to stand for election as a councillor. These are set out in legislation.¹⁵

 The Commission gives guidance on qualifications in our guidance for candidates and agents, available at www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents.

3.24 One of the qualifications is that a person, at the time of both their nomination and election, is on the electoral register for the local authority concerned. The wording of the legislation makes it clear that this qualification has to continue after the person has been elected. If this is the only qualification that a candidate has and they fail to continue to appear on the electoral register, they are no longer qualified to act as a councillor from the time when their name is removed from the register.

¹⁵ Section 79, LGA 1972.

3.25 The monitoring officer of the council may wish to review the consent to nomination for all candidates and take copies of those with the register qualification only and attempt to ascertain whether these councillors were also qualified by one of the other qualifications, such as having lived, occupied or worked in the area for 12 months prior to their nomination.

Notice of vacancy and timing of by-elections

Notice of vacancy

3.26 The local authority is required to publish a public notice whenever there is a casual vacancy.¹⁶ There is no prescribed form for the notice and so the authority has some discretion as to how the notice is actually worded; however, it should state the local authority and ward in which the vacancy has arisen, how a by-election can be requested and the date of the notice, along with any other appropriate information.

3.27 The notice of vacancy must be published immediately when the authority has declared the seat vacant because of a failure to attend meetings or because a councillor has become disqualified or has ceased to be qualified.¹⁷

3.28 In all other cases, the notice has to be published as soon as practicable after the date on which the vacancy is deemed to have arisen.¹⁸

3.29 A notice of vacancy is still published even where the six-month rule means that the vacancy will not be filled before the next ordinary election (see sixth-month rule below).

3.30 There is no need for electors to wait for the notice of vacancy to be published by the relevant authority before submitting a request for a by-election to be held.

Timing of by-elections

3.31 The timing of a by-election to fill a casual vacancy depends on whether the seat has been declared vacant by the local authority or the High Court or if the vacancy has been in any other way. A declaration of a vacancy is not the same as a notice of vacancy; for example, the local authority does not declare a vacancy when a councillor resigns or dies but does publish a notice of vacancy as soon as practicable after being notified of the death or receiving the resignation.

3.32 If a seat has been declared vacant by the local authority, for example because the councillor has failed to accept their office or attend meetings, the by-election must (subject to the six-month rule) be held within 35 working days of the date of the declaration.¹⁹

3.33 In all other cases, for example following the death or resignation of a councillor, a by-election is only triggered by local government electors

¹⁶ Section 87(2), LGA 1972.

¹⁷ Section 87(2)(a), LGA 1972.

¹⁸ Section 87(2)(b), LGA 1972.

¹⁹ Section 89(1)(a), LGA 1972.

requesting a by-election to take place.²⁰ This requires two local government electors within a principal local authority (not just from the ward) giving notice to the proper officer of the authority.

3.34 Once the requests from the electors are received (see 'Requests to hold an election' below), the polling day for the by-election must be set at the Returning Officer's discretion for within 35 working days of the date of receipt of the requests. There is no time limit for receipt of the requests, but, if requests are not received, the seat will remain vacant until the seat would normally be up for election.

3.35 If the two requests arrive before or after the notice of vacancy is published, these trigger the 35 working days within which the Returning Officer must set the day of the poll.



Differences for parish and community council casual vacancies

The notice of vacancy for a parish or community council should state that any notice requesting an election must be made to the proper officer of the relevant principal area council and give an address for any request to be sent to.

The parish or community council is responsible for publishing the notice of vacancy, but the principal area council may provide guidelines on how this should be done to ensure consistency.

Before a by-election can be held, requests must have been received from 10 local government electors and, unlike for principal area casual vacancies where the electors can be from any place in the whole principal area, these must be local government electors for the specific electoral area. Therefore, where the parish or community council is warded, the requests must come from electors in the relevant ward.²¹ Where the parish or community is not warded, the requests can come from anywhere within the parish or community.

²⁰ Section 89(1)(b), LGA 1972.

²¹ Rule 5, P&C Rules 2006.

