

The Electoral
Office for
Northern Ireland

The
Electoral
Commission



Guidance for candidates and agents

European Parliamentary elections in
Northern Ireland, 4 June 2009

The Electoral Commission is an independent body set up by the UK Parliament. Its aim is integrity and public confidence in the democratic process. It regulates party and election finance and sets standards for well-run elections.

The Electoral Office for Northern Ireland is an independent body which supports the Chief Electoral Officer in the performance of his duties as the Electoral Registration Officer for the whole of Northern Ireland and as the Returning Officer for all elections there.

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:

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1 Introduction

1.1 This guide was produced jointly by the Electoral Commission and the Electoral Office for Northern Ireland (EONI). It aims to provide practical advice for anyone who wants to stand as a candidate at the European Parliamentary elections in Northern Ireland. It covers the whole election process from nomination to after the election. It includes relevant factual material, as well as a guide to sources of further information.

1.2 Standing for election can be a complicated business, but we hope that this guide will make it as straightforward as possible.

How to use this guide

1.3 This guidance covers each of the main steps towards standing as a candidate for election to the European Parliament. General advice in the main text of the guide is supplemented by references to the relevant legislation in footnotes. This advice should complement, rather than replace or replicate, other sources of information produced by political parties, EONI or others.

1.4 The advice is provided as a guide to the requirements for candidates and agents during the election. It should not be relied on as legally definitive and neither the Electoral Commission nor EONI can accept any responsibility for any errors or omissions, or any act arising from them. If candidates or agents have any doubts about a particular point, they are strongly recommended to consult the appropriate legislation and seek their own legal advice.

Background

1.5 Elections to the European Parliament are due to take place between 4 and 7 June 2009 across the 27 member States of the European Union. Voting will take place in all 12 electoral regions of the United Kingdom on Thursday 4 June 2009. In Northern Ireland the votes will be counted and results are expected to be announced on Monday 8 June 2009.

Statutory references

1.6 Abbreviated references are made in the footnotes of this guide to the legislation that underpins the European Parliamentary elections process. The full titles of the legislation are provided in Table 1 below.

Table 1: Abbreviation of Acts and Regulations

Abbreviation	Full title
RPA 1983	Representation of the People Act 1983
RPA 1985	Representation of the People Act 1985
PPERA	Political Parties, Elections and Referendums Act 2000
EPE Act	European Parliamentary Elections Act 2002
EPE Regulations	European Parliamentary Elections (Northern Ireland) Regulations 2004 (as amended by the European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2009)
EPE Rules	Schedule 1 of the European Parliamentary Elections (Northern Ireland) Regulations 2004 (as substituted by the European Parliamentary Elections (Northern Ireland) (Amendment) Regulations 2009
EAA	Electoral Administration Act 2006
RPA Regulations 2008	Representation of the People (Northern Ireland) Regulations 2008

2 Roles and responsibilities – who does what?

2.1 A number of different organisations and individual officers are responsible for various aspects of European Parliamentary elections. Their respective roles and duties are described below.

The Returning Officer

2.2 At European Parliamentary elections the UK is divided into 12 electoral regions of which Northern Ireland is one. Each region has a Regional Returning Officer. Douglas Bain, the Chief Electoral Officer, performs this function for the Northern Ireland electoral region and is known as the Returning Officer.

2.3 The Returning Officer has overall responsibility for the conduct of all aspects of the election and will personally be involved in the taking of nomination papers and oversight of the counting of votes. He will also deal with any complaints about the conduct of the election that cannot be resolved at a local level. He can be contacted as follows:

Tel: 028 9044 6660
Email: douglas.bain@eoni.org.uk
Post: Chief Electoral Officer
St Anne's House
15 Church Street
Belfast BT1 1ER

Deputy Returning Officers

2.4 The Returning Officer has appointed eight Deputy Returning Officers to assist him in the conduct of the election. Each Deputy Returning Officer is responsible for two or three Parliamentary constituencies. The Deputy Returning Officers act with the authority of the Returning Officer and are authorised to do anything he is entitled to do.

2.5 Their particular responsibilities will include:

- the appointment and training of staff for polling stations
- the processing of applications for absent votes
- the issue and receipt of postal votes
- the conduct of the poll

2.6 The names, constituencies for which they have responsibility and the contact details for the Deputy Returning Officers are as follows:

Mid Ulster and North Antrim – Rae Kirk

Tel: 028 9044 6600
Email: rae.kirk@eoni.org.uk
Post: Ballymena Area Electoral Office
122 Broughshane Street
Ballymena BT43 6EE

Newry & Armagh and Upper Bann – Amanda Mason

Tel: 028 9044 6610
Email: amanda.mason@eoni.org.uk
Post: Banbridge A Area Electoral Office
52 Bridge Street
Banbridge BT32 3JU

Lagan Valley and South Down – Majella Morgan

Tel: 028 9044 6610
Email: majella.morgan@eoni.org.uk
Post: Banbridge B Area Electoral Office
52 Bridge Street
Banbridge BT32 3JU

Belfast South and Belfast West – Maureen Carroll

Tel: 028 9044 6680
Email: maureen.carroll@eoni.org.uk
Post: Belfast Area Electoral Office
15 Church Street
Belfast BT1 1ER

East Londonderry and Foyle – Patricia Murphy

Tel: 028 9044 6620
Email: patricia.murphy@eoni.org.uk
Post: Londonderry Area Electoral Office
20 Queen Street
Londonderry BT48 7EQ

East Antrim, South Antrim and Belfast North – Sharon Allen

Tel: 028 9044 6630
Email: sharon.allen@eoni.org.uk
Post: Newtownabbey Area Electoral Office
1–3 Portland Avenue
Newtownabbey BT36 5EY

North Down, Strangford and Belfast East – Jeanette Murray

Tel: 028 9044 6640
Email: jeanette.murray@eoni.org.uk
Post: Newtownards Area Electoral Office
2B Regent Street
Newtownards BT23 4LH

Fermanagh & South Tyrone and West Tyrone – Martin Fox

Tel: 028 9044 6550
Email: martin.fox@eoni.org.uk
Post: Omagh Area Electoral Office
21 Kevlin Avenue
Omagh BT78 1ER

Electoral Office for Northern Ireland

2.7 The Electoral Office for Northern Ireland (EONI) is the collective name for the staff who will assist the Returning Officer and the Deputy Returning Officers to run the election. There are around 50 permanent staff, but several thousand casual staff will be appointed to work at polling stations and at the count centre.

2.8 The EONI permanent staff work at the office of the Returning Officer and at the eight offices of the Deputy Returning Officers. As a candidate or agent you should contact the Returning Officer or Deputy Returning Officer directly regarding any queries you may have.

Complaints

2.9 If you are concerned about the service provided by a Deputy Returning Officer or any of their staff, you should try to resolve it informally by speaking to the individual concerned or to their manager. If you are not satisfied with the outcome, you can submit a formal complaint. Complaint forms are available on request or can be downloaded from www.eoni.org.uk. The same applies if you are concerned about an act or omission of the Returning Officer except that as he is an independent statutory officer he has no manager. The external complaints process therefore ends with him.

2.10 The complaints process is without prejudice to your right to seek to challenge any decision, act or omission in the courts. Such action can be expensive and you will wish to consider taking legal advice before instituting proceedings. Further information about election petitions can be found in Chapter 13, 'After the election'.

2.11 Neither the Returning Officer nor the Deputy Returning Officers have any responsibility for the investigation of any alleged criminal offences. If you believe that an offence under electoral or criminal law has been committed and you are

prepared to substantiate the allegation in a written statement, you should report the matter directly to the police.

The Electoral Commission

2.12 The Electoral Commission is an independent statutory body established in November 2000, following the commencement of PPERA. The Commission is headed by a Chair and five other Commissioners. The Chair and Commissioners do not have affiliations to any political party, and the Commission is not accountable to the UK Government. It reports directly to the UK Parliament through a committee chaired by the Speaker of the House of Commons.

2.13 The Commission is 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 political party spending on election campaigns. The Commission also has a role in promoting voter awareness and understanding of registration and elections and is required to report on the administration of every major election. The Commission also accredits observers to be present at election proceedings.

2.14 A key aspect of the Commission's role is to ensure the transparency and integrity of party and election finance. In standing for election, candidates and their election agents must comply with a number of legal obligations. This is important in maintaining and enhancing confidence in UK democracy. We issue separate guidance on finance and donations for political parties standing in the European Parliamentary elections and this is available on our website or in hard copy by request.

2.15 The Commission has primary responsibility for providing advice and assistance on electoral matters to all those involved in elections, including political parties and candidates. Although the first point of contact for candidates and agents seeking advice and guidance should be the Returning Officer, or in most cases the appropriate Deputy Returning Officer, Commission staff will be happy to provide advice on any matter discussed in this guide.

2.16 It should be noted, however, that any such advice will be given as guidance only, and should not be relied on as legally definitive. Candidates or agents in any doubt on specific points should consult the appropriate legislation and seek their own legal advice.

2.17 For further information, please contact:

Margaret Lavery
The Electoral Commission
Seatem House
28–32 Alfred Street
Belfast BT2 8EN

Tel: 028 9089 4023

Email: mlavery@electoralcommission.org.uk

www.electoralcommission.org.uk

3 The election timetable

3.1 Polling day for the European Parliamentary elections in the UK is Thursday 4 June 2009. The election timetable is prescribed in law and key dates are given in Table 2 below. 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 Regional Officer and his Deputy Returning Officers have no discretion to extend any deadline whatever the circumstances.**

3.2 Election timetables are generally calculated by excluding *dies non*, which are Saturday, Sunday, Good Friday and any other bank holiday.¹ Throughout this guidance, references to 'working' days appear where the time period in question is calculated by excluding *dies non*. References to 'calendar' days appear where the time period is calculated by counting all days, without excluding any weekend or bank holiday.

