



# Guidance for candidates and agents

Local government elections in England

6 May 2010

## Translations and other formats

For information on obtaining this publication in another language or in a large-print or Braille version, please contact the Electoral Commission:

Tel: 020 7271 0500

Email: [publications@electoralcommission.org.uk](mailto:publications@electoralcommission.org.uk)

# Contents

1	Introduction	1
	How to use this guide	1
	Background	1
	The Electoral Commission	2
	Contact information	3
	Relevant legislation	4
	Election timetable	4
	Who is responsible for the election?	6
2	Standing for election	14
	Qualifications and disqualifications	14
	Nomination	18
	Registering as a political party	26
	Death of a candidate	28
	Uncontested elections	29
3	The campaign	30
	Using the electoral register	31
	Freepost	32
	Use of schools and rooms for public meetings	32
	Canvassers	33
	Campaign publicity material	34
	Imprint requirements	35
	Display of advertisements	38
	Restrictions and offences	39
	Absent voting	41
	Reporting offences	41
	Campaigning on polling day	42
	Relief	42
4	Election spending	44
	Spending limits	44
	The regulated period	44
	What are election expenses?	45
	Planning and managing election spending	47
	Valuing free or discounted items or services	49
	Splitting expenses	50
5	Donations	54
	What is a donation?	54
	Who can donations be accepted from?	54
	What needs to be done when a donation is received?	55
	The information needed for the expenses return	56
6	Postal vote opening sessions, the poll and the count	57
	The opening of postal ballot packs	57
	The poll	60
	The count	61

Declaration of result	64
<b>7 After the election</b>	<b>65</b>
Declaration of acceptance of office	65
Election petitions	65
Election expenses returns	67
Inspecting materials and documents after the election	68

## Appendices

Appendix A – Breaches of the Representation of the People Act 1983 (RPA 1983) and penalties	70
Appendix B – Secrecy requirements	78
Appendix C – How to check if a donation is from a permissible source	80
Appendix D – Tellers in and around polling places	82
Appendix E – Code of conduct for political parties, candidates and canvassers on the handling of postal vote applications and postal ballot papers in England and Wales	87
Appendix F – Feedback form	92

# 1 Introduction

## How to use this guide

1.1 This guide aims to provide practical advice for anyone who wants to stand as a candidate or be an agent at a local government election in England on **6 May 2010**. It covers the whole election process, including the main steps towards standing as a candidate, the campaign and election periods, the declaration of result and election expenses. It includes relevant factual material as well as a guide to sources of further information. Standing for election can be a complicated business, but we hope that this guide will make it as straightforward as possible.

1.2 This guidance covers the administrative aspects of standing for election, such as getting nominated and how the election is run. This part of the guidance complements rather than replaces other sources of information produced by political parties, Returning Officers, Electoral Registration Officers, electoral administrators or others.

1.3 This guidance also covers election expenses where the Electoral Commission is the statutory regulator.



### **Guidance on standing for election and electoral practice**

This is aimed primarily at candidates.

This part of the guidance is not meant as a comprehensive guide to the relevant election law, and no expression of views on the part of the Commission can alter the application of any legislation to any particular case. While the Commission has a statutory power to provide advice, questions of the final interpretation of the law are ultimately a matter for the courts. A court would have regard to any guidance provided by the Commission.

### **Guidance on election expenses and donations**

Candidates and agents do not have to follow this guidance, but if they do, they will normally be doing enough to comply with the law.

### **All chapters**

We use '**must**' when we refer to a specific legal or regulatory requirement, but we use '**should**' for recommended practice.

1.4 Please note that this publication does not provide guidance for candidates at parish or town council elections. The Commission has developed separate supplementary guidance for candidates and agents at such elections, which is available to download from the Commission's website at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents).

## Background

1.5 In 2010, elections to London borough, metropolitan and to a number of district councils are scheduled to take place in England, as well as to a number of unitary

authorities. These elections occur every four years and last took place in 2006. Metropolitan, London borough and district councils are divided into wards and each ward elects between one and three councillors depending on the structure of that individual council or borough. Unitary authorities are divided into either divisions or wards depending on their structure and elect one or more councillors per division or ward. However, the election rules for all these types of council are the same.

1.6 Some local authorities have a directly elected mayor as part of their structure and some of these (Watford, Hackney, Lewisham and Newham) have elections to the position on 6 May 2010. This guide is not applicable for those elections. The Commission will be producing a separate guide for these elections which will be available to download from our website at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents).

1.7 There may also be borough or district council or unitary authority by-elections taking place in England on 6 May 2010. This guidance is also applicable to anyone standing at those elections.

## The Electoral Commission

1.8 The Electoral Commission is an independent statutory authority established in November 2000 following the commencement of the Political Parties, Elections and Referendums Act 2000 (PPERA).

1.9 We are headed by a Chair and, at the time of writing, five other Commissioners. The Chair and current Commissioners do not have affiliations to any political party, and the Commission is not accountable to the UK Government. We report directly to the UK Parliament through a committee chaired by the Speaker of the House of Commons.<sup>1</sup>

1.10 We are responsible for overseeing a number of aspects of electoral law – the registration of political parties and third parties, the monitoring and publication of significant donations to registered political parties, and the regulation of national party and local candidate spending on election campaigns. We also have a role in promoting voter awareness and are required to report on the administration of every national election and, if requested, on any other electoral matter. We also accredit observers to be present at election proceedings.

1.11 We do not run elections but have primary responsibility for providing advice and assistance on standing for election and electoral practice to all those involved in elections, including Returning Officers, Electoral Registration Officers, electoral administrators, political parties and candidates.

1.12 We are also the statutory regulator of election expenses and donations. If you have any questions about these issues, please contact us using the details below.

1.13 Although the first point of contact for candidates and agents seeking advice and guidance on standing for election and the election process should be the appropriate

---

<sup>1</sup> In July 2009, the Political Parties and Elections Act received Royal Assent. The Act will introduce changes to our governance structures by providing for four new Commissioners who will be nominated by political parties represented in the House of Commons.

Returning Officer and their election team, Commission staff will be happy to provide advice.

## Contact information

1.14 For queries on standing for election and other electoral practice matters, please contact the relevant English regional office:

East Midlands and West Midlands regions

Tel: 024 7682 0086

Email: [midlands@electoralcommission.org.uk](mailto:midlands@electoralcommission.org.uk)

Eastern and South East of England regions

Tel: 020 7271 0600

Email: [eastandsoutheast@electoralcommission.org.uk](mailto:eastandsoutheast@electoralcommission.org.uk)

London

Tel: 020 7271 0689

Email: [london@electoralcommission.org.uk](mailto:london@electoralcommission.org.uk)

North East, North West and Yorkshire & the Humber regions

Tel: 01904 567990

Email: [north@electoralcommission.org.uk](mailto:north@electoralcommission.org.uk)

South West region

Tel: 01392 314617

Email: [southwest@electoralcommission.org.uk](mailto:southwest@electoralcommission.org.uk)

1.15 For election expenses queries, please contact:

Party and Election Finance Directorate

Tel: 020 7271 0616

Email: [pef@electoralcommission.org.uk](mailto:pef@electoralcommission.org.uk)

## Relevant legislation

1.16 Abbreviated references are made in the footnotes of this guide to the legislation that underpins the local government election process. The full titles of the Acts and Regulations are provided in Table 1 below.

**Table 1: Abbreviations of Acts**

Full title	Abbreviation
Local Government Act 1972 (as amended)	LGA 1972
Local Government Act 2000	LGA 2000
Representation of the People Act 1983	RPA 1983
Representation of the People Act 1985	RPA 1985
Representation of the People Act 2000	RPA 2000
Local Elections (Principal Areas) (England and Wales) Rules 2006	Local rules
Local Government Elections (Changes to the Franchise and Qualification of Representatives) Regulations 1995	1995 Regulations
Political Parties, Elections and Referendums Act 2000	PPERA
Representation of the People (England and Wales) Regulations 2001 (as amended)	2001 Regulations
Electoral Administration Act 2006	EAA

## Election timetable

1.17 Polling day for the local government elections in England is **Thursday 6 May 2010**.



The election timetable is prescribed in law and is given in Table 2. If no time is specified as the deadline for an event or requirement (e.g. 12 noon or 5pm), then the deadline will be 12 midnight on that day. **The Returning Officer has no discretion to extend any deadline for any reason.**

1.18 Election timetables are generally calculated by excluding *dies non*, which are Saturdays, Sundays, Good Friday and any other bank holiday.<sup>2</sup> Throughout this guidance, references to ‘working’ days appear where the time period in question is calculated by excluding *dies non*. Any references to ‘calendar’ days appear where the time period is calculated by counting all days, without excluding any weekend or bank holiday.

<sup>2</sup> Please note that Maundy Thursday is no longer a *dies non*.



**Table 2: Election timetable for local government elections in England, Thursday 6 May 2010**

<b>Event</b>	<b>Date</b>
Deadline for completed applications to be received by the Commission for registration of new political parties intending to field candidates at the election, to ensure that registration is completed on time	<b>Friday 5 March 2010</b>
Notice of election to be published	Not later than <b>Monday 29 March 2010</b>
Last day for political parties intending to contest the elections to appear on the Commission's register	<b>Tuesday 6 April 2010</b>
Delivery of nomination papers	During office hours on any day from the date stated on the notice of election
Deadline for delivery of nomination papers	<b>12 noon on Thursday 8 April 2010</b>
Publication of statement of persons nominated	Not later than <b>12 noon on Monday 12 April 2010</b>
Deadline for withdrawals of candidature	<b>12 noon on Tuesday 13 April 2010</b>
Deadline for notice of appointment of election agents	<b>12 noon on Tuesday 13 April 2010</b>
Last day to submit a registration application form to be included on the register of electors in order to be able to vote at the election	<b>Tuesday 20 April 2010</b>
Deadline for requests to change or cancel an existing postal vote or proxy appointment	<b>5pm on Tuesday 20 April 2010</b>
Deadline for new applications to vote by post	<b>5pm on Tuesday 20 April 2010</b>
Deadline for new applications to vote by proxy (not postal proxy), except for medical emergencies	<b>5pm on Tuesday 27 April 2010</b>
Publication of notice of poll	Not later than <b>Tuesday 27 April 2010</b>
Last day for notice of appointment of counting agents and polling agents	<b>Wednesday 28 April 2010</b>

<b>Event</b>	<b>Date</b>
<b>Polling day</b>	<b>7am–10pm on Thursday 6 May 2010</b>
Deadline to apply for new applications to vote by proxy on grounds of a medical emergency	<b>5pm on Thursday 6 May 2010</b>
Last day for receipt of invoices for election expenses if result is declared <b>before</b> 12 midnight on 6 May 2010	<b>Thursday 27 May 2010</b>
Last day for receipt of invoices for election expenses if result is declared on 7 May 2010	<b>Friday 28 May 2010</b>
Last day for payment of invoices for election expenses if result is declared <b>before</b> 12 midnight on 6 May 2010	<b>Thursday 3 June 2010</b>
Last day for payment of invoices for election expenses if result is declared on 7 May 2010	<b>Friday 4 June 2010</b>
Last day for the receipt of return of election expenses if result is declared before 12 midnight on 6 May 2010	<b>Thursday 10 June 2010</b>
Last day for receipt of return of election expenses if result is declared on 7 May 2010	<b>Friday 11 June 2010</b>
Last day for receipt of candidate's declaration	7 working days after election expenses are returned

## Who is responsible for the election?



A number of other people and institutions are responsible for, or concerned with, various aspects of a local government election in England. These are:

- the Ministry of Justice
- Communities and Local Government
- the Electoral Commission
- the Returning Officer
- the Electoral Registration Officer
- elections office staff
- election agents
- postal voting, polling and counting agents
- electoral observers
- tellers

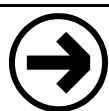
## The Ministry of Justice

1.19 The Ministry of Justice (MoJ) is the central government department with responsibility for the legislative framework for local elections and all issues covered by PPERA (such as party and candidate finance law). These include the registration of political parties, rules on donations to political parties and third-party donations. The MoJ should be contacted if you have comments on the content of legislation, rather than how it is implemented.

## Communities and Local Government

1.20 Communities and Local Government is the central government department with responsibility for local government. It is also responsible for rules on local authority publicity during the election period.

## The Electoral Commission



See the section on the Electoral Commission earlier in this chapter.

## The Returning Officer

1.21 Each local authority appoints a Returning Officer, usually the chief executive or another senior officer of the council, to take overall control of its elections. At a metropolitan, London borough or district council or unitary authority election, the Returning Officer will be an officer of the metropolitan, London borough or district council or unitary authority itself.

1.22 The day-to-day work of the election is usually managed by electoral services staff and it is these staff who candidates and agents are likely to have most dealings with during the course of the election.

1.23 In this guide, the term 'Returning Officer' covers not only the person with the overall control and responsibility for the elections but also any person (known as a Deputy Returning Officer) to whom a particular duty or function has been officially delegated and is being carried out in the name of the Returning Officer.

1.24 It is important to note that Returning Officers and their staff are required to act impartially in their dealings with all candidates and agents at all times during the conduct of the election. No one employed by a Returning Officer can help any of the candidates 'in or about the election'.<sup>3</sup> While undertaking election duties, the Returning Officer, although usually a senior employee of the council, is not accountable to the local authority, but is independent and answerable only to the courts.

1.25 The same rules apply to the staff appointed by Returning Officers to help them run the election. Any staff appointed during the election period are under the direction and control of the Returning Officer, irrespective of their normal employment. The Returning Officer is required to appoint a Presiding Officer for each

<sup>3</sup> Rule 24(1), Local rules.

polling station in the electoral area, and may appoint as many of the following staff as are needed to assist them in the conduct of the election:

- staff for the issue and receipt of postal votes
- Poll Clerks
- counting staff
- other staff to assist with other duties as part of the election process

1.26 It is important to note that Returning Officers and their staff are not responsible for monitoring the conduct of candidates, agents and campaigners. Where a candidate, agent or party worker has any concerns about the conduct of another person during the election campaign that could amount to electoral malpractice, if they are able to substantiate such a claim and are also willing to make a formal statement, they should refer the matter to the police. Unsubstantiated allegations should not be made as a campaign tactic.

1.27 Returning Officers and their staff may arrange briefings for candidates, agents and potential candidates. All candidates, agents or potential candidates are strongly encouraged to attend any such sessions. Regardless of how experienced a candidate or agent may be, these meetings can still be beneficial, particularly as the legislation has changed significantly since the last elections in this cycle in 2006. Briefings may also cover any local arrangements or policies to be adopted by the Returning Officer.

## Electoral services staff

1.28 The day-to-day administration of the election is likely to be carried out by the local authority's electoral services team, working directly for the Returning Officer. This includes recruiting and training the staff needed to run the election, arranging polling stations, delivering poll cards, processing postal and proxy voting applications, preparing polling stationery and equipment, and organising the counting of votes. These staff are likely to be the first and main point of contact for candidates and agents during the election.

1.29 Contact details for local authorities in England can be downloaded from [www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk).

## The Electoral Registration Officer

1.30 The Electoral Registration Officer, normally a senior officer in the metropolitan, London borough or district council or unitary authority, is responsible for maintaining and supplying the electoral registers and lists of absent voters (postal and proxy voters). In most instances, the Returning Officer and the Electoral Registration Officer will be the same person.

## Election agents

1.31 The election agent is the person responsible for the proper management of the candidate's election campaign. In particular, the candidate's election agent is responsible for the financial management of the campaign and for ensuring that the declarations and returns of their election expenses are properly completed and

delivered to the appropriate officer (see Chapter 4, 'Election spending', for more details).



The agent is responsible for all financial aspects of a candidate's election. Candidates should make sure that the agent fully understands their duties before taking on the role. Once appointed, only the agent can make payments for election expenses.

### Who can be an election agent?

1.32 There are no particular qualifications needed to be an election agent. Candidates may be their own agent if they prefer.

1.33 Certain people are not allowed to be election agents. These are:

- the Returning Officer or any officer or clerk appointed under the election rules to run the election<sup>4</sup>
- any partner or clerk of the above individuals<sup>5</sup>
- anyone not entitled to vote at the election as a result of the report of an election court or a conviction for a corrupt or illegal practice under the RPA 1983<sup>6</sup>

### Appointing an election agent

1.34 Every candidate must have an election agent, although a candidate can act as their own agent. Candidates (or a person acting on the candidate's behalf) must declare the name and both the home and office addresses of their election agent in writing to the Returning Officer no later than **12 noon on Tuesday 13 April 2010**.<sup>7</sup>

The written declaration should be signed by the candidate and by the agent to show their acceptance of the post.<sup>8</sup> There is no prescribed form of declaration that must be used. The Returning Officer may provide a form, or the candidate could use a form produced by the Commission available at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents). If candidates have not appointed someone else as their agent by 12 noon on Tuesday 13 April 2010, they will assume the duties and responsibilities of the election agent as well as of the candidate.<sup>9</sup>

1.35 Agents may be paid by the candidate for their work but this would be an election expense that counts towards the maximum that may be spent (see Chapter 4, 'Election spending').

1.36 It is important to note that the election agent's office address must be:<sup>10</sup>

- within the same local government area where the election is being held, or
- within the UK Parliamentary constituency or constituencies which the local government area contains, or
- within a district which adjoins the local government area, or
- within a London borough which adjoins the local government area

<sup>4</sup> Section 99(1), RPA 1983.

<sup>5</sup> Section 99(1)(c), RPA 1983.

<sup>6</sup> Section 165(1), RPA 1983.

<sup>7</sup> Sections 67(1) and 69(1), RPA 1983.

<sup>8</sup> Section 67(5), RPA 1983.

<sup>9</sup> Section 70(1), RPA 1983.

<sup>10</sup> Section 69(2)(b), RPA 1983.

1.37 The local government area for a county council election is the area of the entire county, for a unitary authority it is the unitary area, and for a district or borough it is the area of that district or borough.

1.38 The agent's office address will often be their home address, but it might also be that of the local political party office or an office specially set up for the election. Where a candidate is acting as their own election agent, the office address is deemed to be the address given on the statement of persons nominated (see Chapter 2, 'Standing for election'). If that address is outside the relevant area (as set out above), the election agent's office address is deemed to be the qualifying address of the person named in the statement as proposer.<sup>11</sup>

1.39 In addition to the information detailed above, it will be helpful to provide a contact telephone number and email address for the election agent. This will ensure that information can reach the agent in the most appropriate and expedient manner.

1.40 A candidate can revoke the appointment of their election agent and a new appointment can be made by the same process. Similarly, if an election agent dies, a new agent can be appointed. If a candidate is acting as their own election agent, they can also revoke their own 'appointment' and appoint a new agent.<sup>12</sup>

1.41 Once an agent has signed their acceptance they cannot resign. An agent must fulfil the duties required of them, such as completing the return of election expenses, unless the candidate revokes the appointment.

## Postal vote agents, polling agents, counting agents and tellers

1.42 As well as an election agent, candidates can also appoint people to work on their behalf on polling day in polling stations, at postal vote openings and at the count, although there is no obligation to appoint any such people.<sup>13</sup> Anybody apart from officials employed by the Returning Officer can be appointed to act as polling or counting agents. Candidates can also act as their own polling or counting agent. The same person can be appointed as polling, counting and postal vote agent.

1.43 Polling agents and counting agents are required to maintain the secrecy of voting, and are subject to the important legal requirements relating to secrecy, which are reproduced in Appendix B.<sup>14</sup>

### **What does an agent at postal vote openings do and how are they appointed?**

1.44 Postal voting is where electors decide to vote by post rather than going to a polling station. Anyone is allowed to choose to vote this way if they wish. The elector must submit an application to the Electoral Registration Officer by **5pm on Tuesday 20 April 2010**. A Code of conduct on the handling of postal vote applications and postal ballot papers for political parties, candidates and canvassers has been developed and agreed with a number of the largest political parties in England and Wales (see Appendix E). The administration of postal votes has changed since 2006, adding further security to the process. This change includes:

<sup>11</sup> Section 70(4), RPA 1983.

<sup>12</sup> Section 70(3A), RPA 1983.

<sup>13</sup> Rule 27, Local rules.

<sup>14</sup> Rule 28, Local rules; Section 66, RPA 1983.

- a requirement for each postal voter to provide their signature and date of birth (known as their 'personal identifiers') on a separate postal voting statement at the time of voting
- the introduction of new offences relating to absent voting (see Appendix A)

1.45 Personal identifiers are collected from every postal voter on their postal vote application form. The identifiers provided on the postal voting statement are then checked back against the original application.

1.46 Returning Officers are required to check at least 20% of returned ballot packs at each postal vote opening session, but most will carry out checks on 100% of returned ballot packs.

