

Part F – After the declaration of result

European Parliamentary election on 23
May 2019: guidance for Local Returning
Officers in Great Britain

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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Contents

1	Storage and disposal of documents	1
	The documents that you have a duty to forward or retain.....	2
	Election notices published on your website	4
2	Post-election activity	5
	Providing notice of the results.....	5
	Statement as to postal ballot papers	5
	Data collection and feedback.....	5
	Accounting for the election	6
	Payment of creditors.....	6
	Payment of fees to staff.....	6
	Return of equipment	6
3	Challenges to the result of the election	7
	Election petitions	7
4	Review of election procedures	9
	The review	9
5	Freedom of Information requests	11

1 Storage and disposal of documents

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 Election documentation must be kept securely for one year from the date of the poll.

1.3 In **England and Wales**, the election documents must be forwarded to the Electoral Registration Officer (ERO) for the counting area.

1.4 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 them. You should liaise with them at an early stage to put in place arrangements for the forwarding of the prescribed documents after the declaration of results. You should ensure that all of the documentation is kept secure and accounted for during the process of being forwarded to the ERO.

1.5 In **Gibraltar**, the Local Returning Officer (LRO) is required to retain the election documents in their capacity as ERO for the purposes of the European Parliamentary election.

1.6 In **Scotland**, you as LRO retain the documents on behalf of the Regional Returning Officer (RRO).

1.7 In any case, you should make sure that the packaging process is as transparent as possible. You should maintain a clear audit trail when packaging and, where appropriate, 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.

1.8 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 mark each packet with a description of its contents. You should also mark it with the date of the

election and the election to which it relates. 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 packets containing 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 and count supervisors. Providing written instructions should also help to reduce the risk of documents being packaged wrongly. The Commission has developed a [template graphical guide to packaging materials at the close of poll](#), which you could adapt and provide to polling station staff.

- Creating a list of all documents to be forwarded (in England and Wales) or retained (in Scotland and Gibraltar). You should keep a record of all of the materials that you have a duty to send to the ERO (in England and Wales) or to retain (in Scotland and Gibraltar), and ensure that all of the items are accounted for and delivered securely in accordance with data protection requirements. **Paragraph 1.7** below provides a list of documents that you have a duty to forward (in England and Wales) or retain (in Scotland and Gibraltar). If you are in England and Wales you should also:
 - record the number of parcels you have despatched
 - record the details of the ERO to whom they have been sent
 - obtain a receipt from the ERO indicating that the parcels have been safely received

1.9 All packets and receptacles containing election documents should be stored securely before being transferred to the ERO so that no unauthorised persons can tamper with them.

The documents that you have a duty to forward or retain

1.10 On completion of the counting of the ballot papers, you have a legal duty to seal up the election documents listed below and to forward or retain these as applicable, as set out in paragraphs 1.3-1.6 above. The ERO will need to ensure that they have a mechanism in place to record the date of receipt, so they know when to destroy the documents that have been forwarded.

1.11 From the polling stations:

- list of tendered votes
- list of voters with disabilities assisted by companions
- declarations made by companions of voters with disabilities
- list of votes marked by the Presiding Officer
- statements relating to votes marked by the Presiding Officer
- marked copies of the register of electors, including the marked list of persons to whom ballot papers are delivered after the correction of a clerical error or as a result of a decision on an appeal to the county court in England and Wales; the court of session in Scotland; and the Gibraltar court in Gibraltar
- the marked list of proxies
- the packets containing the completed polling station corresponding number lists
- certificates of employment on duty on polling day

1.12 From the postal vote issues and openings:

- 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 cancelled as a result of being returned as spoilt or lost
- unopened postal ballot packs received after the close of poll or returned as undelivered (these can be forwarded at a subsequent date)

1.13 You must also forward to the ERO at the same time as you are forwarding all other election documents the statement as to postal ballot papers and the list of postal votes that have failed the identifier checks. You should also forward at the same time your record of rejected postal votes where you suspect that an offence may have been committed, so that the ERO knows not to send a postal vote identifier rejection notice in those instances. In Scotland, this should be done as soon as possible after the election.



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

1.14 From the count:

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

1.15 The Commission has produced [retention and inspection guidance](#) to assist with the correct handling of the materials.

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

Election notices published on your website

1.17 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.

1.18 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.

2 Post-election activity

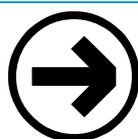
Providing notice of the results

2.1 The RRO will publish the declaration of the result of the election and send a copy to you. You must publish this notice in your counting area. You should also publish a copy on your website and by any other means you consider appropriate.