Table 2: Key dates for the European Parliamentary elections in Northern Ireland

Event	Date
Deadline for completed applications to be received by the Electoral Commission for registration of new political parties intending to field candidates at the election, to ensure that registration is completed on time	Thursday 2 April 2009
Last date for receipt of applications to register under continuous registration ²	Tuesday 7 April 2009
Publication of notice of election	Monday 27 April 2009
Delivery of nomination papers	Between the hours of 10am and 4pm on: Tuesday 28 April, Wednesday 29 April, Thursday 30 April, Friday 1 May, Tuesday 5 May, Wednesday 6 May and Thursday 7 May 2009

¹ Please note that Maundy Thursday is no longer a *dies non*.

² A note outlining the differences between continuous and late registration is available from the Returning Officer and can be downloaded from www.eoni.org.uk.

Table 2 (cont.): Key dates for the European Parliamentary elections in Northern Ireland

Event	Date
Deadline for delivery of nomination papers	4pm on Thursday 7 May 2009
Withdrawal of candidates	Not later than 4pm on Thursday 7 May 2009
Notice of appointment of election agents	Not later than 4pm on Thursday 7 May 2009
Deadline for making objections to nomination papers	For objections to papers delivered before 4pm on Wednesday 6 May 2009 – between 10am and 12 noon on Thursday 7 May 2009 For objections to papers delivered after 4pm on Wednesday 6 May 2009 – between 10am and 5pm on Thursday 7 May 2009
Publication of statement of candidates nominated	5pm on Thursday 7 May 2009 (if no objection received) otherwise not later than 4pm on Friday 8 May 2009
Final date for receipt of absent vote applications	Not later than 5pm on Thursday 14 May 2009
Final date for late registration applications ³	Tuesday 19 May 2009
Final date for receipt of absent vote applications due to late illness	Not later than 5pm on Wednesday 27 May 2009
Final date for receipt of lists of sub-agents/polling/verification/counting agents	Not later than 5pm on Tuesday 2 June 2009
Polling day	7am – 10pm on Thursday 4 June 2009
Deadline to make alterations to the register to correct a clerical error	Not later than 7pm on Thursday 4 June

³ A note outlining the differences between continuous and late registration can be downloaded from www.eoni.org.uk.

Table 2 (cont.): Key dates for the European Parliamentary elections in Northern Ireland

Event	Date
Verification of votes	From 9.30am on Friday 5 June 2009
Counting of votes	From 9am on Monday 8 June 2009
Final date for submission to Returning Officer of returns and declarations of election expenses by election agent	Not later than Tuesday 28 July 2009
Final date for submission to Returning Officer of declarations of election expenses by candidate	Not later than Tuesday 4 August 2009 (If the candidate is out of the UK, the declaration shall be delivered 14 days after their return)

4 Standing for election

Qualifications and disqualifications

4.1 To be eligible to stand for election to the European Parliament in Northern Ireland, you must be qualified to stand and not be disqualified.

Qualifications required for candidature

4.2 To qualify as a candidate for election to the European Parliament, you **must** satisfy the following criteria on the day you are nominated and on polling day. You must:

- have attained the age of at least 18 years **and**
- be a British citizen, a citizen of the Irish Republic, a qualifying Commonwealth citizen, or a citizen of any other member State of the European Union⁴

4.3 A 'qualifying Commonwealth citizen' is a Commonwealth citizen who either:

- does not need leave to remain in the UK, or
- has indefinite leave to remain in the UK, or
- is a resident of Gibraltar and does not, under the law of Gibraltar, require a permit or certificate to enter or remain in Gibraltar (except if that document is not required due to Section 14(1) of the Immigration Control Act) or they have a certificate of permanent residence in Gibraltar⁵

4.4 If you are a citizen of a member State of the European Union and not also a British, Irish or Commonwealth citizen (Cyprus and Malta), you only qualify if your home address is within the UK.⁶

Supply of declaration and certificate for candidates who are European Union citizens

4.5 If you are a national of a member State of the European Union but not also a Commonwealth citizen (for these purposes this means a citizen of the UK, Malta or Cyprus) or a citizen of the Republic of Ireland, you must complete a declaration stating:

- your nationality
- your full home address in the UK

⁴ Section 10, EPE Act.

⁵ Section 10(3A) and (3B), EPE Act. While those who qualify to stand under the right to enter and remain in Gibraltar are not qualifying Commonwealth citizens as defined by legislation, they are qualified to stand based on being a Commonwealth citizen and having a particular additional qualification. Therefore this guide will refer to them as qualifying Commonwealth citizens.

⁶ Section 10(3), EPE Act.

- that you are not standing as a candidate for election to the European Parliament in any other member State at elections held in the same period
- where you were last registered to vote in the locality or constituency in the member State

4.6 If you are required to complete the declaration above, you must also supply a certification from the authorities in your member State stating that:

- you have not been deprived of the right to stand as a candidate in that state **and**
- that no such disqualifications are known to the authorities

There is no statutory form for such a declaration and any document will be accepted provided it includes all the required information.

4.7 This certification may take some time to obtain and so should be applied for as soon as possible. Your nomination will be rejected unless your certificate and declaration are received by the Returning Officer before 4pm on Thursday 7 May.

Disqualifications from standing as an MEP

4.8 Certain people are disqualified from standing for election to the European Parliament.

4.9 The disqualifications that prevent someone standing for election as an MEP are similar to the disqualifications that prevent standing for election as a Member of the UK Parliament, although there are certain of those disqualifications that are **not** applicable at European Parliamentary elections. A person is not disqualified from being an MEP by:⁷

- being a peer
- being a Lord Spiritual
- holding an office mentioned in Section 4 of the House of Commons Disqualification Act 1975

4.10 A person **is** disqualified from membership of the House of Commons under the House of Commons Disqualification Act 1975 if they are a judge, a civil servant, a member of the armed forces, a member of a police force or a member of a foreign legislature, and these disqualifications also apply to membership of the European Parliament.

4.11 Additionally, a person is disqualified if:

⁷ Section 10(1)(a), EPE Act, House of Commons Disqualification Act 1975.

- they are currently subject to a bankruptcy restrictions order given by a court in England or Wales,⁸ or
- their estate has been sequestrated by a court in Scotland and they have not been discharged,⁹ or
- they are adjudged bankrupt by a court in Northern Ireland,¹⁰ or
- they are bankrupt under the law of Gibraltar¹¹

4.12 A person is **not** disqualified if they have been adjudged **bankrupt** by a court in England or Wales or are subject to an **interim** bankruptcy restrictions order as long as they are not also currently subject to a bankruptcy restrictions order.

4.13 A person is not allowed to stand for election as an MEP if they are an MP.¹² They are also not allowed to stand in any electoral region if they are prevented by law from standing for election in any UK Parliamentary constituency within that electoral region.¹³

Advice

The full range of disqualifications for candidates is complex, and some exceptions may apply. You are advised to consult the relevant legislation to ensure that none of the relevant disqualifications applies. If you have any doubt about your qualification or disqualification for standing for election to the European Parliament, you should seek your own legal advice.

⁸ Section 426A, Insolvency Act 1986.

⁹ Section 427, Insolvency Act 1986.

¹⁰ Section 427, Insolvency Act 1986.

¹¹ Article 3(a), European Parliament (Disqualification)(United Kingdom and Gibraltar) Order 2008.

¹² Article 5, Decision of the Council of the European Community (76/787) ECSC, EEC, Euratom, as amended by Council Decision 2002/772/EC, Euratom.

¹³ Section 10(4), EPE Act, Section 1(2), House of Commons Disqualification Act 1975.

5 Getting nominated

The nomination process

5.1 To stand as a candidate at the European Parliamentary elections you will need to complete a nomination paper and submit it together with a deposit to the Returning Officer by 4pm on Thursday 7 May 2009. Nomination papers can only be delivered between 10am and 4pm on 28 to 30 April and between 10am and 4pm on 1, 5, 6 and 7 May. Monday 4 May is a public holiday and nomination papers cannot be submitted on that day. The Returning Officer has no discretion to allow the submission of papers outside the specified periods.

5.2 You should contact the Returning Officer and make an appointment to submit your paper, otherwise you may have to wait until he is available. It is good practice to send in a draft of your nomination paper as early in the process as possible. Anyone can deliver the draft paper for you. The Returning Officer can then check the paper and inform you of any issues so that you can address them before formally submitting your nomination paper.

5.3 Your nomination paper must be delivered in person to the Returning Officer at:

St Anne's House
15 Church Street
Belfast BT1 1ER

The only people who can deliver it are:¹⁴

- you the candidate
- a person authorised in writing by you

5.4 The Returning Officer will supply you with as many copies of the nomination paper as you need. The nomination paper can also be downloaded from the EONI website www.eoni.org.uk. The Returning Officer or his staff will also prepare the nomination paper for your signature if required.

Nomination paper

5.5 The nomination paper must contain your full name and your full home address. If you want to use a description on the ballot paper, you must include your description on the nomination paper¹⁵ (see below, 'Description'). The details on the nomination paper will be reproduced on the published statement of candidates nominated and on the ballot paper.

