

The process to challenge a sitting MP: review of the 2019 recall petitions | Electoral Commission Search The process to challenge a sitting MP: review of the 2019 recall petitions You are in the Recall petitions section Home Recall petitions Recall petitions by numbers: Brecon and Radnorshire Recall petitions by numbers: Peterborough On this page Summary Our recommendations Signing the recall petitions Transparency and secrecy Running the recall petition Background First published: 10 October 2019 Last updated: 10 October 2019 Summary

There have been two petitions during 2019 to recall the MPs for the constituencies of Peterborough and Brecon and Radnorshire . Both Petition Officers (POs) delivered all their duties as required under the Recall Act 2015 and provided a high standard of service. There were no significant problems which affected people eligible to sign or wishing to campaign. Only one recall petition had been held before, in 2018 in the North Antrim constituency . The experiences of these three recall petitions have provided us with valuable evidence about how the existing petition rules work in practice, in different: parts of the UK types of constituencies political contexts. There are some areas where applying electoral rules to a process which is not an election has led to administrative challenges and issues with transparency and secrecy, and we have made recommendations for changes to the rules and processes for running future recall petitions. Our recommendations

Recommendations for the UK Government The UK Government should now review the policy and legislation for recall petitions to identify changes that would improve the experience for electors and the administration of future petitions. The Government should:

- Identify the appropriate length for a reduced petition period of less than six weeks. This should start by considering whether a four-week period would be sufficient.
- Review the scope of who can observe the process in signing places to extend transparency and scrutiny, while ensuring that secrecy is maintained for people signing the petition.
- Review the recall petition regulations for Northern Ireland to ensure there is appropriate access to inspect the marked register if there are concerns about fraud at future recall petitions.
- Consider whether eligible electors should be given the chance to complete an equivalent to the signing sheet to indicate that they oppose the petition.
- Set out more clearly what time signing places should close on the final day of the petition period and the deadline for receipt of postal signing papers, and when and how the Speaker should be notified of the petition result.

Keep the rules for donations and spending by campaigners under review as more experience is gained at future recall petitions, to ensure there is appropriate oversight and regulation of campaigner spending. Recommendations for Petition Officers and Returning Officers

We also recommend that Petition Officers and Returning Officers should review their plans for running future recall petitions:

- Petition Officers for future recall petitions should ensure they offer some extended opening hours for people to sign the petition, beyond the minimum hours of 9am to 5pm.
- Returning Officers should review their contingency planning to include arrangements for delivering any recall petitions which could potentially take place in their constituencies, particularly to identify possible locations for signing places.

Signing the recall petitions In both Peterborough and in Brecon and Radnorshire more than 10% of the people eligible to sign the recall petition had done so by the end of the six-week signing period. This meant that the sitting MPs would be recalled and a by-election would be held to fill the vacant seat in each constituency. Chart 1: Percentage of eligible people who signed the recall petitions in Brecon and Radnorshire and Peterborough

Signing the recall petitions Length of the signing period Data provided by both Petition Officers (POs) shows that the majority of people who decided to sign the petitions did so