Table 3: Calculating the date of the by-election

How vacancy was caused	When by-election to be held
Declaration by the High Court or the local authority that the seat is vacant (i.e. failure to accept office or attend meetings or becoming disqualified)	Within 35 working days of the date of the declaration. Therefore the polling day must be within 25 and 35 working days of the declaration, as decided by the Returning Officer.
Any other reason (i.e. death or resignation)	<p>Principal area council – within 35 working days of a request by two electors or two separate requests from individual electors in the local authority area (not just the relevant ward) for an election to be held. Therefore the polling day must be within 25 and 35 working days of the requests being received, as decided by the Returning Officer. There is no time limit within which the requests to trigger the by-election must be received.</p> <p>Parish or community council – a by-election can only be held if requests to hold an election are made:</p> <ul style="list-style-type: none">• within 14 working days of the publication of the notice of vacancy (see below)• by 10 electors together or separately, or a combination of the two in the electoral area (i.e. only from the ward, if the parish or community is warded) <p>Otherwise there cannot be an election and the casual vacancy must be filled by co-option. If a by-election is triggered, it must have a polling day within 60 working days of the publication of the notice of vacancy (see below), as decided by the Returning Officer.</p> <p>Exception: See the six-month rule (see below). Note: Requests for principal area elections can come from any elector within the whole principal area. Requests for a parish or community council by-election must come from electors in the electoral area, so if the parish or community is warded they must come from that ward, otherwise the parish or community must co-opt.</p>

Requests to hold an election

3.36 Requests from electors to hold an election to fill a casual vacancy should be made in the form of a notice in writing. It would be preferable if they clearly gave the elector's name and address to enable the eligibility of the person making the request to be confirmed. Requests can be made by email.

3.37 The requests must be sent to the proper officer of the council. The requests can be inspected by any person after they have been received.



Requests for by-elections for a parish or community council must be made to the proper officer of the relevant district or unitary council in England or the county or county borough council in Wales.

Parish and community council co-option

3.38 Where the required 10 requests for an election to fill a casual vacancy on a parish or community council have not been received within 14 working days after the notice of vacancy has been published, the parish or community council must fill the vacancy by co-option. This co-option should take place as soon as is practicable after the end of the 14-working-day period.²²

3.39 This means that the parish or community council must, at its next meeting, consider the co-option of a person to the council. There are no set procedures for how a person will be co-opted and the process for this is a matter for the remaining members of the parish or community council. If they do not fill the vacant seat at the next meeting, it should remain a matter of business until the seat has been filled through their chosen co-option process.

Six-month rule

3.40 If a casual vacancy occurs in the six months before the date on which that councillor would have retired, an election is not to be held unless more than one-third of the council's seats are vacant.²³

3.41 The relevant dates for the six-month rule are the date on which the vacancy is deemed to occur and the date on which the councillor would have retired, not the date of the scheduled election. Local government councillors retire on the fourth day after the ordinary day of election, and it is this date that marks the end point of the six-month period.

3.42 Vacancies that occur before the six-month period are not affected by the six-month rule in any way. Requests to hold a by-election delivered during the six-month period relating to a vacancy that occurred before the six-month period are still valid. In this case a by-election can be held even though the date of the by-election will be within the six-month period.

²² Rule 5, P&C Rules 2006.

²³ Section 89(3), LGA 1972.

Elections that do not fill all the available seats or that are abandoned or countermanded

Not enough candidates to fill the seats

3.43 When there are fewer validly nominated candidates than seats available, all of the remaining validly nominated candidates after the time for withdrawal of candidature must be declared elected.²⁴ The seats that remain unfilled must be filled by a by-election.²⁵

3.44 The Returning Officer must choose a date for the by-election. Polling day must be within 35 working days of the day that would have been the polling day if the election had been contested.²⁶



Parish and community council elections

Where there are not enough validly nominated candidates at the ordinary election of a parish or community council, those candidates who are validly nominated are elected.²⁷

If the parish or community council is quorate, i.e. at least three and at least one-third of the total seats on the council are filled, the elected councillors may co-opt councillors to fill the remaining seats.

