

Member Support Project Resource – Reservation of Returning Officer Powers

1 Introduction

- 1.1 This document provides guidance and further clarity in relation to the Returning Officer and reservation of powers at a UK Parliamentary general election.

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2 Background

- 2.1 In England and Wales, section 24 of the Representation of the People Act 1983 (RPA 1983) designates who acts as Returning Officer (RO) at UK Parliamentary elections. The role is primarily ceremonial as the Acting RO (ARO) is responsible for administering the process.
- 2.2 In Scotland there is no RO with a ceremonial role. The Constituency Returning Officer (CRO) is the person who has been appointed as the Returning Officer for local government elections in that area. In the case of a constituency that crosses local council boundaries, the CRO is designated by an Order made by Scottish Ministers¹.
- 2.3 In Northern Ireland the Chief Electoral Officer is the Returning Officer for each parliamentary constituency in Northern Ireland².
- 2.4 In England and Wales section 23(2) of the RPA 1983 states “it is the returning officer’s general duty at a parliamentary election to

¹ Arts.14(a) and (b) of the Scottish Parliament (Elections etc.) Order 2015(b)

² Section 26(1) of the 1983 Act

do all such acts and things as may be necessary for effectually conducting the election". These duties are discharged by an ARO as the RO may only reserve the following duties to him/herself. These relate to the:

- Receiving of the writ;
- Declaration of the result; and
- Endorsing and returning the writ

3 Reservation of Powers

- 3.1 To reserve powers, the RO must give written notice to the ARO of their intention to do so within one day of the receipt of the writ³. The notice must be given in writing and needs to specify which duties the Returning Officer wishes to reserve for themselves. The notice is not prescribed.
- 3.2 In discharging their role of administering the election, the ARO is given all the powers, obligations, rights and liabilities of the RO, including the power to appoint deputies⁴.
- 3.3 Appendix A gives full details of who is the RO and ARO at UK Parliamentary elections. In summary however, in county constituencies⁵, the sheriff of the county is generally designated as the RO. It is their responsibility to contact the ARO for any constituencies falling in their area if they wish to receive the writ and/or declare the result. In borough constituencies, it is generally the chair(man) of the district or, where appropriate, the civic mayor.
- 3.4 It is worth highlighting that in their role as Returning Officer, postholders must remain impartial when carrying out their duties. Under section 23(2) of the RPA 1983 it is the Returning Officer's general duty at a UK Parliamentary general election to do all such acts and things as may be necessary for effectually conducting the election. Neutral administration treats all political parties and candidates equally, without discrimination or partiality, giving the public trust in the system.
- 3.5 As good practice it is recommended that (A)ROs contact their RO at an early stage of preparing for a UK Parliamentary general election

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

⁴ Section 28 Representation of the People Act 1983

⁵ For designations, see the Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006, the Parliamentary Constituencies (England) Order 2007 and the Parliamentary Constituencies (England) (Amendment) Order 2009

to ensure they are aware of their role and duties and to discuss whether these duties will be delegated. AROs should highlight the need for the notice of reserved powers to be made in writing within one day of the receipt of the writ.

4 What if the postholder changed during the election timetable?

- 4.1 Where, the holder of the post of chair(man) or mayor changes during the election timetable, it would be the case that the outgoing RO would not be able to preside over the declaration of the result as the new postholder would become RO at the time of their appointment.
- 4.2 Section 24 RPA 1983 places the duties of RO on a postholder, not an individual.
- 4.3 Section 27(2) states that "Where a person takes any office by virtue of which he becomes returning officer, he (and not the outgoing holder of the office) shall complete the execution of the writ for a parliamentary election previously issued and not yet returned." It is therefore recognised within the Act that the postholder may change.
- 4.4 We therefore consider that the reservation powers set out in sections 28(2) and (3) can be construed to allow the postholder at the time of receipt of the writ to also make written reservation of their intention to declare the result even though they will not be in post at the time of the declaration.
- 4.5 We consider that the reservation of that right will then pass to the new RO, as provided for by section 27(2), who will, as a result, be authorised to declare the result.

Please note that this is the AEA's interpretation of the legislation and has not been tested. It has been produced to enable AROs to consider how to deal with this situation.

It is therefore for each ARO to consider whether our interpretation is reasonable. If they are in any doubt they should, of course, take their own legal advice.

5 Key Statutory References

Key statutory references

- Representation of the People Act 1983: Sections 23 and 24

Other useful guidance sources

- EC RO guidance [Part A – Returning Officer role and responsibilities](#)
- Sections 4.1 – 4.21, Parker’s Law and Conduct of Elections (Lexis Nexis)
- Sections 6-001, Schofield’s Election Law (Sweet & Maxwell / Thomson Reuters)

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Appendix A

Who is the RO and ARO at UK Parliamentary general elections in England and Wales?

Description of constituency	Returning Officer	Acting Returning Officer
In the case of a county constituency which is coterminous with or wholly contained in a county	The sheriff of the county	Such ERO as designated by the Secretary of State
In the case of a borough constituency which is coterminous with or wholly contained in a district	The chairman of the district council	The ERO appointed by that council
In the case of any other constituency wholly outside Greater London	Such sheriff or chairman of a district council as designated by the Secretary of State	Such ERO as designated by the Secretary of State
In the case of a constituency which is coterminous with or wholly contained in a London borough	The mayor of the borough (this means the civic mayor)	The ERO appointed by that council
In the case of a constituency wholly or partly in Greater London which is situated partly in one London borough and partly in a district or any other London borough	The mayor or the chairman of such London borough or the chairman of such district council as designated by the Secretary of State	The ERO appointed by that council

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Description of constituency	Returning Officer	Acting Returning Officer
In the case of a county constituency in Wales which is coterminous with or wholly contained in a preserved county (Sec 64 Local Government (Wales) Act 1994)	The sheriff of the county	Such ERO as designated by the Secretary of State
In the case of a borough constituency in Wales which is coterminous with or wholly contained in a county or county borough	The chairman of the county or the county borough council	The ERO appointed by that council
In the case of any other constituency in Wales	Such sheriff or chairman of a county or county borough council as may be designated by the Secretary of State	Such ERO as designated by the Secretary of State