1.47 The candidate or election agent can appoint one or more agents to attend the proceedings at the opening of postal ballot papers,<sup>15</sup> as described in Chapter 6, 'Postal vote opening sessions, the poll and the count'. The Returning Officer will give at least 48 hours' notice of the time and place for the opening of the postal voters ballot boxes (i.e. the boxes in which returned postal votes are kept after they have been received back) and the envelopes in them, and that notice will also specify the number of agents that the candidate or agent is allowed to appoint. The number will be decided by the Returning Officer. The Returning Officer must be notified **in writing** of the names and addresses of any agents appointed before the time fixed for the opening of the postal voters ballot box.<sup>16</sup>

1.48 Candidates and agents are not entitled to attend the **issue** of postal votes.

### **What does a polling agent do and how are they appointed?**

1.49 The main rights of polling agents on polling day are summarised below:

- To be present at their designated polling station before the opening of the poll to observe the Presiding Officer showing the empty ballot box prior to sealing.
- To detect personation and prevent people from voting more than once at the same election. Voters who are believed to have committed the offence of personation or who attempt to vote twice should be challenged before they leave the polling station. To do this effectively, the polling agent should require the Presiding Officer to put the statutory questions to the elector before they are issued with a ballot paper.
- To report to their election agent/candidate any improper occurrences and retain notes for use in giving evidence to a court, if required.
- To be present when the Presiding Officer marks ballot papers at the request of electors.
- To be present at the close of poll when the various packets of documents are sealed. **At the close of poll**, the polling agent may attach their seal to any packets made up by the Presiding Officer, including the ballot box.<sup>17</sup> (Please note that polling agents' seals **cannot** be attached to ballot boxes at the commencement of or during the poll.) Seals can only be attached to the ballot box at the close of poll by a candidate, an election agent or a polling agent. No

<sup>15</sup> Regulation 69(1), 2001 Regulations.

<sup>16</sup> Regulation 69(2), 2001 Regulations.

<sup>17</sup> Rule 43(1), Local rules.

other person, except for the polling station staff, is entitled to attach seals, even if they have been asked to do so by the candidate or agent.

1.50 Polling agents must maintain the secrecy of the ballot. Polling agents must not give information to anyone as to who has or has not voted, or a person's elector number, or the official mark. Although polling agents may mark off on their copy of the register of electors those voters who have applied for ballot papers, if they leave the polling station during the hours of polling, their marked copy of the register should be left in the polling station in order not to breach the secrecy requirements.

1.51 A candidate or their election agent can also do any of the things that a polling agent is authorised to do.<sup>18</sup> However, just because a polling agent is **entitled** to witness various aspects of the polling procedure, the procedure is not invalidated if they have not witnessed it.<sup>19</sup>

1.52 Candidates can appoint polling agents to attend any polling station.<sup>20</sup> The Returning Officer can limit the number of people who may be appointed to any particular polling station to four or such greater number as they decide. If more than that number are appointed, the Returning Officer will draw lots to determine those people who may attend. The right of a candidate and their election agent to act as a polling agent is not affected by this restriction.

1.53 Only one of each candidate's polling agents will be allowed into a particular polling station at any time.<sup>21</sup> Any polling agent may be appointed to attend more than one polling station, and a polling agent may act for any number of candidates.

1.54 Polling agents can be appointed by a candidate or their election agent. The Returning Officer must be notified **in writing** of the names and addresses of any polling agents no later than **Wednesday 28 April 2010**.<sup>22</sup>

### **What does a counting agent do and how are they appointed?**

1.55 The main role of a counting agent is to oversee the counting process on the candidate's behalf and make sure that it is undertaken in an orderly, accurate and correct manner. Counting agents will not participate directly in the counting process as they are only there to observe the proceedings. Additional duties and responsibilities of counting agents are outlined in Chapter 6, 'Postal vote opening sessions, the poll and the count'.

1.56 The Returning Officer will decide the maximum number of counting agents that candidates will be allowed to appoint. This will be no fewer than the number of counting assistants employed at the count divided by the total number of candidates.<sup>23</sup> This calculation ensures that every counting assistant will be observed by at least one counting agent, irrespective of which candidate they are acting for. All candidates in a division or ward will be allowed to appoint exactly the same number of counting agents. The Returning Officer will normally advise candidates and

---

<sup>18</sup> Rule 27(11), Local rules.

<sup>19</sup> Rule 27(13), Local rules.

<sup>20</sup> Rule 27(3), Local rules.

<sup>21</sup> Rule 30(3), Local rules.

<sup>22</sup> Rule 27(5), Local rules.

<sup>23</sup> Rule 27(4), Local rules.



election agents of the maximum number of counting agents allowed soon after the close of nominations.

1.57 As with polling agents, either the candidate or their election agent can appoint counting agents. Again, the Returning Officer must be notified **in writing** of the names and addresses of counting agents no later than **Wednesday 28 April 2010**.<sup>24</sup>

### **Tellers**

1.58 'Tellers' is the name given to volunteers who stand outside polling places and record the elector number of electors who have voted. They can then identify likely supporters who have not voted and urge them to vote before the close of poll.

1.59 The Commission has developed guidance for tellers with the agreement of the larger political parties, which is designed to be used by the Returning Officer in conjunction with local arrangements in that area. The full guidance can be found in Appendix D. Candidates and their agents should ensure that any of their supporters acting as tellers abide by any decisions regarding their conduct made by the Returning Officer or by the Presiding Officer at the polling station.

### **Electoral observers**

1.60 In July 2006, the UK Parliament passed legislation which allows individuals and organisations to observe proceedings at elections in the UK.

1.61 Both representatives of the Electoral Commission and observers accredited by the Commission may observe proceedings at the issue and receipt of postal ballot papers, at the poll and at the count. Representatives of the Commission are also entitled to observe the working practices of the Electoral Registration Officer and the Returning Officer.

1.62 All observers must abide by a Code of practice, which includes a requirement to be politically impartial. More information on observers, including the Code of practice, can be found at [www.electoralcommission.org.uk/elections/electoral\\_observers](http://www.electoralcommission.org.uk/elections/electoral_observers).

---

<sup>24</sup> Rule 27(5), Local rules.

## 2 Standing for election

### Qualifications and disqualifications

2.1 In order to stand for election, a set of nomination papers must be submitted within the prescribed time period. In order to be eligible to stand for election, a person must be qualified to stand and not be disqualified.

### Qualifications required for candidature

2.2 To qualify as a candidate for election to a local authority, a person **must** satisfy the following criteria on the day they are nominated and on polling day. They must:

- be at least **18 years** old,<sup>25</sup> **and**
- be a British citizen, a qualifying Commonwealth citizen or a citizen of any other member state of the European Union<sup>26</sup>

2.3 A qualifying Commonwealth citizen is a person who either:

- does not need leave to remain in the United Kingdom, or
- has indefinite leave to remain in the United Kingdom<sup>27</sup>

2.4 The candidate must also meet **at least one** of the following four qualifications on the day they are nominated and on polling day: <sup>28</sup>

- they are registered as a local government elector for the local authority area in which they wish to stand, or
- they have occupied as owner or tenant any land or other premises in the local authority area during the whole of the 12 months before the day they are nominated, or
- their main or only place of work during the last 12 months has been in the local authority area, or
- they have lived in the local authority area during the whole of the last 12 months

---

<sup>25</sup> Section 79(1), LGA 1972; Section 17(4), EAA.

<sup>26</sup> Section 79, LGA 1972.

<sup>27</sup> A qualifying Commonwealth citizen for **candidates** is defined as a citizen of a country listed in the British Nationality Act 1981 as a Commonwealth country and who does not require leave to remain in the UK or who has **indefinite** leave to remain. It should be noted that **electors** do not need indefinite leave to remain to register and vote to be a qualifying Commonwealth citizen – any type of leave is sufficient for this purpose.

<sup>28</sup> Section 79(1), LGA 1972.



**Qualification by being a registered local government elector**

The qualification to be a registered local government elector requires the person's name to appear on the published register of electors (including any notice of alteration) at the time of nomination. A person who has submitted an application to be registered in the local authority area, but who does not appear on the register at the time of nomination, does not meet this qualification. This is an ongoing qualification that must be satisfied (unless duly qualified under another criterion stated above) for the duration of the term of office should a candidate be elected. It is recommended that candidates complete the sections for any and all the qualifications that the candidate satisfies when completing the consent.

2.5 A candidate using the qualification of **living in the area** is not required to have lived at the same address for the whole of the 12 months before the day they are nominated, but they must have lived in the same local authority area during the whole of those 12 months. If in the last 12 months they have lived at more than one address in the local authority area, the candidate should list all of the addresses at which they have lived during that period. This qualification also requires the candidate to live in the area from the date of nomination to polling day.



**Qualification as occupier as owner or tenant of any land or other premises in the area**

A candidate using the qualification of 'has during the whole of the twelve months preceding that day (date of nomination and also from nomination day to polling day) occupied as owner or tenant any land or other premises in that area' should be satisfied that they meet the qualification and should consider taking independent legal advice if they are unsure.

The person must occupy 'land or other premises'. The inclusion of the words 'other premises' can be taken as something other than land (i.e. some form of structure). Because 'land' and 'other premises' are alternatives it is, in theory, possible for a person to satisfy this provision by occupying land only. There are some structures which might, arguably, fall outside the term 'premises' (e.g. tent, caravan, house boat, mobile home). However, a person occupying such a structure need only establish occupancy of the land on which their tent (for example) is located.

If the land or premises crosses a boundary, the land/premises is 'in that area' with respect to both areas.

The person must occupy the 'land or other premises' as an 'owner' or 'tenant'. Ownership may be established by showing title to the land or premises in question. Tenancy is established by showing a lease over the land. In various circumstances, a lease will survive despite having expired and the parties failing to sign a new lease – the tenancy survives through tacit agreement between the parties. Therefore there may be circumstances in which a person's tenancy of land or premises might need to be established by evidence other than a current lease.



The person must have ‘occupied’ the land or premises. Therefore, in addition to establishing legal ownership or legal tenancy, the person must establish that they have occupied the land or premises. This is a question of fact in each case. Having regard to case law on the meaning of the term ‘occupy’ in other contexts, it is not necessary for a person to be personally resident on the land or premises (this is in any event covered by the qualification of ‘lived in the local authority’).

However, it does require something to be actually done on the land or premises – an empty unlocked house cannot be described as ‘occupied’. It also requires a sufficient degree of control to prevent strangers from interfering with the land or premises. If a person has sub-let their land or premises to another person this will point against them having ‘occupied’ it themselves.

The person must have occupied the land or premises ‘during the whole of the twelve months preceding’ the day on which the person is nominated for candidacy. People leave their residence for extended periods for holidays or other reasons. How long an absence will prevent a person from claiming they have occupied the land or premises for the preceding year should be worked out by reference to all other factors: for instance, whether the person has allowed others to occupy the land or premises in the person’s absence, and the reason the person has been absent.

For example, a person who is absent from their home for two months caring for an elderly parent might be considered to have retained occupancy of the land or premises for the purposes of the legislation – while a person who is absent for two months because they have relocated to an alternative residence and who leases their home while they are away from it should not be considered to have retained occupancy for the purposes of the legislation.

## Disqualifications

2.6 Certain people are disqualified from being elected to a local authority. A person cannot be a candidate if at the time of their nomination or their election:

- they are employed by the local authority or hold a paid office under the authority (including joint boards or committees)
- they hold a politically restricted post
- they are the subject of a bankruptcy restrictions order or interim order<sup>29</sup>
- they have been sentenced to a term of imprisonment of three months or more (including a suspended sentence), without the option of a fine, during the five years before election day<sup>30</sup> (i.e. since 6 May 2005)
- they have been disqualified under Part III of the RPA 1983 (which relates to donations and other offences) or under the Audit Commission Act 1998<sup>31</sup>

2.7 A person may also be disqualified from election if they have been convicted or reported guilty of a corrupt or illegal practice by an election court,<sup>32</sup> or if they have

<sup>29</sup> Section 80(1)(b), LGA 1972.

<sup>30</sup> Section 80(1)(d), LGA 1972.

<sup>31</sup> Section 80(1)(e), LGA 1972.

<sup>32</sup> Sections 159 and 160, RPA 1983.

been disqualified from standing for election to a local authority following a decision of the Adjudication Panel for England.<sup>33</sup>



The full range of disqualifications of candidates at local government elections is complex, and some exceptions may also apply. Candidates are strongly advised to consult the relevant legislation to ensure that none of the relevant disqualifications apply and, if in doubt, to seek their own legal advice.

## Employment

2.8 Any person holding a paid office or employment where the appointment is made or confirmed by the local authority (or any sub-committee of that authority or any joint committee or national park authority where the local authority is represented), or any employee or officer of the local authority, would be disqualified from standing as a candidate at elections to that local authority. If a candidate is in doubt about their position, they should seek advice from the local authority in question.

2.9 The Local Government and Housing Act 1989 also defines a number of politically restricted posts within a local authority (normally senior positions such as the Head of Paid Service or Statutory Chief Officer, or other senior managers or staff who regularly advise members).

2.10 The term 'local authority' is not restricted to councils and also includes other local authorities such as certain fire services. The Local Government and Housing Act 1989 prevents any person who exceeds a salary linked to scale 44 of the NJC scale, or who holds particular types of post in any local authority, from standing. If a candidate is in any doubt about whether or not their employment disqualifies them from standing for election, they must take action to be sure that they are not disqualified from standing for election, otherwise they may be found guilty of the criminal offence of making a false statement on the consent form. They should contact their employer or take independent legal advice if in doubt.

2.11 If a person holds a politically restricted post, they are disqualified from standing for election to **any** local authority in Great Britain.<sup>34</sup>

2.12 The disqualification for being employed by the local authority, as referred to above, applies at both the date of nomination and the date of the election. Therefore, any person who would be disqualified by reason of their employment must have resigned and have served any notice period before the date of nomination to avoid having a contract of employment with the local authority at the relevant time.<sup>35</sup>

2.13 Payments made to councillors due to their work as an elected member do not apply for political restriction purposes.

## Bankruptcy

2.14 A person who is or who has been bankrupt is **not** disqualified from standing for election or remaining an elected councillor.

<sup>33</sup> Section 79(4)(b), LGA 2000.

<sup>34</sup> Section 1(1), Local Government and Housing Act 1989.

<sup>35</sup> *Harrison v. Gupta, 2007 Brent Electoral Petition.*

2.15 Only those who are subject to a bankruptcy restrictions order or interim order are disqualified from standing for election or remaining a councillor. The disqualification ends at the same time as the order ends.

## Nomination

### Getting nominated

2.16 The notice of election will be published no later than **Monday 29 March 2010**; a person can submit nomination papers from the date stated on the notice. To become nominated as a candidate, a person will need to complete a set of nomination papers and submit them to the Returning Officer by **12 noon on Thursday 8 April 2010**.

2.17 Returning Officers have the discretion to publish their notice of election ahead of the latest date for doing so, in order to extend the period of nominations and give more time for nomination forms to be submitted. Whenever it is published, the notice of election will state the first day that nomination papers can be submitted.

2.18 The date that the notice of election is published does not affect the date that a person officially becomes a candidate for the purposes of election expenses and for obtaining the electoral register or absent voters lists. The earliest date that a person can become a candidate is **Monday 29 March 2010**. For full details of when a person becomes a candidate for the purposes of election expenses and supply of the register, see Chapter 3, 'The campaign'.

2.19 A nomination paper from a candidate standing for a registered political party must contain a description that matches that registered with the Commission. Such candidates should check with their party to ensure that the description or party name they are intending to use will not be changed during the nomination period, especially if the notice of election has been published earlier than **Monday 29 March 2010** in any area.

2.20 Usually, nomination papers can only be delivered during normal office hours, but it is advisable to check with the Returning Officer, who will confirm the exact arrangements as to when and where nomination papers can be delivered.


2.21 The Returning Officer will supply as many copies of the nomination form and the forms of consent to nomination as are needed. They will also prepare the nomination paper for signature if required.<sup>36</sup> Alternatively, we provide forms, which are available at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents), that could be completed and submitted to the Returning Officer.

2.22 It is advisable to submit nomination papers as early as possible so that there is time to submit a fresh one if the first contains a mistake and is invalid. It is often the case that rejected nomination papers are those that have been delivered late and contain an error that the Returning Officer is not able to correct. Early submission of nomination papers allows time for faulty nomination papers to be resubmitted.

---

<sup>36</sup> Rule 6(4)(b), Local rules.

2.23 Nomination papers that have been delivered are open to public inspection and any member of the public can take a copy of them. They are only able to be inspected from the close of nominations until the day before the poll. They cannot be inspected during the nomination period, and so there is no advantage in submitting nomination papers late in the nomination period.


 **Nomination in more than one ward/division in the same council**  
If a candidate is validly nominated for more than one electoral area within the same local government area, they must withdraw from all areas but one by the last time for withdrawals. If they do not do this, they will be deemed to have withdrawn from all of them.<sup>37</sup>

## The nomination form

2.24 Anyone wishing to stand as a candidate needs to complete a nomination form as prescribed in legislation, or a form to the same effect.<sup>38</sup> The Returning Officer will provide candidates with the form. Alternatively candidates may use the form available on our website at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents).

2.25 Nomination papers must be completed in English.

2.26 The nomination form must contain the **full name** of the person wishing to stand as a candidate, their **full home address** and be signed by **10** registered electors from the division/ward – these electors are known as subscribers.<sup>39</sup>

 The candidate's name, address and description should be written on the nomination form **before** getting subscribers' signatures.

The subscribers must be aware that they are subscribing a nomination form and should be aware of the candidate's details and whether or not that person is standing for a political party. It is a corrupt practice to obtain a signature from an elector without the elector knowing it is for the nomination of a candidate.

2.27 If a candidate wants to use a registered description on the ballot paper, they can do so only with the permission of a registered political party (see below for further details on the use of a description). A candidate may also provide their commonly used name (if any) for use on the published statement of persons nominated, the notice of poll and, finally, the ballot paper.<sup>40</sup>

## Name

2.28 The nomination form must include the candidate's surname, then other names in full.<sup>41</sup> A candidate risks having their nomination paper rejected by the Returning Officer if they use initials.

<sup>37</sup> Rule 12, Local rules.

<sup>38</sup> Rule 4(1), Local rules.

<sup>39</sup> Rule 6(1), Local rules.

<sup>40</sup> Subject to the commonly used name provisions.

<sup>41</sup> Rule 4(2), Local rules.

2.29 Candidates may ask for their commonly used surname(s) and forename(s) to be printed on the statement of persons nominated, the notice of poll and on the ballot papers, instead of their actual name. A candidate can only state a commonly used name on the nomination form if they actually commonly use a name which is different from their actual name.<sup>42</sup> There is no requirement to use a commonly used name: candidates have the option to stand either under their full name or any commonly used name they have. If a candidate is commonly called by a name which is not their full name, they are not required to put it on the nomination paper. If a candidate wishes to use their full name, they should leave the commonly used name boxes blank.

2.30 Commonly used names which the Returning Officer considers likely to mislead or confuse electors, or are obscene or offensive, will be disallowed.<sup>43</sup> If the name(s) are not permissible, the Returning Officer will write to the candidate stating the reason for disallowing the commonly used name. In such a case, the candidate's full names will appear on the statement of persons nominated.

2.31 If the Returning Officer does allow the commonly used name it will appear on the statement of persons nominated, the notice of poll and the ballot paper.<sup>44</sup>

2.32 Titles or prefixes, such as Mr, Mrs or Dr, should not be used in the section for the candidate's actual name. However, if a candidate is commonly known by a name that includes a prefix, such as Dr Vanessa Smith, the candidate may include the prefix in the commonly used forename box.

2.33 If the candidate's full name is Andrew John Miller but he is normally known by the name 'Andy', he has two options. His first option would be to use his commonly used name, in which case his nomination paper would read:

<b>Candidate's surname</b>	<b>Other forenames in full</b>	<b>Commonly used surname (if any)</b>	<b>Commonly used forenames (if any)</b>
Miller	Andrew John		Andy

2.34 The ballot paper would show:

<b>MILLER</b>
Andy Miller

2.35 His second choice would be to use his full name rather than his commonly used name. In this case, even though he may be widely known as Andy, he may write on his nomination paper:

<b>Candidate's surname</b>	<b>Other forenames in full</b>	<b>Commonly used surname (if any)</b>	<b>Commonly used forenames (if any)</b>
Miller	Andrew John		

<sup>42</sup> Rule 4(3), Local rules.

<sup>43</sup> Rule 9(4), Local rules.

<sup>44</sup> Rule 9(3), Local rules.



2.36 The ballot paper would show:

<b>MILLER</b>
Andrew John Miller

2.37 If a candidate requires a single name only (e.g. Superstar, see Table 3 below) then this should be clearly indicated on the form – with the unused commonly used surname/forename box marked ‘none to be used’ or crossed through. If either the commonly used forename or surname box is left blank then the candidate’s forename or surname, depending on which commonly used name box has been left blank, will go on the ballot paper.

