

Part F – After the declaration of results

Local government elections in Wales:
guidance for Returning Officers

December 2016 (updated January 2022)

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

All of our guidance and resources for these polls are also available in Welsh. For information on obtaining this publication in another language or in a large-print or Braille version please contact the Electoral Commission:

Tel: 020 7271 0500

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Updates to this document

Updated	Description of change
October 2017	Updated to include further details on where statements as to postal ballot papers should be returned (paragraph 2.6).
July 2018	Updated to take account of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018
February 2021	Updated spending guidance.
January 2022	<p>Standalone guidance for Local Government elections in Wales to incorporate legislative changes introduced by:</p> <p>Local Government and Elections (Wales) Act 2021</p> <p>The Local Elections (Principal Areas) (Wales) Rules 2021</p> <p>The Local Elections (Communities) (Wales) Rules 2021 including provisions on candidates' home address forms and what should happen to them after an election (paragraph 1.16) at elections held on or after 5 May 2022. Also updated the requirements for publishing the results and notifying proper officers (paragraphs 2.1 to 2.3)</p>

Contents

1	Storage and disposal of documents.....	1
	The documents that you have a duty to forward	3
	Election notices published on your website	4
	Destruction of home address forms	5
2	Post-election activity	6
	Providing notice of the results	6
	Statement as to postal ballot papers	7
	Data collection and feedback	7
	Accounting for the elections	8
	Payment of creditors	8
	Payment of fees to staff	8
	Return of equipment.....	9
	Candidates' election spending	9
	Candidate returns	9
	Returns to the Electoral Commission on request.....	10
3	Challenges to the election results	11
	Election petitions	11
	Who can bring an election petition and on what grounds?	11
	Who is made a respondent?	11
	Deadlines for bringing petitions.....	11
	Judicial determination of disqualification	12
4	Review of election procedures.....	13
	The review.....	13
5	Freedom of Information requests	15

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 [data protection resource](#) 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 1.11 rests with the ERO¹, 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. 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.

1.4 In any case, at all times, all packets and receptacles containing election documents should be stored securely so that nobody can tamper with them.

Combination³

Where two or more polls are combined, the election documents must be forwarded to the registration officer of the county or county borough in whose area the election is held. If the electoral area includes more than one local authority, the registration officer of the local authority in whose portion of the area the highest number of electors is registered.

1.5 You should maintain a clear audit trail when packaging 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 packets⁴ and mark each packet with a

description of its contents, the date of the election and the name of the relevant electoral area to which it relates.

- The labels should also 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 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 ERO 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 **1.11** 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 registration officer to whom they have been sent
 - obtain a receipt from the relevant registration officer indicating that the parcels have been safely received



Further details on the definition of 'relevant electoral area' can be found in [Part A - Role and responsibilities](#).

Combination

Where two or more polls are combined you must endorse each packet with a description of the area to which they relate⁵. The label should also clearly state which contest the packet relates to. If it relates to all polls (such as the copies of the marked registers), it should list all of the polls.

The documents that you have a duty to forward

1.7 You must seal up the election documents listed below and, on completing the counting of ballot papers, if you are not also the ERO, you must forward these to them as set out above.⁶ In that case, 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.

1.8 From the polling stations:⁷

- the packet containing:
 - the list of tendered votes
 - the list of voters with disabilities assisted by companions
 - the declarations made by companions of voters with disabilities
 - the list of votes marked by the Presiding Officer
 - the statements relating to votes marked by the Presiding Officer
 - the 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 openings:⁸

- 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
- the packets of unused postal ballot papers
- 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 ERO, at the same time as you are forwarding the above election documents the statement as to postal ballot papers and the list of postal votes that have failed the identifier checks⁹. 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 notice.



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

1.11 From the count:¹⁰

- 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 to 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 electoral law and with your document retention policy.

Combination

The materials for each poll including counted and rejected ballot papers and all other count materials must be packaged separately¹¹.

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

1.16 For principal area and community council elections taking place on or after 5 May 2022, a candidate must complete a home address form as part of their nomination¹².

1.17 Home address forms must be kept securely stored for a period of 35 working days after the result has been declared.

1.18 They must be securely destroyed on the next working day after the 35-day period.¹³ However, if an election petition relating to the election is presented within the 35 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 as soon as practicable following the conclusion of the proceedings or appeal.

2 Post-election activity

Providing notice of the results

2.1 You must publish notice of the name of each candidate elected and of the total number of votes given for each candidate (whether elected or not), together with the number of rejected ballot papers as shown in the statement of rejected ballot papers.¹⁴ When a candidate has used their commonly used name to stand in the election, you should use both their full name and the commonly used name in the notice.

2.2 In all cases, you should ensure that the notices you are responsible for are made available to all interested parties as soon as possible, including by publishing them on the local authority's website.