¹⁴ Rule 4(1), EPE Rules.

¹⁵ Rule 4(2), EPE Rules.

Name

5.6 The nomination form must include your surname, then other names in full; you risk having your nomination paper rejected by the Returning Officer if you use initials.

5.7 Commonly used surname(s) and forename(s) are now permitted.¹⁶ There is no requirement to use a commonly used name; you have the option to stand under either your full name or any commonly used name you have. If you are commonly called by a name that is not your full name, you are not required to put it on the nomination paper. If you wish to use your full name, you should leave the commonly used name box(es) blank.

5.8 The Returning Officer will allow the use of the commonly used name(s) if satisfied that they are not likely to mislead or confuse electors, and are not obscene or offensive.¹⁷ If the name(s) are not permissible, the Returning Officer will write to you stating the reason for disallowing the commonly used name, and in that instance your full name will be used.

5.9 The exact wording of your name, as entered on the nomination paper, will appear on the statement of candidates nominated, the notice of poll and the ballot paper. If the Returning Officer does allow the commonly used name(s), they will appear on each of these occasions instead of your full name.

5.10 Titles or prefixes, such as Mr, Mrs or Dr, should not be used; the format should be, for example, Miller, Andrew John. If this candidate is normally known by another name, such as the shortened first name of Andy, he has two options.

5.11 His first option 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:

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

5.12 The ballot paper would show:

MILLER Andrew John Miller

¹⁶ Rule 4(3), EPE Rules.

¹⁷ Rule 13(4), EPE Rules.

5.13 His second choice would be to choose to use his commonly used name, in which case his nomination paper would read:

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

5.14 And the ballot paper would show:

MILLER Andy Miller

Address

5.15 Your home address must be stated in full, including the postcode, and should not include abbreviations (e.g. 'Road' not 'Rd', 'Street' not 'St'). The address must be your current home address and not a business or 'accommodation' address.

Description

5.16 If you are an Independent candidate (i.e. not standing for a registered party) you can either leave the description part of the nomination paper blank or use the word 'Independent'. You cannot use any other description.

5.17 If you are representing a registered political party the Nominating Officer, or a person appointed to act on their behalf, may authorise you to use either the registered name of that party or any one of the up to 12 descriptions registered with the Commission.

5.18 You can only use precisely what has been authorised. You cannot modify it in any way. If you do, your nomination paper may be rejected as invalid.

5.19 You will not be allowed to use a party name or description unless the Returning Officer has received, before the close of nominations, authorisation signed by the party's Nominating Officer or a person appointed to act for them.¹⁸ Where the authorisation is not signed by the Nominating Officer, evidence of the appointment of the person who signs it will also be required.

5.20 If you are representing two parties, the Nominating Officers of both parties, or person or persons appointed by them, must authorise, in writing, use of the proposed description. The description must be registered with the Commission by both parties.

¹⁸ Rule 5, EPE Rules.

Signatures

5.21 It is no longer necessary to have any signature in the nomination paper other than those of the candidate and of the person witnessing that signature.

Standing for a political party

5.22 If you wish to stand for a registered political party you have to gain the party's permission. If you wish to establish a new political party you must complete the appropriate documentation (see below).

Registering a new political party

5.23 To register a political party the following information must be submitted to the Commission:

- a correctly completed application form (available from the Commission's website)
- a copy of the party's constitution
- a draft financial scheme
- a fee of £150

5.24 Groups or individuals wishing to register a party to stand at the European Parliamentary elections on 4 June 2009 must have an entry on the register of political parties two days before the close of nominations, i.e. Tuesday 5 May. Please note, however, that it may take four weeks (20 working days) to process any applications to register as a political party, and so to ensure that the application is processed on time it should be submitted no later than Thursday 2 April.

Request to use an emblem on the ballot paper

5.25 If you have been authorised to use a party name or description on the ballot paper, the Nominating Officer can also authorise you to use one of the party's registered emblems.

5.26 The authorisation must be signed by the Nominating Officer and must specify the particular emblem to be used. Only registered emblems can be used; they cannot be modified in any way. It is good practice to identify the particular emblem to be authorised by means of its identification number on the Commission's website. The current authorised party emblems can be viewed and downloaded from www.electoralcommission.org.uk/party-finance/database-of-registers.

5.27 You will not be allowed to use an emblem unless the Returning Officer has received, by close of nominations, authorisation signed by the Nominating Officer or by a person appointed to act on their behalf.

Consent to nomination

5.28 For your nomination as a candidate to be valid, you must formally give your consent to nomination in writing¹⁹ along with a declaration that you are not disqualified from standing in elections to the European Parliament.²⁰ The consent and declaration are now incorporated in the nomination paper included in the candidate pack which is available from the Returning Officer.

5.29 Your consent to nomination must state;

- your date of birth
- that you are aware of the provisions of Section 10 of the EPE Act (see Appendix D)
- that to the best of your knowledge and belief you are not disqualified for membership of office of MEP (see Chapter 4, 'Standing for election').

5.30 The consent to nomination must be signed and dated by you after Tuesday 7 April 2009. Your signature must be witnessed by a person who must sign the form and state their full address. The completed nomination paper must be delivered to the Returning Officer before the close of nominations.

5.31 If you are outside the UK, there is an exception to the normal rules for completing the consent to nomination.²¹ In this case, the consent to nomination can be submitted by the candidate by telegram or any similar means of communication such as by fax or as a scanned document sent by email. This method of giving the consent to nomination is allowed if the Returning Officer is satisfied that due to the absence of a candidate from the UK it has not been 'reasonably practicable' for their consent to be given in writing. No witness to the consent is required in this case.

5.32 If you are, or expect to be, outside the UK, you or your election agent should contact the Returning Officer to explain the situation. In such cases there are special provisions regarding consent to nomination which he will explain to you.

¹⁹ Rule 6(1), EPE Rules.

²⁰ Rule 7(3), Section 2, EPE Act.

²¹ Rule 7(2), EPE Rules.

False statements on nomination papers

5.33 It is a criminal offence to make a false statement in a nomination paper.²² If found guilty you could be sentenced for up to 12 months' imprisonment or fined an unlimited amount, or both. If the successful candidate or their agent is convicted of such an offence, the election will be declared void.

5.34 Any suspicion that such an offence has been committed should be reported to the police for investigation. If the Returning Officer suspects that such an offence has been committed he will report the matter to the police.

Minor errors

5.35 The Returning Officer has power to correct minor errors made on a nomination paper, including errors of spelling in relation to the details of a candidate.²³ It is likely that he will use this power only where there is no doubt whatever that an error has been made. It is your responsibility to make sure that your nomination paper is free from error.

Deposit

5.36 All candidates must submit a deposit of £5,000 to the Returning Officer before the close of nominations. It is good practice to submit it along with the nomination paper.

5.37 The deposit can be paid only in legal tender, by a banker's draft or by CHAPS.²⁴ If you wish to make payment by CHAPS, please contact the Returning Officer who will provide you with the bank account details. Please note that it is your responsibility to ensure that the money reaches the Returning Officer's account before the close of nominations. If through a delay in the banking process or otherwise it arrives in his account after that time, your nomination is likely to be rejected as invalid because it is not as required by law. For your own security and to avoid having to wait while any money is counted, it is recommended that you pay by banker's draft or by CHAPS.

Inspection and objection to nominations

5.38 Any candidate, when nominated, can attend the proceedings during the time for delivery of nomination papers: between 10am and 4pm on any day on which nominations can be submitted (see paragraph 5.1). An election agent, any person authorised in writing to deliver a nomination paper, one other person chosen by the candidate and representatives of the Electoral Commission²⁵ may

²² Regulation 28, EPE Regulations.

²³ Rule 14, EPE Rules.

²⁴ CHAPS is an electronic bank-to-bank same-day value payment made within the UK.

²⁵ Rule 10, EPE Rules.

also attend these proceedings. The 'one other person' may be present only while their candidate and any subsequent candidates submit their papers.

5.39 All those above, except representatives of the Electoral Commission and 'other persons',²⁶ are also entitled to inspect any nominations, and make an objection. Any objection to a nomination paper submitted before 4pm on Wednesday 6 May must be made before 12 noon on Thursday 7 May. Any objection to nomination papers which are delivered on Thursday 7 May must be made before 5pm on Thursday 7 May 2009.

5.40 The Returning Officer will decide the process for dealing with any objection. His decision or any objection cannot be challenged except by way of election petition.

If you no longer want to be a candidate

5.41 Once the Returning Officer has accepted your nomination paper, you can still withdraw from the election if you deliver a written notice to the Returning Officer before the close of nominations. The notice must be signed by you, the candidate, and witnessed by one other person.

5.42 If a candidate withdraws their nomination, and their name is not shown as standing nominated in the statement of candidates nominated, their deposit will be returned as soon as practicable after the statement is published.

Death of a candidate

5.43 The impact of the death of a candidate on the election depends on whether the deceased was an Independent or a party candidate. If the deceased was an Independent, the process in paragraphs 5.44 and 5.45 below applies; if the deceased was a party candidate, the process in paragraphs 5.46 and 5.47 below applies.

Death of an Independent candidate

5.44 If the Returning Officer is satisfied that an Independent candidate has died before the declaration of the result, the election will continue as normal.

5.45 If at any stage of the count a deceased Independent candidate's votes are equal to or exceed the quota (see paragraph 12.22), the count will be abandoned. Proceedings with reference to the election will commence afresh on the first Thursday 45 working days after the day of the election just held. No new nominations will be required: all the existing candidates will remain nominated for the new election. No new nominations are allowed for the re-run election although candidates may withdraw.