early in the six-week signing period: In Peterborough 79% of all those who went to a signing place or returned a postal signing sheet (22% of all those eligible to sign) did so within the first two weeks of the signing period In Brecon and Radnorshire 70% of all those who went to a signing place or returned a postal signing sheet (14% of all those eligible to sign) did so within the first two weeks of the signing period In both constituencies the number of people signing the petition each week began to reduce after the first two weeks of the signing period, and the threshold had been reached. However the full duration of the petition process had to take place before the outcome could be counted and announced. Chart 2: Proportion of eligible people who had signed the petitions during the signing period Postal signing sheets People could also choose to sign the petition by post. Many of the signatures recorded in both constituencies were from people who had completed and returned postal signing sheets to the PO. This included a significant proportion that were returned within the first two weeks of the signing period. Table 1: Number of postal signing sheets issued and returned Peterborough Brecon and Radnorshire Total number of postal signing sheets issued 13,395 (19% of all those eligible to sign the petition) 8,795 (17% of all those eligible to sign the petition) Number of postal signing sheets returned during first two weeks of signing period 6,914 (45% of all signing sheets recorded during first two weeks) 3,288 (46% of all signing sheets recorded during first two weeks) Total number of postal signing sheets returned by the end of the signing period 7,848 (41% of all signing sheets recorded during the signing period) 3,790 (37% of all signing sheets recorded during the signing period) Everyone who had previously applied to vote by post at UK Parliamentary elections in these constituencies was automatically sent a postal signing sheet at the beginning of the signing period. This meant that a significant proportion of people in Peterborough and Brecon and Radnorshire received a postal signing sheet without having to make a new application to express their view by post. By contrast, in Northern Ireland postal voting is only available at elections to people who can provide a reason why they cannot be reasonably expected to go to their polling station. Only 4% of people eligible to sign in North Antrim were sent a postal signing sheet. We have not been made aware of any significant problems with the process for signing by post. Almost everyone in our public opinion survey in Peterborough who said they signed by post felt it was easy to do so, including over two-thirds who said it was very easy. Views on the length of the signing period Some people who were involved in the petitions felt that the signing periods were too long, and could possibly be shortened. Their feedback highlighted concerns that: Providing signing locations and staff for a six-week period was a significant public expense, and managing the petition was an additional burden on local authority resources and capacity. Public interest in the petition reduced significantly over the course of the six-week period. Some staff in signing places reported that they had been quiet during most days of the recall petition. Our research with the public in Peterborough found that more than two thirds (69%) of people felt that there was enough time during the signing period, while one in five (21%) felt the period was too long. People who didn't sign the petition were much less likely to say they felt the period was too long (9%, compared with 30% of those who did sign) and were slightly more likely to say the period was too short. Evidence from the recall petitions in Peterborough and Brecon and Radnorshire suggests that there is scope to reduce the length of the signing period without significantly reducing access for those people who want to sign. We recommend that the UK Government should review the rules for recall petitions to identify the appropriate length for a reduced petition period of less than six weeks. This should

start by considering whether a four-week period would be sufficient. Signing places and opening hours POs can designate up to 10 signing places for a recall petition, which must be open from 9am to 5pm on Monday to Friday, for a total of six weeks. POs can also choose to offer additional, extended opening hours. The decisions taken by the POs in Peterborough and Brecon and Radnorshire on signing places and opening hours are set out in Table 2.

Table 2: Signing places and opening hours

| Location | Number of signing places | Extended opening hours |
|------------------------|--------------------------|---|
| Peterborough | 10 | Opened at 7am on Tuesdays. Closed 10pm on Thursdays |
| Brecon and Radnorshire | 6 | Opened at 8am on Tuesdays. Closed 8pm on Wednesdays |

Number of people signing during extended opening hours: 1,410 (7% of the total) / 483 (5% of the total)

Views on signing places and opening hours

The POs in both Peterborough and Brecon and Radnorshire said that the length of the signing period made it harder for them to find suitable venues for signing places which were available for the full six-week period. They also only had a relatively short timeframe, 10 working days, to do this. Both found that they were unable to use venues that had been tried and tested as polling stations at elections, because they had already been booked during the signing period. Data from POs about when people signed the petition (shown in Table 2 above) shows that a significant number of people took advantage of the extended opening hours offered by the PO to sign the petitions. We recommend that POs for future recall petitions should ensure they offer some extended opening hours beyond the minimum hours of 9am to 5pm. On 10 May 2019 we received a copy of a letter sent to the PO from Glyn Mathias (a former Electoral Commissioner) and Sir Paul Silk (former parliamentary official) who were both eligible to sign the petition in Brecon and Radnorshire. The letter set out their concerns about the administration of the recall petition. These concerns primarily related to the number of signing places that had been allocated, the location of two of the signing places within council office buildings rather than being located in the centre of town, and the opening times of the signing places. We did not find any evidence to substantiate this claim. While the PO in Brecon and Radnorshire met the obligations to provide signing places under the Recall Act 2015, we suggest that for future recall petitions POs should consult with the Electoral Commission about the number of signing places and their suggested locations as part of their planning process. The PO and her staff suggested it would be useful for all Returning Officers as part of their contingency planning process to carry out a review of their arrangements to include planning for potential recall petitions which could take place in their local authority. This would mean they would be able to refer to their contingency planning documents if a recall petition was held. They suggested a useful starting point could be polling station reviews that occur every five years. We recommend that Returning Officers should review their contingency planning to include arrangements for delivering any recall petitions which could potentially take place in their constituencies, particularly to identify possible locations for signing places. If the overall length of the signing period is also reduced, this would also help POs to find suitable available venues to use as signing places for the full duration of the signing period. POs should make sure that there are enough to mean that there is a site close enough to be easily accessible for all electors. Our research in Peterborough asked what people thought about the signing places. Overall, as shown in Chart 3, around two-thirds of all people surveyed indicated they thought it was easy to get to their allocated signing place. A majority of those who said they had signed the petition in person also indicated that the building was appropriate for use as a signing place and that it was accessible.

