

Appointment and responsibilities of statutory officers involved in the electoral process



1 Introduction

- 1.1** There are a number of statutory officers involved in the delivery of electoral services. In some circumstances, the respective appointments and responsibilities fall automatically upon the holder of a specific job whereas in others, they can be applied to an individual.
- 1.2** This guidance note provides background to the appointment and responsibilities of the following key officers:

Officer	Pages
Electoral Registration Officer	2 to 5
Returning Officer	6 to 16
Counting Officer	17 to 19
Proper Officer	20 to 21

2 Electoral Registration Officer

Key statutory references

Sections 8, 9, 9A, 9D, 9E, 52 and 54, Representation of the People Act 1983

Regulation 5(2), European Parliamentary Elections (Franchise etc.) Regulations 2001

Section 69, Electoral Administration Act 2006

Section 9(A), Political Parties, Elections and Referendums Act 2000

Data Protection Act 1998

Other useful guidance sources

- Running Electoral Registration – Part 2: The registration framework (The Electoral Commission)
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/162573/Part-2-Registration-framework.pdf
- Section 3, Parker’s Law and Conduct of Elections (Lexis Nexis)
- Sections 4-034 and 4-035, Schofield’s Election Law (Sweet & Maxwell / Thomson Reuters)

2.1 Appointment

In England, every district council and London Borough is required to appoint “an officer of the council to be [electoral] registration officer for any constituency or part of a constituency ... situated in the [local authority area].”¹

In Wales, the same requirement falls on the relevant county or county borough².

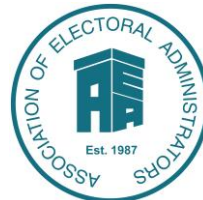
It is important to note that the Electoral Registration Officer discharges the responsibilities of **Acting Returning Officer** at UK Parliamentary elections³.

¹ Section 8(2), Representation of the People Act 1983

² Section 8(3), Representation of the People Act 1983

³ Section 28, Representation of the People Act 1983

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	<p>The Electoral Registration Officer must be an officer of the council.</p> <p>Unless express provision has been made within the constitution that:</p> <ul style="list-style-type: none">• a specific post holder will automatically be appointed as Electoral Registration Officer; or• that the appointment has been delegated to a sub-committee, <p>the local authority will need to make the appointment at a full meeting of the council.</p>
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2.2 Responsibilities

Although the council is required to appoint one of its officers as its Electoral Registration Officer, it may not direct that officer in the performance of their duties.

Those duties and responsibilities become personal to that officer. If they breach their official duty to administer the process in accordance with the legislative provisions, they shall be liable on summary conviction to an unlimited fine (level 5 on the standard scale)⁴.

The personal responsibilities include:

- the duty to maintain a list of UK Parliamentary and local government electors for the local authority area⁵;
- the duty to maintain a list of relevant citizens of the European Union entitled to vote at European Parliamentary elections⁶;
- the requirement to take reasonable steps to obtain information for those purposes and to ensure that persons who are entitled to be registered (and no others) are⁷;
- the requirement to conduct an annual electoral registration canvass⁸ and to give persons invitations to register to vote⁹;

⁴ Section 63, Representation of the People Act 1983

⁵ Section 9, Representation of the People Act 1983

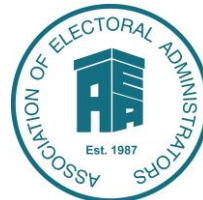
⁶ Regulation 5(2), European Parliamentary Elections (Franchise etc.) Regulations 2001

⁷ Section 9A, Representation of the People Act 1983

⁸ Section 9D, Representation of the People Act 1983

⁹ Section 9E, Representation of the People Act 1983

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- the requirement to take steps to encourage participation by electors in the electoral process¹⁰;
- the requirement to meet such standards of performance as set by the Electoral Commission¹¹.

2.3 Staffing and resources


The employing local authority has a duty to “assign such officers to assist the [electoral] registration officer as may be required to carry out [their] functions”,¹² and to pay any expenses “properly incurred” in performance of their duties¹³.

