

Part F – After the declaration of results

Police and Crime Commissioner
elections: guidance for Local Returning
Officers

October 2019

In this guidance we use 'must' when we refer to a specific legal requirement. We use 'should' for items we consider to be recommended practice, but which are not legal requirements.

Translations and other formats

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Updates to this document

Updated	Description of change	Paragraph number
March 2016	Re-published to include legal	N/A
June 2016	Updated to amend telephone number for the Election petitions office	3.6
October 2019	Re-published to include updated legal references and to take account of the EU General Data Protection Regulation (GDPR) and the Data Protection Act 2018	N/A

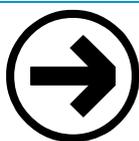
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1 Storage and disposal of documents

In Essex, North Yorkshire, Northamptonshire and Staffordshire the candidate elected to the role of PCC also holds the fire and rescue authority function.

1.1 You should maintain a document retention policy which sets out the period in which you will retain all election documents and your reason for doing so. You should ensure that you do not retain documents for longer than the period specified in your document retention policy and that they are securely destroyed at the appropriate point



Our [resource](#) on the EU General Data Protection Regulation and the Data Protection Act 2018 contains further information on the storage of personal data and on document retention, including what should be included in a document retention policy.

1.2 The legal responsibility for keeping the election documents listed in paragraphs **1.8**, **1.9** and **1.10** rests with the Electoral Registration Officer (ERO)¹, who must keep them for a year.

1.3 If you are not also the ERO, you must securely forward the documents to them and the one year starts from the date the ERO receives them². The relevant ERO is the ERO of the local authority which comprises the voting area, or if the voting area comprises any part of the area of more than one local authority, the registration officer of the local authority in whose area the greater or greatest (as the case may be) number of electors is registered.

1.4 If you are not the relevant ERO, you should liaise with them at an early stage to put in place arrangements for the forwarding of the prescribed documents after the declarations of results. You should ensure that all of the documentation is kept secure and accounted for during the process of being forwarded to the relevant ERO.

1.5 You should maintain a clear audit trail when packaging and forwarding the documents as this will help to ensure that retrieval of documents is facilitated should anyone wish to inspect the public documents. The packaging and labelling system you use should both provide secure storage and support timely retrieval.

1.6 A clear audit trail and transparent process can be achieved by:

- Producing clear labels for each packet. You must seal all of the relevant documentation in separate packets and you must label each packet with a description of its contents, the date of the election and the name of the police area to which it relates³.

- In addition, the labels should state how long the packet is to be kept and when it is to be destroyed (unless otherwise directed by a court order).
- The labels for documents open to public inspection and for documents that are not open to public inspection should be different. As a minimum, the packets containing documents not open to public inspection should clearly state this fact.
- Ensuring that you have factored the parcelling up of documents into your verification and count planning.
- Covering packing instructions as part of your training for polling station staff and when training postal voting supervisors and count supervisors. Providing written instructions should also help to reduce the risk of documents being packaged wrongly. A [template graphical guide to packaging materials at the close of poll](#) is available, which you could adapt and provide to polling station staff.
- Creating a list of all documents to be forwarded. You should keep a record of all of the materials that you have a duty to send to the relevant registration officer, and ensure that all of the items are accounted for and delivered securely in accordance with data protection requirements. Paragraphs **1.8**, **1.9** and **1.10** below provide lists of documents that you have a duty to forward. You should also:
 - record the number of parcels you have despatched
 - record the details of the relevant ERO to whom they have been sent
 - obtain a receipt from the relevant ERO confirming that the parcels have been safely received

The documents that you have a duty to forward

1.7 You must seal up the election documents listed below and, on the completion of the counting of ballot papers, if you are not also the ERO, you must forward these to them as set out above⁴. Where appropriate, the ERO will need to ensure that they have a mechanism in place to record the date of receipt, so that they know when to destroy the documents that have been forwarded.