Chart 3: Views on accessing signing places in Peterborough

Transparency and secrecy It is important to

ensure that people who are entitled to sign a recall petition feel able to express their views freely, while also having confidence that petition processes are well-run and that any allegations of fraud can be investigated. Restrictions on transparency and secrecy are more significant for a recall petition, compared with an election, because it is obvious what position someone signing a petition is taking: they have made an active choice in favour of the proposal to recall the current MP. By contrast, polling station observation or inspection of the marked register after an election shows only that a ballot paper was issued to an individual elector, and does not indicate whether they cast a vote for a particular candidate or party. There are some areas of the petition process, discussed below, that could be clarified for POs, electors and the public more widely to ensure that the appropriate levels of secrecy and transparency are in place. The UK Government should review the law in these areas. The Government could also consider whether all eligible electors should be given the chance to complete an equivalent to the signing sheet to indicate they oppose it. This could reduce the risk of compromising secrecy for individuals, particularly if access to independent observation of the process in signing places were to be extended.

Transparency and secrecy Observing the recall petition Unlike at elections, only Electoral Commission representatives can observe all parts of the recall petition signing process during the whole six-week period. For both petitions, Electoral Commission representatives observed the petition process in signing places (including days with extended opening hours), the daily process for verifying the number of signing papers completed that day, and the final count. Individuals who are accredited under the Electoral Commission's electoral observation scheme are only able to attend the final counting of signatures, while accredited organisations are not entitled to observe any stage of the process. No accredited individual observers attended the counts. Limiting observation in this way helps to ensure secrecy for those signing a recall petition, and also prevents others from estimating whether the 10% threshold has been reached before the end of the petition period. However, it does also mean that transparency and scrutiny of the signing process are limited. We recommend that the UK Government should review the scope of who can observe the process in signing places to extend transparency and scrutiny, while ensuring that secrecy is maintained for people signing the petition.

Secrecy of the petition and access to the marked register The petition regulations provide some secrecy protections for people signing the petition. POs should take into account the need for privacy when allocating signing places in their constituency. During the petition period it is also an offence to publish a statement that could indicate if an individual has signed the petition or not, or to publish any forecasts about the result of the petition. After the conclusion of a recall petition in Great Britain, a marked copy of the electoral register (showing who had signed the petition) may be made available by the Electoral Registration Officer (ERO) for public inspection on request. The ERO is only required to make those documents available in response to a request for inspection if they are satisfied that fraud may have taken place at the petition. These secrecy measures are intended to limit the scope for undue influence and pressure on people to sign or not sign a petition, while maintaining protections against fraud. We are not aware of any complaints about the secrecy of the signing places, intimidation or fraudulent signing during either of the petitions. Our research in Peterborough found: only 6% of people who said that they had signed the petition in person indicated that there was not enough privacy inside the signing places 17% of people who said that they had signed the petition in person indicated that there was not enough privacy around the signing places almost two-thirds of