The local authority may not however direct the Electoral Registration Officer in the performance of their duties.

2.4 Appointment of deputy/deputies

The Electoral Registration Officer is not entitled to appoint their own deputy or deputies. That duty falls to the local authority, who may appoint such officers. It should be noted that there is no restriction on the number that may be appointed.

The appointment process for deputies is the same as that for the appointment of the Electoral Registration Officer, as set out at paragraph 2.1 above. Deputies have the same duties and responsibilities as the Electoral Registration Officer if appointed¹⁴.

	<p>To facilitate the smooth administration of the electoral registration process, it is recommended that at least one deputy is appointed by the local authority.</p> <p>If the Electoral Registration Officer becomes “incapacitated” and no deputy has been appointed, the relevant Proper Officer of the council takes on their duties and responsibilities¹⁵.</p> <p>When considering who to appoint as a deputy, the council will wish to consider how to best maintain the independence of the role. For example, the deputy may need to conduct a hearing into a registration application, but care needs to be</p>
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¹⁰ Section 69, Electoral Administration Act 2006

¹¹ Section 9(A), Political Parties, Elections and Referendums Act 2000

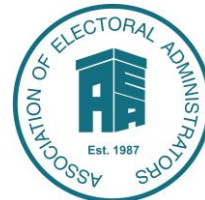
¹² Section 52, Representation of the People Act 1983

¹³ Section 54, Representation of the People Act 1983

¹⁴ Section 52(2), Representation of the People Act 1983

¹⁵ Section 52(3), Representation of the People Act 1983

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exercised that they do not do so where they have been personally involved. For example, although there is much merit in the Electoral Services Manager being appointed as a deputy, if they had been personally involved in the processing of the original application, they should not then oversee a registration hearing on that application.

2.5 Other issues to note

The Electoral Registration Officer is independent of the local authority.

Although the appointed individual will also be employed as an officer of the council, it is imperative that they undertake their electoral registration duties and responsibilities in accordance with the law, even where this may conflict with other local authority responsibilities.

It is, for example, worth noting that the electoral register is their property, not the local authority's, and access to it is strictly prescribed by legislation. The council may make written request to the Electoral Registration Officer for a copy of the register, but there are then limitations on what they may use the data for which may appear restrictive¹⁶.



In light of this independence, the Electoral Registration Officer should be registered in their own right as a data controller with the Information Commissioner. They should not rely on the local authority's registration.

In addition, and because of this independence, they are not subject to the provisions of the Freedom of Information Act 2000, although good practice would suggest that they work in as transparent and open a manner as possible within the relevant legislative restrictions.

The list of bodies subject to the Freedom of Information Act 2000 is available at <http://www.legislation.gov.uk/ukpga/2000/36/schedule/1>.

¹⁶ Regulation 107, Representation of the People (England and Wales) Regulations 2001

3 Returning Officer

Key statutory references

Sections 23, 24, 28, 29, 29A and 30, Representation of the People Act 1983 (UK Parliamentary elections)

Section 35 and 36, Representation of the People Act 1983 (local government¹⁷, London Borough and London Mayoral and Assembly elections)

Article 18, National Assembly for Wales (Representation of the People) Order 2007

Sections 54, 55, 56 and 58, Police Reform and Social Responsibility Act 2011 (Police and Crime Commissioner elections)

Articles 5 and 6, Combined Authorities (Mayoral Elections) Order 2017 (Combined Authority Mayoral elections)

Sections 6 and 7, European Parliamentary Elections Act 2002 (European Parliamentary elections)

Section 63, Representation of the People Act 1983 (all elections)

Data Protection Act 1998

Other useful guidance sources

- Part 1 – Guidance for Returning Officers (election-specific) (The Electoral Commission)
<http://www.electoralcommission.org.uk/i-am-a/electoral-administrator>
- Section 4, Parker's Law and Conduct of Elections (Lexis Nexis)
- Sections 6-001 to 6-008.1, Schofield's Election Law (Sweet & Maxwell / Thomson Reuters)

¹⁷ Defined as district, borough, county and county borough

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3.1 General background

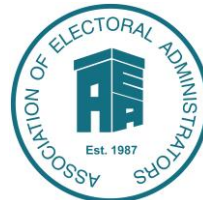
Although the term “Returning Officer” is used to describe the individual responsible for the overall conduct of elections, there are in fact a number of subtly different designations dependent upon the type of election, which are summarised in the table below.