If, however, after a period of 35 working days from the date that would have been the polling day if the election had been contested, the council has not filled all the vacancies by co-option, the relevant principal area council (i.e. a district or unitary council in England or a county or county borough council in Wales) may:

- by order make direct appointments of people as parish or community councillors
- do anything necessary or expedient for the proper holding of the parish or community council meeting and properly constituting the council
- direct that a new election is held to fill the remaining vacancies, and fix the date of that election

The principal area council must not exercise this power within 35 working days of the ordinary date of election²⁸ and may allow a parish or community council a period longer than 35 working days to fill vacancies by co-option if it wishes.

The relevant principal area council may additionally use these powers if:

- the parish or community council is not quorate after the ordinary election and therefore may not proceed with co-option (or indeed carry out any other business).

²⁴ Rule 14(2), LEPAR 2006.

²⁵ Section 39(1), RPA 1983.

²⁶ Section 39, RPA 1983.

²⁷ Rule 14(2), Schedule 2, P&C Rules 2006.

²⁸ Section 21(2), RPA 1985.

- at any point after the ordinary election for the parish or community council the council has so many vacancies that it is unable to co-opt, such as where less than the quorum of councillors remain and an election is not held (for example, because a number of councillors have resigned but there have not been enough requests received for an election to be held to replace them)

If there is a by-election for a parish or community council and there are not enough candidates to fill the vacancies, any validly nominated candidates are declared elected and there must be a new election to fill the remaining vacancies. The polling day for the new election should be within 35 working days of the date on which the poll would have been held if the first election were contested.

Order of the High Court

3.45 The High Court may order the holding of an election on a particular day. In such a case, the Returning Officer has a duty to run the election on that day.²⁹

Election abandoned or countermanded

3.46 Where an election has been abandoned or countermanded, for example when a candidate dies during a contested election, the seats must be filled by a new election. The Returning Officer must choose a date where the polling day will be within 35 working days of the date that would have been the polling day of the original election.³⁰



See Part B, 'Action before the poll', for further guidance on the death of a candidate.

3.47 The Returning Officer should note that the death of a candidate will only lead to the abandonment of the election if the election is contested. If, following the deadline for the withdrawal of nominations, there are an equal or fewer number of candidates remaining validly nominated to fill the seats available, the election is uncontested and the election is unaffected.

Rules for filling casual vacancies changed by order

3.48 The rules for filling casual vacancies can be changed by order of the Secretary of State. This may be in a situation where a local authority is subject to electoral or structural change.³¹

²⁹ Section 39(2), RPA 1983.

³⁰ Section 39(1), RPA 1983.

³¹ Section 36, RPA 1983.

4 Roles and responsibilities

The Electoral Registration Officer

4.1 The Electoral Registration Officer is the official with responsibility for the preparation and maintenance of the register of electors and lists of absent voters within their area.



In England, every district, unitary and London borough council is required to appoint an officer of the council to be the Electoral Registration Officer.³² In the City of London, the Common Council must appoint an officer as the Electoral Registration Officer.³³



In Wales, the appointment of the Electoral Registration Officer is made by the county or county borough council. The person appointed must be a current officer of the council.³⁴

4.2 In practice, the Electoral Registration Officer will often be the same person as the Returning Officer.

4.3 Councils may approve a Deputy for the Electoral Registration Officer and the Deputy can carry out any of the duties and powers of the Electoral Registration Officer.³⁵ In addition, the council is required to provide officers to assist the Electoral Registration Officer in carrying out their functions.³⁶

4.4 If an Electoral Registration Officer is found guilty of any act or omission in breach of their official duty, they shall be liable on summary conviction to a fine not exceeding £5,000.³⁷

The Returning Officer

Appointment of Returning Officers



In England, every district, unitary, metropolitan and London borough council is required to appoint an officer of the council to be the Returning Officer for the election of councillors to their local authority. County councils must also appoint a Returning Officer for the election of councillors within the county.³⁸

³² Section 8(2)(a), RPA 1983.

³³ Section 8(2)(b), RPA 1983.

³⁴ Section 8(2A), RPA 1983.

³⁵ Section 52(2), RPA 1983.

³⁶ Section 52(4), RPA 1983.

³⁷ Section 63(1), RPA 1983.

