

## Recall of elected representatives

This paper has been produced by SPICe in response to a request for research on international examples of mechanisms used to recall members of elected legislatures.

Specifically, the research request asked SPICe to consider recall mechanisms which are triggered for disciplinary reasons, including cases where a criminal offence has been committed and 'where elected representatives have failed in their obligations to represent their constituencies'. Details on the 'thresholds used' and 'resulting financial costs' were also requested.

New Zealand is included as per the research request although no recall mechanism exists.

### **Overview**

Recall is not a particularly common mechanism. Around 20 countries worldwide have some form of recall mechanism which can be applied either to individuals or to particular offices<sup>1</sup>.

*"Recall mechanisms are comparatively unusual throughout the world, and particularly rare at national level."<sup>2</sup>*

The examples used in this paper are those for which there is sufficient material publicly available in accessible forms. This paper draws on a [House of Commons Library briefing on recall elections](#), the [UK Government draft bill on recall of MPs](#) and other sources, including primary sources, as referenced.

### **Recall in the UK**

A recall mechanism has existed to recall members of the House of Commons since March 2016<sup>3</sup>. This is the only recall system which exists in the UK. No other elected representatives can be recalled<sup>4</sup>.

A recall petition can only be initiated under certain conditions and constituents cannot initiate a recall petition. A recall petition can be opened if one of three conditions is met. The conditions are:

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<sup>1</sup> [Institute for Democracy and Electoral Assistance](#), which individuals/positions may be subject to the recall?

<sup>2</sup> [House of Commons Political and Constitutional Reform Committee, First Report, June 2012](#), Recall of MPs

<sup>3</sup> [Recall of MPs Act 2015](#)

<sup>4</sup> A [petition was submitted](#) to the Senedd on the matter in January 2020 but did not receive enough signatures to be referred to the Petitions Committee.

1. The MP has, after becoming an MP, been convicted in the United Kingdom of an offence and sentenced or ordered to be imprisoned or detained, and any appeal period has passed without the conviction being overturned.
2. Following on from a report from the Committee on Standards in relation to an MP, the House of Commons orders the suspension of the MP from the service of the House for a specified period (at least 10 sitting days, or at least 14 days if sitting days are not specified).
3. The MP has, after becoming an MP, been convicted of an offence under section 10 of the Parliamentary Standards Act 2009 (if they provide information which they know to be false or misleading in a material respect in support of a claim for allowances).

It is important to note that if a sitting MP were to be convicted of an offence for which they receive a custodial sentence of more than a year and is detained, they would automatically lose their seat. An MP being remanded in custody similarly does not trigger recall.

Detention under mental health legislation is exempt from the recall provisions.

If one of the three conditions for opening a recall petition is met the Speaker of the House of Commons must give notice to the petition officer (the returning officer for the constituency) in the MP's constituency<sup>5</sup>.

The petition officer is required to send a notice to all eligible voters telling them that a petition is to be opened in their constituency along with opening and closing dates for the petition<sup>6</sup>. If there is more than one signing place for the petition then eligible voters are also told their designated signing place.

A petition is successful if it is signed by 10% of eligible registered electors. The normal conventions for calling a by-election then apply.

At recall elections anyone spending over £500 must register with the Electoral Commission. The spending limit is £10,000.

The UK Government provided an estimate of the cost of a recall petition as between £37,700 and £100,500 with a best estimate of £64,300 when it introduced the draft Recall of MPs Bill<sup>7</sup>.

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<sup>5</sup> This does not occur where the MP has already vacated the seat; where the MP is subject to another recall petition, and where polling day for a scheduled general election is within six months.

<sup>6</sup> A petition must be open for six weeks and available to sign Monday to Friday 9am-5pm except bank holidays.

<sup>7</sup> [Draft Recall of MPs Bill](#), Annex G, UK Government

There have been three recall petitions to date. The only one for which the cost is available is the North Antrim recall of 2018 which cost the Electoral Office of Northern Ireland £166,000<sup>8</sup>.

