

# Part A – Counting Officer role and responsibilities

Referendum on the UK's membership  
of the European Union: guidance for  
Counting Officers

Published January 2016 (last updated May 2016)

This guidance uses 'must' when referring to a specific legal requirement; 'should' is used for items considered to be recommended practice, but which are not legal requirements.

## Translations and other formats

All of our guidance and resources for this poll are also available in Welsh.

For information on obtaining this publication in another language or in a large-print or Braille version please contact the Electoral Commission:

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# Updates to this document

<b>Updated</b>	<b>Description of change</b>	<b>Paragraph number</b>
May 2016	Updated to reflect the final legislation (including confirmation of the date of the poll) and the confirmed Chief Counting Officer directions, and to include legislative references	

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# 1 Introduction to this guidance

## Background

1.1 The European Union Referendum Act 2015 provides for a referendum to be held on the UK's membership of the European Union (EU) by the end of 2017. The European Union Referendum (Date of Referendum, etc.) Regulations 2016 set the date of the referendum as 23 June 2016. The Commission has published a [timetable](#) containing the statutory deadlines for the referendum.

1.2 The Chair of the Electoral Commission is the Chief Counting Officer (CCO) for the referendum. The CCO has appointed a Regional Counting Officer (RCO) for each electoral region in Great Britain.

1.3 The local government Returning Officer for each local authority in Great Britain is the Counting Officer (CO) for that area. The Chief Electoral Officer is the CO for Northern Ireland.

1.4 The CCO has a power of direction over COs relating to the discharge of their functions and preparations for the referendum. The RCO also has a power of direction over COs in their electoral region but this can only be exercised where the CCO has directed or authorised them to do so.

## Purpose

1.5 The CCO has issued this guidance to assist COs at the EU referendum with the practice and procedure of running the poll.

1.6 The guidance has been developed in close consultation with members of the EU Referendum Management Board (EURMB)<sup>1</sup> and the EU Referendum Delivery Group (EURDG).<sup>2</sup>

1.7 The guidance has been produced based on, and should be read in accordance with, the requirements set out in the following legislation (as amended):

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<sup>1</sup> The EURMB has been established to support the Chief Counting Officer (CCO) in managing the effective delivery of the EU referendum. The Board is chaired by the CCO and its current membership includes the DCCO, the RCOs for each of the electoral regions in Great Britain and the CO for Northern Ireland.

<sup>2</sup> The EURDG, whose members are nominated by and represent the 11 RCOs and the Chief Electoral Officer for Northern Ireland, works alongside the EURMB and focuses on the practical and workability aspects of planning for and delivering the referendum.

- The European Union Referendum Act 2015
- The Political Parties Elections and Referendums Act 2000
- The European Union Referendum (Date of Referendum, etc.) Regulations 2016
- The European Union Referendum (Conduct) Regulations 2016
- The Representation of the People (Northern Ireland) Regulations 2008
- The Representation of the People (Scotland) Regulations 2001
- The Representation of the People (England and Wales) Regulations 2001
- The European Union Referendum (Counting Officers' and Regional Counting Officers' Charges) Regulations 2016

1.8 RCOs and COs are also required to have regard to the public sector equality duty contained in Section 149 of the Equality Act 2010 when carrying out their duties.

1.9 The RCO and COs in Wales are also required to have regard to the Welsh Language Act 1993 and the Welsh Language (Wales) Measure 2011, which require services in Wales to be delivered equally in English and in Welsh.

## How to use this guidance

1.10 The guidance is divided into six areas:

- Part A – Counting Officer roles and responsibilities
- [Part B – Planning and organisation](#)
- [Part C – Administering the referendum](#)
- [Part D – Absent voting in Great Britain](#) and [Part D - Absent voting in Northern Ireland](#)
- [Part E – Verifying and counting the votes](#)
- [Part F – After the declaration of the result](#)

1.11 Each of these parts covers:

- what you and the RCO are required to do by law and what you have been directed to do by the CCO ('musts')
- recommended practice to assist you in understanding and discharging your duties

1.12 Throughout this guidance 'you' is used to refer to the CO. While recognising the differences in the structure for the delivery of the poll that exist in Northern Ireland, for the purposes of this guidance, reference to RCOs should be taken to include the CO for Northern Ireland.