**Table 3: Candidate’s names options**

<b>Candidate’s actual surname</b>	<b>Candidate’s other names in full</b>	<b>Commonly used forename(s)</b>	<b>Commonly used surname</b>	<b>Name to go on statement of persons nominated and notice of poll</b>	<b>Name to go on ballot papers</b>
Elector	Ann	Elsie	Voter	Voter, Elsie	VOTER Elsie Voter
Elector	Ann	[Blank]	Voter	Voter, Ann	VOTER Ann Voter
Elector	Ann	Elsie	[Blank]	Elector, Elsie	ELECTOR
Elector	Ann	None to be used	Superstar	Superstar	Elsie Elector SUPERSTAR

2.38 A person who is known by their title may use this instead of their surname. For example, a candidate who has the actual name of Jo Smith, but who has the hereditary title of Baroness Purple may use the name Jo Purple as if it were their actual name. In this case the name Jo Purple may be used by the candidate as their actual name without the need to fill in the commonly used name boxes.

### **Description**

2.39 The description will appear under the candidate’s details on the ballot paper. Any candidate may use the word ‘Independent’ or may choose not to have a description at all, leaving that part of the nomination paper, and the ballot paper, blank.

2.40 Candidates representing a registered political party can use a description, but this may only be one of the party’s descriptions registered with the Commission, or

the registered name of the party.<sup>45</sup> The current name and list of descriptions registered by political parties is available at <http://registers.electoralcommission.org.uk/regulatory-issues/regpoliticalparties.cfm>. A certificate of authorisation from the registered party's Nominating Officer (or a person appointed by them to act on their behalf) giving them permission to use that description or the party name must be submitted to the Returning Officer before the close of nominations. See 'Standing for a political party' in this chapter for more details on the certificate of authorisation.

2.41 A candidate may stand as the candidate on behalf of two or more registered political parties. Political party legislation allows the Commission to register a joint description for any combination of two or more parties that wish to register one. Candidates will need a certificate of authorisation from each party's Nominating Officer, or someone appointed by them to act on their behalf, allowing the use of the joint description.

2.42 In summary, therefore, candidates have five options with regard to the description:

1. Leave the description part of the form blank, in which case no description will appear on the ballot paper.
2. Use the description 'Independent'.
3. Use a description that is registered with the Commission and has been authorised in writing by the Nominating Officer of a registered political party or someone appointed to act on their behalf.
4. Use the name of the party as it is registered with the Commission, with authorisation in writing from the Nominating Officer of a registered political party or someone appointed to act on their behalf.
5. Use a joint description from two or more parties as it is registered with the Commission, with authorisation in writing from the Nominating Officer for each registered political party, or people acting on their behalf.

2.43 If a candidate wants to register a political party, to enable them to use a description other than 'Independent', details about the process for doing so can be found under 'Registering as a political party' in this chapter. Any description on the nomination form (other than 'Independent') must be registered with the Commission; if it is not, the Returning Officer must hold the entire nomination form invalid.<sup>46</sup>

### Address

2.44 The candidate's home address must be completed **in full** and should not contain any abbreviations. The address must be the candidate's current home address and not a business address. The address does not need to be in the division/ward or even the local authority in which the candidate wishes to stand, as long as the candidate meets one of the qualifications for standing set out above.

### Signatures of subscribers

2.45 Each nomination form needs to be signed (subscribed) by 10 electors registered in the register of local government electors for the division/ward on the last day for the publication of the notice of election (the register as at **Monday 29**

<sup>45</sup> Section 28A, PPERA; Rule 5, Local rules.

<sup>46</sup> Rule 8(4), Local rules.

**March 2010**). The first two electors will sign and print their names as **proposer** and **second**, and the remaining eight as **assenters**.<sup>47</sup> Where a nomination paper has the signatures of more than the required number of persons as proposing, seconding or assenting to the nomination, only the first 10 signatures will be accepted. Care should be taken to ensure that the nomination paper is accurately subscribed, because if one of the first 10 subscribers is invalid, irrespective of whether more than 10 subscribers have been added to the form, the Returning Officer must hold the nomination form invalid.<sup>48</sup>

2.46 Electors who are registered anonymously and are shown on the register with just their poll number and the letter 'N' rather than with their name and address may not subscribe nomination forms.

2.47 The elector number of each elector, including the distinctive numbers or letters of the polling district, must be entered on the nomination paper.

2.48 To ensure the nomination paper is completed correctly, candidates are entitled to receive a copy of the register for the division/ward they are contesting and should make a request to receive the register in writing to the Electoral Registration Officer for the area.<sup>49</sup> Further information on this process can be found in Chapter 3, 'The campaign'. Candidates may be asked to sign a form undertaking to use the register and lists of absent voters in accordance with law. The information contained within the register and the lists must only be used for electoral purposes – it is an offence to use this information or to allow it to be used for any other purpose.



An individual can only receive a copy of the register once they become a candidate for that purpose (as defined in Chapter 3, 'The campaign'), which will be after the publication of the notice of election, or in any event not earlier than **Monday 29 March 2010**. The candidate can obtain the register before submitting nomination papers, which allows them to ensure that nomination papers are completed correctly. Registered political parties are able to exercise the 'constituency party' entitlement to receive a copy of the register at any time.

2.49 At local government elections, electors may only subscribe as many nomination papers as there are vacancies in the division/ward.<sup>50</sup> For example, in the case of an electoral division/ward with only one vacancy, electors can only subscribe one candidate's nomination paper. This means that if two candidates submit a set of nomination papers for a division/ward with only one vacancy that have been subscribed by the same person, the nomination papers that were submitted first will be accepted; the second and any subsequent nominations will be invalid. However, in the case of an electoral division/ward with two vacancies, an elector may subscribe two nomination papers.

2.50 All the candidate's particulars must be completed before the nomination papers are subscribed – they cannot be altered after signatures have been added.

<sup>47</sup> Rule 6(1), Local rules.

<sup>48</sup> Rule 6(2), Local rules.

<sup>49</sup> Regulations 102 and 104, 2001 Regulations.

<sup>50</sup> Rule 6(5), Local rules.

2.51 Once a nomination paper has been formally accepted by the Returning Officer, signatures cannot be withdrawn.

2.52 The candidate should submit nomination papers well in advance of the deadline, to allow time for any unintended errors to be corrected or a new nomination to be submitted. No changes can be made, or new papers submitted, after the close of nominations. **This is a statutory deadline and cannot be altered for any reason.**

2.53 It is advisable to enquire whether the Returning Officer or their staff will offer an informal inspection of nomination papers. This should be done in person and, if possible, by appointment. They may check the papers before they are formally lodged, and such an informal check may reveal any errors in time for them to be remedied. There is no requirement for election staff to provide this service, especially if completion of the nomination is left until the last day.



Nomination papers cannot be submitted by fax or electronic means.

To avoid possible issues with delivery, papers should be delivered by hand so that the candidate can be confident that they have been delivered correctly. Wherever possible, it is advisable when handing the nomination papers to the Returning Officer or their staff to ask them to check the papers before they are formally lodged, so that a new set can be completed in the event of any errors having been made.

The candidate and agent should contact the Returning Officer as soon as possible to find out what arrangements are in place in any particular area.

Candidates should take care with their nomination paper, especially if they are leaving it with others for signature. If the form becomes defaced or illegible, then another form may have to be completed and all the signatures collected afresh.

## Minor errors

2.54 The Returning Officer is permitted to correct minor errors made on a nomination paper, including errors to a person's elector number and obvious errors of spelling in relation to the details of a candidate.<sup>51</sup> For example, where an elector number has been entered incorrectly, the Returning Officer may amend it if they are satisfied as to the cause of the error (e.g. wrong polling district prefix, transposed number, etc.). Where the elector number has been omitted altogether, however, the nomination paper will be rejected on the basis that no error has been made to the number – it has simply not been supplied.



This provision should not be relied upon. The idea of 'obvious' errors of spelling is difficult, as what is obvious to one person may not be so to another. The candidate should take care to ensure that all nomination papers are completed correctly.

<sup>51</sup> Rule 10, Local rules.

## Consent to nomination

2.55 In order for the nomination as a candidate to be valid, the candidate must also formally give their consent to nomination in writing.<sup>52</sup> The candidate will be asked to state that they are qualified and not disqualified from standing and to give their date of birth. The Returning Officer will provide a form for this purpose. Candidates can also use the form available on our website at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents).

2.56 Part of the qualification is based on having a connection to the local area as described earlier in this chapter (living in the area, occupying as owner or tenant, working in the area or being on the electoral register). A candidate must meet at least one of these criteria and should state as many of them as apply on the consent to nomination form.

2.57 The living in the area and occupying as owner or tenant qualifications must be fulfilled for the whole of the 12-month period ending with the date of nomination and also from nomination day to polling day. The working in the area qualification is based on the principal or only place of work during the 12-month period. These qualifications are valid for the entire period a successful candidate is elected for. The registration qualification only needs to be true on the day of nomination and is valid only as long as the successful candidate remains continuously on the register for that local authority.

2.58 Candidates must sign and date the consent to nomination within one calendar month before the last day for delivery of nomination papers. The candidate's signature must be witnessed, and the witness must also sign the form and give their full name and address. The rules do not specify who can witness this form, and so there are no restrictions on who can do this. The declaration of consent should be delivered in person to the Returning Officer with the other nomination papers, and must be delivered by **12 noon on Thursday 8 April 2010**.<sup>53</sup>

2.59 It is a serious offence to include false information pertaining to the name or address of a candidate in nomination papers, for a candidate to state that they are qualified and not disqualified when this is not true, or to falsify the signature of a subscribing elector.<sup>54</sup> If a person is found guilty of such an offence, they may be sentenced to imprisonment for up to a year, or face an unlimited fine, or both.<sup>55</sup> If a candidate is elected and subsequently they or their agent are found guilty of making a false statement in a nomination paper, their election is void.<sup>56</sup>

2.60 If it is believed that an offence has been committed through a statement on a nomination paper, and the complainant is prepared to substantiate this allegation through a written statement, this should be brought to the attention of the police.

2.61 The Returning Officer will take each application on face value. It is therefore important that candidates check all their details carefully.

---

<sup>52</sup> Rule 7, Local rules.

<sup>53</sup> Rule 7(d), Local rules.

<sup>54</sup> Section 65A, RPA 1983.

<sup>55</sup> Section 168, RPA 1983.

<sup>56</sup> Section 159(1), RPA 1983.

2.62 Nomination papers can be inspected and copies or extracts taken at the Returning Officer's office during normal office hours after the close of nominations at **12 noon on Thursday 8 April 2010** until the day before polling day, **Wednesday 5 May 2010**.<sup>57</sup> The papers are not available for inspection after this time.

## Deposit

2.63 No deposit is required at an election of local authority councillors.

## Registering as a political party

2.64 People wishing to register a party name for candidates to use at these elections must have an entry on the register of political parties two days before the close of nominations, i.e. **Tuesday 6 April 2010**.<sup>58</sup> Please note, however, that it may take up to four weeks (20 working days) to process applications for registration, and so to ensure that the application is processed on time it should be submitted no later than **Friday 5 March 2010**.

2.65 In order to register as a political party, the following must be submitted to the Party and Election Finance Directorate at the Electoral Commission:

- a correctly completed application form (available via the Commission's website, [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk))
- a copy of the party's constitution
- a draft financial scheme
- a fee of £150

2.66 Further information and guidance on registering a political party can be found in the Commission's document *Registering a political party: A brief guide*, which can be found on the Commission's website or obtained by phoning 020 7271 0616 or emailing [pef@electoralcommission.org.uk](mailto:pef@electoralcommission.org.uk).

2.67 There is no requirement for local branches of a party to register independently with the Commission – a national party's registration covers all of its branches and sections.

## Standing for a political party

2.68 It is for each candidate to decide if they wish to stand as an independent candidate and have no description on the ballot paper. If, however, a candidate wants to use a description other than the word 'Independent' on the ballot paper, they must stand as a candidate on behalf of a registered political party in order to use that party's name or one of their registered descriptions on the ballot paper, and they must gain the permission of that political party. Alternatively, candidates can establish a new registered party for which they will have to complete appropriate documentation and go through the appropriate process.

2.69 Political parties authorise candidates by issuing a certificate of authorisation. This must state that the named candidate can stand on their behalf. The certificate

---

<sup>57</sup> Rule 11, Local rules.

<sup>58</sup> Rule 5(6)(a), Local rules.

must also state what type of description can be used by the candidate on the nomination form. It must allow use of a particular registered description or the exact party name, or allow the candidate to choose to use the registered party name or one of the registered descriptions.<sup>59</sup>

2.70 If the Nominating Officer (or someone authorised by them to act on their behalf) allows the candidate to choose the party name or a description that the party has registered with the Commission, the candidate should ensure that they select a valid description or party name **exactly** as it appears on the Commission's website.

2.71 If the party name/description included on the nomination paper is not an exact match, the whole nomination paper will be invalid.

2.72 Some party names are listed on the Commission's website in a search-friendly format, e.g. Vote Party [The]. In these cases the correct party name is 'The Vote Party'.

2.73 If the certificate of authorisation contains a specific description or party name, the candidate must make sure that the description used in the nomination paper **exactly** matches the description on the certificate of authorisation. If the descriptions do not match, the whole nomination paper will be invalid.

2.74 The wording of the certificate of authorisation is not prescribed by law, but a sample authorisation of registered party description and emblem will be provided on our website at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents).

2.75 The certificate of authorisation **must** be signed by the registered Nominating Officer of the political party, or by someone else who has been authorised by the Nominating Officer to act on their behalf. There is no requirement to provide any documentation with the certificate of authorisation which shows that the person signing has been delegated the ability to sign by the registered Nominating Officer. However, it can be helpful if the Nominating Officer provides authorisation to the person signing the certificate of authorisation in case the Returning Officer is in any doubt. The certificate of authorisation should be delivered to the Returning Officer at the same time as the nomination papers and before the close of nominations at **12 noon on Thursday 8 April 2010**.<sup>60</sup> A sample form is available from our website at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents).

2.76 A candidate is also able to stand for election for more than one party and use a joint description. In that case, the candidate would need a certificate of authorisation from the Nominating Officers for both parties and they may allow the use of a joint description registered with the Commission.

## Request to use an emblem on the ballot paper

2.77 If a candidate has been authorised by a political party to use a description on the ballot paper, they can also request that one of the party's official emblems is

<sup>59</sup> Rule 5, Local rules.

<sup>60</sup> Rule 5, Local rules.

used on the ballot paper next to their name.<sup>61</sup> Each registered party can register up to three emblems; these emblems can be viewed or downloaded from the our website at <http://registers.electoralcommission.org.uk/regulatory-issues/regpoliticalparties.cfm>.

2.78 The request to use an emblem must be made **in writing** by the **candidate** and delivered to the Returning Officer, together with the other nomination papers, before **12 noon on Thursday 8 April 2010**.<sup>62</sup> A sample form is provided at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents). The request should state both the name of the political party **and** the description of the emblem to be used, as listed on the Commission's website. Registered emblems cannot be varied in any way.

2.79 Emblems may not be used by a candidate who has no description or has the description 'Independent'.

## Withdrawing as a candidate

2.80 Once the Returning Officer has accepted a candidate's nomination papers, the candidate can still withdraw from the election if they deliver a written notice to the Returning Officer before **12 noon on Tuesday 13 April 2010**.<sup>63</sup> The notice must be signed and witnessed by one other person. Please note that after the above time and date, it is not possible to withdraw a candidate's name from the election, and the candidate's name will appear on the ballot paper.

## Statement of persons nominated

2.81 The Returning Officer must publish a statement of persons nominated for each division/ward no later than **Monday 12 April 2010**. This will include the names of those candidates validly nominated and those who no longer stand nominated (i.e. invalid and withdrawn candidates, if any), with the reason why they no longer stand nominated.

2.82 The statement will show the names, addresses and descriptions (if any) of each candidate. If a person has given a commonly used name, then this will appear on the statement instead of their full name.

## Death of a candidate

2.83 If a candidate dies during an election campaign at a local government election, the procedure to be followed depends on the time when the death of the candidate is notified to the Returning Officer.<sup>64</sup> It is the time when proof of the death is notified to the Returning Officer that is important, not the actual time of death.

2.84 As there is no right of objection to nomination papers at local government elections, it is important to note that as soon as the Returning Officer has accepted a candidate's nomination as valid, their details will automatically be included on the

<sup>61</sup> Rule 16(3) and (4), Local rules.

<sup>62</sup> Rule 16(3) and (4), Local rules.

<sup>63</sup> Rules 1 and 13, Local rules.

<sup>64</sup> This is different from a UK Parliamentary election, where the description of a candidate determines whether the poll should be countermanded or abandoned.



statement of persons nominated, the notice of poll and the ballot paper.<sup>65</sup> Therefore, if the Returning Officer receives proof and is satisfied that a candidate has died at any time after accepting their nomination as valid, even if it is before the close of nominations, then the poll for that division/ward will be countermanded or abandoned as appropriate if more candidates than there are vacancies are validly nominated.

2.85 If proof of the death is notified before the poll opens, the notice of poll is countermanded and the poll does not take place.

2.86 If proof of the death is received after the opening of the poll but before the declaration of result, the poll is abandoned.

2.87 Where the death of a candidate requires the Returning Officer to order an election to fill the vacancy, the new polling day will be within 35 working days of the day fixed for the first election. In this case, candidates already validly nominated do not have to be nominated a second time.<sup>66</sup>

2.88 If an elected candidate dies after the declaration of result, the Returning Officer must hold a by-election to fill the vacancy using the same method as for filling a casual vacancy. The death of an unelected candidate after the declaration of result has no effect on the completed election and does not result in a by-election.

## Uncontested elections

2.89 If, after the close of nominations and the time allowed for withdrawals, the total number of validly nominated candidates in an electoral area is less than or equal to the number of seats to be filled at the election, those candidates are declared to be elected.<sup>67</sup> As soon as possible after the latest time for delivery of withdrawals of nominations (**12 noon on Tuesday 13 April 2010**), the Returning Officer will declare to be elected those candidates who remain validly nominated, and will give notice of their names to the Proper Officer of the council for which the election is held. The Returning Officer will also give public notice of the names of those declared as elected.<sup>68</sup>

2.90 It is important to note that if declared to be elected at an uncontested election, candidates must still make a declaration as to election spending, even if none have been incurred. See Chapter 4, 'Election spending', for more details.

---

<sup>65</sup> Rule 55, Local rules.

<sup>66</sup> Section 39, RPA 1983.

<sup>67</sup> Rule 14(2), Local rules.

<sup>68</sup> Rule 50(2), Local rules.

### 3 The campaign



A person may start campaigning at any time. A person does not have to wait until they become a validly nominated candidate to declare that they will run for election, ask people to support them or publish campaign material.

There are a number of resources that may assist an election campaign. This chapter provides further information on these, as well as details on the restrictions affecting campaign publicity material.

3.1 This section of the guide outlines the rights and responsibilities of all candidates and agents at a local government election in England. Many of the responsibilities are legal requirements that must be followed in order to prevent the risk of a challenge to the election or personal prosecution.

3.2 It is important to note the definition of a 'candidate' in relation to the provisions described below.

3.3 At local government elections, a person will become a candidate either:

- on the last day for publication of the notice of election, **Monday 29 March 2010**, if that person or others have declared that person to be a candidate on or before that date,<sup>69</sup> or
- otherwise, after **Monday 29 March 2010**, on the date on which a person or others declare that person to be a candidate or they are nominated as a candidate at that election, whichever is the earlier<sup>70</sup>

#### Becoming a candidate

- A person is selected by their local political party to be a candidate for election in **February 2010**. They become a candidate on the last day for publication of the notice of election, **Monday 29 March 2010**.
- A person declares themselves to be a candidate for election on **Wednesday 24 March 2010**. They become a candidate on **Monday 29 March 2010**.
- A person has not been declared by themselves or others to be a candidate for election, but delivers valid nomination papers to the Returning Officer on **Wednesday 31 March 2010**. They become a candidate on **Wednesday 31 March 2010**.
- A person has been declared by themselves or others to be a candidate for election on **Friday 19 March 2010**, the same date that the Returning Officer publishes the notice of election, and delivers valid nomination papers to the Returning Officer on **Thursday 25 March 2010**. They become a candidate on **Monday 29 March 2010**.

<sup>69</sup> Section 118A(3)(a), RPA 1983.

<sup>70</sup> Section 118A(3)(b), RPA 1983.

Note that becoming a candidate depends on the **last** date that the notice of election must be published, not the **actual** date.

## Using the electoral register

3.4 Candidates at a local government election are entitled to a free copy of the **full** electoral register for the division/ward they are contesting.<sup>71</sup> This will help in the campaign and in completing nomination papers. Candidates should make a request for a copy of the register in writing to the Electoral Registration Officer for the area.<sup>72</sup> Contact details for local authorities in England can be downloaded from [www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk).

3.5 The copy of the register that the candidate will receive will be the one in force on the last day for publication of the notice of election.

3.6 Electors may register to vote up until the eleventh working day before the poll. Candidates are entitled to request the list of newly registered electors when this is officially published five working days before the poll, on **Wednesday 28 April 2010**.