In addition, some Returning Officers take on responsibilities at national and local referendums (see section 4 below):

Description of election	Designation
UK Parliamentary	Returning Officer Acting Returning Officer
Local Government (district, London borough, county, county borough, parish, community and local authority Mayoral)	Returning Officer
Greater London Assembly and Mayoral	Greater London Returning Officer Constituency Returning Officer Borough Returning Officer
National Assembly for Wales	Regional Returning Officer Constituency Returning Officer
Police and Crime Commissioner	Police Area Returning Officer Local Returning Officer
Combined Authority Mayoral	Combined Authority Returning Officer Local Returning Officer
European Parliamentary	Regional Returning Officer Local Returning Officer

Returning Officers must be impartial and ensure that the conduct of the process is in accordance with law. The duties and responsibilities become personal to that officer and in undertaking them, they are independent of the local authority and may


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therefore be entitled to an additional payment for services rendered.

If the Returning Officer breaches their official duty to administer the process in accordance with the legislative provisions, they shall be liable on summary conviction to an unlimited fine (level 5 on the standard scale)¹⁸.

Additionally, where a Returning Officer fails to perform their duties satisfactorily, affecting the outcome of the result, their conduct may be the subject of court action through election petition.

	In light of the fact that the duties and responsibilities are personal, Returning Officers are strongly advised to have adequate insurance arrangements in place.
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At UK Parliamentary elections, where the Electoral Commission is of the opinion that an Acting Returning Officer (see section 3.2.1 below) performs inadequately, it may make a recommendation to the Secretary of State to withhold all or part of any personal payment due to that officer, which may or may not be acted upon¹⁹.

3.2 Appointment

3.2.1 UK Parliamentary elections

The **Returning Officer** at a UK Parliamentary election is essentially a ceremonial role, with the office holder only being permitted to reserve two duties to themselves, namely the receipt of the writ and the declaration of the result²⁰.

The individuals designated as Returning Officer vary according to the type of constituency²¹.

The **Acting Returning Officer** administers the process. Dependent upon the type of constituency, the role of Acting Returning Officer “shall be discharged” by the relevant Electoral Registration Officer for the area²².

¹⁸ Section 63, Representation of the People Act 1983

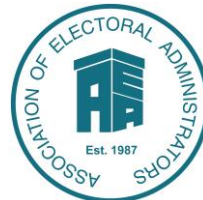
¹⁹ Section 29A, Representation of the People Act 1983


²⁰ Section 28(3), Representation of the People Act 1983

²¹ Section 24, Representation of the People Act 1983

²² Section 28(1), Representation of the People Act 1983

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	<p>There is no requirement for the local authority to appoint an Acting Returning Officer as the duties and responsibilities automatically fall to the Electoral Registration Officer appointed by that council, subject to the type of constituency.</p> <p>However, it is good practice that when making the appointment of Electoral Registration Officer, reference is made to the fact that the post holder will also act as Acting Returning Officer at UK Parliamentary elections.</p>
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3.2.2 Local government elections

3.2.2.1 District councils

Every district council in England (including unitary authorities and local authority Mayoral but not London boroughs) "... shall appoint an officer of the council to be the returning officer for the elections of councillors of the district ..." ²³.

Each is also required to appoint one of its officers as Returning Officer for the election of any parish councillors in its area ²⁴.

Similar requirements apply to every county and county borough in Wales, where an officer of the council shall be appointed as Returning Officer for elections to the county or county borough, and an officer appointed for community councillors in the area ²⁵.

