

# UK Parliamentary by- elections

# Guidance for candidates and agents

## Part 6 of 6 – After the declaration of result

November 2018

This document applies to UK Parliamentary by-elections in Great Britain. If you are a candidate or agent in Northern Ireland, please see our [guidance for candidates and agents at a UK Parliamentary by-election in Northern Ireland](#).

Our guidance and resources for other elections in the UK can be accessed from our website at: [www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/resources-for-those-we-regulate/candidates-and-agents).

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We are here to help, so please contact your local Commission team if you have any questions. See our [Overview document](#) for contact details.

# Essential information

This section of the document contains our guidance on what happens after the result at a UK Parliamentary by-election in Great Britain has been announced.

Supplementary information, which may only be relevant to some candidates, is provided at the back of this document. You can also view this supplementary guidance by clicking on the links within this document or by clicking on the chapter heading on the contents page.

Revised data protection legislation applies from 25 May 2018 and will apply to the processing of all personal data.

Please contact the [Information Commissioner's Office](#) for further information about how the General Data Protection Regulation affects you.

In this document, we use 'you' to refer to the candidate. We use 'must' when we refer to a specific requirement. We use 'should' for items we consider to be minimum good practice, but which are not legal or regulatory requirements.

We have included generic deadlines throughout this document to give you an indication of the timings for key processes. You should, however, obtain a copy of the specific timetable for the by-election from the (Acting) Returning Officer.

## Parliamentary oath or affirmation

1.1 The successful candidate will be given information on how they will be able to attend Parliament.

1.2 Before a person can sit and vote in the House of Commons they must take the Parliamentary oath or make an affirmation to the monarch. This is known as the swearing in.

You can find more information on taking the oath or affirmation on the [UK Parliament's website](#).

## Return of deposit

1.3 Those candidates who received more than 5% of the total valid votes cast in the constituency will have their deposit returned by the next working day following the declaration of result.

1.4 Those candidates who have polled equal to or less than 5% of the total number of valid votes cast in the constituency will lose their deposit.

## Election petitions

1.5 The outcome of a UK Parliamentary election can be challenged through an election petition. For further details on challenging an election, see paragraph **1.10**.

## What happens to the election paperwork after the result is announced?

1.6 In England and Wales, all election documents are held by the Electoral Registration Officer. In Scotland, they are retained by the Returning Officer.

1.7 Most documents are available for public inspection. Please note that ballot papers are not open to public inspection. If you wish to inspect election documents, see paragraph **1.18** for further information.

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## Submitting your election spending returns

1.8 Within 35 days of the election result being declared your election agent will need to prepare and submit to the (Acting) Returning Officer an election spending return. In addition, both you and your election agent will need to sign a declaration stating that the return is complete and correct to the best of your knowledge and belief.

1.9 More information on what must be included in the return is contained in [Part 3 - Spending and donations](#). We have also produced forms which you can use to complete your return and your declaration. These forms can be found in the resources under Part 3 [on our website](#).

# Supplementary information

## Lodging an election petition

1.10 Only certain people can lodge an election petition, and only under specific circumstances.

1.11 A UK Parliamentary election petition can be issued by:

- a person claiming to have been a candidate at the election, or
- a person claiming to have had a right to be elected or returned at the election, or
- a person who voted as an elector at the election or who had a right to vote at the election, except for an elector who is registered anonymously

1.12 The allowable grounds for a petition are that there has been an:

- undue election, or
- undue return

1.13 There is a separate judicial process for challenging the election of an MP on the grounds that they were or are disqualified under the House of Commons Disqualification Act 1975 (as amended). In that case, an application may be made to the Privy Council for a declaration to that effect (provided that a petition is not pending or an Order of the House of Commons to disregard the disqualification has not been made).

1.14 The Member whose election or return is complained about must be a respondent to the petition. If the petition complains about the conduct of the (Acting) Returning Officer or their staff during the election, the (Acting) Returning Officer must also be a respondent.