people agreed that signing with a signature was sufficiently anonymous around half agreed that the process meant that they could sign in secret In Northern Ireland there is no provision in the legislation to allow the marked register to be inspected in cases of suspected fraud, or for the PO to supply it to the police, the Electoral Commission or anyone who requested it. We recommend that the UK Government should review the recall petition regulations for Northern Ireland to ensure there is appropriate access to inspect the marked register if there are well-founded concerns about fraud at future recall petitions. Running the recall petition In both constituencies the petitions were well-run. Most people in Peterborough said they were confident that the petition was well-run (87%), with almost all of those who actually signed the petition saying they were confident (96%). However, both POs faced practical challenges in running the petitions in their constituencies. These were increased, in the areas outlined below, by a lack of clarity in some areas of the legislation, POs having to take on new responsibilities and difficulties in POs having to use electoral management software to run a petition which is not the same as an election. POs were also faced with planning and delivering other electoral events which impacted on resourcing the petitions. Running the recall petition Closing the recall petition and announcing the result Under the Recall Act there is a requirement for the PO, or assigned member of staff, to verify the number of signing papers completed during each day of the petition period. However the Recall Act lacks clarity in relation to the final count and does not set out: what time signing places should close on the last day the deadline for receiving postal signing papers; or timings for the count (except that it should take place “as soon as reasonably practicable after the end of the signing period”). As a result, the POs in Peterborough and Brecon and Radnorshire took different decisions about the deadline for returning postal signing papers and started counting at different times, which were both different from the decision made by the PO in North Antrim. Table 3: Comparison of arrangements for closing the petition and count start times

| | Peterborough | Brecon and Radnorshire | North Antrim |
|--|---|------------------------------|------------------------------------|
| Signing places closed | 5pm on Wednesday 1 May | 5pm on Thursday 20 June | 5pm on Wednesday 19 September |
| Deadline for returning postal signing papers | 5pm on Wednesday 1 May | Midnight on Thursday 20 June | Midnight on Wednesday 19 September |
| Count started | Straight after the signing places closed at 5pm | 9am on Friday 21 June | 0.01am on Thursday 20 September |

There is no evidence that these different approaches had an impact on the running of the count, and feedback from our representatives at the counts was that they worked well. However, to ensure a more consistent experience for those wishing to sign at future recall petitions, the legislation should specify what time signing places should close on the final day of the petition period and the deadline for receipt of postal signing papers. Once the signing papers have been counted, the PO must notify the Speaker of the House of Commons of the result before an announcement is made. However there is no provision in law as to how this should happen and in what form the notification should be made. The POs in all three constituencies agreed with the Speaker in advance that they would send an email, and once this was acknowledged they could then publish the result. We recommend that the UK Government should review the recall petition legislation to set out more clearly when and how the Speaker should be notified. Registering campaigners At elections and referendums, the Electoral Commission is responsible for registering political parties and non-party campaigners wishing to spend over a certain amount. At recall petitions, uniquely, the registration of campaigners is undertaken by POs. People or organisations wishing to campaign for or against the recall petition, and intending to spend over £500, must

notify the PO that they want to be a registered campaigner. POs must also receive donation and spending returns from registered campaigners within 30 days of the end of the regulated period of the recall petition. A total of eight people and organisations registered to campaign during the petitions. They submitted donation and spending returns to the POs after the petitions. At time of publication reported donations and spending had not been received for one individual and one trade union in Peterborough. Table 4: Registered campaigners and value of reported donations and spending

| Location | Registered campaigners | Spending | Donations |
|------------------------|---|-----------|------------|
| Peterborough | Two political parties, two Trades Unions and one individual | £6,988.79 | £13,365.87 |
| Brecon and Radnorshire | Three political parties | £3,212.11 | £10,324.50 |

These spending returns are made available for public inspection by the PO and copies sent to us, but there is no provision for returns to be scrutinised by a statutory agency. This differs from the Political Parties Elections and Referendums Act (PPERA) rules for elections and referendums, where it is required for the Commission to receive spending returns from political parties and campaigners so we can check that these comply with the law. However, the Recall Act appears to have been based on the Representation of the People Act (RPA) requirements for candidates at UKPGGE who are required to send their spending returns to the RO and not directly to us. The lack of statutory scrutiny of donation and spending returns means that there could be significant spending on activity intended to influence electors at future recall petitions that is not fully monitored to check that campaigners have complied with the law. We recommend that the UK Government should keep the rules for donations and spending by campaigners under review as more experience is gained at future recall petitions, to ensure there is appropriate oversight and regulation of campaigner spending.