3.7 Strict legal restrictions apply to the use of information in the full electoral register. A person who has been supplied with a copy of the full electoral register for a particular division/ward must not, unless it is for electoral purposes:

- pass on a copy of the register to any other person
- disclose any information from the register (which is not contained in the edited version of the register also published by the Electoral Registration Officer),<sup>73</sup> or
- make use of any information from the register<sup>74</sup>



Candidates may only use the copy of the register for electoral purposes. Any person found guilty of breaching the restrictions could face a fine of up to £5,000.<sup>75</sup>

3.8 Candidates can supply their copy of the register to their agent and supporters, who must also abide by the requirements listed above and use the data for electoral purposes only to avoid potential criminal prosecution. 'Electoral purposes' includes canvassing support for their election or the checking of the validity of donors to their campaign (donations of more than £50 to any candidate).

## Postal and proxy voters lists

3.9 Candidates may also get a copy of the list of those electors who will be voting by post or who have appointed a proxy to vote on their behalf. These lists – the postal voters list and the proxy voters list – are together referred to as the absent

<sup>71</sup> Regulations 104 and 108(1)(c), 2001 Regulations.

<sup>72</sup> Regulation 102(2), 2001 Regulations.

<sup>73</sup> Electoral Registration Officers are required to publish two versions of the electoral register: a full version containing the details of all electors in the area, and an edited version which is available for sale and which does not contain information about electors who have requested that their details are not included.

<sup>74</sup> Regulation 108(5), 2001 Regulations.

<sup>75</sup> Regulation 115, 2001 Regulations.

voters lists. Electoral Registration Officers will supply these to candidates upon written request. Candidates may also get a new copy of the lists during the election, such as after the deadline has passed for new applications for a postal or proxy vote.

3.10 As with the electoral registers, the absent voters lists must only be used for electoral purposes. The lists can be supplied to a candidate's agent or supporters for electoral purposes only. As with misuse of electoral register data, criminal law prosecution may result from misuse of the data on absent voting.

## Format of the electoral registers and absent voters lists

3.11 The register will be supplied in electronic format unless a paper copy is specifically requested. Most electoral registration software packages used by local authorities will supply data from the register in a comma-separated values (CSV) format.

3.12 CSV files can be read or modified with the most popular spreadsheet or database applications, and can also be read or modified with any text editor or word-processing program. In particular, CSV files can be used with the mail-merge function of most word-processing programs to create mailing labels and personalised letters.

3.13 There are no rules that specify the format in which the absent voters lists should be supplied: candidates can ask for the list to be provided in either paper or data format and the preferred option should be made clear in the application. However, the data format for supply will be the format in which the record is held by the Electoral Registration Officer, and they are not required to change it into any other format.

## Freepost

3.14 There is no provision in law for candidates at local government elections to receive free postage on election communications. Candidates must meet their own postage costs where any such communication is sent and include this in their election spending return.

## Use of schools and rooms for public meetings

3.15 Candidates are entitled to use certain kinds of room free of charge to hold public meetings at reasonable times between **Monday 29 March 2010** and **Wednesday 5 May 2010**.<sup>76</sup> While there is no hire charge for the use of these rooms, the candidate must pay for any expenses incurred during their meeting, such as heating, lighting and cleaning, and for any damage to the premises.<sup>77</sup>

3.16 In broad terms, the rooms that can be used are those funded by the local authority. For example, candidates can use suitable rooms in any community, foundation or voluntary school in the electoral area, and if no such rooms are available, candidates can use any school in an adjacent electoral area. Any public

---

<sup>76</sup> Section 96, RPA 1983.

<sup>77</sup> Section 95(4), RPA 1983, as applied by Section 96(4), RPA 1983.

meeting room situated in the electoral area that is supported out of public funds may also be used.

3.17 The Electoral Registration Officer of each local authority will keep a list of the location and availability of suitable meeting rooms in the electoral area. To help candidates find out which rooms are available, the local authority will make the list available for candidates and agents to inspect from the **date the notice of election is published** until the day before polling day.<sup>78</sup> Owners of the facilities should be given reasonable notice when booking the use of a room, or the request may be declined.

3.18 It is important to note that the right to use the rooms described above does not authorise any interference with the hours during which a school is used for educational purposes, or with the prior letting of a meeting room. The legislation defines a public meeting room as a room ‘which it is the practice to let for public meetings’. This means that not all rooms qualify and a specific room that a candidate may have had the intention of using may not be on the list maintained by the relevant Electoral Registration Officer or Proper Officer. Candidates wishing to make use of the right to use the rooms described above should make arrangements as soon as possible.

3.19 Electoral law makes it an illegal practice (i.e. a criminal offence) to act in a disorderly manner, or to incite others to do so, for the purpose of preventing the business of a public meeting being transacted.<sup>79</sup> The maximum fine on conviction is £5,000. Candidates are reminded that in addition to being subject to electoral law, they are still bound by non-electoral legislation, including the law on public order, such as the law on acts intended or likely to stir up racial hatred, and on possession of racially inflammatory material.

## Canvassers

3.20 Candidates may wish to use canvassers to help with the election campaign. It is, however, **illegal** to employ **paid** canvassers for the purpose of promoting or procuring a particular result at an election before, during or after the election.<sup>80</sup> In addition, members of police forces, whether paid or unpaid, are prohibited from acting as canvassers.

3.21 A working definition of canvassing is:

... by word, message, writing or in any other manner, endeavour to persuade any person to give or dissuade any person from giving, his vote, whether as an elector or proxy.<sup>81</sup>

3.22 The Commission does not consider that leaflet delivery falls within the definition of canvassing. Candidates should make sure that anyone paid to deliver leaflets

<sup>78</sup> Schedule 5, RPA 1983, as applied by Section 96(4), RPA 1983.

<sup>79</sup> Section 97, RPA 1983.

<sup>80</sup> Section 111, RPA 1983.

<sup>81</sup> Section 100, RPA 1983. This definition relates specifically to the canvassing restrictions on police officers but, in the absence of any other definition elsewhere in the RPA 1983, this definition may be used as a working definition of canvassing generally.

understands that they must not attempt to persuade electors to vote in a particular way.

## Campaign publicity material

3.23 Most candidates and parties will want to produce campaign publicity material. Campaign publicity material is subject to a number of restrictions under electoral law, and is also subject to the general civil and criminal law relating to published material. All candidates and election agents should therefore be aware of the requirements and restrictions around any such materials produced.

3.24 In summary, all materials that are published:<sup>82</sup>

- must contain the required imprint
- must not make a false statement about the personal conduct of any candidate
- must not be paid to be displayed, unless paid advertising is the usual business of that particular site
- can only be displayed with correct permission (for example, no fly-posting)
- must be removed after the election according to local and statutory planning rules
- are subject to the normal civil and criminal law relating to all published material
- must not resemble a poll card<sup>83</sup>

3.25 Further explanation of each of these points can be found below.

3.26 It is a common complaint that campaign materials are not available in large print. In order to be more accessible, for example to elderly or visually impaired people, it is advisable to consider producing materials in this format. Where appropriate, languages other than English should also be considered as well as easier-to-read formats for those with lower levels of literacy. It is important that every elector, no matter what their individual circumstances, has a chance to be part of the election process by being able to find out about the candidates and choose between them.

## Newspaper articles and advertisements

3.27 Some newspapers run stories during the election and feature some or all candidates. While the allocation of broadcasting time is prescribed in legislation, the way that newspapers communicate their views on political issues is not. Newspapers may take whatever view they like on the candidates at the election, as long as they do not breach the legal provisions on libel etc., and may include as much or as little coverage as they decide. The inclusion of a candidate in a newspaper article does not count towards election expenses, although paying for an advertisement in a newspaper does.

---

<sup>82</sup> Section 110, RPA 1983; Section 106(1), RPA 1983; Section 106(1), RPA 1983; Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

<sup>83</sup> Section 94, RPA 1983.

## Imprint requirements

3.28 All election publicity must carry an imprint with details of the **full name and full postal address of the printer and promoter** of the material. There is no longer a requirement to include the details of a publisher; however, if the material includes the publisher's details in addition to those of the printer and promoter, this will be acceptable. The name and address of any person on whose behalf the material is being published must also be included, if this person is not the promoter.<sup>84</sup>

3.29 There are two separate provisions that apply to election publicity:

- Section 110 of the RPA 1983 (as amended) applies to any material that can be reasonably regarded as intended to promote or procure the election of a candidate at an election, whether or not it can be regarded as intended to achieve any other purpose as well.<sup>85</sup>
- Section 143 of PPERA applies to election material relating to parties, or two or more candidates.



All printed election publicity must carry an imprint with details of the full name and full postal address of the printer and promoter of the material.

3.30 Election publicity also refers to materials that prejudice, criticise or disparage the electoral prospects at the election of other parties or candidates, or which prejudice the standing with the electorate of other parties or candidates, even if that material does not expressly mention the name of any party or candidate.<sup>86</sup>

3.31 In relation to parties specifically, election material is material that can reasonably be regarded as intended to:

- a. promote or procure electoral success at any relevant election for:
  - i. one or more particular registered parties
  - ii. one or more registered parties which advocate (or do not advocate) particular policies or which otherwise fall within a particular category of such parties, or
  - iii. candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates, or
- b. otherwise enhance the standing:
  - i. of any such party or parties, or
  - ii. of any such candidates

with the electorate in connection with future relevant elections (whether imminent or otherwise).<sup>87</sup>

<sup>84</sup> Section 143, PPERA; Section 110, RPA 1983.

<sup>85</sup> Section 110, RPA 1983, as amended.

<sup>86</sup> Section 85(4), PPERA.

<sup>87</sup> Section 85(3) and (4), PPERA.

3.32 It is important to ensure that the imprint requirements are fulfilled, otherwise the candidate's election is subject to challenge<sup>88</sup> unless:

- the contravention arose from circumstances beyond their control
- they took all reasonable steps and exercised all due diligence to ensure that the contravention would not arise<sup>89</sup>

3.33 The intention of imprint requirements is to enable anyone to trace the person responsible for the material, for example in case of any complaint or query about its content. There is no requirement for an imprint address to be a home address, as long as it is somewhere where the person can be contacted.

3.34 An email address would not be acceptable as an imprint address because it is not a physical address, and it is possible to create one using false or fictitious details.

3.35 For the purposes of the imprint requirement:

The **promoter** is the person who causes the material to be published.<sup>90</sup> In the Commission's view, the **person on whose behalf** the material is being published is the person/body to whom the material refers. These details need only be included where that person/body is different from the promoter.

3.36 The printer is the person or company who physically prints the material. The publisher might be the same person as the printer, a candidate or agent, the local party organisation or a separate individual.

## Materials that require imprints

3.37 Materials that require an imprint include posters, placards and bills that refer to parties or candidates, although this is not an exhaustive list. Likewise, all printed election leaflets distributed for the purpose of promoting or procuring the election of a candidate or increasing the standing of any candidate must also carry an imprint.



### Internet and social networking material

The rules on including an imprint do not apply to material that appears on a website, on a social networking site or on any other such system. However, websites that contain material by or on behalf of a candidate should have an imprint as a matter of good practice.

The imprint to be included should be the same as for printed material, except that there would clearly be no requirement to give the printer's details.

Any posters that are available for download from a website should, however, carry the full imprint, i.e. include details of both the printer and the promoter.

3.38 Election publicity also includes materials that prejudice, criticise or disparage the electoral prospects at the election of other parties or candidates, or (as the case may be) prejudice the standing with the electorate of other parties or candidates,

<sup>88</sup> Section 110(12), RPA 1983.

<sup>89</sup> Section 110(11), RPA 1983.

<sup>90</sup> Section 143(11), PPERA.



even if that material does not expressly mention the name of any party or candidate.<sup>91</sup>

3.39 If there is any doubt as to whether certain campaign material requires an imprint, it is suggested that one should be added. If the promoter of the material or any other person by whom the material is so published or the printer of the document commits this offence, they are liable to a fine of up to £5,000.<sup>92</sup> If it is believed that an offence relating to imprints has been committed, and the complainant is prepared to substantiate this allegation through a written statement, this should be brought to the attention of the police.

3.40 Where election publicity can reasonably be regarded as referring to two or more candidates standing in the name of a party or included in a list of candidates submitted by the party in connection with the election, this can be regarded as being published on behalf of the party, and not on behalf of the candidate(s).<sup>93</sup>

## Examples

3.41 To assist in understanding these rules, the Commission provides the following example:

**Printed by** [insert the name and address of the person or company whose equipment is being used to print the material. This could be the candidate or agent if they own the equipment being used or if they produce the material using equipment in a public place, such as a photocopier in a library].

**Promoted by** [insert the name and address of the person who causes the material to be published, generally the candidate, agent or, if two or more candidates are standing, party].

**On behalf of** [insert the name and address of the person or people on whose behalf the material is being printed, typically the candidate, party or a third party. 'On behalf of' is needed only if the candidate or candidates are not the promoter].

### Example box 1: Sample imprints

Assuming the following details, please see below for examples of imprints:

Candidate name	= Jane Doe
Agent name	= Joe Bloggs
Party name	= The Electoral Party
Printer	= The Duplication Company

### Imprints for Independent candidates

If the candidate is acting as their own agent and using a print company to produce some leaflets, the imprint should look like this:

<sup>91</sup> Section 85(4), PPERA.

<sup>92</sup> Section 110(9), RPA 1983; Sections 143(8) and 150, PPERA.

<sup>93</sup> Section 143(2A) and (2B), PPERA.

**Example box 1 (cont.): Sample imprints**

**Printed by** The Duplication Company, **of** [insert full postal address].

**Promoted by** Jane Doe, **of** [insert full postal address of candidate].

If the agent is printing leaflets using their own equipment, the imprint should look like this:

**Printed and promoted by** Joe Bloggs, **of** [insert full postal address],  
**on behalf of** Jane Doe, **of** [insert full postal address of candidate].

If the agent is using a print company to produce some leaflets, the imprint should look like this:

**Printed by** The Duplication Company, **of** [insert full postal address].  
**Promoted by** Joe Bloggs, **of** [insert full postal address], **on behalf of**  
Jane Doe, **of** [insert full postal address of candidate].

If the candidate does not have an agent but is using a print company to produce some leaflets, the imprint should look like this:

**Printed by** The Duplication Company, **of** [insert full postal address].  
**Promoted by** Jane Doe, **of** [insert full postal address of candidate].

If the candidate is doing everything, the imprint should look like this:

**Printed and promoted by** Jane Doe, **of** [insert full postal address].

**Sample imprint for candidates representing a political party**

If two or more candidates are representing a single party in a multi-member division/ward, depending on the situation, the imprint might look like this:

**Printed by** The Duplication Company, **of** [insert full postal address].  
**Promoted by** Joe Bloggs, **of** [insert full postal address of agent], **on behalf of**  
The Electoral Party, **of** [insert full postal address of party].

Or like this:

**Printed by** The Duplication Company, **of** [insert full postal address].  
**Promoted by and on behalf of** The Electoral Party, **of** [insert full postal  
address of party].

## Display of advertisements

3.42 The display of all advertising is controlled by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, although practice can vary between local authorities depending on where advertisements are to be displayed. Candidates and agents should ensure that all election advertisements, including any bills, placards and posters, comply with the relevant requirements for the area where they are displayed. In particular, remember that **no advertisement should be displayed without the permission of the owner** of the site or anyone else with an interest in the site. Posters and advertisements on trunk roads should not interfere

with or impede traffic or other road users. All advertisements must be removed within 14 calendar days after the election.<sup>94</sup>

3.43 Candidates and agents should also be aware that local authorities exercise tight regulations with regard to the display of advertisements on local authority property, e.g. lampposts, open spaces, highway verges, etc. Candidates and agents are strongly advised to consult the appropriate council officer for guidance; the elections office will be able to advise who this officer is.

3.44 It is an offence to pay an elector or their proxy for displaying election advertisements, unless it is part of their normal business (as an advertising agent, for example) and a payment is made in the ordinary course of business.<sup>95</sup> Asking an elector or their proxy to display an advertisement on their own property is legal as long as they are not paid for doing so.

## Restrictions and offences

### False statements

3.45 It is an illegal practice to make or publish a false statement of fact about the personal character or conduct of a candidate in order to affect the return of a candidate at an election.<sup>96</sup> It is a defence to show reasonable grounds for believing that the statement was true. This provision applies both before and during an election period, but is subject to the definition of a 'candidate', as discussed above. It is also an illegal practice to make a false statement of a candidate's withdrawal.<sup>97</sup>

3.46 The potential consequences of breaching this provision are serious. If a candidate is elected and then an election court finds them or their election agent guilty under this provision, their election will be void.<sup>98</sup> Anyone found guilty of breaching this provision may, upon summary conviction, be fined up to £5,000.<sup>99</sup> Further, people who have been found guilty of an illegal practice are subsequently banned from registering to vote at any UK Parliamentary elections in the UK or local government elections in Great Britain for a period of three years.<sup>100</sup> In addition to this, they are unable to hold elected office in the House of Commons or local government.

3.47 If it is believed that an offence has been committed in relation to statements about candidates, and the complainant is prepared to substantiate this allegation through a written statement, this should be brought to the attention of the police.

3.48 Other false statements that are not about another candidate's character or conduct may not be illegal under electoral law; however, other offences such as libel and slander may cover such instances.

---

<sup>94</sup> Schedule 1, Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

<sup>95</sup> Section 109(1), RPA 1983.

<sup>96</sup> Section 106(1), RPA 1983.

<sup>97</sup> Section 106(5), RPA 1983.

<sup>98</sup> Section 159(1), RPA 1983.

<sup>99</sup> Section 169, RPA 1983.

<sup>100</sup> Section 173(1), RPA 1983.

## Civil law

3.49 Election campaign material is also subject to general restrictions of civil law. Election material that constitutes libel is liable to serious legal action.

## Other criminal offences

3.50 Election campaign material is also subject to general restrictions of criminal law.

3.51 Under the Public Order Act 1986, it is an offence to publish or distribute threatening, abusive or insulting material that is intended to stir up racial hatred.<sup>101</sup>

3.52 Candidates and agents should be aware of a number of other electoral offences. If a candidate or their agent is found guilty of a corrupt practice, the election may be invalidated. Bribery, treating and undue influence are three common areas of concern.

### Bribery

3.53 A person is guilty of the corrupt practice of bribery if they, directly or indirectly, give any money, procure any office for any voter, or make such a gift in order to induce any voter to vote, refrain from voting, or return any person at an election.<sup>102</sup>

### Treating

3.54 A person is guilty of the corrupt practice of treating if they **corruptly**, directly or indirectly, either before, during or after an election, give or provide (or pay wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to **corruptly** influence any voter to vote or refrain from voting.<sup>103</sup>

### Undue influence

3.55 The importance of unimpeded access to the polling station cannot be over-emphasised.

3.56 A person is guilty of the corrupt practice of undue influence if:<sup>104</sup>

- they, directly or indirectly, make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict injury, damage or harm in order to induce or compel any voter to vote or refrain from voting or intend so to compel, induce or prevail, or
- they impede or prevent or intend to impede or prevent the free exercise of the franchise of an elector through duress or a fraudulent device

3.57 If a candidate is considering the use of tellers or campaigners in or near to the polling station, they should ensure that all volunteers are aware of these restrictions and are given a copy of the guidance to tellers (Appendix D).

---

<sup>101</sup> Section 19, Public Order Act 1986.

<sup>102</sup> Section 113, RPA 1983.

<sup>103</sup> Section 114, RPA 1983.

<sup>104</sup> Section 115(2), RPA 1983, as amended by Section 38, EAA.

3.58 Undue influence does not, however, exclusively relate to physical access to the polling station. For example, a leaflet that threatens to make use of force in order to induce a voter to vote in a particular way would also be undue influence.

## Absent voting

### Postal and proxy votes

3.59 A person commits an offence if they:

- engage in an act specified below, and
- intend, by doing so, to deprive another of an opportunity to vote or to make for themselves or another a gain of a vote to which they or the other is not otherwise entitled or a gain of money or property

3.60 These offences are:

- applying for a postal or proxy vote as some other person (whether that other person is living or dead or is a fictitious person)
- otherwise making a false statement in, or in connection with, an application for a postal or proxy vote
- inducing the Electoral Registration Officer or Returning Officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address that has not been agreed to by the person entitled to the vote
- causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient

3.61 A person who commits such an offence or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.<sup>105</sup>

### Offences associated with absent voting

3.62 The Commission has agreed a voluntary Code of conduct with the larger political parties on the handling of postal vote applications and postal ballot papers. This Code represents an agreed standard of acceptable behaviour that all candidates and agents should follow. It can be found at Appendix E. Please note that the legislative requirements for postal and proxy vote applications have changed significantly since 2006 and so the Electoral Registration Officer should be consulted before printing or distributing any such application forms.

## Reporting offences



Neither the Returning Officer nor the Electoral Commission has any discretion to investigate allegations of the offences mentioned in the above paragraphs. The Electoral Commission can, however, investigate allegations of election expenses offences.

We are not able to comment on the legality of any particular electoral material beyond the general advice given in this guidance.

<sup>105</sup> Section 40, EAA.



In addition, leaflets and advertisements that are electoral material are not subject to the Advertising Standards Authority (ASA) code and therefore the ASA is not able to consider any complaint about electoral advertisements.

