



State Returning Officer
for Lower Saxony

Certified translation from German

Englisch

**Information from the
State Returning Officer for Lower Saxony**

**Essential Features of the System of Local Government Elections in
Lower Saxony**

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In Lower Saxony, the members of more than two thousand local authorities – the Hanover Regional Assembly, the borough or city councils, the councils of second-tier districts (*Kreistage*), of first-tier municipalities (*Gemeinderäte*) and of associations of municipalities (*Samtgemeinderäte*), ward councils within cities (*Stadtbezirksräte*) and parish councils within municipalities (*Ortsräte*) – are elected every five years. In boroughs or cities that are unitary (single-tier) authorities (*kreisfreie Städte*), only the borough or city council is to be elected. In municipalities with small towns or villages or urban districts the composition of the parish or ward councils is also to be decided. In some local authority areas the voters are at the same time called upon to elect full-time mayors (*Bürgermeister*) and district chief administrative officers (*Landräte*) directly.

In first-tier municipalities (*Gemeinden*), voters may be called upon to vote in up to five different elections:

- In municipalities that form part of a municipal association (*Samtgemeinde*), these are the elections to the district council, councils of the municipality, the municipal association and the elections of the mayor of the municipal association and the district chief administrative officer;
- In municipalities not forming part of a municipal association, they are the elections to the councils of the municipality and the district, the direct elections of the mayor and the district chief administrative officer, and in some cases elections to the parish council (*Ortsrat*).

Who is allowed to vote?

Germans and nationals of other member states of the European Union are eligible to vote if on polling day they are 16 years of age and

- have been resident in the electoral area for which they wish to cast their vote (e.g. in the district for the election to the district council) for at least three months,
- have not been deprived of the right to vote by the judgment of a civil or criminal court,
- are entered in an electoral register or have a polling card.

The electoral registers are maintained by the first-tier municipalities or municipal associations. As a rule, the names of persons eligible to vote are entered in the electoral register automatically; but of course only if they have not forgotten to register as residents of their municipality in good time!

Who can be elected?

Local government councils

A person is eligible to be elected who, on polling day

- is 18 years of age,
- has been resident in the electoral area concerned (e.g. in the first-tier municipality for election to the council of that municipality) for at least six months,

- is a German citizen or a national of another member state of the European Union, and
- has not been deprived of eligibility for office by the judgment of a civil or criminal court.

Direct elections

A person is eligible for election to the office of district chief administrative officer who, on polling day

- is at least 23 but not yet 67 years of age,
- is a German citizen or a national of another member state of the European Union, and
- has not been deprived of eligibility for office by the judgment of a civil or criminal court and provides the assurance that he/she will at all times defend the fundamental free and democratic constitutional order within the meaning of the German constitution (*Grundgesetz*).

The conditions of eligibility for office do not require the candidate to have his/her residence in the electoral area in which he/she is standing for office.

Who can nominate candidates or lists of candidates?

Nominations of candidates or lists of candidates – so-called “election proposals” (*Wahlvorschläge*) – can be submitted by political parties, by groups of voters (“electoral associations”) and by individuals. Electoral law does not lay down any requirements with regard to the objectives of electoral associations, the form of their organisation, their size etc. Even loosely constituted groups of voters can therefore act as electoral associations and nominate lists of candidates for local government elections.

How are the candidates nominated?

A person who meets the eligibility requirements can

- be nominated as a candidate on the list – the “election proposal” – of a political party if he/she is a member of the political party or does not belong to a political party,
- form an electoral association with other citizens who pursue the same or similar interests and nominate an agreed list with these citizens, or
- stand for election as an individual candidate.

The selection of candidates and the determination of their positions on the list of a political party or of an electoral association with a membership-based organisation (i.e. with a party-like structure, statutes and a political programme) must be carried out by secret ballot at a members’ or delegates’ meeting of the party or electoral association concerned.

Only German and European Union nationals who are eligible to vote and are members of the party or membership-based electoral association concerned may take part in the ballot. The ballot is only valid if at least three persons who are eligible to vote take part.

As a rule three persons eligible to vote are sufficient to establish an electoral association. The nomination of candidates for the list of an electoral association without a membership-based organisation must take place at a meeting of the supporters of the electoral association who are eligible to vote. No particular formalities need to be observed for this type of meeting to be convened; however, all supporters of the electoral association who are eligible to vote must be given the opportunity to take part in the meeting. Here too it is the case that the selection of candidates for inclusion in the list must be by secret ballot.

A person wishing to stand for election as an individual candidate may nominate himself or herself.

Parties, electoral associations and individual candidates may only submit their “election proposals” if these are endorsed by a certain number of electors from the constituency concerned (see the section “How are the votes cast?” below), who must sign an official form. Only those already represented on the elected council of the electoral area concerned (e.g. on the municipal council) or in the German Federal Parliament or the Lower Saxony State Parliament are exempt from this obligation. The official forms to be signed by the nominators are issued by the returning officers responsible for the electoral area concerned. Further information (e.g. on the number of persons required to sign the nomination form) can also be obtained from them.