1.13 The guidance is supplemented by resources which can be accessed through links contained throughout the guidance.

1.14 Should you have any questions about the guidance or any other matter relating to the administration of the referendum, the Commission's teams in Northern Ireland, Scotland and Wales and across England are available to provide on-going support. The Commission will also be providing an out-of-hours advice service to deal with urgent electoral administration queries in the run up to and immediately following the referendum. Further information on the out-of-hours service will be provided through the Commission's Bulletin for electoral administrators.

## 2 The EU referendum

2.1 The EU referendum will be a significant event, bringing its own particular challenges. There will be a keen national and international interest in the outcome of the poll, which means that your work to deliver a well-run referendum will come under considerable scrutiny – from voters, campaigners and the media, including through social media.

2.2 This chapter seeks to highlight some of the particular aspects of context relevant to this poll which you should ensure underpin all aspects of your planning.

### Timing

2.3 With the referendum taking place seven weeks after the scheduled May 2016 elections, planning for the two events will inevitably overlap, with the benefit of preparatory work for one supporting preparations for the other. While the UK Government have not made any provision to enable the combination of the poll at the referendum with the poll at any other electoral event, there remains the potential that there could be a by-election held on the same day as the referendum. If this was the case, the polls would need to be held simultaneously, which would mean (for example) that different polling stations would be needed for each poll. The CCO therefore recommends that, wherever possible, other polls should not be held on the same day as the referendum. If you become aware of the potential for another poll to be held in your area on the same day or are facing pressure to hold any other elections on 23 June, please contact your local Commission team in the first instance.

### Scale

2.4 Many aspects of planning for the referendum will need to reflect assumptions as to the likely turnout for the poll. Establishing such assumptions at an early stage in the planning is of key importance as the scope for adjusting plans is limited at a later stage in the process.

2.5 There are always challenges with developing such planning assumptions, with it often being difficult to predict in advance of the referendum period what the levels of engagement in the poll are likely to be. Given the potential for significant levels of interest and engagement in the EU referendum, the assumptions underpinning your planning should take account of the possibility of a high turnout, using Scottish referendum as a basis.

2.6 As the poll becomes closer, the context will continue to evolve as the campaigns pick up pace. You will need to be prepared to react to events both within your voting area and more broadly which could have an impact on the effective delivery of the poll, and this will include having robust contingency plans in place that you can turn to where required. If, for example, there are



televised campaigners' debates, these could conceivably result in a late surge of registration and absent voting applications, as well as having an impact on turnout and are likely to alter the traditional pattern of when completed postal votes are returned.

2.7 High turnout will mean more voters at polling stations, and it is vital that appropriate provision is made, with the numbers of stations and the numbers of staff within them sufficient to deal with the number of electors allocated to them. Although the legislation ensures that any voters in a queue at their polling station at 10pm will be able to vote, the need to ensure that voters do not face undue delays in voting and can receive a high-quality service still remains. The CCO and RCOs are all concerned to ensure that polling stations can be appropriately staffed so that all voters are able to vote easily and without undue delay, particularly given the potential for a high turnout and also recognising that there could be a significant number of voters who have never voted before or have not voted for a long time and so may need more support to be able to cast their vote, and it is this objective which underpins the CCO's direction on polling stations.

2.8 You should be prepared for the integrity of the referendum to be scrutinised. The media focus on the verification and counting of votes as a whole will also be significant and there will be an expectation among campaigners, parties and the media that the result will be declared as soon as possible after the close of poll. While recognising that they are not without their particular challenges, the CCO and RCOs believe it is possible for arrangements to be put in place to enable overnight counts to be delivered efficiently, transparently and accurately – as was the case at the Scottish independence referendum in September 2014 – and the CCO has directed that the verification and counting of votes must begin at 10pm in the UK and 11pm in Gibraltar.

2.9 There may be a significant number of less experienced campaigners who are unfamiliar with the practices and processes of an election or referendum and who will need your assistance to be able to participate effectively.