³⁸ Section 35(1), RPA 1983.



In Wales, every county or county borough is required to appoint an officer of the council to be the Returning Officer for the election of councillors to the principal area local authority.³⁹



In England, each district, unitary, metropolitan and London borough council and, in Wales, each county and county borough council in which there is a parish or community council must appoint an officer of the council to be the Returning Officer for elections to parish or community councils in their area. This may be the same person, or a different person, as the Returning Officer for principal area elections.⁴⁰

4.5 A Returning Officer may appoint Deputies to discharge all or any of their duties.⁴¹ There is no statutory requirement as to the qualification required by a Deputy Returning Officer.

Discharge of duties of the Returning Officer

4.6 The duties of the Returning Officer are separate from their duties as a local government officer. The Returning Officer is directly accountable to the courts system as an independent statutory office holder.

Breach of official duty

4.7 If the Returning Officer is, without reasonable cause, guilty of any act or omission in breach of their official duty, they are liable on summary conviction to a fine not exceeding £5,000.⁴² A Returning Officer is, in respect of any breach of their official duty, liable only to the fine imposed under that offence. No action for damages lies against the Returning Officer or their staff in respect of a breach of official duties.⁴³ A Deputy Returning Officer is liable, in the same way as the Returning Officer, for a breach of official duty.

4.8 The Returning Officer has the power to correct procedural errors they, an Electoral Registration Officer, a Presiding Officer, a person providing goods or services to the Returning Officer and any Deputy or authorised assistant of any of the above have made.⁴⁴ Where a Returning Officer remedies an act or omission by using this power, they will not be guilty of an offence of breach of official duty, except where any conviction for such a breach is made before the act or omission has been remedied in full.⁴⁵

Appointment of the Presiding Officer and Poll Clerks

4.9 The Returning Officer is required to appoint and pay a Presiding Officer and such Poll Clerks as may be necessary to attend at each polling station.⁴⁶

³⁹ Section 35(1A), RPA 1983.

⁴⁰ Section 35(1) and (1A), RPA 1983.

⁴¹ Section 35(4), RPA 1983.

⁴² Section 63(1), RPA 1983.

⁴³ Section 63(2), RPA 1983.

⁴⁴ Section 46, EAA.

⁴⁵ Section 63(5), RPA 1983

⁴⁶ Rule 24(1), LEPAR 2006.

Presiding Officers and Poll Clerks are liable to be convicted for an offence if they are found, without reasonable cause, to have committed a breach of official duty.⁴⁷



See the Commission's *Essentials of effective election management: Planning for a local government election in England and Wales* for guidance on successfully undertaking the duties of a Returning Officer.

⁴⁷ Section 63(1) and (3), RPA 1983.

5 The role of other organisations

The Electoral Commission

Background

5.1 The Electoral Commission is an independent body, established by the UK Parliament in November 2000. The Commission reports directly to the UK Parliament through a committee chaired by the Speaker of the House of Commons, known as the Speaker's Committee.

Statutory functions

5.2 The Commission has a number of statutory functions and powers in relation to elections, and these are set out in PPERA. These include:

- setting and publishing performance standards for electoral services and collecting information on the costs of electoral services from Electoral Registration Officers, Returning Officers and referendum Counting Officers⁴⁸
- attending at certain election proceedings⁴⁹
- preparing and publishing a Code of practice on the attendance at elections of representatives of the Commission, accredited observers and nominated members of accredited organisations, and managing a scheme for the accreditation of electoral observers⁵⁰
- promoting public awareness of electoral matters⁵¹
- publishing reports on the administration of elections and referendums⁵²
- conducting reviews of the law and practice relating to elections and referendums⁵³
- giving advice and assistance to those involved in the electoral process, including political parties and electoral administrators⁵⁴
- being consulted by the UK Government on proposals to amend electoral law⁵⁵
- being consulted on the allocation of party political broadcasts⁵⁶
- maintaining, monitoring and making available for reasons of transparency a register of political parties, and the registration of political party descriptions where parties wish to field candidates standing under the party name or a description other than 'Independent' on the ballot paper⁵⁷

⁴⁸ Sections 9A to 9C, PPERA, as inserted by Section 67, EAA.