If it is believed that an offence has been committed, and the complainant is prepared to substantiate this allegation through a written statement, this should be brought to the attention of the police. Reporting allegations to the police should not be considered unless the complaint is substantiated by evidence and the complainant is prepared to make a written statement.

## Campaigning on polling day



### **Definition of polling place and polling station for campaigning purposes**

The polling place is the building or area in which polling stations are situated.  
The polling station is the area where the poll takes place.

3.63 While it is clear that campaigning cannot happen within the polling station or other surrounding areas hired by the Returning Officer (the polling place), there is no restriction on campaigning on polling day as long as candidates and their supporters do not break the law on undue influence (see above) and follow the Code of practice for tellers (see Appendix D). Electors must be able to quietly and privately cast their vote free of any intimidation (whether real or perceived). Electors should be able to enter the surrounding area in the same manner.

3.64 There should be no long-term parking of vehicles for campaign purposes, for example displaying election materials or using loudspeakers, immediately outside entrances or within unreasonable proximity of the entrance. Cars being used in campaigns that are also used to transport voters may need to wait for the voter while they cast their vote at the polling station, but this should not be unduly prolonged.

3.65 If a Presiding Officer at a polling station considers that large groups of a candidate's supporters or detractors are gathered and that electors may feel intimidated or influenced, they may report that to the Returning Officer.

3.66 If a Presiding Officer or the Returning Officer expresses concern that candidates or their supporters may risk breaching the law on undue influence, the candidate or agent should consider taking action. Candidates and agents should consider that breaching the law on undue influence may invalidate the candidate's election.

3.67 The Presiding Officer or Returning Officer may also report actions that may breach public order to the police. The police may act to ensure that public order and other general criminal law are not breached at or near the polling place.

## Relief

3.68 If a candidate or agent becomes aware that they may have mistakenly acted in contravention of any of the election rules, they may apply for and may be granted relief from the penalties for any offence.

3.69 Independent legal advice should be taken if this is being considered. To obtain information about this:

- visit [www.hmcourts-service.gov.uk/HMCSCourtFinder/](http://www.hmcourts-service.gov.uk/HMCSCourtFinder/)
- select 'Forms and Guidance' from the left-hand menu, and
- enter the form number: LOC002

or contact the Election Petitions Office at the Royal Courts of Justice:

Supreme Court Cost Office  
Room 2.14  
Cliffords Inn  
Fetter Lane  
London EC4A 1DQ

Tel: 020 7947 6423

Fax: 020 7947 6807

## 4 Election spending



A UK Parliamentary general election will also be taking place in 2010. There are separate controls on certain types of spending by political parties in the year before a general election. Candidates and agents for the local government elections should make sure that they do not incur this type of spending without authorisation from the party treasurer/campaigns officer or a deputy registered with the Commission. It may be an offence to do so. There is more information on the differences between candidates' expenses and party campaign expenditure in the boxed text at the end of this chapter.

### Spending limits

4.1 Candidates are subject to limits on what they spend during the regulated period in advance of an election. The limit for the local government elections in 2010 is £600, plus 5p per local government elector in the ward.

4.2 The 'pence per elector' part of the candidate's spending limit is based on the number of electors on the electoral register for the division/ward at the last date for publication of the notice of election.<sup>106</sup> Candidates and agents should confirm the relevant register figure with the Returning Officer. It is the responsibility of the agent to keep spending within the correct limit. It is advisable to get written confirmation of the relevant figure from the Returning Officer.

### Spending limits for joint candidates

4.3 At local government elections, candidates can be considered joint candidates for the purpose of their election spending limits. Maximum spending limits are reduced in the case of joint candidates. Where there are two joint candidates, the limit for each candidate is reduced by a quarter. Where there are three or more joint candidates, the limit for each is reduced by a third.

4.4 Candidates are to be considered joint candidates if they do any of the following:

- employ the same election agent
- use the services of the same clerks or messengers<sup>107</sup>
- hire or use the same committee rooms at an election
- publish joint addresses, circulars or notices at elections

Candidates can only be joint candidates if they are standing for election in the same division/ward.<sup>108</sup>

### The regulated period

4.5 The spending limits apply to the 'regulated period' – the period between the date a person becomes a candidate and polling day.

<sup>106</sup> In 2010, the last date for publication of the notice of election will be Monday 29 March 2010.

<sup>107</sup> This does not include the accidental, casual or trivial use of the same clerks or messengers.

<sup>108</sup> Sections 77 and 203, RPA 1983.



4.6 A person contesting a local government election becomes a candidate on the last date for publication of the notice of election<sup>109</sup> Please see paragraph 3.3 for more information on when someone becomes a candidate.

## What are election expenses?

4.7 'Election expenses' is the value of specified items used for promoting or procuring the candidate's election during the regulated period. It also includes items used to discourage people from voting for another candidate. There is more information on the specified items in paragraphs 4.10–4.23.

4.8 Items which are **used during** the regulated period count, even if they were bought beforehand.<sup>110</sup>

### Example box 2: Money spent before the start of the regulated period

In February 2010, an individual spends £1,000 on leaflets for their campaign. They distribute half of them in the first three weeks of February. They become a candidate on 29 March 2010. In April they distribute the other half of the leaflets.

Half the leaflets are delivered during the regulated period, so half the spending should be treated as election expenses and count against the candidate's spending limit, i.e. £500.

4.9 The following do not count as election expenses:

- volunteer time
- use of the following items if the owner acquired them mainly for personal (not business or commercial) use and has provided them free of charge:
  - cars or other means of transport
  - a sole or main residence
  - personal computer equipment
- facilities used as a result of the candidate's legal entitlement, such as a public room for a meeting
- anything that is published in a newspaper or broadcast by a licensed broadcaster and is not an advertisement



The election expenses limit includes the **full commercial value** of items or services that are given to the campaign, paid for on the candidate's behalf or provided at a discount of more than 10% of the commercial rate. This is called **notional expenditure** (see paragraphs 4.36–4.40 below).

Notional expenditure will usually need to be reported on the candidate's election expenses return as a donation too (see Chapter 5, 'Donations').

<sup>109</sup> In 2009, the last date for publication of the notice of election will be Monday 29 March 2010.

<sup>110</sup> Section 90ZA(5), RPA 1983.

## Items that count as expenses

### **Advertising**

4.10 This includes:

- posters
- newspaper advertisements
- websites
- any other form of advertising, whatever the medium

4.11 Design, print and delivery costs and any agency fees are included.

### **Unsolicited material**

4.12 This category covers any material sent out, whether it is addressed to electors by name or simply delivered within a particular area. In our view, it also includes material sent to electors who have previously responded to a survey or ticked a box on a response form. Costs in this category include design, print and distribution costs.

### **Transport**

4.13 Most transport is likely to be using people's personal cars which they have acquired for their own use. This is exempt from election expenses if it is given free of charge. In our view, this exemption includes fuel costs.

4.14 The following count as election expenses:

- public transport costs
- hire cars
- any other means of transport not acquired by the owner mainly for personal use
- any costs reimbursed to campaigners

### **Public meetings**

4.15 This covers public meetings organised by the candidate or on their behalf. Costs include:

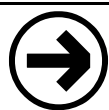
- venue hire
- use of backdrops
- speakers' fees and accommodation
- any costs reimbursed to anyone for attending the meeting
- anything provided at the meeting, such as refreshments

4.16 Events do not need to be included if they:

- are for party members only, or
- are held mainly for purposes other than promoting the candidate, where the candidate's attendance is incidental – for example, this would cover an annual barbecue at which the candidate says a few words

4.17 Sometimes it may not be easy to decide whether or not a public event should be included. In these cases, candidates and agents should ask themselves whether in good faith they can say that the event was held mainly for other purposes. If still in doubt, please contact us for advice.

4.18 Candidates may also be invited to attend hustings events run by local organisations or community groups. If the hustings event is held for members of the group or organisation only, rather than members of the public, it is not an election expense.



For guidance on hustings events organised by others, please see *Topic Overview: Hustings events*, available at [www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents](http://www.electoralcommission.org.uk/guidance/those-we-regulate/candidates-and-agents).

### **Staff costs**

4.19 All paid staff time spent on the campaign during the regulated period, including any fees for acting as agent, must be included. This includes the value of any seconded staff who are still paid by their employer. Time spent by volunteers is not included.

4.20 More information on staff costs can be found in paragraphs 4.49–4.52.

### **Accommodation**

4.21 The use of any office, and any hotel or similar costs for campaign workers, is included.

4.22 The use of someone's sole or main home is not included if it is given free of charge.

### **Administrative costs**

4.23 The following should be included:

- telephone bills
- stationery and postage costs
- electricity and other utility bills
- use of photocopying or printing equipment
- use of databases

Please contact us for further advice on valuing the use of databases. Appropriate valuations will vary depending on particular circumstances.

## **Planning and managing election spending**

4.24 The following paragraphs outline the legal requirements on candidates and election agents.



As the agent is responsible for completing the election expenses return, candidates should consider appointing an agent as soon as they begin to spend money on campaigning. There is more information on agents in paragraphs 1.32–1.41.

## Incurring election expenses

4.25 By ‘incurring’ election expenses, we mean making a legal commitment to spend the money. For example, this would include ordering leaflets to be printed, or booking a room for an event.

4.26 During the regulated period, only certain people are allowed to incur election expenses. They are:

- the agent
- the candidate, and
- anyone authorised by the candidate or the agent

4.27 If someone else is authorised to incur election expenses by the candidate or agent, it is good practice to do this in writing and be clear how much they can agree to spend and on what. This will help the campaign to keep within the spending limits and avoid misunderstandings.

## Paying election expenses

4.28 During the regulated period, the agent rather than the candidate must make most payments for election expenses.

4.29 There are two exceptions:

- The candidate can pay for items before the agent is appointed.
- Anyone authorised in writing by the agent can pay for stationery, postage, telephone calls and other minor expenses. The authorisation must include the amount of the payment.

4.30 The agent must obtain all invoices for election expenses within **21 calendar days** of the announcement of the election result. They must all be paid within **28 calendar days** of the announcement of the election result. Suppliers should be made aware of these deadlines as early as possible.

4.31 If these deadlines are missed, it is possible to apply to a county court or to the High Court (or sheriff court or Court of Session in Scotland) for an order allowing the invoice to be submitted or paid. Please contact the relevant court for more information about applying for this type of order.



Make sure that other people working on your campaign know that:

- they should not incur or pay election expenses
- they should pass on any donations to the agent immediately

## Record-keeping

4.32 The agent must keep invoices or receipts for all payments over **£20**. These are not needed for items bought before the agent was appointed, or for free or discounted items or services (see paragraphs 4.36–4.40 for more information on valuing these).

4.33 Sufficient records should be kept to complete the election expenses return. Both the candidate and the agent must sign a declaration that the return is complete and correct to the best of their knowledge and belief. It is an offence to make a false declaration knowingly.

4.34 A system should be put in place to record:

- who has been authorised to incur expenses
- how much has been incurred to date
- items or services given free of charge or at a discount of more than 10% of the commercial rate, or paid for on the candidate's behalf
- the basis for any valuations of free or discounted items or services (see paragraphs 4.36–4.40 for more information)
- any other donations received (see Chapter 5, 'Donations' for more information on donations)

4.35 It may be necessary to split expenses between the candidate's campaign and other local campaigns, or with the party's regional or national campaign.



There is more information about:

- donations in Chapter 5, 'Donations'
- election expenses returns in Chapter 7, 'After the election'
- splitting expenses between campaigns from paragraph 4.41

## Valuing free or discounted items or services

4.36 The election expenses return must declare **the full commercial value** for items or services which are:

- given free of charge or at a discount of more than 10% of the commercial rate, and
- worth more than £50

The difference between what was paid (if anything) and the commercial value of the item or service is called 'notional expenditure'.

4.37 It is not necessary to count anything valued at £50 or below, any discount of 10% or less, or commercial discounts of 10% or more. Commercial discounts are those given by a supplier to other customers, such as a bulk-order discount.

4.38 The agent must make sure that the value declared is a fair and honest assessment of the commercial rate. If the supplier is a commercial business, the commercial rate is what they would normally charge another customer for the same item or services.

4.39 If they do not usually supply to other customers, the agent should find out how much a commercial supplier would charge. The internet may be helpful in checking prices.

4.40 The agent should keep records of how the value has been reached, including any quotes obtained.



Notional expenditure is usually also a donation. Donations can only be accepted from certain sources, which are mainly UK-based.

There is more information about donations in Chapter 5, 'Donations'.

## Splitting expenses

### Why expenses may be split

4.41 Spending on the campaign might have started before the election, or office facilities and staff may be shared between more than one campaign. If this is the case, costs may need to be split to get the right figure for election expenses.

4.42 For example, expenses may need to be split between:

- different local government campaigns
- local government election campaigns and a general election campaign
- regular party activity and the campaign
- the local campaign and the party's national campaign



If expenses need to be split between a local campaign and the party's other activities, this should be discussed as soon as possible with the party to agree the basis for the calculation.

This is because others may need to fill in returns for their own share of the costs.



There is more information about the differences between the candidate's election expenses and the party's national campaign expenditure in the boxed text at the end of this chapter.

### Key principles

4.43 Sometimes it will be easy to split costs. For example, the contents of a leaflet may be divided equally between the local candidate's campaign and the party's national campaign. In this case, half the costs of this leaflet should be counted towards the candidate's election expenses.

4.44 Sometimes it will not be so straightforward. For example, the campaign may be run from a desk in the local party office that is also used by the council party group. In these cases, there are no hard and fast rules. Instead, the guiding principle and good practice suggestions below should be followed.



#### **The guiding principle**

An **honest assessment** should be made **on the facts** of the proportion of the costs that can be attributed fairly to the candidate's election expenses – that is, to promoting or procuring their election during the regulated period.

This is important because when the candidate and agent sign the declaration on the election expenses return, they are confirming that the return is complete and correct to the best of their knowledge and belief.

## Splitting costs at the start of or between regulated periods

4.45 This is straightforward for many common items, such as telephone rental or utilities. These should be split according to the proportion of the bill period that covers the relevant time. For telephone calls, we recommend getting an itemised telephone bill so that it is easy to see which calls were made when.

4.46 On other items, such as websites or posters, design or branding services may have been paid for. As the design will be used during the regulated period, costs should be spread equally across the entire time that the design work is used.

## Splitting costs between the local campaign and other party activities

4.47 In all cases, the guiding principle above should be followed. The paragraphs below show some of the factors to be considered, but any other relevant factors that apply in the circumstances should be taken into account.

### Leaflets

4.48 If leaflets include information about other campaigns, or the party's policy on national issues, consider:

- content:
  - How much of the leaflet is about the candidate's campaign, and how much about other issues?
  - If more than a small proportion is about the party generally rather than about the candidate's campaign, should some of the costs be treated as national party expenditure? (See the boxed text at the end of this chapter for more information.)
- delivery:
  - Was the leaflet delivered to all relevant areas equally? If significantly more copies were delivered to an area relevant to one candidate than to areas relevant to other candidates, this should be taken into account when splitting costs.

### Staff

4.49 Staff may be shared with other campaigns, or they may have other duties for the local party that continue during the regulated period.

4.50 We recognise that, during an election period, staff will be spending their own time on unpaid campaigning, which is not part of their legal employment contracts. Where staff do this, they are volunteers. Volunteer time is not an election expense.

4.51 Where staff spend some paid time on the candidate's campaign, the starting point should be to look at how much of their working time is spent on that campaign. This is likely to increase as the election gets closer.

4.52 Records of calculations should be kept in case of post-election queries.

## Offices

4.53 The campaign may be run from an office owned or rented by the party and also used for other activities. In these cases, it should be agreed with the party what proportion of the office space the candidate's campaign is using.

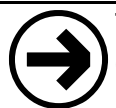
4.54 Consider:

- the space used by the candidate's campaign:
  - If the campaign has a defined area within the office, a reasonable calculation should be made based on the proportion it takes up of the floor area.
  - If the area used by the campaign is less defined, a fair estimate should be made based on the overall space it takes up when compared with the office as a whole.
  - If a member of staff based in the office works partly on the candidate's campaign and partly on other matters, the proportion of their salary declared should be used as the basis for their share of the office space.
- valuation:
  - When an estimate of the relevant space has been made, its value should be calculated for election expense purposes.
  - If the premises as a whole are rented, divide the rent by the proportion of space used.
  - If the premises as a whole are owned, find details of similar premises that are available for rent, using local estate agents or the internet. Then the estimated rent figure can be divided by the proportion of space used.

## Meetings

4.55 If a public meeting promotes more than one candidate, or a combination of local government and Parliamentary candidates, the relevant campaigns must split the costs between them. The split should be fair if some candidates have a higher profile at the event than others.

4.56 If the event is organised primarily for promoting the party on a regional basis, but some candidates attend and are mentioned briefly, the party may be recording it as national party expenditure. In that case, no costs need to be allocated to the candidate's campaign. This should be discussed with the party to ensure that the expenditure is being reported correctly.



There is more information about what types of meeting must be included as election expenses at paragraphs 4.15–4.18.



### **Candidate spending and party spending**

Political parties also have spending limits for campaigning. These are separate to the limits on election expenses for promoting a particular candidacy. An item of expenditure will fall into one category or the other. Spending does not need to be double-counted.

Items that promote the **candidate** are likely to be covered by the rules on **election expenses**.





Items that promote the **party** are likely to be covered by the rules on **party campaign expenditure**. This includes information on national policies or people, or posters with the party name rather than the candidate's.

The party limits apply for 365 days before a general election. **This means that these limits are already in force, as the last possible date for a general election is 3 June 2010.**

Only people who have **written authorisation** from the party treasurer or campaigns officer can agree to campaign expenditure. Candidates and agents should ask their party about its procedures for this.

There is more information about party spending in our campaign expenditure guidance for party treasurers and campaigns officers, which is available on our website [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

Further guidance will be published in *Topic Overview: Candidate expenses and party spending*.

## 5 Donations

5.1 This section sets out:

- who donations can be accepted from
- what to do when a donation is received
- the information needed for the election expenses return



Many political parties run local fighting funds for candidates. If the fund is managed and controlled by the party and not the candidate, donations to the fund are usually treated as made to the party and not to the candidate. However, donations from the local party that are made to your campaign during the regulated period will need to be reported.

### What is a donation?

5.2 A donation is something given for the purpose of meeting election expenses with a value **over £50** and that is:

- money
- items or services provided free of charge or not on commercial terms
- payment of invoices for election expenses that would otherwise be paid by the agent or candidate
- sponsorship
- any loans that are not on commercial terms

5.3 An item is not provided on commercial terms if the supplier provides a deal that is not available to other customers.

5.4 **Sponsorship** means help given towards the costs of meetings, events, publications or research by or on behalf of the candidate. It does not include admission charges for events, the retail price of a publication or advertisements bought at a commercial rate.



If an item or service is not an election expense, it will not be a donation. There is a list of things that are not election expenses at paragraph 4.9.

5.5 The agent must put a value on any donation that is not money. To do this, follow our guidance on how to value notional expenditure. This can be found in paragraphs 4.36–4.40.

### Who can donations be accepted from?

5.6 Donations over £50 can only be accepted from certain sources, which are mainly UK-based. They are:

- someone on a UK electoral register (including overseas electors)
- a company that is:
  - registered in the UK

- incorporated in an EU member state, and
- carrying on business in the UK
- a registered political party (if the candidate is standing in Great Britain, this must be from a party on our Great Britain register – Northern Ireland-registered parties cannot donate to British candidates)
- trade unions, building societies, limited liability partnerships and friendly/industrial provident societies if registered in the UK
- a UK-based unincorporated association

5.7 Once an agent is appointed, donations must be passed to them as quickly as possible and the agent rather than the candidate must check that donations come from one of these sources. If someone has passed on a donation on someone else's behalf, this must be treated as a donation from the original source, and not the person passing it on.

5.8 There is more information on how to make the necessary checks in Appendix C.

5.9 Donations can also be accepted from some types of trust and from bequests. The rules on these donations are complicated, so please get in touch with us for more information.

5.10 An agent must return any donations that are anonymous, or where the donation is not from a permissible source. This must be done within 30 calendar days of when the donation is received. After 30 calendar days, the donation is deemed to be accepted, and the Commission may apply to the courts for it to be forfeited.