²⁶ Rule 10(2), EPE Rules.

Death of a party candidate

5.46 If the Returning Officer is satisfied that a party candidate has died before the declaration of the result of the election, the election must be stopped immediately. If the poll is underway or the counting is being undertaken, that process stops. Proceedings with reference to the election will commence afresh on the first Thursday 45 working days after the day of the election just held.

5.47 No new nomination process is required: all the existing candidates will remain nominated for the new election and retention or return of the deposit is determined by the re-run election result. No new nominations are allowed for the re-run election, except that a person may be nominated and added to the list of candidates if they are authorised to stand by the registered party of the candidate who died. Any existing candidates may withdraw.

Summary of nomination process²⁷

Your nomination paper (incorporating your consent etc.) and your deposit must be submitted to the Returning Officer before 4pm on Thursday 7 May 2009.

If you are standing as a party candidate and wish to use a party description and/or emblem, you must also ensure that:

- a certificate of authorisation on behalf of a registered political party and, if desired,
- a request to use a registered party's emblem on the ballot paper

reach the Returning Officer before 4pm on Thursday 7 May 2009.

²⁷ If you are a national of a member State of the European Union (and not a qualifying Commonwealth citizen or citizen of the Republic of Ireland) you must also complete a declaration and provide a certificate of authorisation from your own country.

6 Your election agent

6.1 The election agent is the person responsible in law for the proper management of your election campaign. In particular, your election agent is responsible for the financial management of your campaign and for ensuring that the declarations and returns of election expenses are properly completed and delivered to the Returning Officer (see Chapter 9, 'Election expenses').

6.2 You are not required to appoint an election agent. If you do not appoint an election agent, you are deemed to be your own agent. Therefore, in this guide, where references are made to election agents, they also apply to you if you have not appointed a separate election agent.

6.3 The appointment of an election agent should be considered carefully. Your election may be invalidated if your election agent does not promptly and correctly perform their duties.

Who can be an election agent?

6.4 There are no particular qualifications for an election agent. However, you should take care in the appointment of your election agent, as you may be liable for any unauthorised activities performed by your agent if they are within the scope of your authority.

6.5 Certain people are not allowed to be your election agent. These include:

- the Returning Officer or any officer or clerk appointed by him under the election rules to run the election
- any partner or clerk of the above individuals or
- anyone not entitled to vote in the election as a result of the report of an election court or a conviction for a corrupt or illegal practice under RPA 1983

Appointing your election agent

6.6 As mentioned above, you may appoint an election agent, but you may also choose to act as your own agent. If an agent is not appointed by the close of nominations at **4pm on Thursday 7 May** you will assume the duties and responsibilities of the election agent as well as being the candidate.

6.7 You must declare in writing the name and the home or office address of your election agent to the Returning Officer no later than the close of nominations at **4pm on Thursday 7 May**. The written declaration must be signed by you, as the candidate, and also by your agent to show their acceptance of the post. Although there is no prescribed form of declaration that must be used, the Returning Officer will provide you with a form as part of the nomination pack.

6.8 If before, during or after the election you revoke the appointment of your election agent or if your election agent dies, a new appointment can be made by the same process. Similarly, if you are acting as your own election agent you can also revoke that 'appointment' and appoint a new agent.

Sub-agents

6.9 Your election agent may appoint a sub-agent to act on their behalf. Your election agent can appoint one sub-agent to act for and on behalf of them in any part of the electoral region.²⁸ The Returning Officer may refuse an appointment which he does not consider is for a part of the electoral region of Northern Ireland. He recommends that an appointment should be at least for the whole of a Westminster Parliamentary constituency. A sub-agent may do anything that the election agent is entitled to do but only in the part of the electoral region for which they are appointed. The name and addresses of any sub-agents must be declared in writing to the Returning Officer not later than 5pm on Tuesday 2 June.²⁹ Sub-agents have no power to act until the declaration of their appointment has been received by the Returning Officer.

Election agent's address

6.10 The office address of any election agent, and of any sub-agents, must be in the UK.³⁰

6.11 While it is not required by law, it is good practice to provide a contact telephone number and email address (if appropriate) for your election agent and any sub-agents as well as their postal address. If this is not done there may be a delay in getting important information relating to the election to them.

²⁸ Regulation 35, EPE Regulations.

²⁹ Regulation 35(3), EPE Regulations.

³⁰ Regulation 36(2), EPE Regulations.

7 Polling agents, counting agents, tellers and observers

7.1 As well as an election agent, a candidate may appoint polling agents and counting agents. These are statutory appointments with specific duties. A candidate can also act as their own polling agent or counting agent.

7.2 Your polling agents and counting agents are required to maintain the secrecy of voting, set out in Regulation 30 of the EPE Regulations, which is reproduced in Appendix B.

What does a polling agent do?

7.3 The main role of your polling agent is to aid in detecting the offence of impersonation (individuals attempting to vote as another person) at a polling station. Polling agents must obey all lawful instructions of the Presiding Officer. If they do not they are likely to be excluded from the polling station and/or reported to the police. Additional duties and responsibilities are outlined in Chapter 11, 'Polling day'.

7.4 You may appoint a number of polling agents to attend polling stations within a polling place.³¹ However, only one of your polling agents will be permitted to attend a polling station at any one time. Each polling agent may be appointed to attend more than one polling station.

7.5 If you are not going to pay your polling agents, you can appoint them yourself as the candidate. All paid polling agents must be formally appointed by your election agent. The Returning Officer must be notified in writing of the appointment of any polling agents, giving the names and addresses of those appointed and the polling station to which each has been appointed, no later than **5pm on Tuesday 2 June**. If this is not done the individuals will be denied access to the polling station.

What does a counting agent do?

7.6 The main role of a counting agent is to oversee the verification and/or counting processes on behalf of the candidate and make sure that they are undertaken in an orderly, accurate and correct manner. Your counting agents will not participate directly in the verification or counting processes, although you may authorise one of your counting agents to request a recount.³² Additional duties and responsibilities of counting agents are outlined in Chapter 12, 'The count'.

³¹ A 'polling station' refers to the room or part of a room used to conduct the poll for a polling district. A 'polling place' is the building in which voting takes place at one or more polling stations (i.e. school, community centre, etc.).

³² Rule 31(2), EPE Rules.

7.7 The Returning Officer will decide the maximum number of counting agents you will be allowed to appoint at the verification and at the count. He is able to limit the number in special circumstances, for example if a centre is particularly small. You will be allowed to appoint exactly the same number of counting agents as other candidates. You and your election agent will be advised of the maximum number of counting agents allowed to attend both the verification and the count soon after the close of nominations (4pm on Thursday 7 May 2009).

7.8 Either you or your election agent can appoint your counting agents. You must notify the Returning Officer in writing of the names and addresses of your counting agents to attend both the verification and the count by 5pm on Tuesday 2 June 2009.³³ If this is not done the individuals will be denied access to the verification or count.

Opening of postal votes

7.9 You can also appoint one or more agents to attend the proceedings at the receipt of postal ballot papers, as described in Chapter 12, 'The count'. You will be given at least 48 hours' notice by the Deputy Returning Officer of the time and place for the opening of the postal voters ballot boxes and the envelopes in them, and that notice will also specify the number of agents you are allowed to appoint. The number will be decided by the relevant Deputy Returning Officer. You must notify the Deputy Returning Officer in writing of the names and addresses of any agents you have appointed before the time fixed for the opening of the postal voters ballot boxes. If this is not done the individuals will be denied access to the opening.

Tellers

7.10 Candidates or parties sometimes use 'tellers' to stand outside polling stations and request the electoral numbers of people who have attended the polling station. Tellers have no status in electoral law and they are not allowed to enter the polling station itself. More details of the role of tellers, including further guidance on their conduct, are given in Chapter 11, 'Polling day'.

Electoral observers

7.11 Electoral proceedings may be observed by representatives of the Electoral Commission and by observers accredited by the Commission.³⁴ Representatives of the Commission are entitled to observe the working practices of the Returning Officer and his staff as well as the proceedings at the issue and receipt of postal ballots, the poll and the verification and counting of the votes. Other individuals or organisations may apply to the Commission to be accredited to observe the

³³ Rule 31(4), EPE Rules.

³⁴ Sections 6A–6F, PPERA, as inserted by Section 29, EAA.

proceedings at the issue and receipt of postal ballot papers, the poll and the counting of the votes.

7.12 Electoral observation is a legitimate and valuable part of the electoral process but observers must take care not to hinder or obstruct the conduct of the election. Equally the Returning Officer, his staff, candidates and their agents must not impede the accredited observers. The Returning Officer is entitled to limit the number of observers who may be present at any proceedings if their presence is hindering the conduct of the proceedings or jeopardising the secrecy of the ballot.³⁵

7.13 Accredited observers and Electoral Commission representatives may ask questions of any candidate or agent, electoral staff and electors. Accredited observers will have a silver photographic identity badge and Commission representatives a pink badge. Sample badges can be viewed on the Commission's website www.electoralcommission.org.uk.