⁴⁹ Section 6A, PPERA, as inserted by Section 29, EAA.

⁵⁰ Sections 6C, 6D and 6F, PPERA, as inserted by Section 29, EAA.

⁵¹ Section 13, PPERA.

⁵² Section 5, PPERA.

⁵³ Section 6, PPERA.

⁵⁴ Section 10, PPERA.

⁵⁵ Section 7, PPERA.

⁵⁶ Section 11, PPERA.

⁵⁷ Sections 23, 28, 28A and 28B, PPERA.

- maintaining, reviewing and publishing for reasons of transparency a register of donations made to registered political parties and others regulated by the legislation⁵⁸
- reviewing and publishing the annual statements of accounts of political parties⁵⁹
- reviewing and publishing the returns of campaign expenditure incurred by political parties in respect of their election campaign⁶⁰
- reviewing returns of donations and loans to, and the expenditure by and on behalf of, candidates and their agents⁶¹
- receiving from Returning Officers copies of candidates' returns of election expenses⁶²

Provision of advice

5.3 Section 10 of PPERA allows the Commission to provide advice and assistance to Electoral Registration Officers, Returning Officers and registered political parties. The Commission does this through issuing guidance, templates and online resources. The Commission also provides an enquiry service, briefings and seminars on electoral administration and meets Returning Officers and their staff to discuss specific issues. While the Commission has a statutory power to provide advice, questions of the final interpretation of the law are ultimately a matter for the courts. A court would have regard to any guidance provided by the Commission.

Contacts

Devolved and English offices

5.4 The first point of contact for any queries should be either the Commission's office in Wales or the Commission's English regional office covering the Returning Officer's electoral area, as appropriate.

Wales Office

Kay Jenkins

Tel: 029 2034 6800

Email: kjenkins@electoralcommission.org.uk

London Office

Peter Dawson

Tel: 020 7271 0689

Email: pdawson@electoralcommission.org.uk

North of England Office

North East and Yorkshire & the Humber

Sarah Hopson

⁵⁸ Section 69, PPERA.

⁵⁹ Section 46, PPERA.

⁶⁰ Sections 84 and 145, PPERA.

⁶¹ Section 145, PPERA.

⁶² Section 87A, RPA 1983.

Tel: 01904 567994
Email: shopson@electoralcommission.org.uk

North West
Sandra Hardy
Tel: 01904 567993
Email: shardy@electoralcommission.org.uk

Midlands Office
Gail Emmerson
Tel: 02476 820092
Email: gemmerson@electoralcommission.org.uk

Eastern and South East Office
John Pollard
Tel: 020 7271 0660
Email: jpollard@electoralcommission.org.uk

James Steele
Tel: 020 7271 0600
Email: jsteele@electoralcommission.org.uk

South West Office
Elizabeth Gorst
Tel: 01392 314616
Email: egorst@electoralcommission.org.uk

5.5 For guidance or advice on dealing with matters of electoral malpractice, fraud and related integrity issues, please contact:

Richard Jordan
Senior Adviser (Electoral Integrity)
Tel: 020 7271 0562
Email: rjordan@electoralcommission.org.uk

Registration of political parties

5.6 PPERA requires political parties to register with the Electoral Commission in order to field candidates at an election.⁶³ Parties can also register up to 12 descriptions for their candidates with the Commission.⁶⁴ A candidate may contest a local government election as an independent candidate and need not be a member of a registered political party, although in such circumstances the candidate may use only the description 'Independent' (and/or 'Annibynnol' in Wales), or use no description on the ballot paper.

5.7 For advice on party registration and political parties, contact:

⁶³ Section 22, PPERA.

⁶⁴ Section 28A, PPERA, as inserted by Section 49, EAA.

In England:

Party and Election Finance

Tel: 020 7271 0616

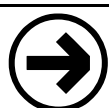
Email: pef@electoralcommission.org.uk

In Wales:

David Beacock

Tel: 0292 034 6806

Email: dbeacock@electoralcommission.org.uk



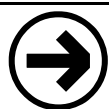
The Commission's guidance on the registration of political parties can be obtained from the Commission's website at www.electoralcommission.org.uk, or by phoning 020 7271 0616.

