

Candidate returns: local government principal area and parish and community council elections in England and Wales

Overview

1.1 This resource is designed to assist the Proper Officer of the council in encouraging and monitoring the submission of election spending returns and declarations at local government principal area and parish and community council elections.¹ It should be read alongside detailed guidance on candidates' spending returns, which can be found in chapter 2 of [Part F](#) of the Commission's guidance manual for Returning Officers.

1.2 In this document we use 'you' to refer to the Proper Officer.

Candidates' returns

1.3 Agents for candidates standing at local government principal area elections must submit a candidate's spending return to you, together with relevant invoices and receipts. The deadline for the submission of these documents is within 35 days of the result being declared (unless the last day of the period falls on a weekend or bank holiday, in which case the last day moves to the next working day).¹

1.4 Candidates and their agents are also required to submit separate declarations confirming the candidate's election spending return is complete and correct. The election agent's declaration must be submitted at the same time as the return. The candidate's declaration must be submitted within 7 working days of the election agent submitting the return. However, if the candidate is out of the UK when the return is submitted to you, they must make the declaration within 14 calendar days of coming back to the UK.²

1.5 At parish and community council elections, candidates must submit their election spending returns, accompanied by a declaration completed by the candidate, to you.³ The deadline for submission of these documents is within 28 calendar days of the election taking place (unless the last day of the period falls on a weekend or bank holiday, in which case the last day moves to the next working day). This is regardless of whether or not the election was contested.⁴

¹ This guidance does not cover any election other than those listed.

Inspection of returns and declarations

1.6 You must retain a copy of each election spending return, declaration and any accompanying documents for:

- two years from receipt for local government principal area elections⁵
- one year from receipt for parish and community council elections⁶

1.7 During that period you must also make copies available for public inspection without charge and allow copying the of documents for a prescribed fee. You must redact any personal information on the spending return, declaration and any accompanying documents. You will need to ensure that you have an appropriate mechanism for carrying out such redactions, which may include using special redaction software. The council's Data Protection Officer should be able to give you advice on redaction of personal information. Your policies on redaction should also be detailed in your document retention plan.

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

1.9 Detailed guidance on the retention and inspection of candidate's returns and declarations is provided in chapter 2 of [Part F – After the declaration of result](#).

What should Proper Officers do to monitor and encourage the submission of spending returns and declarations?

1.10 You should:

- direct candidates and agents as early as possible to our [guidance](#)
- liaise with Returning Officers in order to facilitate the reminder of candidates and agents before, during and after the campaign that they need to maintain accurate records for the purpose of filling out and submitting their spending return and declarations
- ensure there is a clear procedure, which has been communicated to candidates and agents, for the delivery and logging of returns
- in order to ensure a clear audit trail, keep a record of when spending return documents are received

What happens if a spending return or declaration isn't submitted?

1.11 While you are not required to remind candidates and agents who have not submitted their spending returns, it is good practice to do so. Providing reminders will form an audit trail for any investigation or further action. It is

recommended that reminders are sent before any further action is taken and in order to ensure a clear audit trail, you should keep a record of any reminders you have sent.

1.12 The consequences of non-submission of declarations or returns are set out below.

Bar on elected candidates sitting or voting

1.13 If a candidate has been elected but has not submitted a spending return and / or declaration by the deadline they are barred from sitting or voting, and can be subject to a forfeit or fine of £50 per day if they do so.⁷

1.14 A candidate may be dealt with by way of civil proceedings and forfeit, or criminal proceedings instituted through a magistrates' court (usually by the Crown Prosecution Service), in which case a candidate convicted shall be liable to a fine. The bar on sitting and voting is lifted once the return is submitted or the candidate and/or his election agent has been granted relief by the courts .

1.15 Warning a successful candidate of the consequences of non-compliance could be the most effective way for you to ensure that returns and declarations are submitted on time.

Criminal offences

1.16 Whether or not a candidate has been elected, failure to submit a spending return or declaration without an authorised excuse is an offence.

1.17 The only sanction available for these offences is criminal prosecution. The Electoral Commission has a legal remit to secure compliance with the rules on candidates' spending and donations, but no sanctioning powers in respect of breaches.

1.18 Suspected breaches of the rules can be referred to the police for criminal investigation by anyone, including you or the Electoral Commission.

1.19 Where you or someone else refers an allegation of a breach to us , we consider it on its merits. We will only refer the case to the police if it appears to be proportionate and in the public interest to do so. Factors that may point towards referring a case to the police include:

- if the candidate was highly placed (e.g. first or second)
- if the candidate gained a significant proportion of the vote
- any other relevant public interest consideration

1.20 When you are deciding whether to refer a suspected breach of the rules to the police, we recommend that you consider the same factors before reaching a decision, since the police will only begin an investigation if they decide that it is in the public interest to do so.

¹ Section 81(1) Representation of the People Act (RPA) 1983

² Section 82 RPA 1983

³ Section 81 RPA 1983

⁴ Paragraph 3 Schedule 4 RPA 1983

⁵ Section 89, RPA 1983

⁶ Schedule 4, Paragraph 8, RPA 1983

⁷ The penalty is £50 per sitting / voting day – for local government principal area elections see Section 85 (2), RPA 1983 and for parish and community council candidates see Schedule 4, Paragraph 4, RPA 1983