## Registration of electors

2.10 The focus on the numbers of those registered and not registered is set to continue.

2.11 The EU referendum should provide a strong hook for local public engagement activity and create opportunities for you and the Electoral Registration Officer (ERO) to engage local residents in the democratic process and to boost the levels of registration amongst under-registered groups. Opportunities for working with local partners who can reach out to voters in under-registered groups in your area could be a valuable part of your engagement work locally and should be sought out and seized.

2.12 The potential for a high number of registration applications close to the deadline for the referendum should be anticipated and built into your plans, reflecting lessons learnt from the experience of the previous polls. The impact of such applications and related questions from residents about their registration status is not only relevant to the ERO but will also have implications for the administration of the poll and your plans should ensure you are able to respond effectively.

# 3 Management structure for the referendum

3.1 The EU referendum has a different management framework to other electoral events, reflecting the fact that it is a single contest with one result for the whole of the UK and Gibraltar.



Detailed role descriptions of the Chief Counting Officer, Deputy Chief Counting Officer, Regional Counting Officers and Counting Officers are available from the [Commission's website](#).

## The Chief Counting Officer

3.2 The Chair of the Electoral Commission, Jenny Watson, is the CCO with responsibility for the management of the EU referendum. The CCO can authorise a Deputy Chief Counting Officer to exercise any of her functions, including the power to direct COs. Andrew Scallan CBE, Director of Electoral Administration at the Commission, has been appointed as Deputy CCO for this referendum.

3.3 The CCO has established an EU Referendum Management Board (EURMB) to support her in managing the effective delivery of the EU referendum. The Board is chaired by the CCO and its current membership includes the DCCO, the RCO for each of the electoral regions in Great Britain and the CO for Northern Ireland.

3.4 The CCO is personally responsible for certifying the overall result of the referendum. There will be one UK-wide result aggregated from all of the totals produced locally by individual COs.

3.5 The CCO has the power to give general or specific directions to COs relating to the discharge of their functions in the referendum, including directions requiring COs to take specified preparatory steps or to provide any information that they have or are entitled to have.<sup>i</sup>

3.6 Following a period of consultation, in November 2015 the CCO communicated her approach to managing the referendum and her directions to COs and their staff. These directions, which were developed in close consultation with the RCOs, are embedded throughout the guidance, and a complete list of directions is contained in

3.7 **Appendix A** – list of directions.

3.8 In any case where a CO cannot comply fully with a direction or believes that their particular local circumstances are such that they should not be required to comply with a direction, they will be able to make an application for an exception. If you consider that you may not be able to comply with a direction, you should liaise with your RCO at the earliest opportunity.

3.9 The CCO does not currently intend to issue any further directions beyond those she has already communicated. However, should it be considered necessary to issue any further directions, this would only be done following consultation with EURMB and the EU Referendum Delivery Group (EURDG).

## Regional Counting Officers

3.10 The CCO has appointed an RCO for each electoral region in Great Britain.

3.11 RCOs are responsible for co-ordinating the planning and administration of the poll across their electoral region and for managing the collation of the local totals into a total for the electoral region, which will be fed into the UK-wide result.

3.12 The RCO can only exercise a power of direction over COs in their electoral region where the CCO has directed or authorised them to do so.

## Counting Officers<sup>ii</sup>

3.13 In Great Britain, the appointment as Counting Officer flows automatically from your appointment as local government Returning Officer. For the purposes of the referendum in Great Britain, the local authority area is known as the voting area.

3.14 In Northern Ireland, the Counting Officer for the single Northern Ireland voting area is the Chief Electoral Officer for Northern Ireland.

## Your role and responsibilities

3.15 You play a central role in the democratic process. Your role is to ensure that the referendum is administered effectively in your voting area and that, as a result, the experience of voters and campaigners is a positive one. You should set out at an early stage what you want to achieve and what success would look like for you.

3.16 As CO, you are personally responsible for the conduct of the referendum in your voting area<sup>iii</sup>, including:

- provision and equipment of polling stations

- printing of the ballot papers
- appointment of polling station staff
- conduct of the poll
- management of the postal vote process
- the verification and counting of the votes
- transmission of the local totals to the RCO

3.17 Your duties as CO are separate from your duties as a local government officer. As CO you are not responsible to the local authority but are directly accountable to the courts as an independent statutory office holder<sup>iv</sup>

3.18 It is crucial that you closely co-operate with the RCO in the electoral region. Liaison should start at an early stage to support the delivery of a well-run referendum across the whole of the electoral region and, ultimately, across the whole of the UK and Gibraltar.