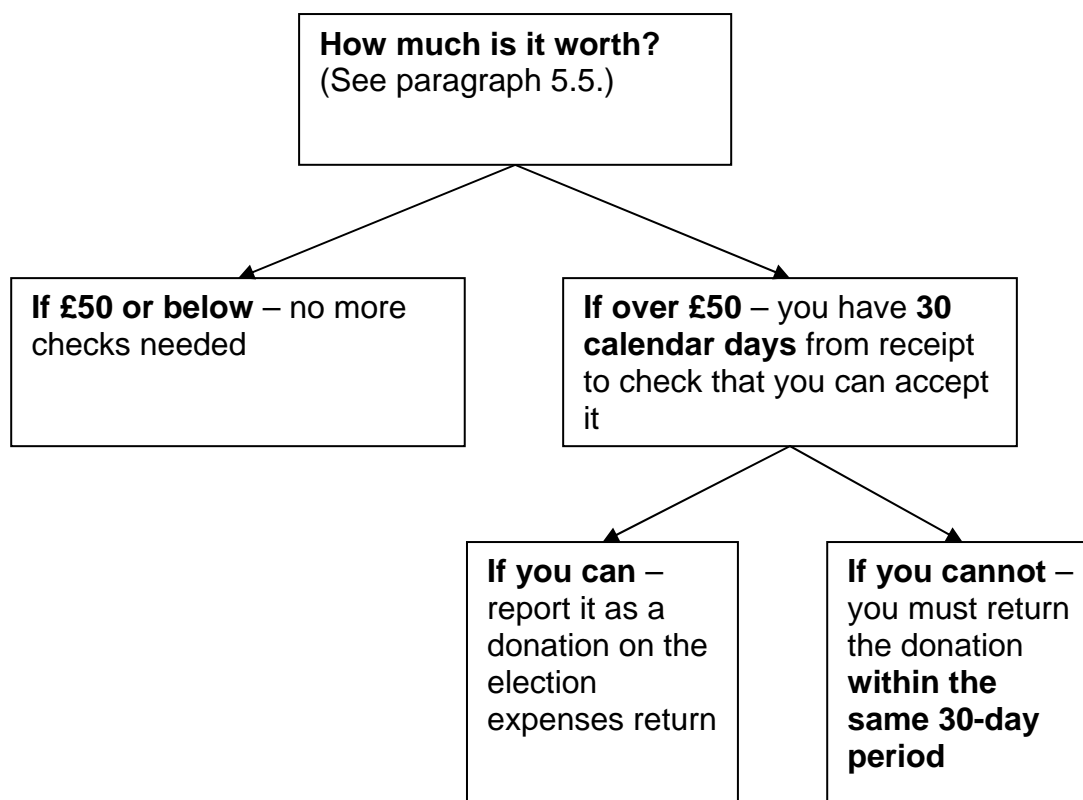
5.11 Sometimes it is not possible to return a donation to its source. For example, it may be impossible to trace the donor or send it back through the banking system. If this is the case, it must be sent to us. We pay it into public funds.



Although electoral law allows candidates to accept donations from charities that are registered companies, **charities are not usually allowed to make political donations** under charity law. Any charity offering a donation should seek advice from the Charity Commission at [www.charity-commission.gov.uk](http://www.charity-commission.gov.uk).

## What needs to be done when a donation is received?

5.12 Chart 1 below shows the steps the agent must take when a donation is received. All donations must be given to the agent as soon as possible.

**Chart 1: What to do when a donation is received**

## The information needed for the expenses return

5.13 For donations over £50 that are accepted, the following must be recorded:

- the donor's name and address (this must be the registered address for companies and other registered donors)
- the company number (if applicable)
- the date the donation was received
- the date the donation was accepted (this is the day when the decision was made to keep the donation)

5.14 For donations that cannot be accepted, the following must be recorded:

- the donor's name and address (if known)
- the date the donation was received
- the date it was returned, and how this was done

## 6 Postal vote opening sessions, the poll and the count

### The opening of postal ballot packs

#### **Absent voting**

Absent voting is where an elector chooses to use their vote remotely, i.e. without physically visiting the polling station to cast their vote. The elector must submit an application to the Electoral Registration Officer before the statutory deadline in order to do this. The different methods of doing this are as follows:

- **Postal voting**

Postal voting is where an elector has the ballot paper sent to them by post. This arrangement can be made either on a permanent or temporary basis, and the application must be submitted before 5pm on the eleventh working day before the poll (**5pm on Tuesday 20 April 2010**). Please see Appendix F for the Code of conduct in dealing with postal votes and postal vote applications.

- **Proxy voting**

Proxy voting is where the elector appoints someone to vote on their behalf. This is generally done on a one-off basis, but can be permanent if the voter has specific grounds for requesting it. The deadline for applying for this is 5pm, six working days before the poll (**5pm on Tuesday 27 April 2010**). The proxy can then choose to either visit the polling station that the elector would normally vote at or apply for a postal vote (known as a postal proxy).

- **Emergency proxy**

An emergency proxy is where an elector has a medical emergency after the deadline for applying for an ordinary proxy vote has passed. An emergency proxy application must be attested by a medical practitioner. This can be applied for up to 5pm on polling day.

### Importance of secrecy

6.1 As with all other aspects of the election process, all those attending the opening of postal ballots must be aware of the requirement to ensure the secrecy of the ballot. All those attending the opening of postal ballots must be given a copy of Section 66 of the RPA 1983, which is reproduced in Appendix B. Any person who is found guilty of breaching the requirements set out in Section 66 may face a fine of up to £5,000, or may be imprisoned for up to six months.<sup>111</sup>

### Postal ballots

6.2 Postal vote covering envelopes are placed into one or more ballot boxes (the 'postal voters ballot boxes') by the Returning Officer as they are returned during the election period. Although at least one postal voters ballot box will remain sealed until the close of poll, given the large number of postal votes being issued and returned in recent elections and the need to verify personal identifiers, the ballot boxes

---

<sup>111</sup> Section 66(6), RPA 1983.

containing postal votes that have been returned early are likely to be opened at official ‘openings’ before polling day.

6.3 There is a requirement for postal voters to provide their signature and date of birth (‘personal identifiers’) on a separate postal voting statement at the time of voting, which compared against those provided on the original postal vote application form. Returning Officers are required to check the identifiers on at least 20% of returning postal votes at each opening session.

6.4 The Returning Officer will give candidates and agents notice of the time and place for the opening of any postal voters ballot boxes at least 48 hours in advance.<sup>112</sup> Other than the Returning Officer and their staff, those entitled to attend the opening of postal voters ballot boxes and watch proceedings are:<sup>113</sup>

- candidates
- candidates’ election agents, or anyone appointed by the candidate or their election agent to attend in place of their election agent
- any agent appointed by a candidate to attend the opening of postal voters ballot boxes (see Chapter 1, ‘Introduction’, for details of appointment)
- any accredited electoral observers
- representatives of the Electoral Commission

6.5 All postal votes not rejected by the Returning Officer during the opening process are taken to the count venue.

6.6 Candidates and agents can observe but may not interfere with the opening process. All those attending the opening of postal ballots must maintain the secrecy of the ballot, and candidates and agents should not make any attempt to see how any individual ballot paper is marked, nor should they make any attempt to take notes on how ballot papers are marked. In any event, all ballot papers will be kept with the voting side face down and so it will not be possible to see how the postal voters have voted. Any concerns about the opening process should be raised with the Returning Officer or a member of their staff immediately.

6.7 The following represents a brief summary of the opening process. It must be emphasised that responsibility rests with Returning Officers, and each one may organise the process slightly differently to take account of local circumstances. Generally, the Returning Officer will organise staff into teams, with a number of supervisors. If candidates or their agents have any questions about the process, they should direct these to the Returning Officer.

- Postal votes are brought to the opening session in ballot boxes. First, all the covering envelopes are taken out and counted and the total entered on a form that will be handed to the supervisors.<sup>114</sup>
- Each team will then open each covering envelope (envelope B) and remove the postal voting statement and ballot paper envelope (envelope A). They will then check that the number on the postal voting statement matches the number on

---

<sup>112</sup> Regulation 80, 2001 Regulations.

<sup>113</sup> Regulation 68, 2001 Regulations.

<sup>114</sup> Regulation 84(1), 2001 Regulations.

envelope A. Where the numbers match, staff will check that the statement has been signed<sup>115</sup> and that the elector has provided their date of birth.

- Any postal voting statements that are not correctly completed will result in the ballot being rejected; all parts of the ballot pack will be marked 'rejected', paper-clipped together and placed in the receptacle for rejected votes.<sup>116</sup> Any queries the staff may have will be referred to supervisors and the Returning Officer for adjudication.
- Where either the statement or the ballot paper envelope is missing, or where mismatched documents have been returned, the document(s) received will be set aside, recorded and stored securely in packets. The Returning Officer is obliged to match up postal voting documents received separately, as long as the statement is completed correctly and received by the close of poll.<sup>117</sup>
- At least 20% of each box of returned postal votes must be set aside for personal identifier verification. The Returning Officer may decide to verify 100% of the returned postal votes. The signature and the date of birth must be compared with those held on the personal identifiers record. The Returning Officer must:
  - correlate the ballot paper number shown on the postal voting statement with the ballot paper number on the corresponding number list so as to determine to whom the postal ballot paper was addressed
  - compare the signature on the postal voting statement with that on the personal identifiers record
  - compare the date of birth on the postal voting statement with that on the personal identifiers record
- Those returned postal votes that are being verified will be kept separate from those that are not subject to the more detailed check: this is because they must be independently accounted for and sealed in separate packets from those that have not had the personal identifier verification undertaken once they have been checked. However, the same basic opening process applies to all returned postal votes.

6.8 Where the Returning Officer determines that a postal voting statement is not valid:

- either because a signature<sup>118</sup> or date of birth is missing, or
- in the case of those set aside for personal identifier verification, because the signature or date of birth supplied on the postal voting statement does not match that on the personal identifiers record

the postal voting statement should be attached to the relevant ballot paper or ballot paper envelope, endorsed 'rejected', shown to any agents present and then placed

---

<sup>115</sup> There are limited circumstances in which a postal voting statement does not need to be signed: in such a case, no signature box will appear on the statement.

<sup>116</sup> Regulation 85(2), 2001 Regulations.

<sup>117</sup> Regulation 88, 2001 Regulations.

<sup>118</sup> Except in the limited circumstances where an elector has been granted a waiver and is not required to supply a signature.

in the receptacle for rejected votes. Any agent present may object to this decision, in which case the words 'rejection objected to' will be added but the ballot paper will remain rejected.

6.9 Once the postal voting statements have been dealt with and removed from the tables, the teams will open the ballot paper envelopes (envelope A) and remove the ballot papers. The number on the back of the ballot paper will be checked against the number on the ballot paper envelope. The valid ballot papers (not the votes) will be counted and the total number will be recorded.

6.10 All valid postal ballot papers (i.e. those not rejected by the Returning Officer during the opening process) are placed back into a ballot box, stored securely and taken to the count venue. Once the contents of at least one polling station ballot box have been verified at the count, the postal ballot papers can be mixed with the ballot papers from that box before being counted in the normal manner, as detailed in this chapter.

## The poll

6.11 Polling day for the local government elections in England is **Thursday 6 May 2010**, and polling hours are between **7am and 10pm**.<sup>119</sup>

### Entitlement to attend the polling station

6.12 Both the candidate and their election agent are entitled to visit any polling station in the division/ward during polling day; polling agents may also attend the polling station(s) for which they have been appointed. Only one of each candidate's polling agents is allowed to enter each polling station at any one time.<sup>120</sup>

### Importance of secrecy

6.13 All those who enter the polling station must be aware of the requirement to ensure the secrecy of the ballot. All polling agents should be given a copy of Section 66 of the RPA 1983, which is reproduced in Appendix B. Any person who is found guilty of breaching the requirements set out in Section 66 may face a fine of up to £5,000, or may be imprisoned for up to six months.<sup>121</sup>

### Keeping order

6.14 It is the Presiding Officer's duty to keep order at the polling station, and they may order the removal of any person from the polling station.<sup>122</sup> However, in exercising this duty, the Presiding Officer will not prevent an elector who is entitled to vote from casting their vote.

---

<sup>119</sup> Rule 1, Local rules.

<sup>120</sup> Rule 30(3), Local rules.

<sup>121</sup> Section 66(6), RPA 1983.

<sup>122</sup> Rule 31(2), Local rules.



## Collection of postal ballots from the polling station

6.15 During polling hours, the Returning Officer may arrange for the collection, on one or more occasions, of any postal votes that have been handed in to a polling station. In this case, the Presiding Officer will seal the postal ballots into a packet before delivering them securely to the postal vote opening. Polling agents can also add their own seals to the packet, if they are present.

## The count

### Time and location of the count

6.16 The counting of ballot papers for local government elections takes place as soon as possible after the close of poll at **10pm**. The Returning Officer will write to all candidates, election agents and counting agents with details of the exact time and location of the count,<sup>123</sup> normally soon after the deadline for appointing counting agents.

### Attendance

6.17 Other than the Returning Officer and their staff, the following people are entitled to attend the count:<sup>124</sup>

- candidates and one other person chosen by each of them
- the candidate's election agent
- any appointed counting agents
- any accredited electoral observers
- representatives of the Electoral Commission

6.18 The Returning Officer may also permit other people to attend the count at their discretion, but is not obliged to do so. The decision of the Returning Officer as to who may attend the count is final.

6.19 The maximum number of counting agents to be appointed by each candidate will be determined by the Returning Officer, but will be no less than the total number of counting assistants divided by the total number of candidates. The number permitted will be the same for each candidate. Further information on the appointment of counting agents can be found in Chapter 1, 'Introduction'.

6.20 The rights of counting agents can be summarised as follows:

- to be present at all stages of the count
- to oversee the counting process and see that it is undertaken in an orderly, accurate and correct manner
- to draw to the attention of the count staff any doubtful ballot papers
- to defend ballot papers marked for their candidate to which objection is taken
- to require the Returning Officer to mark on a rejected ballot paper the words 'rejection objected to', if they object to the decision of the Returning Officer (usually, this would only happen in the absence of an appointed election

---

<sup>123</sup> Rule 44(1) or (2), Local rules.


<sup>124</sup> Rule 44(3), Local rules.

- agent)
- if a count is suspended for any reason, to add their seals when the Returning Officer seals the envelopes
- counting agents are not permitted to handle ballot papers at any time

6.21 As with all other aspects of the election process, all those attending the count must be aware of the requirement to ensure the secrecy of the ballot. Any person who is found in breach of this requirement may face a fine of up to £5,000 or may be imprisoned for up to six months.<sup>125</sup>

6.22 The Returning Officer will give counting agents reasonable facilities for overseeing the proceedings at the count. In particular, the counting agents should be able to verify that the ballot papers are correctly sorted between the candidates.<sup>126</sup> Either the candidate or their election agent are also entitled to do anything that the counting agent is authorised to do, and should be given the same facilities as a counting agent.<sup>127</sup> Again, it is important to note that proceedings at the count are not invalidated if any person entitled to attend is not present.<sup>128</sup>

6.23 The count will consist of two stages. First, each ballot box will be opened and the number of ballot papers (not the votes) inside will be counted. This is compared with the number of ballot papers expected to be contained in the ballot box, as given on the ballot paper account (i.e. the form completed by the Presiding Officer at a polling station or by the postal vote opening staff if the ballot box comes from a postal vote opening).

 **In the case of a combined election**

If the poll at the local government elections is combined with the poll at another election on the same day, all of the ballot boxes will be verified first before any of the votes can be counted and any election result declared.

There may be a single ballot box for all the different elections or separate boxes for each one. If separate boxes are used, the ballot papers will be sorted by election type and then verified completely before any ballot box for any of the elections can be sorted between candidates and the votes counted.

Candidates and agents for all the elections taking place are entitled to be present at the verification but the large numbers involved may mean that there is little space available for each candidate.

Any ballot paper placed in the 'wrong' box, if separate boxes are used, is still valid. A procedure will be in place to move the ballot papers to the correct box during verification.

<sup>125</sup> Section 66(6), RPA 1983.

<sup>126</sup> Rule 44(6), Local rules.

<sup>127</sup> Rule 27(11) and (12), Local rules.

<sup>128</sup> Rule 27(13), Local rules.



When the verification of the ballot boxes is done at a different time from the count, for example if the other election is being counted overnight and the local election count is to take place the next day, the boxes of verified ballot papers will be stored securely by the Returning Officer. The candidates and agents can affix their own seals to the ballot boxes after the Returning Officer has attached their seals. The Returning Officer will take adequate steps to ensure that the ballot papers are kept securely and cannot be interfered with and they will explain the process if required.

6.24 The number of ballot papers counted against the number expected will be shown to the agents. In some instances, for example where polling places contain more than one polling station and electors may have put their ballot paper in the wrong ballot box, there may be a small discrepancy between the number counted and the number expected as per the ballot paper account. The Returning Officer will undertake a process to determine the reasons for any such variance and produce a final verified number after this process is complete. At the end of the process, the Returning Officer will produce a statement of the verification. This statement is available to be viewed and copies will be made available at the end of the verification on request.

6.25 The second stage of the count will be the counting of the votes on the ballot papers to determine the total number of votes cast for each candidate. Where only one candidate is to be elected for a division/ward, the process will simply see the ballot papers being sorted by candidate and the total number of papers for each being added up to ascertain the candidate who has received the most votes. When two candidates are to be elected for a division/ward, the Returning Officer may use different methods, including block voting, counting sheets and 'grass skirts', to determine the total numbers of votes cast for each candidate. Details of the process to be followed at a particular count can be obtained from the Returning Officer.

## Recount

6.26 Both the candidate and their election agent are entitled to request that the Returning Officer conduct a recount of the votes. There is no legal limit to the number of recounts that may be conducted, but the Returning Officer can refuse to conduct a recount if they believe that the request is unreasonable.<sup>129</sup> The Returning Officer will inform candidates and agents if a recount is to be conducted.

6.27 No action will be taken by the Returning Officer following the count or any recount until all candidates or election agents have been given the opportunity to exercise their right to request a recount, or a further recount.<sup>130</sup>

## Equality of votes

6.28 If, once the count (including any recounts) has been completed, the result is a tie between two or more candidates who have the same number of votes, and the addition of a vote would entitle either of these candidates to be elected, the Returning Officer must decide between the candidates by 'lot' as soon as

<sup>129</sup> Rule 46(1), Local rules.

<sup>130</sup> Rule 46(2), Local rules.

possible.<sup>131</sup> Whichever candidate wins the lot receives an additional vote that enables them to be declared elected.

6.29 Where two or more candidates have the same number of votes and are both elected and if the addition of one vote would affect the time period for which one of those declared elected will hold office, there will be a drawing of lots. This will occur when there is an electoral area represented by more than one councillor when only one is being elected on 6 May 2010 and there is also a by-election on 6 May 2010 for one of the other councillor positions. In this case the second-placed candidate will hold office until that seat is due for re-election, rather than for the whole four-year period.

6.30 There is no prescribed form of drawing lots, but a lot is defined as an object, e.g. a slip of paper or a straw, drawn or thrown out from among a number in order to reach a decision by chance. The most common method is to place and mix ballot papers, each marked with a vote for each of the candidates with the same number of votes, into a container and draw one ballot from the container. One vote is added to the total votes cast for the candidate whose ballot is drawn. The Returning Officer may, however, choose to use another method of drawing lots.

## Declaration of result

6.29 Once the count, recount or drawing of lots is completed, the Returning Officer will declare elected the candidate or, in the case of a multi-seat vacancy, the candidates, with the most votes.<sup>132</sup>

6.30 The Returning Officer will also give public notice of the result of the election. They will publish a notice setting out the name of each candidate elected and the total number of votes for all candidates, together with the total number of rejected ballot papers.<sup>133</sup>

---

<sup>131</sup> Rule 49, Local rules.

<sup>132</sup> Rule 50(1)(a), Local rules.

<sup>133</sup> Rule 50(1)(c), Local rules.

## 7 After the election

### Declaration of acceptance of office

7.1 The appointment of successful candidates as councillors becomes effective on the fourth day after the election. If successfully elected, the candidate may not act as councillor (attend<sup>134</sup> and vote at meetings etc.) until they have signed the acceptance of office. By signing the declaration of acceptance of office, the new councillor agrees to follow the council's Code of conduct in the performance of their duties. This declaration must be made within two months from the day of election.<sup>135</sup> If the declaration of acceptance of office is not submitted by this deadline, the seat is declared vacant and a by-election must be held to fill the vacancy.

### Election petitions

7.2 The outcome of a local government election can be challenged by the issue of an election petition. The procedure for presenting an election petition relating to a local government election is described below.

7.3 This chapter should be seen as a guide to the process and is not legally definitive. Any person considering an election petition should seek independent advice to confirm the correct court fees at the time, the process for submitting the petition and potential costs should the petition be unsuccessful.

7.4 An election petition can be presented by:<sup>136</sup>

- someone claiming to have been a candidate at the election, or
- at least four electors who were entitled to vote at the election

7.5 The allowable grounds for a petition are that:<sup>137</sup>

- the successful candidate was disqualified at the time of the election
- the successful candidate was not duly elected
- the election was invalidated by corrupt or illegal practices, or
- the election was invalidated due to general corruption or the employment of a corrupt agent

7.6 The candidate whose election or return is complained about must be a respondent to the petition and, if the petition complains about the conduct of the Returning Officer or their staff during the election, the Returning Officer is deemed to be a respondent.<sup>138</sup>

7.7 Normally, the petition must be issued within 21 calendar days after the date of the election. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward which has taken place since the election, or an illegal practice relating to election expenses, further time may be allowed. The

---

<sup>134</sup> Attendance at a meeting is allowed to sign the acceptance.

<sup>135</sup> Section 83, LGA 1972.

<sup>136</sup> Section 128(1), RPA 1983.