### Canada

British Columbia is the only province or territory which has a system of recall to remove a Member of the Legislative Assembly (MLA) from office between elections. It was introduced in 1995. Since its introduction there have been 26 petitions, six have been submitted for determination but only one secured the required number of signatures<sup>9</sup>. The Chief Electoral Officer administers the recall petition process according to the rules established in the [Recall and Initiative Act](#).

There is no limit on the grounds for which a recall petition can be initiated, although petitions cannot be initiated within the first 18 months of an MLA being elected whether at a general election or by-election and cannot be submitted if there is a general election scheduled within the next six months. Only one election resulting from a successful recall petition can be held in an electoral district between general elections.

The petition organiser must provide a statement of 200 words or fewer to say why they believe the MLA should be removed<sup>10</sup>. The petition organiser or a registered canvasser then collects signatures from other eligible registered voters in their electoral district. Eligible voters are individuals who voted at the last election. A 40% threshold is in place, meaning that 40% of eligible voters in the electoral district must sign the petition.

The Recall and Initiative Act provides for the expense limits at recall elections. An election as a result of a recall is held in accordance with section 35 of the [Constitution Act](#) - this is a by-election held in accordance with the usual conventions and within 90 days.

In 2018 the Recall and Initiative Act was amended to bring spend at recall elections in line with that at other elections. The Recall and Initiative Amendment Act banned corporate and union donations to recall elections and restricted advertising rules which had had no spending limits during recall elections. The Act also provided that only eligible individuals can make contributions to a maximum of \$1200 per year. An eligible individual is someone who is a resident of British Columbia and a Canadian citizen or permanent resident. Recall advertising sponsors are limited to \$5,000 during a recall petition period.

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<sup>8</sup> [Recall elections, briefing paper 5089](#), House of Commons Library, June 2021

<sup>9</sup> [Summary of recall petitions](#), Elections BC,

<sup>10</sup> [Recall FAQs](#), Elections BC,

A report by Elections B.C. gave the cost of administering four recall petitions for the fiscal years 2010/11 and 2011/12 as<sup>11</sup>:

- Oak Bay- Gordon Head \$109,460 (\$2.85 per registered voter)
- Comox Valley \$20,503 (\$0.42 per registered voter)
- Kamloops-North Thompson \$25,525 (\$0.67 per registered voter)
- Maple Ridge-Mission \$7986 (\$0.23 per registered voter)

### Japan

Recall operates at a local level but not the national level. The Governor and representatives in local parliaments face a recall system under the Local Government Act.

Voters may recall a governor and members of a local parliament if they obtain the requisite number of signatures and additional requirements do not appear to apply. The threshold is generally one third of eligible voters but there are different thresholds for larger electoral areas.

*“Where the total number of voters exceeds 400,000 but is less than 800,000, then one sixth of the number exceeding 400,000 is required. If the total is more than 800,000, then one eighth of the excess votes are required. . . . If the total number [of voters] exceeds 400,000 and is 800,000 or less, the total number of required votes is obtained by the sum of one third of 400,000 and one sixth of the number exceeding 400,000. If the total number [of voters] exceeds 800,000, the total number of required votes is obtained by the sum of one third of 400,000, one sixth of the number exceeding 400,000 [up to 800,000], and one eighth of the number exceeding 800,000.”<sup>12</sup>*

If the signatures are properly submitted to the Election Administration Commission then the election for the recall will be held within sixty days.

### New Zealand

There is no procedure for recall of an MP in New Zealand. MPs, once elected, are only removed from office for the following reasons<sup>13</sup>:

- a member who fails, without the House’s permission, to attend the House for one whole session<sup>14</sup> of Parliament vacates his or her seat

<sup>11</sup> [Report of the Chief Electoral Officer on the recall petitions](#), November 15 2010-April 30 2011

<sup>12</sup> [National Referendum and popular sovereignty in Japan](#), Yuichiro Tsuji, California Western International Law Journal, 2020

<sup>13</sup> [Parliamentary Practice in New Zealand](#) (chapter 3)

<sup>14</sup> Parliamentary terms now tend to have one session which is a maximum of 3 years. In previous parliaments, terms could have several shorter sessions. See [Parliamentary practice in New Zealand, Chapter 4 Members’ conditions of service](#).