1.8 From the polling stations⁵:

- the packet containing:
 - list of tendered votes
 - list of voters assisted by companions
 - declarations made by companions of voters

- list of votes marked by the Presiding Officer
 - statements relating to votes marked by the Presiding Officer
 - list of persons to whom ballot papers are delivered after the correction of a clerical error or as a result of a decision on a court appeal
- marked copies of the register of electors, the marked list of proxies and any marked copy notices issued as a result of the correction of a clerical error or a decision on a court appeal
 - the packets containing the completed polling station corresponding number lists
 - certificates of employment on duty on polling day

1.9 From the postal vote issues and openings⁶:

- marked copies of the postal voters' list and proxy postal voters' list
- the packets containing the completed postal vote corresponding number lists
- the packets of postal voting statements accepted as valid
- the packets of rejected postal votes
- the packets of rejected postal ballot paper envelopes
- the lists of cancelled, lost and spoilt postal ballot papers
- the packet of spoilt postal ballot papers and accompanying documents
- the packet of lost postal ballot papers containing any part of the postal ballot pack that was not lost and which was returned to you before you issued a replacement
- the packet of postal ballot papers, statements and envelopes that have been cancelled
- unused postal ballot papers
- the unopened postal ballot packs received after the close of poll or returned as undelivered (these can be forwarded at a subsequent date)

1.10 You must also forward to the relevant ERO, at the same time as you are forwarding the above election documents, the statement as to postal ballot papers and the relevant parts of the list of postal votes that have failed the identifier checks. You should also forward at the same time your record of any instances where you suspect an offence may have been committed, so that the ERO knows in which cases they should not send out a postal vote identifier rejection notice⁷.



For further information on the contents of the various lists relating to postal voting, see [Part D: Absent voting](#).

1.11 From the count⁸:

- all ballot papers separately stored as:
 - counted ballot papers
 - rejected ballot papers

- unused ballot papers (both ordinary and tendered) and spoilt ballot papers (placed together)
 - used tendered ballot papers
- ballot paper accounts, the result of the verification of the ballot paper accounts and the statement of rejected ballot papers

1.12 [Retention and inspection guidance](#) to assist with the correct handling of the materials is available for download from our website.

1.13 You should ensure you have processes in place to retrieve data and securely destroy it at the appropriate time in accordance with electoral law and with your document retention policy.

Election notices published on your website

1.14 You will need to consider whether it is appropriate or necessary for the various election notices published on your website to remain there beyond the expiry of the petition period for the election. Where each notice serves a specific purpose, i.e. advising who will be a candidate at the election, once the election is over, and the opportunity to question that election has passed, they serve no further purpose. Therefore, you should either remove such notices published on your website, or remove the personal data contained in these notices, once the petition deadline for that election has passed.

1.15 Data protection legislation does permit personal data to be stored for longer periods if the data will be processed solely for archiving purposes in the public interest, or for scientific, historical, or statistical purposes and subject to the implementation of appropriate safeguards. For election results, for example, you should retain these on your website as they are for public interest and historical and statistical purposes.

Destruction of home address forms in England

1.16 For PCC elections the home address form must be kept securely stored for a period of 21 working days after the day the result was declared.

1.17 The home address forms must then be securely destroyed on the next working day after the 21 day period. However, if an election petition relating to the election is presented within the 21 working days, the home address forms must be kept securely until the conclusion of the petition proceedings (including any appeal from such proceedings). They must then be securely destroyed on the next working day following the conclusion of the proceedings or appeal.

2 Post-election activity

Providing notice of the result

2.1 At the PCC election, after transmitting the local totals from the first and second counts to the PARO, and once the PARO has authorised you to do so, you must give public notice of the following⁹:

- On conclusion of the first count, the contents of the statement of first preference votes for each candidate and the statement of rejected votes
- On conclusion of the second count, the contents of the statement of second preference votes for each remaining candidate and the statement of rejected votes (if a second count was required)



Further details on drawing up the statements of first and second preference votes can be found in chapter 6 of [Part E – Verifying and counting the votes](#).

2.2 At the PCC election, it is the PARO who produces the notice of result. The PARO must send a copy of the notice to LROs. As soon as practicable after receiving a copy of the notice, you must give public notice of it within your voting area.¹⁰

2.3 You should ensure that the notices are made available to all those interested as soon as possible, including by publishing them on your local authority's website.



To be able to achieve the outcome set out in [performance standard 1](#), you will need to ensure that the results are communicated to voters in a clear and timely way.

To demonstrate that the outcomes can be delivered you will need to have in place arrangements for communicating results to voters.

Deposit

2.4 The PARO is responsible for managing the return and forfeiture of deposits at the PCC election.



Guidance for PAROs on managing the return and forfeiture of deposits can be found in chapter 8 of the [PARO guidance: delivery of key processes](#).

Statement as to postal ballot papers

2.5 You must complete a statement as to postal ballot papers for your voting area¹¹.



In Essex, North Yorkshire, Northamptonshire and Staffordshire the candidate elected to the role of PCC also holds the fire and rescue authority function.

