



Research Briefing  
**By-elections to the Assembly**

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**National Assembly for Wales**  
Research Service

The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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# 1. Introduction

The Llywydd has announced that the date for the **Alyn and Deeside by-election** will be **Tuesday 6 February 2018** and has written to the Returning Officer asking him to arrange for the poll to take place on that date.

Tuesday 6 February 2018 is the last possible day on which the by-election can take place. Although elections and by-elections, by convention, have taken place on Thursdays, there is no statutory compulsion to do so.

This Quick Guide provides information on the processes for holding a by-election and what happens when a vacancy occurs in a constituency seat and in a regional seat

## 2. Vacancy in a constituency seat

Section 10 of the *Government of Wales Act 2006* provides for the filling of a constituency seat which becomes vacant (for example, because of the resignation or death of a constituency AM).<sup>1</sup> Standing Order 1.8 allows an AM to resign his or her seat in the Assembly by **giving notice in writing** to the Presiding Officer. A vacancy occurs when the Presiding Officer receives a notice of resignation or otherwise when the Presiding Officer declares that the seat has become vacant.<sup>2</sup>

A by-election must be held on a day fixed by the **Presiding Officer** which must be within **three months** of the occurrence of the vacancy. The exception to this is if the earliest date the by-election could be held is within three months of the expected Assembly general election, in which case the seat is kept vacant.

The Presiding Officer declares the vacancy and notifies the Returning Officer of the date on which the constituency seat became vacant and the date of the by-election.

Once the Returning Officer has been notified of the date, the following timetable should be followed:

- Publication of notice of election not later than noon on the twenty-fifth day before polling day.
- Delivery of nomination papers before the nineteenth day prior to polling day.
- Objections to nomination papers may be lodged during the hours allowed for delivery of nomination papers on the last day for their delivery and the following hour.
- Delivery of notices of withdrawal of candidature not later than noon on the seventeenth day before polling day.
- Publication of statement of persons nominated, not later than noon on the sixteenth day before polling day
- Polling takes place between the hours of 7 in the morning and 10 at night on the day of election.

In computing any period of time for the purposes of the timetable, certain days such as weekends and bank holidays, are disregarded. By-elections may be held during an Assembly recess.

### 3. Vacancy in a regional seat

Section 11 of the *Government of Wales Act 2006* provides the machinery for filling a regional seat which becomes vacant (for example, because of the resignation or death of the Assembly regional member). If the seat which has fallen vacant was held by a candidate drawn from the list which a party had submitted at the previous general election, **the vacancy is filled by the next candidate on that list**, provided that person still wishes to be elected, and, in the case of a person who has ceased to be a member of the party, the party has not given notice that it does not wish that person to fill the vacancy.

A person who has, since that general election, been a candidate in a constituency by-election, is barred from taking up a regional vacancy as is a person who has previously been allocated a regional seat (and has, for example, ceased to hold that seat by reason of having resigned).

If, for any reason, the vacant seat cannot be filled from a party's list (for example because all the candidates on the list have been exhausted or the only candidates who are left are barred from filling the vacancy), then the seat remains vacant until the next ordinary, or extraordinary general election.

If the Assembly regional member whose seat has become vacant was elected as an individual candidate, as opposed to being drawn from a party list, there is no procedure for filling the seat and it remains vacant until the next ordinary or extraordinary general election.