	<p>The Returning Officer must be an officer of the council. Unless express provision has been made within the constitution that:</p> <ul style="list-style-type: none">• a specific post holder will automatically be appointed as Returning Officer; or• that the appointment has been delegated to a sub-committee,• the local authority will need to make the appointment at a full meeting of the council.
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²³ Section 35(1), Representation of the People Act 1983

²⁴ Section 35(1), Representation of the People Act 1983

²⁵ Section 35(2), Representation of the People Act 1983

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There is no requirement that the same officer be appointed as Returning Officer for both district and parish council elections (or county/county borough and community council elections), but it is likely that significant administrative issues would be caused were that not to be the case.

There is also no requirement that the Returning Officer appointed by the local authority for district council elections be the Electoral Registration Officer. However, there may be administrative issues if different officers are appointed as the Electoral Registration Officer has the duty to act as Acting Returning Officer at UK Parliamentary elections.

3.2.2.2 County councils

Every non-metropolitan county council must appoint one of its officers as **Returning Officer** for the election of county councillors for its area²⁶.

 The Returning Officer **must** be an officer of the council. Unless express provision has been made within the constitution that:

- a specific post holder will automatically be appointed as Returning Officer; or
- that the appointment has been delegated to a sub-committee,

the local authority will need to make the appointment at a full meeting of the council.

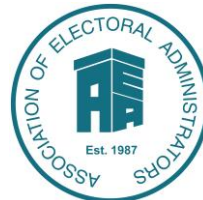
3.2.2.3 London boroughs and the Greater London Authority


The **Returning Officer** at London borough elections (including local authority Mayoral) "... shall be the proper officer of the borough"²⁷.

Similarly, the **Greater London Returning Officer**, responsible for the delivery of London Mayoral and Assembly elections, "... shall be the proper officer of the Greater London Authority"²⁸.

²⁶ Section 35(1), Representation of the People Act 1983
²⁷ Section 35(3), Representation of the People Act 1983
²⁸ Section 35(2C), Representation of the People Act 1983


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 The designation of Proper Officers is considered further in section 4 of this guidance note but for clarity, there is no requirement for a London borough to appoint an officer of the council as Returning Officer for local government elections as that appointment automatically rests with the relevant Proper Officer.

For the administration of London Assembly constituency member elections, **Constituency Returning Officers** are designated by Order of the Secretary of State²⁹.

There are 14 Constituency Returning Officers, each of whom is the Returning Officer for the election of councillors in their respective London boroughs (and therefore the Proper Officer for the council)³⁰.

 In addition to the 14 Constituency Returning Officers, 33 **Borough Returning Officers** (one for each London borough and the City of London) assist with the delivery of London Mayoral and Assembly elections.

For the 19 Borough Returning Officers who are not also Constituency Returning Officers, there is no statutory requirement to provide their services as that responsibility rests with the Greater London Returning Officer and the 14 Constituency Returning Officers.

3.2.3 National Assembly for Wales elections

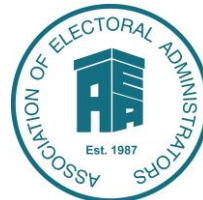
There are five Assembly electoral regions in Wales, each of whom has appointed to it a **Regional Returning Officer**, responsible solely for the nominations, candidate deposits and allocation of seats for that region.

The appointment automatically falls on the officer appointed as Returning Officer for elections to a county or county borough in the

²⁹ Section 35(2B), Representation of the People Act 1983

³⁰ Article 2, Greater London Authority (Assembly Constituencies and Returning Officers) Order 1999. The 14 Constituency Returning Officers are currently designated as those for the London boroughs of Barnet, Brent, Bromley, Croydon, Ealing, Enfield, Havering, Hounslow, Lambeth, Lewisham, Newham, Waltham Forest, Wandsworth and Westminster

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region, or where there is more than one such Returning Officer, the officer designated by Order by the National Assembly for Wales³¹.