<sup>137</sup> Section 127, RPA 1983.

<sup>138</sup> Section 128(2), RPA 1983.

potential petitioner should contact the Election Petitions Office and take independent legal advice if this may be the case.<sup>139</sup>

## Form of petition

7.8 The petition itself should follow the form prescribed by the Election Petition Rules 1960, and must include the following information:

- the capacity in which the petitioner or petitioners are acting
- the date and result of the election in question
- the date from which the time for lodging the petition is calculated, if not within 21 calendar days
- how the declared result should be changed (e.g. require a new election to be held or declare someone else elected)
- the grounds on which the election petition is being brought and the facts (but not the evidence) of why the court should change the result of the election
- such other details and formatting as the rules may require

7.9 Each petitioner must sign the petition personally, and three copies must be lodged at the Election Petitions Office of the High Court at the address given below. If the office is closed, the petition can be left in the letterbox provided, but petitioners must swear an affidavit the next working day confirming the date and time when the petition was deposited.

## Costs

7.10 A fee is payable on issue of the election petition. In addition, an application to fix the amount of security for costs must be issued. The amount of security for costs will be fixed by the Prescribed Officer.<sup>140</sup> This must be deposited with the court in the form of cash or sureties or a combination of both.

7.11 Litigation of any type should not be embarked upon lightly and it is advisable to take specialist legal advice before pursuing this course of action. Petitioners should seek advice on costs from the relevant court office prior to submitting a petition.

7.12 Petitioners should contact the Election Petitions Office for more detailed information on the processes to be followed in issuing an election petition:

Supreme Court Cost Office  
Room 2.14  
Cliffords Inn  
Fetter Lane  
London EC4A 1DQ

Tel: 020 7947 6423  
Fax: 020 7947 6807

---

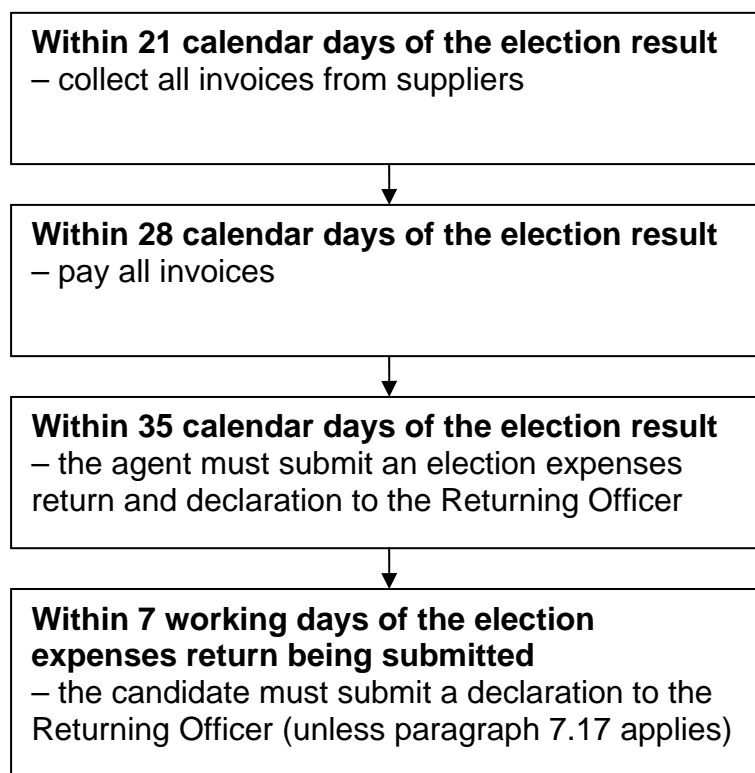
<sup>139</sup> Section 129, RPA 1983.

<sup>140</sup> The Prescribed Officer is Master Whitaker, the Senior Master of the Queen's Bench Division.

## Election expenses returns

7.13 Chart 2 below sets out the key steps and the deadlines.

**Chart 2: What candidates and agents need to do after the election**



### About the election expenses return

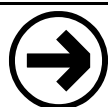
7.14 The agent must prepare the election expenses return. It must include:

- a statement of all payments made, plus invoices or receipts for items over £20
- details and a declaration of value for all notional expenditure
- details of all donations as listed in paragraphs 5.13 and 5.14
- details of any unpaid or disputed invoices

7.15 The return should break down expenditure into the categories listed in paragraphs 4.10–4.23.

7.16 Both the candidate and the agent must submit declarations that the return is complete and correct to the best of their knowledge and belief.

7.17 If the candidate is out of the UK when the return is submitted to the Returning Officer, they must make the declaration within 14 calendar days of coming back to the UK and submit it to the Returning Officer as soon as possible.



There are forms for election expenses returns and declarations on our website at [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk). There are also explanatory notes on how to complete the forms.

## What to do if a deadline is missed or a mistake is made

7.18 If the deadline for getting in or paying invoices from suppliers is missed, a court order may be obtained to pay the invoice. For more information on applying for an order, please go to [www.hmcourts-service.gov.uk](http://www.hmcourts-service.gov.uk). Legal advice should also be sought.

7.19 If no return and/or declaration is submitted, or if it is realised that the return is inaccurate, relief can be applied for to an election court, a county court or the High Court. Candidates and agents can only apply for relief on specific grounds, such as the death, illness or misconduct of the other.

## Inspecting materials and documents after the election

### What can be inspected?

7.20 Any person may inspect most of the documents from the election after the result has been declared. The ballot papers, corresponding number lists and certificates of employment are not, however, open to inspection, in order to ensure the secrecy of the ballot.

### **The marked register of electors and marked absent voters lists**

7.21 These are available on written request from the Electoral Registration Officer and show who has been issued with a ballot paper in a polling station and who has returned their postal ballot paper, or who has had their proxy vote on their behalf.

7.22 The documents can be inspected under supervision free of charge where handwritten notes can be taken. The document can be supplied for a fee of £10 plus £2 for printed and £1 for data versions per 1,000 entries to persons who are able to be supplied with an unmarked copy of the full electoral register, which includes candidates.

### **Documents from the election**

7.23 These can be inspected after the election but no details or notes of the documents can be made and no copies can be supplied to any person.

### **Election spending returns**

7.24 These can be inspected by any person after they have been submitted by the candidates and agents. Any person can inspect them and copies can be made and supplied to any person for a fee of 20p per side.

7.25 The Electoral Registration Officer will be able to give details of where the documents from the election and the election spending returns are held. Details on how to contact the relevant Electoral Registration Officer can be found on our website at [www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk).

### For how long are the documents available?

7.26 The documents are available for one year after the election and are then destroyed unless there is an election petition or police investigation pending.



7.27 Election spending returns are kept for two years before being offered back to the candidates and agents, or otherwise destroyed.

## Appendix A – Breaches of the Representation of the People Act 1983 (RPA 1983) and penalties

The RPA 1983 specifies the relevant penalties that can be imposed on an individual in respect of a breach of the Act. The following table sets out the list of offences (including statutory references and the individual(s) who can be found to have committed them) and relevant penalties.

**Note:** This is an overview only and is not exhaustive – for precise details of electoral offences please refer to the RPA 1983.

**Table A1: Offences and penalties**

<b>Offence</b>	<b>Legislation</b>	<b>Who can commit</b>	<b>Penalty (maximum)</b>
Personation – when any individual votes as someone else (whether that person is living or dead or is a fictitious person)	Section 60, RPA 1983	Any person	On indictment: up to two years' imprisonment or a fine, or both. On summary conviction: up to six months' imprisonment or a fine not exceeding the statutory maximum (currently £5,000), or both
Other voting offences – voting or acting as a proxy while disqualified or acting as a proxy for a person who is disqualified; voting as a proxy for more than two people who are not close relatives; voting twice at the same election; knowingly appointing two proxies for the same election	Section 61, RPA 1983	Any person	On summary conviction: a fine not exceeding level 5 on the standard scale (currently £5,000)
Tampering with election documents, e.g. nomination papers, ballot papers, etc. by defacing or destroying them; fraudulently opening packets of election material or ballot boxes; taking ballot papers out of the polling station; or putting material other than the ballot paper in the ballot box	Section 65, RPA 1983	The Returning Officer or their staff	On indictment: a fine or up to two years' imprisonment, or both. On summary conviction: a fine not exceeding the statutory maximum or up to six months' imprisonment, or both
		Any person	On summary conviction: a fine not exceeding level 5 on the standard scale (currently £5,000) or up to six months' imprisonment, or both

**Table A1 (cont.): Offences and penalties**

Offence	Legislation	Who can commit	Penalty (maximum)
False statements on nomination papers etc. – supplying false names and addresses of candidates on a nomination paper; forging the signatures of electors; getting electors to subscribe to a nomination paper under false pretences; falsifying candidate's date of birth or qualification to stand for election or disqualification from being elected at that election	Section 65A, RPA 1983; Section 22, EAA	Any person  Returning Officer, Presiding Officer or a Clerk appointed to assist in taking the poll	On summary conviction: a fine not exceeding level 5 on the standard scale and/or imprisonment for a term not exceeding six months  On indictment: a fine and/or imprisonment for a term not exceeding two years  On summary conviction, a fine not exceeding the statutory maximum, and/or imprisonment for a term not exceeding six months
Contravention of the secrecy requirements (requirements reproduced at Appendix B)	Section 66(6), RPA 1983	All persons attending a polling station, the issue and opening of postal ballots and the count	A fine not exceeding level 5 on the standard scale (currently £5,000), and/or imprisonment for a term not exceeding six months
Provision of money or other property provided for the purpose of meeting a candidate's election expenses to any person other than the candidate or their election agent	Section 71A(3), RPA 1983	Any person	A fine not exceeding level 5 on the standard scale (currently £5,000)
Making payments in respect of election expenses other than as specified in Section 73(5)	Section 73(6), RPA 1983	A candidate at election or any other person	A fine not exceeding level 5 on the standard scale (currently £5,000)

**Table A1 (cont.): Offences and penalties**

<b>Offence</b>	<b>Legislation</b>	<b>Who can commit</b>	<b>Penalty (maximum)</b>
Incurring expenses without the written authority of the election agent (except as specified under Section 75)	Section 75(5), RPA 1983	Any person who incurs, aids, abets, counsels or procures any other person to incur expenses without written authority	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment
Making a false declaration as to expenses incurred with the written authority of the election agent	Section 75(5), RPA 1983	Any person required to submit a Section 75 return and declaration	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment
Failing to submit a return and declaration as to expenses incurred with the written authority of the election agent	Section 75(5), RPA 1983	Any person required to submit a Section 75 return and declaration	A fine not exceeding level 5 on the standard scale (currently £5,000)
Incurring expenses in excess of the legal maximum	Section 76(1B), RPA 1983	Candidate and/or election agent	A fine not exceeding level 5 on the standard scale (currently £5,000)
Paying a claim in respect of election expenses where the claim was received more than 21 days after the date on which the election result was declared	Section 78(3), RPA 1983	Election agent	A fine not exceeding level 5 on the standard scale (currently £5,000)

**Table A1 (cont.): Offences and penalties**

<b>Offence</b>	<b>Legislation</b>	<b>Who can commit</b>	<b>Penalty (maximum)</b>
Paying a claim in respect of election expenses where payment was made more than 28 days after the date on which the election result was declared	Section 78(3), RPA 1983	Election agent	A fine not exceeding level 5 on the standard scale (currently £5,000)
Making a false declaration as to election expenses	Section 82(6), RPA 1983	Candidate and/or election agent	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment
Failure to submit a return or declaration, or to comply with the requirements of Section 81 as to the contents of a return	Section 84, RPA 1983	Candidate and/or election agent	A fine not exceeding level 5 on the standard scale (currently £5,000)
Payment of canvassers	Section 111, RPA 1983	The person employing the canvasser and the person employed as a canvasser	A fine not exceeding level 5 on the standard scale (currently £5,000)
Bribery	Section 113, RPA 1983	Any person – directly or indirectly, by themselves or by any other person	On indictment: one year's imprisonment or a fine, or both. On summary conviction: six months' imprisonment or a fine not exceeding the statutory maximum (currently £5,000), or both

**Table A1 (cont.): Offences and penalties**

<b>Offence</b>	<b>Legislation</b>	<b>Who can commit</b>	<b>Penalty (maximum)</b>
Treating	Section 114, RPA 1983	Any person – directly or indirectly, by themselves or by any other person	On summary conviction: six months' imprisonment or a fine not exceeding the statutory maximum (currently £5,000), or both. On indictment: one year's imprisonment or a fine, or both
Undue influence or intention to unduly influence	Section 115, RPA 1983	Any person	On summary conviction: six months' imprisonment or a fine not exceeding the statutory maximum (currently £5,000), or both. On indictment: one year's imprisonment or a fine, or both
Failure to provide all required information at the time a donation is received by the candidate or election agent where the donation is being made on behalf of others	Paragraph 6(7) of Schedule 2A, RPA 1983	Principal donors or any person providing a donation on behalf of another person	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment
Failure to return a donation from an impermissible or unidentifiable source	Section 56(3) or (4), PPERA, as enacted by Schedule 2A, RPA 1983	Candidate and/or election agent	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment
Knowingly giving the responsible person false information about donations	Section 61(2)(a), PPERA, as enacted by Schedule 2A, RPA 1983	Any person	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment

**Table A1 (cont.): Offences and penalties**

<b>Offence</b>	<b>Legislation</b>	<b>Who can commit</b>	<b>Penalty (maximum)</b>
Withholding information about donations from the responsible person with intent to deceive	Section 61(2)(b), PPERA, as enacted by Schedule 2A, RPA 1983	Any person	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment
<p>Absent voting offences:</p> <ul style="list-style-type: none"> <li>• applying for a postal or proxy vote as some other person (whether living, dead or fictitious)</li> <li>• otherwise making a false statement in connection with an application for a postal or proxy vote</li> <li>• inducing an Electoral Registration Officer or a Returning Officer to send a communication relating to a postal or proxy vote to an address that has not been agreed by the voter</li> <li>• causing such a communication not to be delivered to the intended recipient</li> </ul>	Section 62A, RPA 1983, as amended by Section 40, EAA	Any person	On indictment: one year's imprisonment or a fine, or both. On summary conviction: up to six months' imprisonment or a fine not exceeding the statutory maximum, or both



The RPA 1983 also sets out the following civil penalties that can be applied to successful candidates who fail to submit election expenses returns and declarations. The exact penalty depends on the office to which the candidate is elected.

<b>Offence</b>	<b>Legislation</b>	<b>Who can commit</b>	<b>Penalty (maximum)</b>
Voting or sitting in the council for a local government area where no return or declaration has been submitted	Section 85(2) or (2A), RPA 1983	Holder of any relevant elective office	Sitting or voting in a council for a local government area: £50 for every day the member sits or votes. In the case of sitting or voting in a council for a local government area, instead of civil proceedings for a penalty, summary proceedings may be instituted under the Magistrates' Courts Act 1980

## Appendix B – Secrecy requirements

The requirements in Section 66 of the Representation of the People Act 1983 (as amended) help to maintain the secrecy of the ballot. They apply to all candidates, election agents and polling agents, and to every person attending at the polling stations, the issue and receipt of postal ballot papers and the count. Section 66 is reproduced below in full, for use by candidates, election agents, and postal voting, polling and counting agents.

### Representation of the People Act 1983

#### Requirement of secrecy

- 66 (1) The following persons –
- (a) every Returning Officer and every Presiding Officer or clerk attending at a polling station,
  - (b) every candidate or election agent or polling agent so attending,
  - (c) every person so attending by virtue of any of sections 6A to 6D of the Political Parties, Elections and Referendums Act 2000,
- shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to –
- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
  - (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
  - (iii) the official mark.
- (2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not –
- (a) ascertain or attempt to ascertain at the counting of the votes the number or other unique identifying mark on the back of any ballot paper;
  - (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.
- (3) No person shall –
- (a) interfere with or attempt to interfere with a voter when recording his vote;
  - (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;
  - (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number or other unique identifying mark on the back of the ballot paper given to a voter at that station;
  - (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.

- (4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not –
  - (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
  - (b) except for some purpose authorised by law, communicate to any person at any time information obtained at those proceedings as to the number or other unique identifying mark on the back of the ballot paper sent to any person; or
  - (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number or other unique identifying mark on the back of any ballot paper; or
  - (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (5) No person having undertaken to assist a blind voter to vote shall communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number or other unique identifying mark on the back of the ballot paper given for the use of that voter.
- (6) If a person acts in contravention of this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.
- (7) In their application in relation to an election of the London members of the London Assembly at an ordinary election, the preceding provisions of this section shall have effect with the insertion, after the words ‘the candidate for whom’, in each place where they occur, of ‘, or the registered political party towards the return of whose candidates,’.
- (8) In relation to an election of the London members of the London Assembly at an ordinary election, any reference in this section to the return of a registered political party’s candidates is a reference to the return of candidates included in the list of candidates submitted by the registered political party for the purposes of the election.

## Appendix C – How to check if a donation is from a permissible source

Table C1 below shows which register or list you need to check to make sure that a donor is permissible. Most of these registers can be found on websites, and we have given links that were correct in August 2009.

Some registers include organisations that are not permissible. For example, the companies register includes UK branches of companies not incorporated in the EU. You should check all the information on the register carefully and contact us for advice if you are not sure what it means.

**Table C1: Register or list that you need, to check that a donor is permissible**

Type of permissible donor	Register/list/legislation/Order on or under which the donor must be registered to be a permissible donor
Individual	Must be registered on a UK electoral register
Company	Must be registered under the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, incorporated within the EU, and carrying on business in the UK. You can check the register on the Companies House website <a href="http://www.companieshouse.gov.uk">www.companieshouse.gov.uk</a>
Trade union	Must be entered on the list maintained under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992. You can check the list at <a href="http://www.certoffice.org">www.certoffice.org</a>
Building society	Must be a building society within the meaning of the Building Societies Act 1986. You can check the register at <a href="http://mutuals.fsa.gov.uk">http://mutuals.fsa.gov.uk</a>

**Table C1 (cont.): Register or list that you need, to check that a donor is permissible**

Type of permissible donor	Register/list/legislation/Order on or under which the donor must be registered to be a permissible donor
Limited liability partnership	Must be registered under the Limited Liability Partnerships Act 2000 (or equivalent Northern Ireland legislation) and carrying on business in the UK. You can check the register on the Companies House website <a href="http://www.companieshouse.gov.uk">www.companieshouse.gov.uk</a>
Friendly/industrial provident society	Must be registered under the Friendly Societies Act 1974, the Industrial and Provident Societies Act 1965 or the Provident Societies Act (Northern Ireland) 1969. Friendly societies are registered by the Financial Services Authority. You can check the register at <a href="http://mutuals.fsa.gov.uk">http://mutuals.fsa.gov.uk</a>

The UK electoral register is not available online, as there are restrictions on its use in order to protect people's personal information. It is available for inspection at your local authority. Candidates can get a free copy from the Electoral Registration Officer at the relevant local authority, once they have been nominated. Registered political parties are also entitled to free copies. These copies must only be used for electoral purposes or for checking whether or not an individual donor is permissible. It is a criminal offence to use this information for other purposes.

There is no register of unincorporated associations. You should check with the association that it has its main office in the UK and is carrying on business or other activities in the UK. If you are not satisfied that this is in fact the case, please ask us for advice.

## What does 'carrying on business' mean?

You should check at Companies House to make sure that a company or limited liability partnership is not in liquidation, or about to be struck off the register for other reasons, and that it is up to date with submitting accounts and returns. This information is available from the Companies House website at [www.companieshouse.gov.uk](http://www.companieshouse.gov.uk).

The business does not have to be intended to make a commercial profit.

If the donor is a newly established organisation, you should consider any evidence that it may have started trading. If you are in any doubt as to whether or not a donor is carrying on business, please ask us for advice.

## Appendix D – Tellers in and around polling places

### 1 Introduction

- 1.1 Section 18 of the Representation of the People Act 1983 defines a polling place as a geographical area within a polling district. If a polling district has no designated polling place, the polling district is taken to be the polling place.
- 1.2 For the purposes of this guidance:
- ‘Polling place’ means the building in which polling stations are located. More than one polling station may be located within a polling place.
  - ‘Polling station’ is defined as the room or area within a polling place where electors cast their votes, which contains the polling booths, ballot box and Presiding Officer’s table. It is usually a room within a building (i.e. polling place) or a single room in temporary accommodation, such as a mobile caravan, a tent or even a garage. The polling station is a self-contained area which only those allowed by law may enter.
- 1.3 This guidance replaces Circular RPA 359 issued by the Home Office in 1991 and guidance issued by the Commission in 2006.
- 1.4 Although not mandatory, this revised guidance provides advice for those involved in administering and contesting elections, and aims to ensure that tellers, party activists, agents, candidates and polling station staff know precisely what is and is not accepted when campaigning in and around polling places. These guidelines intend to promote appropriate standards of conduct to be maintained throughout the UK. Candidates and agents who also act as tellers are also subject to the provisions in this guidance.
- 1.5 It can be difficult to achieve consensus on the matter of whether elector numbers should be collected from voters as they are on their way in or out of the polling station. This guidance is issued in support of the Returning Officer; as they are ultimately responsible for the conduct of elections their decision is final.