In these police areas the statement as to postal ballot papers must refer to the election of the Police, Fire and Crime Commissioner [insert name of police area] police area.

2.6 This document is vital for the accounting of postal votes and for ensuring that voters have confidence that their vote will be counted in the way they intended. The statement should form part of the arrangements that you have in place to maintain a clear audit trail of the postal voting and count processes. You should complete the statement accurately using the figures recorded at the issue, receipt, opening and verification of postal votes.



Further details on record-keeping throughout the administration of the postal voting process are provided in [Part D – Absent voting](#).

2.7 The Commission has produced a [template statement as to postal ballot papers](#) for the PCC election, which should be used.

2.8 You must also provide a copy of the statement to the Commission and the Secretary of State.

2.9 The statement must not be provided before the tenth working day after polling day but must arrive no later than the twenty-fifth working day after polling day¹². The Cabinet Office administers returns on behalf of the Secretary of State, and the statement should be sent to elections@cabinetoffice.gov.uk using a subject title of '[authority name] – Form K return for the Secretary of State'. Details of how to provide a copy to the Commission will be provided through an EA Bulletin.

Data collection and feedback

2.10 You will also be requested to send information and data to the Commission relating to the election.

2.11 Forms for collecting information and data, and accompanying guidance notes for completion, as well as a feedback form, will be circulated separately and will also be [available on the Commission's website](#).

Accounting for the election

2.12 PCC elections are funded by the UK Government and claims for fees and charges for the election are administered through the Elections Claims Unit, which is part of the Cabinet Office. Detailed guidance and instructions for accounting for the election, including how to apportion costs where polls are combined, will be provided by the Cabinet Office. Contact details for the Elections Claims Unit are as follows:

Email: returning.officers@cabinetoffice.gov.uk

Electoral Claims Unit, Cabinet Office
Ground Floor Roseberry Court
St Andrews Business Park
Central Avenue
Norwich
NR7 0HS

Payment of creditors

2.13 You should keep receipts before and throughout the period of the election for all services/work provided, and pay all creditors as soon as possible after the election.

Payment of fees to staff

Income tax

2.14 Under tax rules a standard starter checklist which is issued at the time of appointment, must be completed. You will need to issue a P60 form to the employee at the end of the tax year.

HMRC real-time information

2.15 All election payments made will be subject to HMRC's real-time information tax payment system. You should ensure that you liaise with your local authority's finance and HR departments to ensure that you can comply with the tax rules for all your employees, including any temporary and short-term contract staff. Further guidance is available from [HMRC](#).

Automatic enrolment into a workplace pension

2.16 All employers with staff working in the UK must comply with automatic enrolment requirements. Further guidance is available from the [Pensions Regulator](#).

Return of equipment

2.17 You should make arrangements to return any equipment, such as the polling booths, to storage.

Candidates' election spending

2.18 The PARO is responsible for dealing with the candidates' election spending returns¹³.



Guidance for PAROs on their post-election responsibilities can be found in chapter 8 of the [PARO guidance: delivery of key processes](#).

3 Challenges to the election result

3.1 Election petitions can be used to challenge the result of elections.

Who can bring an election petition and on what grounds?

3.2 An election petition for a PCC election can be presented by¹⁴:

- a person claiming to have been a candidate at the election, or
- four or more persons who voted at the election or who had a right to vote at the election, except for electors registered anonymously

3.3 The allowable grounds for a petition are that¹⁵:

- the person whose election is questioned was not duly elected
- the person whose election is questioned was disqualified at the time of the election
- the election was avoided by corrupt or illegal practices or on the grounds specified in Sections 164 and 165 of the Representation of the People Act 1983 (as amended)

Who is made a respondent?

3.4 The person whose election is questioned will most probably be made a respondent to the petition. If the petition relates to the conduct of the election, the relevant Returning Officer(s) (whether LRO or PARO) may also be a respondent to the petition¹⁶.

Deadlines for bringing petitions

3.5 A petition must normally be presented within 21 calendar days after the day on which the election was held. Further time may be allowed in certain circumstances¹⁷.

3.6 Any person who is considering presenting an election petition should be advised to take their own legal advice. For any questions relating to election petitions and the process for submitting petitions, including to confirm the deadlines, you should contact the Election Petitions Office at:

The Election Petitions Office
Room E113
Royal Courts of Justice
Strand
London WC2A 2LL

Email: Election_Petitions@justice.gov.uk
Phone: 020 7947 6877

Judicial determination of disqualification

3.7 Any person may apply to the High Court for a declaration that a Police and Crime Commissioner (or in the relevant areas a Police Fire and Crime Commissioner) is, or at any time since being elected has been, disqualified from being a Police and Crime Commissioner (or in the relevant areas a Police Fire and Crime Commissioner).