There are also 22 **Constituency Returning Officers**, one for each local authority area, responsible for the administration of the poll in their respective area.

The appointment automatically falls on the officer appointed as Returning Officer for elections to a county or county borough³².

3.2.4 Police and Crime Commissioner elections

The Secretary of State designates by Order³³ the **Police Area Returning Officers** for Police and Crime Commissioner elections, who must themselves be an Acting Returning Officer (see section 3.2.1 above) for a parliamentary constituency falling wholly or partly within the relevant police area³⁴.

The Police Area Returning Officer is responsible for the overall conduct of the election in the police area and to give notice of the election, conduct the nomination process, encourage participation, administer the candidate election address process, calculate the votes given to each candidate and declare the result.

The Returning Officer for district council elections is automatically appointed as **Local Returning Officer** for their respective local authority area³⁵.

Local Returning Officers are responsible for the conduct of the poll in their local authority area, the printing of ballot papers, the verification of ballot paper accounts and the counting of the votes

³¹ Article 18(1)(b), National Assembly for Wales (Representation of the People) Order 2007. The five Regional Returning Officers are currently designated as those for Cardiff, Carmarthenshire, Flintshire, Neath Port Talbot and Newport

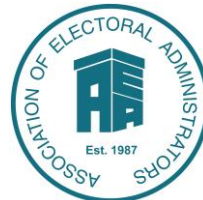
³² Article 18(1)(a), National Assembly for Wales (Representation of the People) Order 2007

³³ Schedule 1, Police and Crime Commissioners Elections (Designation of Police Area Returning Officers) Order 2015. The 41 Police Area Returning Officers are currently designated as the Acting Returning Officers for the Alyn and Deeside, Barnsley Central, Bath, Beverley and Holderness, Birmingham Edgbaston, Blackburn, Cardiff North, City of Durham, Colchester, Dover, Exeter, Halton, Hertsmere, Kettering, Lincoln, Liverpool Riverside, Llanelli, Luton North, Manchester Central, Mid Derbyshire, Newport East, North Shropshire, North West Leicestershire, North West Norfolk, Oxford West and Abingdon, Poole, Reigate, Rushcliffe, South East Cambridgeshire, Southampton Itchen, Stockton North, Stoke-on-Trent North, Stratford-on-Avon, Stroud, Suffolk Coastal, Sunderland Central, Swindon North, Thirsk and Malton, Wakefield, Wealden, Westmorland and Lonsdale UK Parliamentary constituencies

³⁴ Section 54, Police Reform and Social Responsibility Act 2011

³⁵ Section 54(5), Police Reform and Social Responsibility Act 2011

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in their area, although the Police Area Returning Officer may, by notice to the Local Returning Officer, take responsibility for any of these matters³⁶.

Police Area Returning Officers may also issue directions to Local Returning Officers relating to the discharge of their functions, which Local Returning Officers are required to follow³⁷.

3.2.5 Combined Authority Mayoral elections

In areas where combined authority arrangements are in place and the constituent authorities have agreed to the election of a Mayor, the combined authority must appoint either one of its officers or one of the officers of a constituent council as its **Combined Authority Returning Officer**³⁸. That officer does not need to be a Returning Officer at any other election.

Each district council must appoint an officer as **Local Returning Officer** for their respective area³⁹.

Local Returning Officers are responsible for doing "... all such acts and things as may be necessary for effectually conducting the election ..." in accordance with the election rules⁴⁰.

However, the Combined Authority Returning Officer may issue directions to Local Returning Officers, which may include requiring the provision of any information which they have or are entitled to have, requiring that they take specified steps in preparation for the election, directions that the ballot papers shall be printed by the Combined Authority Returning Officer and directions that the count of votes shall be conducted at a central location⁴¹.