2.3 You must also give a notice to the Proper Officer of the council, who may be the chief executive or some other senior officer, stating the name and address of each candidate elected.¹⁵



Community council elections

At community council elections, you must give a notice to the Proper Officer of the county or county borough in which the community is situated of the name and address of each candidate elected¹⁶. You must also give such a notice to the Proper Officer of the community council¹⁷. If there is no Proper Officer of the community council, you should give notice to the chair of the community council.

Mayoral referendums

You are required by law to inform the Proper Officer of the council of the result of the mayoral referendum. You must also give public notice of the result of the referendum, the number of ballot papers counted, the total number of votes cast for each answer and the number of rejected ballots separated into each reason for rejection¹⁸.



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.

Statement as to postal ballot papers

2.4 You must complete a statement as to postal ballot papers for each electoral area¹⁹.

2.5 The statements are 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 statements 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 statements accurately using the figures recorded at the issue, receipt, opening and verification of postal votes.

Combination

Even where the issue of postal votes has been combined, you are still required to produce a statement of postal ballots for each of the polls²⁰.



Further details on record-keeping throughout the administration of the postal voting process are provided in [Part D – Absent voting](#). The Commission has produced a [template statement as to postal ballot papers for the election](#), which should be used. The accompanying guidance notes should support you in completing this.

2.6 You must provide a copy of the completed statement to the Secretary of State and to the Commission²¹. The statement must not be provided before the tenth working day after polling day but must arrive no later than the twenty fifth calendar day after polling day²². 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 ahead of scheduled elections will be provided in a Commission EA Bulletin at the time of that poll.

Data collection and feedback

2.7 At scheduled elections, you will be requested to send information and data to the Commission relating to the elections.

2.8 Forms for collecting information and data at scheduled elections, and accompanying guidance notes for completion, as well as a Commission feedback form, will be available on the [Commission's website](#).

Accounting for the elections

2.9 The costs for running a local election are paid for by the local authority²³. The local authority will provide you with instructions for accounting for the elections.



Community council elections

At a community council election, costs for running the election will be paid by the principal area council²⁴. The principal area council may, however, require the community council to repay any costs incurred. As set out in [Part B: Planning and organisation](#), you will therefore need to liaise with the community council at an early stage regarding the costs of running an election, to ensure that the necessary budget is in place.

Payment of creditors

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

Payment of fees to staff

Income tax

2.11 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

2.12 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 as soon as possible 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

2.13 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

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

Candidates' election spending

Candidate returns

2.15 All election agents must submit a candidate's spending return to the Proper Officer of the council, together with relevant invoices and receipts, within 35 calendar days of the declaration of result of the election (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).²⁵

2.16 The legislation also requires candidates and their agents to submit 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 seven 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 (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) and submit it to you as soon as possible.²⁶ In order to ensure a clear audit trail, the Proper Officer should keep a record of when these documents are received.

2.17 The Proper Officer must retain a copy of each election spending return and declaration, and any accompanying documents, for a period of two years beginning with the date when the return is received and, during that period, make copies available for public inspection without charge. Anyone can also request copies of the returns and accompanying documents, which must be supplied on payment of the fee of 20p per side. The addresses of individuals who have made donations to candidates must be removed from all inspection copies and copies supplied on request. At the end of the two-year period if the candidate or the relevant election agent requests them, they must be returned to the candidate. Otherwise the returns and accompanying documents may be destroyed.²⁷



The Commission has produced [forms and guidance for candidates and agents](#) on [spending and donations](#) in [Wales](#), which you can provide to candidates and agents in order to enable them to meet their reporting requirements.



Community council elections²⁸

At community council elections, candidates must, within 28 calendar days after the day of election (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), submit their election spending returns, accompanied by a declaration as to spending completed by the candidate, to the Proper Officer of the council. No agent's declaration is required. We have produced a guidance note for [community](#) council elections alongside the candidate spending return and declaration. The declaration must be in the prescribed form or a form to the like effect.²⁹

Returns for these elections must be retained for a period of 12 months after their receipt. After this period, the Proper Officer if requested, must return them to the candidate, or destroy them³⁰.

2.18 The Commission has also published [guidance for Proper Officers to help them deal with any outstanding candidate spending returns](#).

Returns to the Electoral Commission on request

2.19 Legislation imposes spending limits and reporting requirements for candidates' campaigns, and gives the Electoral Commission the function of monitoring compliance with the rules on candidates' election spending and donations to candidates.

2.20 If requested to do so, Proper Officers must send copies of candidates' election spending returns to the Commission. Copies of the returns sent to the Commission must include all accompanying documentation, including declarations³¹.

2.21 The Commission may also ask you to provide the following:

- electorate figures for each ward used to calculate the candidates' spending limit
- the candidates' spending limit provided to candidates, if applicable
- a list of all candidates who stood for election, including their party (if any), and whether they were successful
- confirmation of who has not submitted a return, has submitted an incomplete return or has submitted a late return and what, if anything, the Proper Officer has already done about such cases
- addresses of election agents for any candidates who failed to submit returns

3 Challenges to the election results

Election petitions

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 A petition can be presented by:³²

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

3.3 The allowable grounds for a local government election petition are that:³³

- 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, you may also be a respondent to the petition.