The above provisions also apply *mutatis mutandis* to the nomination of candidates for election to the office of district chief administrative officer.

How are the votes cast?

Voters are given one ballot paper for each election they take part in (e.g. one for the election of the district council and one for the election of their municipal council, and possibly also one ballot paper each for the election of the district chief administrative officer of the district council and for the first-tier municipal council).

For the election of councils (e.g. district or first-tier municipal councils) each voter has three votes. These may be “accumulated” or “split”. Other than in Federal or State parliamentary elections, voters can mark three crosses on each ballot paper. They can give all their three votes to a single list of candidates in its entirety or to one single individual or list candidate (“accumulation”). However, they can also distribute their votes between several entire lists and/or several candidates from the same or different lists (“splitting”).

This voting system requires all candidates to be listed on the ballot paper. Since a single list of candidates for the entire local authority (e.g. a municipal or district council) would be too long, the electoral area is divided into constituencies of roughly the same size, each with its own lists of candidates.

Where a mayor or district chief administrative officer is to be elected, this is carried out in accordance with the principles of relative majority (or “plurality”) voting. For each of these direct elections voters have only one vote, which they can give to a candidate by putting a cross against his or her name on the ballot paper.

How are the votes counted?

Local councils

Seats on local councils are allocated in accordance with the principles of proportional representation in conjunction with the election of individual candidates.

For the allocation of seats, the system of proportional representation named after Thomas Hare, an Englishman, and the German professor of mathematics Horst Niemeyer is applied. The proportions of votes cast for the various "election proposals" are converted into proportions of seats on the council; this is done by multiplying the total number of seats to be allocated on the council concerned by the number of votes cast for an "election proposal" and then dividing it by the total number of votes cast. This calculation produces quotas for each "election proposal", and each proposing organisation is initially allocated as many seats as are indicated by the integer (number of whole seats) of its quota. The seats then still to be allocated are allotted to the parties, electoral associations or independent candidates with the largest remainders, i.e. whose quotas have the largest remaining fractions. Within the party or electoral association lists, the successful candidates are determined partly in accordance with the principle of personal election, i.e. in the order of the number of votes each candidate has received personally, and partly in accordance with the principle of list election, i.e. in the order in which the candidates' names appear in the list. In local government elections there is no "threshold provision", i.e. no minimum percentage of votes has to be won for participation in the seat allocation procedure.

Direct elections

Direct elections of mayors and of district chief administrative officers are carried out in accordance with the principles of relative majority (or "plurality") voting.

The candidate is elected who receives more than half of the valid votes cast or as the sole candidate has received more yes votes than no votes.

If more than one candidate has stood for election but nobody has received the required number of votes, a final ballot will be held on the second Sunday after the election between the two candidates with the highest number of votes. In the case of parity of votes a draw will decide who takes part in the final ballot.

Where are the votes cast?

Voters are assigned to a particular polling station. In smaller local authority areas (with no more than 2,500 inhabitants) there will be only one polling station, whereas larger local authorities are subdivided into a number of areas each with its own polling station. The local authorities decide on the number of such areas and where the polling station for each area is to be.

Everybody whose name is included in the electoral register will automatically receive a notice of poll. This notice indicates which polling station the elector can exercise his or her right to vote at. Anyone who is unable to go to the polling station or whose name, through no fault of his or her own, is not included in the electoral register can apply for a polling card (*Wahlschein*) and make use of the postal voting procedure.

Who organises the election?

It is first and foremost the responsibility of the first-tier municipal authorities to prepare and implement local government elections; their electoral offices have to carry out important organisational tasks. These include, for instance,

- compiling and managing the electoral registers

- notifying the eligible electors of their right to vote
- issuing polling cards and documents for postal voting
- selecting and setting up polling stations
- appointing and training presiding officers for the polling stations
- obtaining ballot papers
- bringing the results from the different polling stations together to give an overall result
- keeping election documents in safe custody.

However, important measures have to be implemented and important decisions taken not by the administrative authorities but by independent election officials and bodies, namely the returning officers in the local authority areas (districts, municipalities and municipal associations), the election committees to be formed in each electoral area (e.g. the districts and municipalities) and the teams of presiding officers to be appointed for polling day.

The task of the election committees is above all to scrutinise and approve the “election proposals” submitted and to determine the final results of the election.

The teams of presiding officers are responsible for the proper conduct of the election at the polling stations and for determining the results of the election in the individual polling station areas.

The members of the election committees and the presiding teams are appointed from among the electors of the area concerned; they serve on an honorary basis. It is compulsory for an elector to serve on these bodies if required. In the whole of Lower Saxony about 75,000 such honorary staff are required for the local government elections.