³⁶ Regulation 3(4), Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012

³⁷ Regulations 4(1) and 4(4), Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012

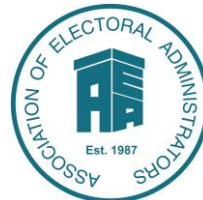
³⁸ Article 6, Combined Authorities (Mayoral Elections) Order 2017

³⁹ Article 5, Combined Authorities (Mayoral Elections) Order 2017

⁴⁰ Article 5(2), Combined Authorities (Mayoral Elections) Order 2017

⁴¹ Article 6(2), Combined Authorities (Mayoral Elections) Order 2017

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3.2.6 European Parliamentary elections

The Secretary of State designates by Order⁴² the **Regional Returning Officers** for European Parliamentary elections, who must themselves be an Acting Returning Officer for a UK Parliamentary election (see section 3.2.1 above) or the Proper Officer of the Greater London Authority⁴³.

The Returning Officer for district council or London borough elections is automatically appointed as **Local Returning Officer** for their respective local authority area⁴⁴.

Local Returning Officers are responsible for the conduct of the poll in their local authority area, the printing of ballot papers (unless otherwise directed), the issue and receipt of postal ballot papers in their area, the verification of ballot paper accounts and the counting of the votes in their area⁴⁵.

Regional Returning Officers may issue directions to Local Returning Officers relating to the discharge of their functions, which Local Returning Officers are required to follow⁴⁶.

3.3 General responsibilities

Returning Officers are under the general duty to conduct elections in accordance with the rules relevant to that type of election.

Although each election is governed by its own set of rules, with the principal sets listed below for reference, Returning Officers will need to be satisfied that they are referring to the latest versions on each occasion:

⁴² Schedule, European Parliamentary Elections (Returning Officers) Order 2013. The 11 Regional Returning Officers are currently designated as the Acting Returning Officers for the Birmingham Ladywood, Chelmsford, Falkirk County, Kettering, Leeds Central, Lewisham Deptford, Manchester Central, Poole, Preseli Pembrokeshire, Southampton Test and Sunderland Central

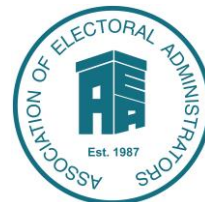
⁴³ Section 6, European Parliamentary Elections Act 2002

⁴⁴ Section 6(5A) European Parliamentary Elections Act 2002

⁴⁵ Regulation 6, European Parliamentary Elections Regulations 2004

⁴⁶ Regulations 9(3) and 9(4), European Parliamentary Elections Regulations 2004

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Description of election	Conduct rules
UK Parliamentary	Parliamentary Election Rules, Schedule 1, Representation of the People Act 1983
Local government (district, London borough, county and county borough)	Local Elections (Principal Areas) Rules 2006
Local government (parish and community)	Local Elections (Parishes and Communities) Rules 2006
Greater London Assembly and Mayoral	Greater London Authority Elections Rules 2007
Police and Crime Commissioner	Police and Crime Commissioner Elections Order 2012
European Parliamentary	European Parliamentary Elections Regulations 2004

3.4 Staffing and resources

Returning Officers are entitled to reclaim reasonable charges for the conduct of any election. The accounting arrangements will vary according to each type of election.

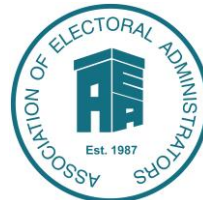
Each set of election rules provides for the Returning Officer to employ staff to assist with the administration of the various processes.

At London Assembly, Police and Crime Commissioner and European Parliamentary elections, local authorities are under a duty to provide staff to assist the Returning Officer⁴⁷.

However, local authorities are under no such requirement for UK Parliamentary or local government elections.


⁴⁷ Section 35(6), Representation of the People Act 1983; Section 54(4), Police Reform and Social Responsibility Act 2011; and Section 6(7), European Parliamentary Elections Act 2002

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3.5 Appointment of deputy/deputies

Returning Officers are entitled to appoint deputies to discharge all or any of the duties placed upon them⁴⁸.