Deadlines for bringing petitions

3.5 A petition at a local government election must normally be presented within 21 calendar days after the day on which the election was held³⁴. Further time may be allowed in certain circumstances.

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:

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

Email: Election_Petitions@gsi.gov.uk
Phone: 0207 947 6877

Judicial determination of disqualification

3.7 Any person may apply to the High Court for a declaration that a councillor is, or at any time since being elected has been, disqualified from being a councillor.³⁵

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 elections 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.

The review

4.3 The scope of the review should cover all aspects of the elections. 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
- 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 nominations, 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
- electors
- candidates, agents and political parties
- local organisations of disabled people, older people and minority ethnic groups, and the authority'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 elections 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 polls.

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.

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- ¹ Rule 62 Schedule 1 Local Elections (Principal Areas) (Wales) Rules 2021 (“Principal Areas Rules 2021”, rule 62 Schedule 1 Local Elections (Communities) (Wales) Rules 2021 (“Communities Rules 2021”), rule 43 Local Authorities (Conduct of Referendums (Wales) Rules 2008 (“Conduct of Referendums (Wales) Rules 2008”)
- ² Rule 62 Sch 1 Principal Areas Rules 2021, Rule 62 Sch 1 Communities Rules 2021, rule 43 (“Conduct of Referendums (Wales) Rules 2008”),
- ³ Rule 66 Sch 2 Principal Areas Rules 2021, Rule 66 Sch 2 Communities Rules 2021 para 55 Schedule 1 Representation of the People Act 1983 (RPA 1983)
- ⁴ Rule 61 Sch 1 Principal Areas Rules 2021, rule 61 Sch 1 Communities Rules 2021, rule 42 Conduct of Referendums (Wales) Rules 2008
- ⁵ Rule 55(8)(c) Sch 2 Principal Areas Rules 2021, rule 55(9)(c) Sch 2 Communities Rules 2021
- ⁶ Rule 62 Sch 1 Principal Areas Rules 2021, Rule 62 Sch 1 Communities Rules 2021,
- ⁷ Rule 62(1) Sch 1 Principal Areas Rules 2021, rule 62(1) Sch 1 Communities Rules 2021, rule 43(1) Conduct of Referendums (Wales) Rules 2008
- ⁸ Regulation 91(1)(a) Representation of the People (England and Wales) Regulations 2001 (2001 Regulations)
- ⁹ Regulation 91(1)(b), (3A) and (3B) 2001 Regulations
- ¹⁰ Rule 62(2) Sch 1 Principal Areas Rules 2021, rule 62(2) Sch 1 Communities Rules 2021, rule 43(1)(a) Conduct of Referendums (Wales) Rules 2008
- ¹¹ Rule 51(6) Sch 2 Principal Areas Rules 2021, rule 51(6) Sch 2 Communities Rules 2021,
- ¹² Rule 9 Sch 1 Principal Areas Rules 2021, rule 9 Sch 1 Communities Rules 2021
- ¹³ Rule 66(1)(a) Sch 1 Principal Areas Rules 2021, rule 66(1)(a) Sch 1 Communities Rules 2021
- ¹⁴ Rule 60(3) Sch 1 Principal Areas Rules 2021, Rule 60(3) Sch 1 Communities Rules 2021
- ¹⁵ Rule 60 (2) Sch 1 Principal Areas Rules 2021
- ¹⁶ Rule 60(2)(b) Sch 1 Communities Rules 2021
- ¹⁷ Rule 60(2)(a) Sch 1 Communities Rules 2021
- ¹⁸ Rule 41 Conduct of Referendums (Wales) Rules 2008
- ¹⁹ Regulation 91 2001 Regulations
- ²⁰ Regulation 91(1)(b) 2001 Regulations
- ²¹ Regulation 91(5) 2001 Regulations
- ²² Regulation 91(5) 2001 Regulations
- ²³ Section 36(4) RPA 1983 (as amended by Local Government & Elections (Wales) Act 2021)
- ²⁴ Section 36(5) RPA 1983 (as amended by Local Government & Elections (Wales) Act 2021)
- ²⁵ Section 81(1) RPA 1983
- ²⁶ Section 82 RPA 1983
- ²⁷ Section 89 RPA 1983
- ²⁸ Paragraph 3 Schedule 4 RPA 1983
- ²⁹ Rule 7, Communities Rules 2021
- ³⁰ Paragraph 8 Schedule 4 RPA 1983.
- ³¹ Section 87A(2) RPA 1983
- ³² Section 128(1) and (1A) RPA 1983
- ³³ Section 127 RPA 1983

³⁴ Section 129 RPA 1983

³⁵ Section 92 Local Government Act 1972