

## Local elections in England

# Guidance for candidates and agents

## Part 6 of 6 – After the declaration of result

January 2022

This document applies to district, borough, county and unitary authority elections. It does not apply to parish, mayoral elections or elections to the Greater London Authority. Our guidance and resources for all elections in can be accessed from our website at: <https://www.electoralcommission.org.uk/i-am-a/candidate-or-agent>

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# 2

## Essential information

This section of the document contains our guidance on what happens after the results at a district, borough, county or unitary authority election have been announced.

Supplementary information, which may only be relevant to some candidates, is provided at the back of this document. You can also view this supplementary guidance by clicking on the links within this document or by clicking on the chapter heading on the contents page.

In this document, we use 'you' to refer to the candidate. We use 'must' when we refer to a specific requirement. We use 'should' for items we consider to be minimum good practice, but which are not legal or regulatory requirements.

Deadlines mentioned in this document are generic and we have published a [generic election timetable on our website](#). If a by-election has been called, you will be able to obtain a copy of the specific timetable for that election from the Returning Officer.

For scheduled elections we will publish an election timetable, which you can download from [our website](#).

We are here to help, so please contact us if you have any questions. See our [Overview document](#) for contact details.

Data protection legislation applies to the processing of all personal data.

Please contact the [Information Commissioner's Office](#) for further information about how the current data protection legislation affects you.

## Declaration of acceptance of office

1.1 If elected, you may not act as a councillor (this includes attending and voting at meetings) until you have signed the declaration of acceptance of office.<sup>1</sup>

1.2 The declaration must be made within two months from the day of election<sup>2</sup>. If you do not submit your declaration by this deadline, the seat will be declared vacant and a by-election will be held.

## Allocation of seats if scheduled elections have been combined with a local by-election

1.3 Where a local by-election has been combined with a scheduled local election to the same ward, seats are allocated according to the number of votes obtained by the winning candidates<sup>3</sup>.

1.4 For example, in the case of a scheduled election to a ward with one vacancy that has been combined with a by-election to the same ward, the candidate with the most votes is allocated the seat vacated due to the scheduled election. This is because this seat carries the longest term of office. The person with the second highest number of votes is then allocated the by-election seat.

## Election petitions

1.5 The outcome of a local government election can be challenged through an election petition. For further details on challenging an election, see paragraph **1.10**.

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## What happens to the election paperwork after the result is announced?

1.6 After the results are declared, all election documents are securely held by the Electoral Registration Officer for a period of 12 months<sup>4</sup>.

1.7 Most documents are available for public inspection. Please note that ballot papers are not open to public inspection. If you wish to inspect election documents, see paragraph **1.16** for further information.

## Submitting your election spending returns

1.8 Within 35 calendar days of the election result being declared your election agent will need to prepare and submit to the Returning Officer an election spending return<sup>5</sup>. In addition, both you and your election agent will need to sign a declaration stating that the return is complete and correct to the best of your knowledge and belief<sup>6</sup>. Detailed guidance on completing and submitting your spending return is contained in [Part 3: Spending and donations](#).

1.9 There are consequences for failure to submit spending returns and these are set out in paragraphs **1.30** to **1.31**.

# Supplementary information

## Lodging an election petition

1.10 Only certain people can lodge an election petition, and only under specific circumstances.

1.11 An election petition can be presented by<sup>7</sup>:

- someone claiming to have been a candidate at the election, or
- at least four electors (not anonymously registered electors) who had a right to vote at the election (although they need not have voted)

1.12 The allowable grounds for a petition are that<sup>8</sup>:

- the successful candidate was disqualified at the time of the election
- the successful candidate was not duly elected
- the election was invalidated by corrupt or illegal practices
- the election was invalidated because of general corruption or the employment of a corrupt canvasser/agent

1.13 Normally, a petition must be presented within 21 calendar days after the date of the election<sup>9</sup>. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward, or an illegal practice relating to election spending, further time may be allowed.

1.14 For any questions relating to election petitions, including to confirm the deadlines for lodging an election petition, you should contact the Election Petitions Office:

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

Email: [Election\\_Petitions@hmcts.gsi.gov.uk](mailto:Election_Petitions@hmcts.gsi.gov.uk)  
Phone: 0207 947 6877  
Fax: 0870 324 0024

1.15 There are costs attached to an election petition. If you are considering lodging an election petition, we strongly recommend that you take independent legal advice.