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1.15 Normally a petition must be presented within 21 calendar days after the date of the return of the writ (which in most cases will be the day after the election) and can be lodged at any time up to, but no later than, 12 midnight on the last day. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward, or an illegal practice relating to election spending, further time may be allowed.

1.16 For any questions relating to election petitions, including to confirm the deadlines for lodging an election petition, you should contact:

## **In England and Wales:**

The Election Petitions Office  
Room E113  
Royal Courts of Justice  
Strand  
London WC2A 2LL  
Email: [Election\\_Petitions@hmcts.gsi.gov.uk](mailto:Election_Petitions@hmcts.gsi.gov.uk)

Phone: 020 7947 6877  
Fax: 0870 324 0024

## **In Scotland:**

The Petitions Department  
Court of Session  
Parliament Square  
Edinburgh EH1 1RQ  
Email: [supreme.courts@scotcourts.gov.uk](mailto:supreme.courts@scotcourts.gov.uk)

Tel: 0131 240 6747  
Fax: 0131 240 6711

1.17 There are costs attached to an election petition. If you are considering lodging an election petition, we strongly recommend that you take independent legal advice.

## Inspection and supply of election-related documents

1.18 In England and Wales, documents available for supply and inspection can be provided by the Electoral Registration Officer, except for the election spending returns, which are kept by the (Acting) Returning Officer. Contact details for Electoral Registration Officers and (Acting) Returning Officers can be found on the Commission's About My Vote website [www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk).

1.19 In Scotland, all documents are retained by the Returning Officer. You can contact the Returning Officer through the local council.

### Inspection and supply of the marked registers and the lists of absent voters

1.20 The marked electoral registers and lists of absent voters show who has been issued with a ballot paper, who has returned their postal ballot paper, and who has had a proxy vote cast on their behalf.

1.21 You can inspect or obtain copies of the marked register of electors and absent voters' lists after the election if you make a request in writing. In England and Wales, the request must be made to the Electoral Registration Officer. In Scotland, the request must be made to the Returning Officer.

1.22 Note that you can only use the information obtained from these documents for research or electoral purposes.

1.23 The request for inspection must specify:

- which documents are requested
- the purposes for which the information in any document will be used
- where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose

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- who will inspect the documents
- the date on which they wish to inspect the documents, and
- whether they would prefer to inspect the documents in a printed or data form

1.24 Inspection is under supervision and will be free of charge. You won't be able to take copies, but may make handwritten notes.

1.25 The request for supply must specify:

- which of the marked register or lists (or the relevant part of the register or lists) are requested
- whether a printed copy of the records or lists is requested or a copy in data form
- the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose

1.26 The requested document will be supplied for a fee of £10 plus £2 for printed and £1 for data versions per 1,000 entries.

1.27 Note that after 12 months these documents, held by the Electoral Registration Officer, will be destroyed, unless a court order directs otherwise.

1.28 Under the General Data Protection Regulation (GDPR), personal data processed for any purpose shall not be kept for longer than is necessary for that purpose. If you request and are supplied with any of the information listed above, once the purpose for collecting this data has passed, you need to consider if there is a reason for you to retain that data. If there is not you should ensure secure destruction of any data held.

Nomination papers may only be inspected during the time for delivery of nomination papers, and only by candidates, their election agent, their proposer and seconder. Further details can be found in [Part 2a](#) or [2b](#)

## Inspection of other election documents

1.29 You can inspect other election documents, but you will not be allowed to make any notes or take copies of these documents. The only documents that cannot be inspected are:

- the ballot papers

- the corresponding number lists
- the certificates allowing polling station staff to vote at the polling station they are working at
- nomination papers

1.30 After 12 months all of the election documents that are held by the Electoral Registration Officer will be destroyed, unless a court order directs otherwise.

### Election spending returns

1.31 Spending returns can be inspected by any person after they have been submitted. Copies can also be made for a fee of 20p per side.

1.32 Spending returns are kept for two years. You can request to have them returned to you or your agent at the end of this period. If you or your agent does not want them back, they will be destroyed.