### 2 Tellers

- 2.1 Tellers are usually volunteers who stand outside polling places and record the elector number of electors who have voted. They can then identify likely supporters who have not voted and urge them to vote before the close of poll. Tellers play an important role in elections, and may increase turnout.
- 2.2 Tellers must not impede or interfere with the efficient and secure administration of the election and must comply with any instructions issued by the Returning Officer or Presiding Officer.
- 2.3 Tellers have no official legal status. They should not be confused with polling agents, whose appointment and duties are described in legislation. Tellers,

unlike polling agents, may not be admitted to the polling station in their capacity as tellers (see paragraphs 3.8 and 3.9 below).

### 3 Tellers' activities

- 3.1 Tellers should concern themselves only with checking who is about to vote or has voted. This will involve politely asking voters for their poll card, elector number or name and address. Returning Officers may advise tellers that they may approach voters for information as they either enter or leave the polling station.
- 3.2 If asked, tellers should explain that they are political activists seeking to determine who has actually voted. No impression should be given that any information provided will be used for official purposes or that they are employed by the Returning Officer.
- 3.3 Tellers should not display or distribute election material (e.g. billboards, posters, placards or pamphlets) on walls or around the polling place. Any display of such material should be brought to the attention of the Presiding Officer immediately.
- 3.4 Presiding Officers have responsibility for ensuring that electors are given an opportunity to cast their vote in a free and fair manner. Any decision regarding the location or behaviour of tellers is a matter for the Presiding Officer and Returning Officer; tellers must comply with their instructions.
- 3.5 Tellers must not attempt to induce, influence or persuade an elector how or whether to vote. Tellers cannot promote particular candidates or political parties. Their conduct must not give rise to allegations of undue influence, e.g. discussing voting intentions, party affiliations, a candidate's history, party campaigns, or undertaking any other activity particularly associated with one particular party or candidate. Any queries that relate to the electoral process must be directed to the Presiding Officer.
- 3.6 Voters must never be asked to re-enter the polling station to ascertain their elector number or retrieve a poll card. Voters are not obliged to comply with any request for information. Tellers must not press voters if their initial request for information is declined.

### Numbers of tellers

- 3.7 There should be no more than one teller at a polling station for each candidate or political party at any time. Where a polling place contains more than one polling station with separate entrances, it may be appropriate for there to be tellers at each entrance, but no more than one per candidate or party. Their behaviour and numbers should never be capable of being seen as intimidating in any way.

## Location

- 3.8 Tellers must remain outside the polling place itself; they may only enter polling stations for the lawful purpose of casting their own vote, voting as a proxy, assisting a voter with disabilities, or fulfilling duties of their appointment as a polling agent, election agent or candidate.
- 3.9 The Presiding Officer may allow tellers to enter the polling place (e.g. stand under porticos and entrances) provided that they are outside the polling station and do not impede or obstruct the access of voters. Tellers must not be able to see or hear what is going on inside the polling station. Where a polling place consists of one room only, tellers must not under any circumstances seek or be allowed to enter that room. Tellers cannot enter the polling station under any circumstances in their capacity as tellers.

## Poll cards

- 3.10 The activities of tellers are limited to the collection of elector numbers or poll cards. Poll cards left with tellers should be given to the Presiding Officer or Poll Clerk by the close of poll. Tellers must not ask polling staff to hand over poll cards that may have been left with them or in bins.
- 3.11 Tellers may use a receptacle for voters to discard their poll cards, to help them establish who has voted during their absence. Such receptacles must not obstruct voters who are entering or leaving the polling station. The contents must be returned to polling station staff after the close of poll.

## Appearance

- 3.12 Tellers should wear coloured rosettes of a reasonable size, as this assists electors by making it clear that they are party workers and not electoral officials. The rosette may display the name of a candidate and/or a registered party name, emblem or description.
- 3.13 Tellers must not wear, carry or display any headwear, footwear or other apparel that carries any writing, picture or sign relating to any candidate or party apart from a rosette.

## 4 Application of the guidance

- 4.1 With regard to the collection of elector numbers from voters on the way in or out of the polling station, this guidance is intended to be amended to coincide with any guidelines or instructions provided by the Returning Officer. The Returning Officer is ultimately responsible for the conduct of an election; as such, their decision is final. Each individual Returning Officer is independent of the local authority when they are conducting the election, and everything is done under their personal responsibility.
- 4.2 The value of local agreements cannot be over-emphasised. It is recommended that the Returning Officer arranges a meeting with all candidates, agents, tellers



and campaigners at the earliest opportunity following the close of nominations to communicate the same message to all concerned. This will ensure that everyone is aware of the local circumstances and conducts their campaign within the same guidelines. It may pre-empt problems by discussing campaigning in and around polling places and the conduct of tellers, and reaching consensus amongst those present as to what is acceptable, especially with regard to whether to gather elector numbers as voters either enter or leave the polling station. Guidance should be distributed at pre-election meetings or with nomination packs.

- 4.3 On polling day, Returning Officers may find it helpful to provide Presiding Officers with posters to display that outline the main responsibilities of tellers. The poster could be displayed outside the polling station close to where tellers stand, serving both to self-regulate the activity of tellers and to alert voters that tellers are not official polling station staff. A sample copy is attached to this guidance, and is intended to be used by the Returning Officer in conjunction with agreed local arrangements on the collection of elector numbers before being distributed.
- 4.4 If in doubt about the actions of a teller, the Presiding Officer or Returning Officer should consider: 'What would a reasonable observer think?' This guideline was prepared based on the test advocated by the Third Report of the Committee on Standards in Public Life.<sup>141</sup>

## 5 Complaints

- 5.1 If a complaint is received about the conduct of tellers or campaigners, the electoral administrator should contact the relevant Presiding Officer and request that the matter be dealt with and monitored by the polling station staff there. Presiding Officers have the power to keep order in the station and may require any teller or campaigner who refuses to carry out their instructions to be removed.
- 5.2 If it is not possible to contact the Presiding Officer, or there are continuing difficulties with the activities of campaigners or tellers, a member of the Returning Officer's staff should visit the polling place. The electoral officer should speak to the Presiding Officer before approaching the campaigners or tellers. Tellers may be reminded of this guidance, provided with a copy if necessary, and advised that it is an offence under the RPA 1983<sup>142</sup> for anyone to impede or interfere with any electors prior to their voting.
- 5.3 Tellers or campaigners should be advised that if the interference persists the police will be called. The Presiding Officer should be advised of the action taken and asked to monitor the situation and report any further problems to the elections office. The agent of the party or independent candidate they are representing should also be informed. This enables the party or candidate

<sup>141</sup> Committee on Standards in Public Life, *Standards in Public Life: Standards of Conduct in Local Government in England, Scotland and Wales, Third Report*. Chairman Lord Nolan (The Stationery Office: London, 1997).

<sup>142</sup> Section 115(2)(b), RPA 1983, as amended.

concerned to take action against such tellers and ensure that they are properly briefed before being allowed to act as tellers or campaigners in future elections.

## 6 Tellers in and around polling places

- 6.1 Tellers work for political parties. They stand outside polling stations or polling places and record the elector numbers of voters who have voted. By identifying electors who have not voted and relaying this information to the party, tellers play an important role in elections. Parties may then contact the voters who have not yet been to vote during election day and persuade them to vote, which may help to increase turnout.
- 6.2 There should be no more than one teller at a polling station for each candidate or political party at any time. Where a polling place contains more than one polling station with separate entrances, it may be appropriate for there to be tellers at each entrance, but no more than one per candidate or party.

Tellers have no legal status and voters have the right to refuse to give them any information.

- Tellers must:**
- (a) Always remain outside the polling station/place
  - (b) Only enter the polling station to cast their own vote, to vote as a proxy or to accompany a voter with disabilities
  - (c) Always comply with the instructions of the Returning Officer and Presiding Officer

- Tellers must not:**
- (a) Be able to see or hear what is happening inside the polling station
  - (b) Impede, obstruct or intimidate voters on their way in or out of the polling station/place
  - (c) **Demand** any information relating to a voter's elector number, name or address
  - (d) Ask voters to re-enter the polling station to ascertain their elector number
  - (e) Have discussions with voters that may give rise to allegations of undue influence (e.g. voting intentions, party affiliations or party campaigns)
  - (f) Display any campaign material in support of or against any particular political party or individual candidate other than a rosette

- Tellers may:**
- (a) Approach voters for information as they **enter/leave** the polling station/place
  - (b) Display a coloured rosette displaying the name of the candidate and/or a registered political party. While the rosette must not be oversized, it may carry a registered party description/emblem

Please refer to the Electoral Commission's guidance *Tellers in and around polling places*, available from [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

## Appendix E – Code of conduct for political parties, candidates and canvassers on the handling of postal vote applications and postal ballot papers in England and Wales

### Introduction

1. Political parties, candidates and canvassers play a vital part in elections, not least through encouraging voting. With the increasing popularity of postal voting there is a need to ensure that traditional standards of political propriety observed at polling stations are carried through to the postal voting context.

### Key principles

2. All political parties, candidates and canvassers handling postal vote applications and postal ballot papers will adhere to the following two key principles:
  - candidates and supporters should assist in the efficient and secure administration of elections and uphold the secrecy of the ballot
  - no candidate or supporter should place themselves in a situation where their honesty or integrity – or that of their party or candidate – can be questioned

### What the law says

3. An individual may only vote once for each contest in each election and not for more than the number of seats available in that election.
4. A voter's signature or mark must always be their own.
5. An individual may not vote for, or as, someone else unless they are formally appointed to act as their proxy. If an individual steals someone else's vote they may be prosecuted for making a false statement, forgery, using a false instrument or pretending to be someone else (personation).
6. An individual may not exert, or attempt to exert, undue influence to persuade or force someone to vote, not to vote, or to vote a certain way. Someone who prevents or deters the voter from freely exercising their right to vote, or attempts to do so, may be found guilty of undue influence.
7. It is an offence to offer money, food, drink, entertainment or other gifts to persuade someone to vote, or not to vote.
8. It is an offence to falsely apply for a postal or proxy vote (absent vote) as some other person. It is also an offence to otherwise make a false statement or otherwise induce the Returning Officer to either send a postal ballot paper or other election mail to an address which has not been agreed by the person

entitled to the vote, or to cause a postal ballot paper not to be delivered to the intended recipient.<sup>143</sup>

9. It is an offence to supply false information to the Electoral Registration Officer for any purpose connected with the registration of electors.<sup>144</sup>

**See the 'Election offences and penalties' section in this appendix for further information on specific electoral and general offences of which you should be particularly aware.**

## Applications for postal voting

10. If you develop a bespoke application form, it should conform fully with the requirements of electoral law, including all the necessary questions and the options open to electors.
11. Electors should be encouraged to ask for the postal vote to be delivered to their registered home address, unless there are compelling reasons why this would be impractical. Such reasons must be stated on the application form.
12. Because of the risk of suspicions that the application may be altered and the risk of the application form being delayed or lost in transit, the local Electoral Registration Officer's address should be the preferred address given for the return of application forms.
13. If an intermediary address is used, forms should be despatched unaltered to the relevant Electoral Registration Officer's address within two working days of receipt.
14. If you are given a completed application form, you should forward it directly and without delay to the local Electoral Registration Officer.
15. The Electoral Registration Officer may check the signature on an absent voting application against any other copies of the elector's signature or date of birth which they hold or is held by any authority which they are authorised to inspect.<sup>145</sup>
16. The Electoral Registration Officer must confirm in writing to all successful applicants that they will receive a postal ballot.

<sup>143</sup> Section 62A(2), RPA 1983, as amended by Section 40, EAA.

<sup>144</sup> Section 13D, RPA 1983, as amended by Section 15, EAA.

<sup>145</sup> Regulation 51A, 2001 Regulations, as amended.

## Postal voting ballot papers

17. You should not touch or handle anyone else's ballot paper. If you are asked for assistance in completing a ballot paper, you should always refer the voter to the Returning Officer's staff at the elections office who can arrange a home visit if necessary. Assistance will also be available for electors at polling stations.
18. It is absolutely clear that anyone acting on behalf of a party should not solicit the collection of any ballot paper. Wherever practical, the voter should be encouraged to post or deliver the completed ballot paper themselves.
19. It is recognised that people working for a party may be approached by a voter who is unable to post their ballot paper or make arrangements for it to be returned in time. If you are asked to take the completed ballot paper, you should ensure that the voter has sealed it first and then post it or take it to a polling station or office of the Returning Officer immediately, without interfering in any way with the package.
20. If you are with a voter when they complete their ballot paper, remember they should complete it in secret. Equally, you should ensure that the voter seals the envelopes personally and immediately. If you are asked to give advice, it is acceptable and often helpful to explain the voting process but do not offer to help anyone to complete their ballot paper.
21. If you are in any doubt about the probity or propriety of your actions, you should ask yourself the question, '**What would a reasonable observer think?**'. This Code has been prepared based on this test, as advocated by the Third Report of the Committee on Standards in Public Life.<sup>146</sup>

### The Electoral Commission

Agreed December 2006 (and current for elections in 2010)

## Election offences and penalties

There are a number of specific electoral offences and some general offences of which candidates, agents and supporters should be particularly aware during their campaign. This is not intended to be a comprehensive list and independent legal advice should be sought if necessary.

Details are given in brackets about in which court the offence may be tried and the maximum applicable penalty. Prosecutions under the RPA 1983 must be brought within 12 months of the commission of the offence. However, if there are exceptional circumstances and there has been no undue delay in the investigation, the time limit may be extended to not more than 24 months after the offence was committed. Any application to extend the deadline must be brought within one year of commission of the offence.<sup>147</sup>

---

<sup>146</sup> Committee on Standards in Public Life, *Standards in Public Life: Standards of Conduct in Local Government in England, Scotland and Wales, Third Report*. Chairman Lord Nolan (The Stationery Office: London, 1997).

<sup>147</sup> Section 176, RPA 1983, as amended by Section 70, EAA.

## Bribery

A person is guilty of bribery if they directly or indirectly give any money or procure any office to or for any voter, in order to induce any voter to vote, or not vote, for a particular candidate; or to vote or refrain from voting.<sup>148</sup> (Offence may be tried in Magistrates' or Crown Court/one year on indictment and/or an unlimited fine.)

## Treating

A person is guilty of treating if either before, during or after an election they directly or indirectly give or provide (or pay wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to influence any voter to vote or refrain from voting.<sup>149</sup> (Offence may be tried in Magistrates' or Crown Court/one year on indictment and/or an unlimited fine.)

## Undue influence

A person is guilty of undue influence if they directly or indirectly make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict injury, damage or harm in order to induce or compel any voter to vote or refrain from voting. A person may also be guilty of undue influence if they impede or prevent the voter from freely exercising their right to vote.<sup>150</sup> This latter offence can also be committed where a person intends to impede or prevent the free exercise of a vote even where the attempt is unsuccessful.<sup>151</sup> (Offence may be tried in Magistrates' or Crown Court/one year on indictment and/or an unlimited fine.)

## Secrecy

Everyone involved in the electoral process should be aware of the secrecy of the ballot and should not breach it. The Returning Officer will give everyone who attends the opening or counting of ballot papers a copy of parts of Section 66 of the RPA 1983. (Offence will be tried in Magistrates' Court/£5,000 fine or six months' imprisonment.)

## Personation

It is an offence to commit, aid, abet, counsel or procure the offence of personation.<sup>152</sup> This is where any individual votes as someone else (whether that person is living or dead or is a fictitious person), either by post or in person at a polling station as an elector or as a proxy. Further, the individual voting can be deemed as a person guilty of personation if they vote as a person they have reasonable grounds for supposing is dead or fictitious, or where they have reasonable grounds for supposing the proxy

---

<sup>148</sup> Section 113, RPA 1983.

<sup>149</sup> Section 114, RPA 1983.

<sup>150</sup> Section 115, RPA 1983.

<sup>151</sup> Section 115, RPA 1983, as amended by Section 39(1), EAA.

<sup>152</sup> Section 60, RPA 1983.

appointment is no longer in force. (Offence may be tried in Magistrates' or Crown Court/two years on indictment and/or unlimited fine.)

### False registration information and false postal/proxy voting application

It is an offence to supply false information in relation to the registration of electors to the Electoral Registration Officer. It is also an offence to provide false information in connection with an application for a postal or proxy vote. False information includes a false signature.<sup>153</sup> (Offence will be tried in Magistrates' Court/six months' imprisonment and/or £5,000 fine.)

### False application to vote by post or by proxy

It is an offence to falsely apply to vote by post or proxy with the intention of depriving another person of a vote or gaining a vote to which a person is not entitled.<sup>154</sup> (Offence may be tried in Magistrates' or Crown Court/two years' imprisonment and/or £5,000 fine.)<sup>155</sup>

### Multiple voting and proxy voting offences

There are various offences regarding multiple voting and proxy voting including voting by post as an elector or proxy when subject to a legal incapacity to vote; voting more than once in the same or in more than one local election area; applying for a proxy without cancelling a previous proxy appointment; and inducing or procuring another to commit one of the above offences.<sup>156</sup> (Offence will be tried in Magistrates' Court/£5,000 fine.)

There are also a number of non-electoral offences which may be relevant, for example:

- making a false statement under the Perjury Act 1911
- forgery
- using a false instrument under the Forgery and Counterfeiting Act 1981
- conspiracy to defraud
- perverting the course of justice

---

<sup>153</sup> Section 13D, RPA 1983, as amended by Section 15, EAA.

<sup>154</sup> Section 62A, RPA 1983, as inserted by Section 39, EAA.

<sup>155</sup> Section 168, RPA 1983, as amended by Schedule 1, Part 7, Paragraph 121, EAA.

<sup>156</sup> Section 61, RPA 1983.

## Appendix F – Feedback form

It would help us to have your comments on this guide and how useful you found it. Use the back of this form for extra comments if required.

Did you find the guide useful?	YES/NO
Was the content relevant to your needs?	YES/NO
Was any topic you expected to be covered missing?	YES/NO

If YES, please provide details:

Was the guidance clear and easy to understand?	YES/NO
Was the level of detail appropriate?	YES/NO

Did you find any aspect of the guide particularly helpful? Please provide details:

Did you find any aspect of the guide particularly unhelpful? Please provide details:

It would help us if you completed the contact details below, although you may return this form anonymously if you wish.

Name:

Organisation/party:

Address:

Tel:

Email:

Please return this form to: The Electoral Commission, Trevelyan House,  
Great Peter Street, London SW1P 2HW; Tel: 020 7271 0500;  
Fax: 020 7271 0505; Email: [jpack@electoralcommission.org.uk](mailto:jpack@electoralcommission.org.uk)  
The form is also available online at [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk).

Local government elections in England, 6 May 2010





## How to contact us

### English offices

#### **The Electoral Commission**

Eastern and South East Office  
Trevelyan House  
Great Peter Street  
London SW1P 2HW  
Tel: 020 7271 0600  
Fax: 020 7271 0505  
Textphone: 18001 020 7271 0600  
[easternandsoutheast@electoralcommission.org.uk](mailto:easternandsoutheast@electoralcommission.org.uk)

#### **The Electoral Commission**

London Office  
Trevelyan House  
Great Peter Street  
London SW1P 2HW  
Tel: 020 7271 0689  
Fax: 020 7271 0505  
Textphone: 18001 020 7271 0689  
[london@electoralcommission.org.uk](mailto:london@electoralcommission.org.uk)

#### **The Electoral Commission**

Midlands Office, No 2 The Oaks  
Westwood Way, Westwood Business Park  
Coventry CV4 8JB  
Tel: 02476 820086  
Fax: 02476 820001  
Textphone: 18001 02476 820086  
[midlands@electoralcommission.org.uk](mailto:midlands@electoralcommission.org.uk)

#### **The Electoral Commission**

North of England Office  
York Science Park  
IT Centre  
Innovation Way  
Heslington  
York YO10 5DG  
Tel: 01904 567990  
Fax: 01904 567719  
Textphone: 18001 01904 567990  
[north@electoralcommission.org.uk](mailto:north@electoralcommission.org.uk)

#### **The Electoral Commission**

South West Office  
Regus  
1 Emperor Way  
Exeter Business Park  
Exeter EX1 3QS  
Tel: 01392 314617  
Fax: 01392 314001  
Textphone: 18001 01392 314617  
[southwest@electoralcommission.org.uk](mailto:southwest@electoralcommission.org.uk)

**The Electoral Commission**

Trevelyan House  
Great Peter Street  
London SW1P 2HW

Tel 020 7271 0500  
Fax 020 7271 0505  
[info@electoralcommission.org.uk](mailto:info@electoralcommission.org.uk)  
[www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)

To contact our offices in the English regions,  
see inside back cover for details.

We are an independent body set up by  
the UK Parliament. Our aim is integrity and  
public confidence in the democratic process.  
We regulate party and election finance and  
set standards for well-run elections.

Democracy matters