## Breach of official duty and power to correct procedural errors

3.19 While you can appoint one or more persons to discharge any or all of your functions as CO you cannot delegate your personal responsibility for delivering your duties at the referendum. Further information on the appointment of deputies can be found in [Part B – Planning and organisation](#).

3.20 You are also subject to breach of official duty provisions. This means that if you or your appointed deputies are, without reasonable cause, guilty of any act or omission in breach of official duty you (and/or your deputies) are liable on summary conviction to a fine.<sup>v</sup>

3.21 You have the power to take such steps as you think appropriate to remedy acts or omissions that arise in connection with any function of the referendum for which you are responsible and that are not in accordance with the rules.<sup>vi</sup>

3.22 This power allows you to correct procedural errors that you, as CO, an ERO, a Presiding Officer or a person providing goods or services to you (or any deputies of any of these) make.

3.23 Where you remedy an act or omission in full by using your power to correct a procedural error, you will not be guilty of an offence of breach of official duty.<sup>vii</sup> You should remember that the power to correct procedural errors does not enable you to recount the votes once the local totals have been certified.

3.24 As CO you are personally liable for the conduct of the referendum in your voting area. You should already have arrangements in place to insure yourself against any risks you face in taking forward your statutory duties at elections. Cover may be included in the local authority's own insurance arrangements for elections, which may be extendable to referendums.

3.25 Indemnity arrangements for the referendum, which supplement Counting Officers' and Regional Counting Officers' existing insurance arrangements, are in place and have been in effect since 19 February 2016. You should nevertheless ensure that you have appropriate insurance cover and that it is up-to-date. You should be prepared to demonstrate robust planning and decision-making processes in the event of any challenge to the referendum and a claim against you. The team at your local authority dealing with insurance may be able to help determine what existing cover is in place and available, and to provide advice as to whether it should be extended.

## Your skills and knowledge

3.26 You should have a working knowledge of the legislation governing the conduct of the referendum. This means that, in addition to having a clear understanding of your particular statutory functions, you should have an overview of what the legislation contains and an understanding of how it affects the administration of the referendum, so that you can review, question where necessary, and quality-assure the whole process in your voting area.

3.27 There are management responsibilities attached to your role. For example, you should:

- command the required staff and resources to deliver a well-run referendum
- draw in the necessary support, skills and expertise from across your own local authority
- oversee the planning, project management and risk management of the referendum and incorporate any lessons learnt from previous polls
- identify and oversee any actions necessary to mitigate any issues arising
- ensure that staff are appropriately trained to deliver the roles required of them
- support the staff administering the referendum and provide appropriate oversight of their work
- provide direction to staff, monitor progress and receive regular feedback on activities
- maintain an effective working relationship with the RCO
- if you are not also the ERO, maintain an effective working relationship with the ERO
- maintain an effective working relationship with your police Single Point of Contact (SPOC)
- ensure that referendum accounts are completed in a timely manner

## Management information



### **Direction**

The CCO has directed that all COs provide the CCO with specified management information.

3.28 The CCO will collect some management information from all COs to build up a clear picture of the arrangements that have been put in place across the UK for the delivery of the referendum. The management information that COs will be required to provide, as agreed by the EURMB, is as follows:

- The total number of polling stations
- The total number of polling station and verification and count staff
- The scheduled dates that poll cards are to be delivered to electors
- The scheduled dates that postal ballot packs are to be delivered to electors at UK addresses
- The scheduled dates and actual dates of despatch of postal ballot packs being sent to overseas addresses
- The venue for the verification and count and estimated timings for concluding the verification and count processes

3.29 This information will not only help to provide the CCO and RCOs with confirmation that arrangements are in place but will also provide key statistics which can be used with the media both reactively and proactively.