7.14 More information on observers, including the Code of practice for observers, can be found on the Electoral Commission and EONI websites.³⁶

Checklist

- Your election agent must be appointed by 4pm on Thursday 7 May 2009, or you will be deemed to act as your own agent.
- Written notice of the appointment of sub-agents, polling agents and counting agents for both the verification of votes and the count must be delivered to the Returning Officer by 5pm on Tuesday 2 June 2009.
- Written notice of the appointment of agents to attend the proceedings at the receipt of postal ballot papers must be delivered to the Deputy Returning Officer before the specified time for the opening of the postal voters ballot boxes.
- If notification is received by the Returning Officer after the specified time, the persons will not be permitted to carry out their duties. The Returning Officer has no discretion to extend the time allowed.

³⁵ Section 6E, PPERA.

³⁶ www.electoralcommission.org.uk; www.eoni.org.uk.

8 Your election campaign

8.1 It is important to note the definition of a 'candidate' in relation to the provisions described below. At a European Parliamentary election, you will become a candidate either:

- on the last day for publication of the notice of election, Tuesday 28 April 2009, if you have been declared by yourself or by others to be a candidate on or before that date³⁷

or otherwise, after 28 April 2009 but before 4pm on Thursday 7 May 2009:

- on the date on which you declare, or are declared by others, to be a candidate or are nominated as a candidate at that election³⁸

Examples

- A person is declared by their political party to be a candidate for election in February 2009. She becomes a candidate on the last day for publication of the notice of election, 28 April 2009.
- A person declares himself to be a candidate for election on 1 May 2009. He becomes a candidate on 1 May 2009.
- A person has not been declared by himself or others to be a candidate for election, but delivers a valid nomination paper to the Returning Officer on 5 May 2009. He becomes a candidate on 5 May 2009.

Supply and use of the electoral register and related lists

8.2 As a candidate at a European Parliamentary election, you are entitled to a free copy of:

- the full electoral register for the electoral region of Northern Ireland
- the list of overseas electors for that region
- the list of absent voters for that region
- the list of proxy postal voters for that region
- the notices of alteration to the register made as a result of late registration

If you wish to receive your copy of all or any of these documents you must submit a written request to the Returning Officer. A request has now been incorporated in the nomination paper. If you send in your nomination paper in draft, your copies of the register and related lists should be available when you formally submit your paper. If not, you will have to appoint someone to collect them. They will not be posted to you.

³⁷ Regulation 32(2), EPE Regulations 2004.

³⁸ Regulation 32(2), EPE Regulations 2004.

8.3 Unless you specifically request a paper copy, the documents will be supplied to you in a comma-separated values (CSV) format.

Using data in a comma-separated values (CSV) format

CSV files are a simple form of spreadsheet representation which can be read or modified with a number of common desktop applications.

CSV files can be opened using most popular spreadsheet or database applications, including Microsoft Excel and Access, and can also be read or modified with any text editor or word processing programmes such as Microsoft Word. In particular, CSV files can be used with the mail merge function of most word-processing programmes to create mailing labels or form letters.

8.4 The Returning Officer will publish a revised and renumbered version of the register on 1 May. This will include the names of all those registered under the usual process of continuous registration up to the deadline of 7 April.

8.5 It is important to note that a number of legal restrictions apply to the use of information in the full electoral register and other documents supplied to you. You must not, except for electoral purposes:

- pass on a copy of the register or other document to any other person
- disclose any information from the register or other document (which is not contained in the edited version of the register) or
- make any use of any information from the register or other document

8.6 If you are found guilty of breaching these conditions you may face a fine of up to £5,000.

Canvassers

8.7 You may want to use canvassers to help with your election campaign. This is acceptable, although they must be unpaid volunteers. It is illegal for any person to employ paid canvassers for the purpose of promoting or procuring the election of a candidate at the election, before, during or after the election in question. The person employed is also guilty of illegal employment.³⁹ Police officers are also prohibited from acting as canvassers.⁴⁰

Free delivery of election address

8.8 Each candidate is entitled to send an election address to voters free of charge of postage.⁴¹

³⁹ Regulation 69, EPE Regulations.

⁴⁰ Regulation 64, EPE Regulations.

⁴¹ Regulation 58, EPE Regulations.

8.9 You can choose for your election address to be delivered to either:

- every address in the electoral region or
- every registered elector in the electoral region

8.10 Your election address must contain material relating to the election only, and must not weigh more than 60 grams. Royal Mail have produced 'candidate mailing guide- a good practice guide' with further details. This is available on their website www.royalmail.com and also on the Commission's or EONI's websites.

8.11 You may only take advantage of this entitlement if your name is on the published statement of candidates nominated. However, if you want to have your address sent out before that date you will need to give the postal service provider some security in case you do not eventually become nominated.

8.12 Any queries on your entitlement to the delivery of an election address should be directed to Alex Denver, Royal Mail Election Co-ordinator, at:

Northern Ireland Mail Centre
Enterprise Way
Newtownabbey BT36 4HQ

Tel: 028 9084 6138
Fax: 028 9084 6189
Email: alex.denver@royalmail.com

Your campaign publicity material

8.13 Your 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.

8.14 It is a common complaint that campaign materials are not available in large print. In order to be more accessible to older people and those with a visual impairment, it is advisable to be able to provide at least a text version of the campaign materials in this format. Where appropriate, languages other than English should also be considered as should 'easy read' formats for those with lower levels of literacy. It is important that every elector, no matter what their individual circumstances, has the opportunity to become involved in the election process by being able to find out about the candidates in order to help them to make an informed choice. Further information on accessibility issues can be found on the Commission's website www.electoralcommission.org.uk.

Newspaper articles and advertisements

8.15 Some newspapers run stories during the election featuring 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 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.

Imprint requirements

8.16 All posters, placards and bills that make reference to the election must carry an imprint giving the name and address of the printer and publisher of the material on their face. Similarly, all printed material distributed for the purpose of promoting or procuring the election of a candidate must also carry the name and address of the printer and publisher.

8.17 Any printed material or advert in a newspaper or periodical which can reasonably be regarded as intended to secure the election of a candidate (even if it may also have another purpose) must carry an imprint giving the name and address of the following people:

1. the printer of the material
2. the promoter of the material and
3. any person on behalf of whom the material has been published

8.18 While it should be clear who is the printer, the promoter might be, for example, the same person as the printer, a local political party, or a separate individual. The imprint might look like this:

Example

Printed by Bloggs and Co Printers, 1 Smith Street, SMITHTOWN,
SW1P 2HW

Promoted by Smithtown Independent Party, 13 Smith Street,
SMITHTOWN, SW1P 2HW

On behalf of Joe Bloggs, 17 Smith Street, SMITHTOWN, SW1P
2HW

or:

Printed by Bloggs and Co Printers, 1 Smith Street, SMITHTOWN,
SW1P 2HW

Promoted by John Smith, 12 Smith Terrace, SMITHTOWN, SW1P
2HW

On behalf of Joe Bloggs, 17 Smith Street, SMITHTOWN, SW1P
2HW

8.19 For the purposes of the legal requirement, securing the election of a candidate includes material criticising or disparaging another candidate at the election.

8.20 The potential consequences of a breach of this requirement are serious. If you or your agent breach the requirement you may be found guilty of an illegal practice, and your election may be invalidated. Any other person found guilty of breaching this requirement may be fined up to £5,000.

False statements

8.21 It is an offence under electoral law to make or publish a false statement of fact in relation to the personal character or conduct of a candidate in order to affect the return of any candidate at an election.⁴² Note that this restriction applies both before and during an election period, but is subject to the definition of a candidate, as explained in Chapter 5, 'Getting nominated'. It is also an offence to make a false statement of a candidate's withdrawal.

8.22 The potential consequences of a breach of this requirement are serious. If you or your agent breach the requirement you may be found guilty of an illegal practice, and the election may be invalidated.⁴³ Any other person found guilty of breaching the requirement may be fined up to £5,000.⁴⁴

Display of advertisements

8.23 The display of all advertising is controlled by the Planning (Control of Advertisements) Regulations (NI) 1992. It is important to ensure that all election advertisements, including any bills, placards and posters, comply with the relevant requirements. You must ensure that no advertisement is displayed without the permission of the owner of the site or anyone else with an interest in the site. This includes sites owned by district councils and government departments, such as lampposts and bridges. All adverts must be removed within 14 days of the election.⁴⁵

⁴² Regulation 65, EPE Regulations.

⁴³ Regulations 97, 99 and 100, EPE Regulations.

⁴⁴ Regulation 97, EPE Regulations.

⁴⁵ Regulation 4 and Schedules 1 and 2, Planning Regulations 1992.

8.24 It is an offence to pay an elector to display an election advertisement unless it is the normal business of the elector (as an advertising agent, for example) to display advertisements and a payment is made in the ordinary course of business.⁴⁶

Other restrictions

8.25 Your election campaign material is also subject to general restrictions of criminal law and law on civil liability, and your material and statements must not contain comments that are defamatory. Defamatory comments in a written form constitute libel, and may leave you open to prosecution and/or civil proceedings for damages.

8.26 Under the Public Order (Northern Ireland) Order 1987,⁴⁷ it is an offence to publish or distribute threatening, abusive or insulting material which is intended to stir up hatred against a group of persons defined by reference to religious belief, colour, race, nationality (including citizenship) or ethnic or national origins.⁴⁸

Other electoral offences

8.27 You and your election agent should be aware of a number of other electoral offences specified in the EPE Regulations. Bribery, treating and undue influence are three of the most common. If a successful candidate, or their election agent, is found guilty of any of these offences by an election court, the election may be invalidated. Persons guilty of these offences may also be fined up to £5,000.