Other challenges to running the recall petitions

The use of electoral management software (EMS) is an established part of running electoral events. Using it for a recall petition, which despite having many of the same processes is not an election, was not straightforward for POs and their staff. The EMS systems used by the POs did not provide templates for recall petition paperwork, and were not able to run two events with different timetables in parallel. This was more challenging as both signing periods overlapped with other electoral events – the 2 May local government election in Peterborough and the European Parliamentary election in Brecon and Radnorshire held on 23 May. Although recall petitions may not frequently overlap with other electoral events in future, it would assist POs if EMS providers were able to develop their systems to manage multiple events on different timetables and to produce templates for use in recall petitions.

Background

Why did the petitions take place? The Recall of MPs Act 2015 introduced a process where a sitting MP can lose their seat in the House of Commons if there is a successful petition to recall them. All those in the relevant constituency who are eligible to vote at a UK Parliamentary election can sign. They can choose to do so in person, by post or by appointing a proxy. Over 10% must do so for the MP to be recalled. The Commission is required to publish a report, following the petition. This process was first used in 2018, when a petition in North Antrim to recall Ian Paisley MP was unsuccessful. We published our report on the North Antrim petition in November 2018. There have been two more recall petitions in 2019. The first was in Peterborough following Fiona Onasanya MP's conviction on 19 December 2018 on charges of perverting the course of justice. On 29 January 2019, Ms Onasanya was sentenced to three months in prison. Her appeal against the conviction was rejected by the Court of Appeal on 5 March, and the Speaker of the House of Commons gave notice to the Returning Officer in Peterborough that a recall petition was to take place. The petition took place between 19 March and 1 May. The second was in

Brecon and Radnorshire. This was a result of Chris Davies MP's conviction on 23 April 2019 of having made a false expenses claim relating to setting up his constituency office after the 2015 UK Parliamentary General Election. On 24 April, the Speaker of the House of Commons notified the Returning Officer in Powys that a recall petition was to take place. The petition took place between 9 May and 20 June. Roles and responsibilities

The constituency's Returning Officer, acting in the role of Petition Officer, is responsible for opening and running a recall petition. Their role includes setting the opening date of the petition, which must be no later than 10 days, or as soon as reasonably practical, after the notification from the Speaker of the House of Commons. They must also publish a register of people eligible to sign the petition and notify them that the petition is taking place. A total of 69,673 people in Peterborough and 53,032 in Brecon and Radnorshire were able to sign the petition. People were notified by letter why the petition was taking place, what the outcome would be, how they could sign and information about their allocated signing place. In Peterborough, our public opinion survey found that almost three quarters of people could remember receiving a letter telling them that a recall petition was going to take place. During a recall petition, local police forces have a role investigating any breaches of the rules set out in the Recall Act and to enforce compliance with the law. The Commission provides advice and guidance to help people to understand the rules. We can also seek forfeiture of impermissible donations, if necessary, by court order. Feedback from people in Peterborough

Due to its proximity to the May 2019 local elections, we were able to extend our post-election public opinion research to cover the recall petition in Peterborough. This allowed us to increase our understanding of people's awareness and perceptions of the Peterborough recall petition. Research agency BMG conducted 159 telephone interviews between 3 and 23 May 2019, with a sample of people who would be eligible to vote at a UK Parliamentary general election in Peterborough. Quotas were set on age and gender to ensure that the respondents were as representative as possible of the population of the area. Data are weighted to correct any demographic differences between the interviewed sample and known population profile from the census population data.

Supporting evidence Peterborough recall petition - topline report Peterborough recall petition - weighted data tables Related content Past elections and referendums Read our reports and view data about past elections and referendums Types of elections about the types of elections in the UK. Report: Voting in 2017 Read our report about voting at the general election in 2017 Testing the EU referendum question Find out about our testing of the EU referendum question