- taking an oath or making a declaration or acknowledgement of allegiance to a foreign State
- ceasing to be a New Zealand citizen
- accepting nomination as, agreeing to be a candidate for election as, or agreeing to appointment as a member of Parliament of any other country
- conviction of an offence punishable by imprisonment for a term of two years or more
- conviction of a corrupt electoral practice
- becoming a public servant
- resigning the seat by signing a written notice addressed and delivered to the Speaker
- becoming mentally disordered
- death

In August 2020 the [Taxpayer's Union in New Zealand called for parties to include a recall option](#) for local elections in their manifestos.

### Switzerland

Switzerland's right to recall is one of the longest standing (introduced in Bern in 1846). It does not, however, allow for the recall of individuals but rather institutions.

Recall at a federal level does not exist. Six (Bern, Schaffhausen, Solothurn, Thurgau, Uri and Ticino) of the 26 cantons do, however, allow for recall. The mechanism is generally used against canton parliaments but a canton executive can also be recalled.

A threshold of between 2% and 30% of the electorate is required. A successful recall triggers new elections.

Only a dozen recalls have been initiated since 1846. It has been successful on one occasion in 1862 in the canton of Aargau. The most recent examples are at Canton level in Ticino in 2008 and at municipal level in Bellinzona in 2015.

### USA

19 states allow for recall of state officials<sup>15</sup>. The exact provisions depend on state law although all but two states allow for the recall of members of the legislature.

The grounds for state recall are restricted in eight states. In remaining states voters can initiate a recall for any reason. Threshold varies but is generally between 15% and 40% of registered voters<sup>17</sup>.

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<sup>15</sup> [Total Recall Swiss Style](#), Bruno Kaufmann, International Democracy Community, 2016

<sup>16</sup> [Ballotpedia](#), Laws Governing Recall

<sup>17</sup> [Recall of local officials](#), National Conference of State Legislatures

The state of Alaska is considered below.

### **State of Alaska**

The constitution of Alaska provides for recall and sets out the process to be followed<sup>18</sup>.

The grounds for recall are lack of fitness, incompetence, neglect of duties or incompetence. An application for recall cannot be made in the first 120 days of office.

An application is filed with the director of elections. The application for recall must state the grounds for recall described in 200 words or fewer.

The application must be signed by 10% of those who voted in the preceding general election in the state, senate or house district of the official subject to recall. These 100 electors are known as sponsors. A \$100 deposit is also required with the application. Three sponsors also serve at the petition committee.

If the application is made correctly then it is certified. If it is rejected the petition committee is made aware of the reasons for rejection.

Where an application is certified, petition booklets are prepared by the Director of Elections for circulation throughout the state or district of the official subject to the petition.

The recall committee collects signatures of qualified voters in the state or district. The threshold is set at 25% of those who voted in the preceding general election. The petition can run for up to 180 days prior to the termination of the official's terms of office.

Once signatures have been verified, the Director of Elections notifies the recall committee if the petition was properly or improperly filed. This happens within 30 days of filing.

If the threshold has been reached a special election is held. Unless specifically provided otherwise, special elections are conducted in line with the provisions for the conduct of a general election<sup>19</sup>.

A statement of costs is produced by the Elections Division for certification of the recall petition and any subsequent election. The high profile application to recall Governor Dunleavy which started in 2019 was anticipated to cost \$102,348 if no election was required as a result. An estimate of election costs was \$1.8 million<sup>20</sup>.

<sup>18</sup> [Constitution of Alaska](#), Article XI

<sup>19</sup> [Public Information Pack on Recall of a State Official](#), Elections Alaska

<sup>20</sup> [Statement of Costs](#), recall application Governor Dunleavy, September 2019

**Venezuela**

The right to recall was introduced in 1999. Any elected representative can be subject to recall, including the president.

Recall can only be triggered once half of a term of office has elapsed. Successful petitions require a minimum threshold of 20% of registered voters from within the elected representative's/office holder's constituency<sup>21</sup>.

Where the threshold is met, a referendum is triggered on whether the office holder should serve the remainder of their term.

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**4 October 2021**

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<sup>21</sup> [Appendix E of Recall of MPs: Draft Bill](#), Cm 8241, December 2011