Bribery

8.28 A person is guilty of the corrupt practice 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 refrain from voting.⁴⁹

Treating

8.29 A person is guilty of the corrupt practice 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.⁵⁰

⁴⁶ Regulation 67, EPE Regulations.

⁴⁷ Also the Criminal Justice (No 2) (Northern Ireland) Order 2004.

⁴⁸ Part 3 1987 Order.

⁴⁹ Regulation 71, EPE Regulations.

⁵⁰ Regulation 72, EPE Regulations.

Undue influence

8.30 The importance of unimpeded access to the polling station cannot be overemphasised. The existing legislation has been strengthened following the EAA, so that the **intention** to influence unduly is also an offence.

8.31 A person is guilty of the corrupt practice 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 or intend so to compel, induce or prevail⁵¹
- they impede or prevent or intend to impede or prevent the free exercise of the franchise of an elector or proxy for an elector

8.32 Therefore, a group of people congregated outside a polling station, for example, could be seen as a form of undue influence through any efforts to intimidate electors. If a candidate is considering the use of tellers or campaigners in or near to a polling station, they should ensure that all volunteers are aware of these restrictions and are given a copy of the 'guidance to tellers' available from the Commission.

Personation

8.33 A person is guilty of personation at an election if they attempt to vote illegally as another person.

False identification documents

8.34 Applying for or being in possession of a false identity document, or assisting another to apply for or be in possession of a false identity document, is a serious criminal offence with a maximum penalty of 10 years' imprisonment or an unlimited fine or both.

Postal and proxy votes

8.35 New offences relating to absent voting have been introduced by Regulation 12A of the EPE Regulations as outlined below. 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 the first person or the other is not otherwise entitled or a gain of money or property

⁵¹ Regulation 73, EPE Regulations.

8.36 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 which 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

8.37 A person who commits an offence under the EAA or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice⁵² and liable to imprisonment for a period of up to two years or to an unlimited fine or both.

Reporting offences

8.38 Neither the Returning Officer nor the Commission has any role in the investigation of alleged offences under electoral law that have been identified by a third party. If you believe that an offence has been committed, and are prepared to substantiate this allegation through a written statement, you should bring your complaint 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

8.39 While it is clear that campaigning cannot happen within a polling station or polling place, there is less clarity on how this extends to the surrounding area. Electors should be able to go to vote free of any intimidation (whether real or perceived). Presiding Officers have no authority outside the polling place. If you are concerned about any activity outside the polling place you should contact the police.

8.40 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 a reasonable distance of the entrance. Cars being used in campaigns that are also used to transport voters may need to wait for the voter while at the polling station, but this should not be unduly prolonged.

⁵² Section 40, EAA.

Other campaign publicity material

8.41 Other 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.

9 Election expenses

9.1 **Important:** The purpose of completing and submitting 'election expenses returns' to the Returning Officer is to provide accountability and transparency about the income and expenditure of candidates' campaigns. **If the return is not received by the Returning Officer by 28 July 2009 the matter will, without warning, be referred to the police with a view to prosecution.** No extension to the deadline will be given. Please note that payments made **cannot be 'claimed back'** or reimbursed. Furthermore, even if no election expenditure is incurred, a 'nil' return still has to be submitted along with the declarations.

Note: It is an offence to fail to submit an expenses return by 28 July 2009.

Spending limits

9.2 All candidates contesting European Parliamentary elections are subject to a limit on their spending on items and services used during the regulated period in advance of an election. The limit for the election in 2009 will be £45,000, multiplied by the number of MEPs to be returned for the electoral region.⁵³ Therefore the limit for individual candidates in the Northern Ireland electoral region will be:

$$£45,000 \times 3 \text{ MEPs to be returned} = £135,000$$

The regulated period

9.3 The spending limits apply to the 'regulated period' – the period between the date a person becomes a candidate and 4 June 2009.

9.4 A person contesting the European Parliamentary elections becomes a candidate on the last date for publication of the notice of election (28 April 2009)⁵⁴ if their candidacy has been declared on, or before, that date. Individuals who have not been declared a candidate by that date therefore become candidates on the date on which they are declared or nominated as a candidate (whichever is the earlier).

Defining election expenses

9.5 A candidate's election spending is defined as:

⁵³ Regulation 43(4), EPE Regulations.

⁵⁴ This is the twenty-fifth day before the day of election.

any expenses incurred at any time in respect of any matter specified [below] which is used for the purposes of the candidate's election after the date when he becomes a candidate at the election.⁵⁵

9.6 It is important to note that money that was **spent before** a person becomes a candidate counts against the spending limit if the goods or services purchased are used after the person becomes a candidate.⁵⁶ Therefore, money spent **before** the regulated period on goods/services that are used for the purpose of the candidate's election **during** the regulated period should be included within a candidate's election expenses return.⁵⁷ This ensures that anything spent on items paid for some time in advance of the election is accounted for. The categories of spending that are referred to in the legislation above are described in paragraph 9.13 below.

Example: Money spent before the start of the regulated period

European Parliamentary elections will be held on 4 June 2009. In March 2009, an individual spends £1,000 on leaflets. They distribute half of the leaflets to promote their election campaign in March. They legally become a candidate on 28 April 2009 and distribute the other half of the leaflets after this date.

The regulated period runs from the date a person becomes a candidate until the date of the poll. In this example, the election spending was therefore the proportion that related to the leaflets distributed after 28 April 2009 (because it was spent on materials distributed during the regulated period). Therefore, half of the spending should be treated as election expenses and count against the candidate's spending limit, i.e. £500.

9.7 Election expenses also include expenses incurred by or on behalf of the candidate promoting their own candidacy by disparaging their opponents.⁵⁸

9.8 Examples of materials that promote a candidate are those that:

- encourage people to vote for candidate A at a specified election
- criticise candidate B
- compare candidate B unfavourably with candidate A

9.9 Election spending includes 'notional expenditure' of more than £50. Notional expenditure is incurred when an organisation or individual bears the cost of

⁵⁵ Regulation 55(1), EPE Regulations.

⁵⁶ Regulation 32(2), EPE Regulations.

⁵⁷ Regulation 42, EPE Regulations.

⁵⁸ Regulation 55(6), EPE Regulations.

goods or services for which the candidate or their election agent would otherwise have been liable. Further guidance is provided from paragraph 9.49 onwards.

9.10 Note that notional expenditure must also be treated as a donation to the candidate if it is more than £50.

Personal expenses

9.11 Candidates can also incur 'personal expenses'. Personal expenses do not count towards the maximum spending limit specified above. Personal expenses are any spending on a candidate's travel, accommodation and subsistence in relation to their election and would include, for example, the value of petrol used transporting the candidate around the constituency.

9.12 A candidate may pay for any personal expenses incurred up to £900.⁵⁹ The candidate's election agent must pay for any further personal expenses incurred.

Categories of spending

9.13 The EAA introduced categories that constitute election spending, which are considered election spending and count against a candidate's limit. The categories are:

- advertising
- unsolicited material addressed to electors
- transport
- public meetings
- services of an election agent or other staff
- accommodation and administrative costs⁶⁰

Advertising

9.14 This covers advertisements of any nature or using any medium (not just newspaper advertisements and posters). The costs of advertising include agency fees, design costs, printing costs and delivery costs. Costs include both the costs of producing the material and of displaying or otherwise circulating it.

Unsolicited material

9.15 This category covers any material sent, whether it is addressed to electors by name or intended for delivery within a particular area. Costs in this category include design costs, printing costs and distribution costs.

Transport

9.16 Transport costs cover transport of people by any means to any place.

⁵⁹ Regulation 40, EPE Regulations.

⁶⁰ Part 1 of Schedule 5A, EPE Regulations.

9.17 Petrol or vehicle hire costs for journeys made by the candidate or election agent for the purposes of the election constitute election expenses. Such journeys may include driving canvassers to distribution points, or promotional tours around the electoral area.

9.18 Often people will use their own private car in support of a candidate's campaign. The **use** of someone's private means of transport does not count as election spending unless the person is paid for the use. However, the cost of fuel will still be an expense.

9.19 If volunteers reclaim petrol costs from the election agent, they should be reported as election spending. If a volunteer's petrol costs are not reclaimed but are valued at more than £50, they should be reported as notional expenditure and a donation to the candidate.

9.20 The HM Revenue & Customs website (www.hmrc.gov.uk/cars/) provides guidance on mileage allowances, which may be of use to election agents or volunteers wishing to value petrol costs incurred. These rates are only a suggested reference point. Election agents are not obliged to use these rates to calculate petrol costs.

Public meetings

9.21 This covers public meetings of any kind. Costs include the hire of a venue, the costs associated with the attendance of people at the meetings (e.g. speakers' fees) and the cost of any goods, services or facilities provided at the meeting.

9.22 Where a hustings organiser invites some, but not all, candidates on a selective basis, the Commission considers that the provision of a public platform for those candidates who attend constitutes a non-cash donation (benefit in kind) to the candidate or the party on whose behalf they are standing, and notional expenditure of the candidate. A separate guidance document for hustings can be found on the Commission's website www.electoralcommission.org.uk.

Services of an election agent and other staff

9.23 The salary of a candidate's election agent is an election expense. The value of the salary paid during the regulated period should therefore be included in the expenses return.

9.24 If somebody else, such as a political party or members association, pays for the salary of an election agent or any other staff for a candidate, the agent's salary must be included in the candidate's expenses return as notional expenditure if it is more than £50. This must be reported as a non-cash donation.