## The role of the Electoral Commission

3.30 At a referendum held under PPERA, the Electoral Commission is responsible for:

- Commenting on the intelligibility of the referendum question.
- Registering organisations or individuals who want to campaign in the referendum.
- Considering and approving applications for designation as the lead campaign group for each referendum outcome.
- Making grant payments to the approved designated organisations.
- Monitoring spending on referendum campaigning, in line with the referendum spending limits imposed by PPERA.
- Providing advice and guidance on the rules to campaigners.
- Monitoring and securing compliance with campaign donation, loan and spending controls.
- Reporting on the administration of the referendum and referendum campaign spending.

3.31 Electoral Commission staff will also support the Chair of the Commission in carrying out her role as CCO.

## Appendix A – list of directions

The Commission has published a [timetable](#) taking account of the Counting Officer's directions and the statutory deadlines for the referendum.

1	<b>Notice of referendum</b>	The notice of referendum must be published on a date to be specified by the CCO
2	<b>Ballot papers</b>	<p>Ballot papers must be white; tendered ballot papers must be pink</p> <p>Ballot paper numbers must contain a prefix made up of three alpha characters which will be specified for each voting area</p> <p>Ballot papers must be produced in the form specified by the CCO</p> <p>Taking into account the size of the electorate in the voting area, as a minimum, 110% of the total number of ballot papers that may be required in the voting area must be printed; 100% of the total number of ballot papers that may be required in a particular polling station must be allocated to that polling station</p>
3	<b>Polling stations</b>	<p>When allocating electors and staff to polling stations, <b>as a minimum</b>, the ratios as set out in the Commission's election guidance must be complied with <b>and</b> in any case where a polling station has more than 2000 electors allocated to it, the CO must seek agreement from their RCO to their approach in that polling station, setting out how they intend to manage it so as to ensure that all electors allocated to it can vote easily and without delay</p> <p>Copies of the Commission's information booklet must not be made available in polling stations</p>
4	<b>Poll card despatch</b>	Ensure that poll cards are delivered to electors within a period of five working days starting with the day after the last date for publication of the notice of referendum



5	<b>Postal ballot despatch</b>	<p>Ensure that postal ballot packs being sent to overseas addresses are despatched within a period of five working days starting with the day which is four working days after the last date for publication of the notice of referendum and must not be issued so as to be received before 28 calendar days before the poll</p> <p>Ensure that postal ballot packs are delivered to electors at UK addresses within a period of five working days starting with the day which is eight working days after the last date for publication of the notice of referendum</p>
6	<b>Timing of count</b>	<p>Ensure that the verification and counting of votes is commenced at 10pm in the UK and 11pm in Gibraltar</p>
7	<b>Method of verification and count</b>	<p>Ensure that your verification and counting arrangements are structured in such a way as to break down the verification and count into a number of self-contained 'areas' smaller than the voting area, with the totals for each of these 'areas' aggregated into a single total for the voting area; the counting of votes for any self-contained 'area' must not be commenced until the verification for that 'area' has been completed</p>
8	<b>Monitoring the performance of Counting Officers</b>	<p>Provide the CCO with specified management information</p>
9	<b>Royal Mail Sweeps</b>	<p>Counting Officers must make arrangements with Royal Mail for a sweep for their voting area, based on the national service level agreement</p>
10	<b>International Business Response Licence</b>	<p>Counting Officers must make arrangements with Royal Mail for an international business response licence and ensure that this is used on all return envelopes included in postal ballot packs to be sent to overseas addresses</p>

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- <sup>i</sup> Para 7(5) Schedule 3 European Union Referendum Act 2015
  - <sup>ii</sup> Para 3 Schedule 3 and S11 European Union Referendum Act 2015
  - <sup>iii</sup> Para 7(2) Schedule 3 European Union Referendum Act 2015, rules 19, 46(9) and 49(1)  
European Union Referendum (Conduct) Regulations 2016
  - <sup>iv</sup> Para 8 Schedule 3 European Union Referendum Act 2015
  - <sup>v</sup> S63 RPA 1983 as amended by Rule 16 Schedule 1 European Union Referendum  
(Conduct) Regulations 2016
  - <sup>vi</sup> Para 9 Schedule 3 European Union Referendum Act 2015
  - <sup>vii</sup> S63(4) RPA 1983 as amended by Rule 16 Schedule 1 European Union Referendum  
(Conduct) Regulations 2016