3.8 Any person who is considering applying for a judicial declaration of disqualification should be advised to take their own legal advice.

4 Review of election procedures

4.1 You should carry out a thorough evaluation of all processes outlined in your project plan, seeking feedback from appropriate stakeholders, and produce a lessons learnt document which will be used to inform the project plan and risk register for future polls.

4.2 The Commission has provided, as part of the [template project plan](#), some sample objectives and suggested tools that will allow you to measure the extent to which the conduct of the election has been successful. The Commission has also provided an evaluation plan as part of the template project plan to assist you with the review process.



To be able to achieve the outcome set out in [performance standard 1](#), you will need to evaluate planning for and delivery of previous polls and identify lessons learnt, updating plans as required.

To demonstrate that the outcomes can be delivered you will need to have in place planning documentation reflecting lessons learnt.

The review

4.3 The scope of the review should cover all aspects of the election. Your project plan should be used as the starting point for the review, and each process that was planned for and carried out should be reviewed.

4.4 A key part of the review will be the consideration of the aims and objectives set out in your project plan and measuring your performance against these.

4.5 You should pay particular attention to reviewing:

- your project planning
- whether you were able to secure adequate resources
- if you are not also the ERO, what worked well and what could be improved when working with them
- if you are not also the PARO, what worked well and what could be improved when working with them
- how contractors have been managed and whether they delivered work to the required specification
- the equipment and stationery used
- recruitment and training of staff
- the suitability of venues used
- the management of polling stations, the absent voting process, and the verification and count

- the processing and handling of queries
- any issues affecting the security/integrity of the election

4.6 As part of the review you should seek feedback from appropriate stakeholders.

4.7 You should seek feedback from the following:

- your staff
- if you are not also the ERO, the ERO
- if you are not also the PARO, the PARO and their staff
- electors
- candidates, agents and political parties
- local organisations of disabled people, older people and minority ethnic groups, and the council's access officers

4.8 To obtain feedback from your staff, for example, you should consider inviting a number of them, including polling station staff, to a discussion in order to address all aspects of the polling station process, from training and briefing sessions through to dealing with difficult situations on polling day. You could also take into account any feedback provided in reports returned by Presiding Officers and polling station inspectors.

4.9 Once you have reviewed all aspects of the election and sought feedback from appropriate stakeholders you should produce a lessons learnt document. The lessons learnt document should include an analysis of what practices were successful and where these could be used elsewhere, what you would do again or do differently, and key recommendations. The lessons learnt report should then be used to inform the project plan and risk register for future.

5 Freedom of Information requests

5.1 Following the election you may receive requests under the Freedom of Information Act 2000. LROs, PAROs and EROs are not a public authority under this Act and, as such, are exempt from the disclosure requirements imposed by it.

5.2 However, where possible, LROs, PAROs and EROs should disclose the requested information, provided this information is already in the public domain, or the information requested does not include personal data. An example of non-personal data would be statistical data providing the total number of electors registered in your area or the turnout of postal voters.

¹ Police and Crime Commissioner Elections Order 2012/1917 (PCC Rules 2012) sch 3 rule 68

² PCC Rules 2012 art 2

³ PCC Rules 2012 sch 3 rules 65 and 66

⁴ PCC Rules 2012 sch 3 rules 65 and 66

⁵ PCC Rules 2012 sch 3 rule 47

⁶ PCC Rules 2012 sch 2 rule 59

⁷ PCC Rules 2012 sch 2 rules 55 and 59

⁸ PCC Rules 2012 sch 3 rule 65

⁹ PCC Rules 2012 sch 3 rule 62

¹⁰ PCC Rules 2012 sch 3 rule 62

¹¹ PCC Rules 2012 sch 2 rules 55 and 59

¹² PCC Rules 2012 sch 2 rule 59(5) and (6)

¹³ PCC Rules 2012 art 40

¹⁴ Representation of the People Act 1983 (RPA 83) s128 and PCC Rules 2012 sch 9

¹⁵ RPA 83 s127 and PCC Rules 2012 sch 9

¹⁶ RPA 83 s128 and PCC Rules 2012 sch 9

¹⁷ RPA 83 s129 and PCC Rules 2012 sch 9