9.25 If an election agent is not employed on a salary but charges a candidate for their services, then the full amount of those charges constitute election spending.

9.26 The provision of services by any volunteer, including a person acting as the candidate's agent, who provides their services free of charge and in their own time is not an election expense. If a candidate or election agent is self-employed and during the regulated period takes time off work to campaign and employs someone to cover their work during this period, the Commission's view is that this does not constitute an election expense.

9.27 Where someone employed by any organisation (including a political party) devotes a significant amount of time to a candidate's campaign, an estimate should be made of the amount of time they have spent working on the campaign during the regulated period. On this basis, the appropriate proportion of their salary should be reported as notional expenditure by the candidate. Assuming the amount exceeds £50, it must also be reported as a non-cash donation from the employing organisation to the candidate.

Accommodation and administrative costs

9.28 Accommodation costs include costs for office space. Where an election agent rents an office (including the use of a constituency office) during the regulated period, the value of the rent for that office (or an appropriate proportion of the rent) is an election expense.

9.29 Administrative costs include the cost of telephone calls made as part of the campaign as well as any other utility costs during the regulated period. Where bills for line rental or other utilities cover a period longer than the regulated period, the usage during the regulated period should be calculated and declared as an election expense.

9.30 If an office is used solely for the purpose of a candidate's campaign throughout the regulated period, then all rent and utility bills paid during that period must be reported. If an office is only partly used for this purpose during the regulated period, then the proportion of rent that constitutes an election expense should be calculated according to the amount of time or the proportion of space that was used for the purpose of the candidate's election.

Example: Valuing an office used for a candidate's campaign (1)

If an office, rented at the rate of £500 a month (i.e. £16.13 per day in a 31-day month) is used four days a week for six weeks during the regulated period (i.e. 24 days), the election spending will be £387.12 (£16.13 x 24).

9.31 Where the election agent does not pay rent, and use of the office is provided free of charge by the local constituency party, an amount equivalent to the commercial rental value for that office must be reported as notional expenditure. Where rent is charged at a discount of more than 10% of the commercial rental value, the rent paid should be reported as actual spending and

the difference between the commercial rental value and the amount paid should be reported as notional expenditure.

Example: Valuing an office used for a candidate's campaign (2)

A constituency association provides use of its office to a candidate free of charge for the whole of the regulated period (in this instance six weeks). The candidate's election agent ascertains the cost of renting three similar properties in the area, and uses the average to estimate the value of notional expenditure incurred on use of the office.

Average commercial rent:	£150 per week
Period over which office used:	6 weeks
Amount to be reported as actual spending:	£0
Amount to be reported as notional expenditure:	£900
Donation to be reported in return:	£900

9.32 Use of the sole or main residence of the candidate, or the sole or main residence of a person who does not charge the candidate for use of the residence, is not an election expense (see paragraph 9.33).

Exemptions

9.33 Certain items are excluded from counting as election expenses. Even if money is spent on such items, it does **not** count against a candidate's limits and does **not** need to be reported in the candidate's return. These items are:

- the provision of facilities in connection with rights conferred on the candidate, for example freepost facilities
- a candidate's deposit
- the provision by an individual of their own services, voluntarily, in their own time and free of charge
- the publication of anything other than an advertisement relating to an election in:
 - a newspaper or periodical
 - a broadcast made by the BBC
 - a programme included in any service by a licensed independent radio or TV operator
- use of the candidate's sole or main residence
- use of someone else's sole or main residence if it is provided to the candidate without charge
- transport using the candidate's personal means of transport (personal car, bicycle, etc.)
- transport using someone else's personal means of transport if it is provided to the candidate without charge

- use of the candidate's personal computing or printing equipment as long as it was bought mainly for their personal use
- use of someone else's personal computer or printing equipment as long as it was bought mainly for their personal use and if it is provided to the candidate without charge

Planning and managing election expenses

9.34 This section outlines the legal requirements binding on candidates and election agents when incurring and making payments for election spending.

9.35 Any individual or organisation that incurs or pays for election expenses in breach of the requirements of the Regulations may be committing an offence under the legislation. Appendix A details the offences that can be committed and relevant penalties.

Incurring election spending

9.36 Election expenses are incurred on the date on which a legal commitment to spend money is made, i.e. the date when an order is placed or a contract is signed.

9.37 Only certain people are authorised to incur election expenses. They are:

- the candidate
- the election agent, and
- any individual or organisation authorised in writing by the election agent⁶¹

9.38 Where a candidate's election agent authorises an individual or an organisation to incur election expenses (and they are not employed by the candidate or their election agent), that individual or organisation must complete a return detailing all the expenses they have incurred. This must be submitted to the relevant Returning Officer within 21 days of the day the election result was declared.

9.39 The return must be accompanied by a declaration verifying the return and by the original written authority received from the election agent.

9.40 Written authorisation from the election agent to incur expenses does not mean that an individual or organisation is also authorised to make payments in respect of election spending.

⁶¹ Regulation 39, EPE Regulations.

Paying election expenses

9.41 In most instances, only the election agent can legally make election spending payments.⁶²

9.42 However, the following payments may be made other than by the election agent:

- A candidate may make payments due to be made before an election agent is appointed.
- Any individual or organisation authorised in writing by the election agent may make payments in respect of 'petty expenses' (e.g. stationery, postage, etc.). This authorisation should include the total amount up to which the election agent has authorised the individual or organisation to make payments.
- Payments made before the date a person becomes a candidate may also be paid for other than by the election agent.⁶³

9.43 Except as outlined above, members of a candidate's political party, including local party treasurers, are not authorised to make payments relating to candidates' election expenses. Where a party purchases or provides items used for the candidate's election, this constitutes notional expenditure and must be reported as such. Further guidance on notional expenditure is given from paragraph 9.49.

Time limits for claims and payments

9.44 When agreeing contracts, suppliers should be advised that all claims for payment **must be made to the election agent within 21 calendar days of the date the election result is declared.**⁶⁴ Claims that are not received by the election agent within this period are called unpaid claims. Unpaid claims cannot legally be paid unless a court order is gained granting leave to pay the claim.

9.45 For example, if the result of an election is declared before midnight on 8 June 2009, all claims for payment must be received by 29 June. Any invoices received later than this date cannot be paid without a court order.

9.46 All claims for payment that are received within the specified period (i.e. 21 days after the election result) **must be paid by the election agent within 28 days of the date the election result is declared.**⁶⁵ Claims that have not been paid by this time are called disputed claims. Disputed claims cannot legally be paid without a court order first being gained granting leave to pay the claim.

⁶² Regulation 39, EPE Regulations.

⁶³ Regulation 41, EPE Regulations.

⁶⁴ Regulation 44(1), EPE Regulations.

⁶⁵ Regulation 44(2), EPE Regulations.

9.47 For example, for an election held on 4 June 2009, where the result is declared before midnight on Monday 8 June, all claims received by 29 June must be paid by 6 July.

9.48 Any claim paid after the 28-day deadline for payments, following a successful application to a court, and after the deadline for the submission of election expenses returns, must be reported in writing to the relevant Returning Officer within seven days of payment and be accompanied by a copy of the court order.⁶⁶

Valuing notional expenditure and other spending

9.49 This section sets out the Commission's guidance on how election agents and candidates should value and report notional election expenditure and other spending.

Notional expenditure

9.50 Election expenses returns must include any notional expenditure incurred on goods or services used during the regulated period.

9.51 Notional expenditure is incurred when any goods, services, property or facilities are provided to a candidate or their election agent free of charge, or at a discount of more than 10% of ordinary commercial value, for the purpose of the candidate's election.

9.52 Controls on notional expenditure apply only where the expenditure is valued at more than £50.⁶⁷

9.53 The value of notional expenditure is the difference between the normal commercial cost of goods/services provided and the amount the candidate or their election agent actually paid for them (if anything).⁶⁸ Where goods or services have been discounted by more than 10% from normal commercial rates, the difference should be declared as notional expenditure if it is more than £50. Notional expenditure should also be treated as a donation to the candidate if it is more than £50.

9.54 In order to estimate the normal commercial rate for an item, you can use the supplier's rates as charged to other customers unrelated to the party or candidate. If this is not possible because they do not supply to others, the Commission's advice is to take the average cost of three commercial quotes. Evidence of how the valuation is reached should be kept as an audit trail.

⁶⁶ Regulation 47, EPE Regulations.

⁶⁷ Regulation 57(2)(b), EPE Regulations.

⁶⁸ Regulation 57, EPE Regulations.

9.55 Notional expenditure is only incurred when a discount is provided **for the purpose of a candidate's election**. Notional expenditure is not incurred when a candidate is provided with a discount on a commercial basis, e.g. when items are bought in a sale or where a discount is offered because of a large order.

9.56 Items specifically excluded from being candidates' election expenses (see paragraph 9.33 above), such as the use of a supporter's house, do not count as candidates' election expenses as long as the candidate is not charged for their use.

Example: Valuing notional expenditure

Discounted supply of printed material

A firm supplies a candidate with 10,000 election leaflets at a discounted rate.

Normal cost of printing 10,000 leaflets:	£1,000
Cost charged to candidate:	£400
Actual spending to be included in return:	£400
Notional expenditure to be included in return:	£600
Donation to be reported in return:	£600

9.57 Where notional expenditure is valued at more than £50, a donation is made, and the candidate's election agent will **need to confirm before accepting the donation that the person or organisation making the donation is a 'permissible donor'**. All accepted donations of more than £50 must be reported within the candidate's election expenses return. See Chapter 10, 'Donations' for guidance on donations.