## Inspection and supply of election-related documents

1.16 All documents available for supply and inspection are retained by the Electoral Registration Officer. Contact details are available on our website

<https://www.electoralcommission.org.uk/i-am-a/voter>

## Inspection and supply of the marked registers and lists of absent voters<sup>10</sup>

1.17 The marked electoral registers and lists of absent voters show who has been issued with a ballot paper, who has returned their postal ballot paper, and who has had a proxy vote cast on their behalf.

1.18 You can inspect or obtain copies of the marked register of electors and lists of absent voters after the election if you make a request in writing to the Electoral Registration Officer.

Contact details are available on our website

<https://www.electoralcommission.org.uk/i-am-a/voter>

1.19 Note that you can only use the information obtained from these documents for research or electoral purposes.

1.20 The request for inspection must specify<sup>11</sup>:

- which documents are requested

- the purposes for which the information in any document will be used
- where the request is to inspect the marked register or lists, any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose
- who will inspect the documents
- the date on which you wish to inspect the documents
- whether you would prefer to inspect the documents in a printed or data form

1.21 Inspection is under supervision and will be free of charge. You won't be able to take copies, but may make handwritten notes.

1.22 The request for supply must specify<sup>12</sup>:

- which of the marked register or lists (or the relevant part of the register or lists) are requested
- whether a printed copy of the records or lists is requested or a copy in data form
- the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose

1.23 The requested document will be supplied for a fee of £10 plus £2 for printed and £1 for data versions per 1,000 entries<sup>13</sup>.

1.24 Note that after 12 months these documents, held by the Electoral Registration Officer, will be destroyed unless a court order directs otherwise<sup>14</sup>.

1.25 Under current data protection legislation, personal data processed for any purpose shall not be kept for longer than is necessary for that purpose. If you request and are supplied with any of the information listed above, once the purpose for collecting this data has passed, you need to consider if there is a reason for you to retain that data. If there is not you should ensure secure destruction of any data held.

Nomination papers cannot be inspected after the election. They can only be inspected until the day before the poll.

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## Inspection of other election documents<sup>15</sup>

1.26 You can inspect other election documents, but you will not be allowed to make any notes or take copies of these documents. The only documents that cannot be inspected are:

- the ballot papers
- the corresponding number lists
- the certificates allowing polling station staff to vote at the polling station they are working at

1.27 After 12 months all of the election documents that are held by the Electoral Registration Officer will be destroyed, unless a court order directs otherwise<sup>16</sup>.

## Inspection of election spending returns<sup>17</sup>

1.28 The spending returns and declarations are held by the Returning Officer. Spending returns and declarations can be inspected by any person after they have been submitted. Copies can also be made for a fee of 20p per side.

1.29 Spending returns and declarations are kept for two years. You can request to have them returned to you or your agent at the end of this period. If you or your agent does not want them back, the spending returns and declarations will be destroyed.

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

1.30 Failure to submit a spending return or declaration by the deadline without an authorised excuse is a criminal offence<sup>18</sup>.

1.31 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. Suspected breaches of the rules should be referred to the police.

1.32 If a candidate has been elected but the spending return and/or declaration has not been submitted 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<sup>19</sup>.

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<sup>1</sup> Local Government Act 1972 (LGA 1972) s.83

<sup>2</sup> LGA1972 s.83

<sup>3</sup> LGA 1972 s.89(5)

<sup>4</sup> Local Elections (Principal Areas)(England and Wales) Rules 2006 (Principal Area Rules 2006) rule 54

<sup>5</sup> Representation of the People Act 1983 (RPA 1983) s.81

<sup>6</sup> RPA 1983 s.82

<sup>7</sup> RPA 1983 s.128

<sup>8</sup> RPA 1983 s.127, s.164, s.165

<sup>9</sup> RPA 1983 s.129

<sup>10</sup> Representation of the People (England and Wales) Regulations 2001 (RPR 2001) reg.118

<sup>11</sup> RPR 2001 reg.118(2)

<sup>12</sup> RPR 2001 reg.117(3)

<sup>13</sup> RPR 2001 reg.120(2)

<sup>14</sup> Principal Area Rules para 54

<sup>15</sup> RPR 2001 reg.118

<sup>16</sup> Principal Area Rules para 54

<sup>17</sup> RPA 1983 s.89

<sup>18</sup> RPA 1983 s.84

<sup>19</sup> RPA 1983 s.85