	<p>Deputies may be delegated full powers or, alternatively, limited powers, where they have authority and responsibility for certain aspects of the election, e.g. postal vote opening, adjudication of doubtful ballot papers, etc.</p> <p>The rules vary from election to election but it is recommended that in all cases, deputies are appointed, and accept their appointment, in writing.</p>
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3.6 Other issues to note

Returning Officers are independent of their employing local authority, with their responsibility one of a personal nature distinct from their duties as an employee of the council.

	<p>It is recommended that the Returning Officer is registered in their own right as a data controller with the Information Commissioner. They should not rely on the local authority's registration.</p> <p>In addition, and because of this independence, they are not subject to the provisions of the Freedom of Information Act 2000, although good practice would suggest that they work in as transparent and open a manner as possible within the relevant legislative restrictions.</p> <p>The list of bodies subject to the Freedom of Information Act 2000 is available at http://www.legislation.gov.uk/ukpga/2000/36/schedule/1.</p>
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It is important to note that an election is not liable to be questioned merely because the officer conducting the proceedings had not been properly appointed⁴⁹.

⁴⁸ Sections 28(5) and 35(4), Representation of the People Act 1983; Regulations 5(1), Police and Crime Commissioner Elections (Functions of Returning Officers) Regulations 2012; and Regulations 7(1), European Parliamentary Elections Regulations 2004

⁴⁹ Sections 24(2) and 35(5), Representation of the People Act 1983; Article 15, Police and Crime Commissioner Elections Order 2012; Regulation 14, European Parliamentary Elections Regulations 2004

4 Counting Officer

Key statutory references

Section 128, Political Parties, Elections and Referendums Act 2000 (National referendums)

Regulation 9, Local Authorities (Conduct of Referendums) (England) Regulations 2012 (Referendums on local authority executive arrangements)

Regulation 15, Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012 (Council tax referendums)

Regulation 9, Neighbourhood Planning (Referendums) Regulations 2012 (Neighbourhood planning referendums)

Rule 4, Parish and Community Meetings (Polls) Rules 1987 (Parish or community polls)

4.1 General background

The term “Counting Officer” is used to describe the individual responsible for the overall conduct of referendums in their area.

Counting Officers must be impartial and ensure that the conduct of the process is in accordance with law. The duties and responsibilities become personal to that officer and in undertaking them, they are independent of the local authority and may therefore be entitled to an additional payment for services rendered.

4.2 Appointment and conduct rules

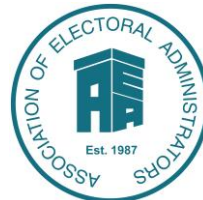
4.2.1 National referendums

The Chairman of the Electoral Commission or a person appointed by them acts as **Chief Counting Officer** at national referendums⁵⁰.


The Chief Counting Officer appoints a **Counting Officer** for each local authority area. Although not specified, the appointment normally rests with the Returning Officer for district council or London borough elections.

⁵⁰ Section 128, Political Parties, Elections and Referendums Act 2000

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The rules for the conduct of a national referendum are approved in advance of the specific poll.

	<p>At the two UK-wide referendums held in 2011 and 2016, the Chief Counting Officer also appointed a Regional Counting Officer for each European Parliamentary electoral region.</p> <p>Although local authority Counting Officers were responsible for the conduct of both referendums, the Chief Counting Officer issued directions to Regional and local authority Counting Officers relating to the discharge of their functions.</p>
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4.2.2 Local authority executive arrangements

In England, the Returning Officer for district council or London borough elections is responsible as Counting Officer for the administration of any referendum required under the Local Government Act 2000 (as amended) relating to the executive governance of the authority⁵¹.

Any referendum will be conducted in accordance with the Local Authorities (Conduct of Referendums) (England) Regulations 2012.

4.2.3 Council tax referendums

The Returning Officer for district council or London borough elections is responsible as Counting Officer for the administration of any referendum required under the Local Government Finance Act 1992 (as amended) relating to an "... excessive council tax increase by a local precepting authority ..."⁵².

Any referendum will be conducted in accordance with the Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012.