Ministry of Justice

5.8 The Ministry of Justice (MoJ) is the central government department with responsibility for the legislative framework for UK Parliamentary elections, European Parliamentary elections and national referendums, including their franchise, conduct and funding. The MoJ also has responsibility for policy on the conduct of local government elections and mayoral and local government referendums in England and Wales and for all issues covered by PPERA. These include generic issues associated with national and regional referendums, the registration of political parties, rules on donations to political parties and third-party donations.

5.9 The Elections and Democracy Division is the part of the MoJ responsible for issues concerning the conduct of elections. The division currently has four teams: Boundaries and Conduct of Elections; Registration and Franchise; Political Parties and Referendums; and the Electoral Registration Programme.

5.10 The Boundaries and Conduct of Elections branch has overall responsibility for policy and law on the conduct of UK Parliamentary, European Parliamentary, Greater London Authority and English and Welsh local elections, and can be contacted on 020 3334 3778.



More information on the MoJ can be found at www.justice.gov.uk.

Communities and Local Government

5.11 Communities and Local Government (CLG) is the government department that deals with national policy on local government in England, including what it does, how well it works and how it is funded. It is responsible for setting the cycle of local government elections in England and also has responsibility for the legislation that governs the review and updating of electoral arrangements within local authorities, work which is a statutory duty

of the Boundary Committee for England and the Local Government Boundary Commission for Wales.

5.12 Further information can be found at www.communities.gov.uk.

National Assembly for Wales

5.13 The National Assembly for Wales has no direct role or function with respect to local government elections. It does, however, coordinate the All Wales election planning group.

Local Government Association

5.14 The Local Government Association (LGA) is a voluntary organisation that promotes the interests of all English and Welsh local authorities. Members include county councils, metropolitan district councils, English unitary authorities, London boroughs, shire district councils and Welsh unitary authorities. The LGA also represents fire authorities, police authorities, national park authorities and passenger transport authorities.

5.15 The LGA's purpose is to promote better local government, and it aims to put local councils at the heart of the drive to improve public services and to work with government to ensure that the policy, legislative and financial context in which they operate supports that objective.

5.16 Further information can be found at www.lga.gov.uk.

Welsh Local Government Association

5.17 The Welsh Local Government Association (WLGA) is part of the LGA but retains full autonomy in dealing with Welsh affairs and representing the interests of local government and promoting local democracy in Wales. It represents the 22 local authorities in Wales. The four Welsh police authorities, three fire and rescue authorities and three national park authorities are associate members.

5.18 Further information can be found at www.wlga.gov.uk.

National Association of Local Councils

5.19 The National Association of Local Councils (NALC) represents the interests of town and parish councils in England, a total of around 8,500 councils. NALC is actively involved in advancing and protecting the interests of these councils and their communities.

5.20 NALC provides guidance to its members and has produced, in partnership with the Electoral Commission, an election resource pack for candidates at parish council elections. The booklet, *All about parish and town councils*, details the roles of parish and town councillors, answers frequently

asked questions on candidacy, and provides information on how to stand as a candidate for a local council.

5.21 Further information can be found at www.nalc.gov.uk.

One Voice Wales

5.22 One Voice Wales is a representative organisation for community and town councils throughout Wales. It provides advice and guidance services to its member councils and aims to promote a wider understanding and awareness of the role and contribution of community and town councils.

5.23 Further information can be found at www.onevoicewales.org.uk.

Royal Mail

5.24 Royal Mail performs a number of functions at local government elections, and may be engaged throughout the electoral process. Further information may be obtained at www.royalmail.com/postalvoting.

Appendix – Resources

Contact details for ordering Electoral Commission forms and leaflets



Throughout this guidance we refer to forms and leaflets produced by the Commission and available from our distributor:

Tel: 0845 8500 501

Fax: 020 8867 3225

Email: ecpublications@ecgroup.co.uk

For a complete, up-to-date listing of all the forms and leaflets available to order, please refer to the public awareness materials on the Commission's website at www.electoralcommission.org.uk.