Statement as to postal ballot papers

2.2 You must complete a statement as to postal ballot papers for the election.

2.3 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 it 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](#).

2.4 You must either retain a copy of the completed statement or forward it, as applicable, at the same time and to the same person as you forward the other election documents listed in paragraph 1.10 above.

2.5 You must also provide a copy of the statement to the Commission and the Secretary of State. The statement must not be provided before the tenth calendar day after polling day but must arrive no later than the twenty-fifth calendar day after polling day. If either of these days is not a working day, the time is extended to the next working day. The Cabinet Office administer returns on behalf of the Secretary of State, and statements should be sent to elections@cabinetoffice.gov.uk using a subject title of '[authority name] – Form K return for the Secretary of State'. Details for how to provide this information to the Commission will be provided in a Commission EA Bulletin.

Data collection and feedback

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

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

Accounting for the election

2.8 European Parliamentary elections are funded by the UK Government and claims for fees and charges for the election in England and Wales are administered through the Electoral Claims Unit, which is part of the Cabinet Office. In Scotland, claims are administered by the Scotland Office of the UK Government. The Cabinet Office will provide LROs in England and Wales with detailed guidance and instructions for accounting for the election.

Payment of creditors

2.9 You should keep receipts 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

2.10 Under tax rules a standard starter checklist, which is issued at the time of appointment, must be completed. It needs to be completed only once rather than reviewed every year. You will need to issue a P60 form to the employee at the end of the tax year.

HMRC real-time information

2.11 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 new 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

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

Return of equipment

2.13 You should make arrangements to return any equipment, such as the empty ballot boxes, to storage.

3 Challenges to the result of the election

Election petitions

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

3.2 An election petition can be presented 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
- a person who voted as an elector at the election or who had a right to vote at the election, except for an elector registered anonymously

3.3 The allowable grounds for a petition are that:

- a successful candidate was not duly elected
- the results were not duly declared
- the election was invalidated by the following corrupt or illegal practices:
 - personation: when any individual votes as someone else (whether that person is living or dead or is a fictitious person)
 - other voting offences specified in regulation 24 of the European Parliamentary Elections Regulations 2004 including offences such as voting or acting as a proxy while disqualified or acting as a proxy for more than two people who are not close relatives; voting twice at the same election; knowingly appointing two proxies for the same election

3.4 A petition cannot be made on the grounds that a candidate was disqualified from standing. There is a separate judicial process for challenging the election of an MEP on the grounds that they were or are disqualified (see paragraph 3.10).

3.5 The person whose election is questioned by the petition will most probably be made a respondent to the petition. As LRO, you will be a respondent to the petition as well if the petition relates to your conduct of the election, and if it relates to the conduct of the election by the RRO, they will also be a respondent.

3.6 A petition must be presented within 21 days after the day on which the result of the election was declared and can be issued at any time up to, but not later than, midnight on the last day.

3.7 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, the process for submitting petitions, including to confirm the deadlines, you should contact the Election Petitions Office.

3.8 In England and Wales, you should contact

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

Email: Election_Petitions@gsi.gov.uk

Phone: 020 7947 6877

Fax: 0870 324 0024

3.9 In Scotland, you should contact:

The Petitions Department
Court of Session
Parliament Square
Edinburgh EH1 1RQ

Email: supreme.courts@scotcourts.gov.uk

Phone: 0131 240 6747

Fax: 0131 240 6711

Judicial determination of disqualification

3.10 Any person may apply to the appropriate court for a declaration that an MEP is or was disqualified from being a Member of the European Parliament under Section 10 of the European Parliamentary Elections Act 2002.

3.11 In England and Wales, the appropriate court is the High Court. In Scotland, it is the Court of Session.

3.12 Any person who is considering applying for a judicial declaration of disqualification should be advised to take their own legal advice. If you receive any such enquiries, you should notify your RRO.

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 electoral events.

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 outcome can be delivered you will need to have in place planning documentation reflecting lessons learnt.

4.3 The RRO will also carry out a review of the processes and conduct of the election. You should be prepared to contribute as appropriate as part of this review.

The review

4.4 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.

4.5 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.

4.6 You should pay particular attention to reviewing:

- working with the RRO
- 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
- the equipment and stationery used
- how contractors have been managed and whether they delivered work to the required specification
- 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

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

4.8 You should seek feedback from the following:

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

4.9 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.

4.10 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 electoral events.

5 Freedom of Information requests

5.1 Following the elections you may receive requests under the Freedom of Information Act 2000. ROs 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, ROs 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.