4.2.4 Neighbourhood planning referendums

The Returning Officer for district council or London borough elections is responsible as Counting Officer for the administration of any referendum required under the Town and Country Planning Act 1990 (as amended) relating to neighbourhood planning⁵³.

⁵¹ Regulation 9, Local Authorities (Conduct of Referendums) (England) Regulations 2012

⁵² Regulation 15, Local Authorities (Conduct of Referendums) (Council Tax Increases) (England) Regulations 2012

⁵³ Regulation 9, Neighbourhood Planning (Referendums) Regulations 2012

Appointment and responsibilities of statutory officers involved in the electoral process



Any referendum will be conducted in accordance with the Neighbourhood Planning (Referendums) Regulations 2012.

4.2.5 Parish and Community polls

Where at a meeting or a parish or community a resolution is passed calling for a poll, the chairman of the meeting is required to notify the relevant district council or London borough. That authority must then appoint "... an officer of the council to be returning officer"⁵⁴.

Although not specified, the appointment normally rests with the Returning Officer appointed by the district council or London borough for parish or community council elections. The poll will be conducted in accordance with the Parish and Community Meetings (Polls) Rules 1987.

⁵⁴ Rule 4, Parish and Community Meetings (Polls) Rules 1987

5 Proper Officer

Key statutory reference

Section 270, Local Government Act 1972

5.1 General background

Section 270(3) of the Local Government Act 1972 states that “Any reference in this Act to a proper officer and any reference which by virtue of this Act is to be construed as such a reference shall, in relation to any purpose and any local authority or other body or any area, be construed as a reference to an officer appointed for that purpose by that body or for that area, as the case may be.”

There are a number of instances in electoral legislation where the term Proper Officer is used. In this context, it relates to the Proper Officer responsible for the delivery of electoral matters that fall to the local authority.

5.2 Appointment

Local authorities will designate their Proper Officers in different ways.

In some cases, specific designations will be made in the council’s constitution. In others, the responsibility is not formally defined but is considered to sit with the officer deemed to be responsible for the delivery of the particular service.



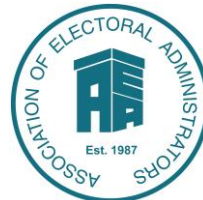
For clarity, it is recommended that Proper Officer designations are set out in the council’s constitution.

5.3 General responsibilities in electoral matters

- Takes on the responsibility for electoral registration matters where the Electoral Registration Officer is incapacitated and no deputy has been appointed⁵⁵.
- Is automatically appointed as Returning Officer for London borough council elections and for Greater London Authority


⁵⁵ Section 52(3), Representation of the People Act 1983

Appointment and responsibilities of statutory officers involved in the electoral process



(Mayoral and Assembly) elections (see section 3.2.2.3 above)⁵⁶.

- The Proper Officer of the Greater London Authority may be designated by the Secretary of State as the Regional Returning Officer for European Parliamentary elections for the London region⁵⁷.
- Receives letters of resignation from councillors of district, London borough, county, county borough, parish and community councils⁵⁸.
- Publishes notices of vacancy for district, London borough, county, county borough, parish and community councils⁵⁹.
- Receives requests for the filling of vacancies for district, London borough, county, county borough, parish and community councils⁶⁰.
- Receives appointments of election agents at district, London borough, county, county borough, parish and community council elections⁶¹.
- Publishes notice of election agents at district, London borough, county, county borough, parish and community council elections⁶².

	<p>As the Proper Officer is an employee of the council, they are covered by the local authority's registration as a data controller with the Information Commissioner.</p> <p>Similarly, they are subject to the provisions of the Freedom of Information Act 2000</p>
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⁵⁶ Section 35(3), Representation of the People Act 1983

⁵⁷ Section 6, European Parliamentary Elections Act 2002

⁵⁸ Section 84, Local Government Act 1972

⁵⁹ Section 87, Local Government Act 1972

⁶⁰ Section 89, Local Government Act 1972

⁶¹ Section 69, Representation of the People Act 1983

⁶² Section 67, Representation of the People Act 1983