Items paid for by the candidate's political party and use of party facilities

9.58 Where a candidate's political party purchases or provides goods/services used for the candidate's election, or sells items to a candidate or their election agent at less than market rates, this constitutes notional expenditure and must be reported as such in two different places on the expense return, both as a non-cash donation and as notional expenditure.

9.59 Common examples of goods/services purchased or provided by the party include:

- free use of a constituency association office as a campaign headquarters
- provision of free stationery
- election materials paid for by the party
- use of loudhailers or public address system owned by the party
- promotional items, such as balloons and rosettes, sold to a candidate's election agent at less than market rates

Example: Valuing and reporting items paid for by the party and use of party facilities

Election materials paid for by the party

A constituency association orders and pays for 25,000 leaflets promoting its local party candidate. The constituency association treasurer pays the invoice.

Cost of 25,000 leaflets:	£2,590
Amount to be reported as actual spending:	£0
Amount to be reported as notional expenditure:	£2,590
Donation to be reported in return:	£2,590

Use of loudhailers owned by the party

A loudhailer is owned by a constituency association and given to the candidate to use free of charge during the three weeks prior to the election. The candidate's election agent receives a number of quotes for renting a loudhailer and estimates the commercial value of three weeks' hire to be £15. As the value of notional expenditure is not more than £50, the cost of using the loudhailer does not need to be reported in the candidate's election spending return.

Commercial value of hire:	£15
Amount to be reported as actual spending:	£0
Amount to be reported as notional expenditure:	£0
Donation to be reported in return:	£0

Promotional items sold at less than cost price

A party makes up 'election packs' that include party balloons, rosettes and teller pads. They sell the packs to candidates' election agents for £10 each, although they have a commercial value of £75.

Commercial value of election packs:	£75
Price paid by candidate's election agent:	£10
Amount to be reported as actual spending:	£10
Amount to be reported as notional expenditure:	£65
Donation to be reported in return:	£65

9.60 Some candidates receive leaflets or other printed materials at cost from organisations that may be part of or affiliated to their political party. In this case, the candidate or agent should determine the **full commercial value** of the materials. If the difference between the value and the amount paid is more than 10% and more than £50, the difference is notional expenditure and counts against the candidate's limit and should be reported as a non-cash donation.

9.61 If the printed materials are by people who have volunteered their time to the candidate, the election spending consists of the cost of the materials used to prepare them plus a notional charge based on the market rate for hiring similar printing equipment (unless printed on a personal computer, see paragraph 9.33 on exemptions). If the volunteers have volunteered their time to the candidate there is no need to cost their labour as election spending. See paragraph 9.54 for more about determining commercial rates.

Canvassing and distribution

9.62 The payment, or promise of payment, of **canvassers** is prohibited. Any such payment, or arrangements for payment, may constitute an illegal practice.⁶⁹

9.63 There is no prohibition on the payment of an individual or organisation employed for the sole purpose of **delivering or distributing election materials**. Election agents should, however, carefully consider the possible implications of making payment to an individual/organisation whose other activities include canvassing.

9.64 In the Commission's view, canvassers may incur costs for incidentals, such as travel costs, without authorisation. If a canvasser reclaims these costs from the election agent, they should be reported as election spending. If such costs are not reclaimed but are valued at more than £50, they should be reported as notional expenditure and a donation to the candidate.

Websites

9.65 If a website is developed solely for a candidate's campaign, all costs incurred in the setting up of the site and any costs incurred in the running of the site during the regulated period constitute election expenses.

9.66 If a website developed for another purpose is adapted to promote a candidate's campaign, any costs incurred in adapting the site or in running the site during the regulated period constitute election expenses.

9.67 If a candidate or their election agent is provided with any **commercial** services for the development and running of their website free of charge or at a discount, this would constitute notional expenditure. Examples of such services could be the provision of a domain name or graphic design services.

9.68 If a candidate sets up a blog on a site where no cost would normally be payable, there is no election expenses implications. If a site is used where a charge is usually made, if the candidate or agent pays the charge, the charge for the regulated period constitutes an election expense. If someone pays the charge on behalf of the candidate or a site that normally charges waives the fee for the candidate, notional expenditure rules apply.

⁶⁹ Regulation 69, EPE Regulations.

9.69 Similar rules apply for podcasts or other uses of the internet in a campaign. Where actual costs are involved (e.g. for use of recording or editing equipment), these should be accounted for in the candidate's return. Where someone pays the costs on behalf of a candidate or waives fees normally charged, notional expenditure rules apply.

Example: Case study – valuing election spending incurred on the use of websites

A candidate sets up their own website, devoted entirely to promoting their candidacy and outlining their policies.

Set-up costs (registering a global domain name):	£25.00
Running costs (annual hire of web space):	£18.50
Running costs during regulated period (six weeks):	£2.13
Actual spending to be reported:	£27.13

A candidate has a website registered which they have previously used for business purposes. A website designer offers to redesign the site free of charge to make it a promotional site for the candidate's election campaign.

Normal cost of hiring web design consultant:	£90 per day
Time spent redesigning website:	2 days
Actual spending to be reported:	£0
Notional expenditure to be reported:	£180
Donation to be reported in return:	£180

Items to be used at more than one election

9.70 Where items, such as rosettes, are bought and used for a candidate's campaign then re-used for the same candidate's campaign at future elections, the total cost of the item can be reported within the candidate's expenses return for the election at which the items were first used. As the full value of the item has been accounted for and declared within that election return, it does not need to be included in any future election expenses returns.

9.71 It is advisable that candidates or agents retain any relevant receipts or invoices, along with a copy of the election expenses return on which the spending has been declared, in case proof of declaration is needed in the future.

Party campaign spending or candidates' election expenses

9.72 Parties and candidates are subject to separate limits on their spending. Some items will be attributable to party spending limits while others will count against candidates' limits. Deciding how to apportion money between candidates and their party requires care and is not always straightforward.

9.73 Items to include as candidates' spending include:

- hire of room from which to run candidate's campaign
- hire of car for use during candidate's campaign
- leaflets solely promoting a candidate

9.74 Items to report as party spending include:

- national advertising campaigns
- the cost of producing party political broadcasts
- manifestos
- unsolicited material outlining the party's national policies

9.75 For items such as unsolicited material to electors or advertisements that could be either candidate or party spending it is important to look at the **content** of the material. Items that mention a candidate by name obviously fall under the candidate's limit. Parties and candidates are advised to judge each item on a case-by-case basis and decide whether on balance the purpose of the item is to promote the candidate or the party as a whole.

9.76 Where material focuses on a party's policies rather than on a candidate it is more likely that the spending should be treated as party spending.

9.77 Separate guidance on party campaign expenditure is available on the Commission's website. If you are in any doubt about how to allocate a particular item of expenditure, please contact the Commission for advice.

10 Donations

Defining donations

10.1 This chapter sets out the controls on donations to candidates. Please note that donations from permissible donors in respect of candidates differs from permissible donors in respect of donations to parties and that candidates cannot accept donations from Irish sources.

Regulated donations

10.2 Cash and non-cash donations made to candidates or their election agents for the purpose of meeting election expenses incurred by or on behalf of a candidate are regulated.⁷⁰

10.3 This includes donations to meet costs that would have been incurred had the donation not been made (i.e. in-kind donations).

10.4 The controls apply only to donations with a value of more than £50.

Definition

10.5 The EPE Regulations define a donation as any of the following:

- any gift (including a bequest) to the candidate or their election agent of money or other property
- any sponsorship provided in relation to the candidate (see paragraph 10.9 and 10.10 on sponsorship)
- any money spent (other than by the candidate or their election agent or any sub-agent) in paying any election expenses
- any money lent to the candidate or their agent other than on commercial terms
- the provision for the use or benefit of the candidate of any property, services or facilities (including the services of any other person) other than on commercial terms⁷¹

10.6 Common examples of donations may include:

- a cash donation of £1,500 to meet a candidate's spending from the candidate's constituency association
- a cheque for £100 given by a supporter
- stationery supplies worth £65
- payment of costs of a newspaper advertising campaign

⁷⁰ Schedule 4, Part 1, EPE Regulations.

⁷¹ Schedule 4, Part 1(2), EPE Regulations.

- a 50% discount offered on printing of election materials
- free use of an office valued at £200
- free use of a hire car valued at £100

Exclusions

10.7 Under the EPE Regulations, the following are not donations:

- any donation with a value of £50 or less
- the provision of facilities in connection with rights conferred on the candidate (excluding other costs incurred, e.g. in preparing the room or repairing any damage incurred)
- the provision by an individual of their own services, voluntarily, in their own time and free of charge
- any interest accruing to a candidate or their election agent in respect of a donation from an unidentifiable or otherwise impermissible source, which is dealt with by the candidate or their election agent in accordance with the relevant legislation (see paragraph 10.32 on returning donations)
- the loan of a person's principal house, personal car, personal computer or personal printing equipment

10.8 In the Commission's view, if a candidate is granted special leave by their employer during the regulated period in order to fight their campaign, this is not a donation.

Sponsorship

10.9 Sponsorship is defined as any money or property transferred to the candidate or any other person for the purpose of helping the candidate meet costs incurred in connection with:

- any conference, meeting or event organised by or on behalf of the candidate
- the preparation, production and dissemination of any publication by or on behalf of the candidate
- any study or research organised by or on behalf of the candidate

10.10 This definition of sponsorship does **not** include:

- any admission charge to a conference, meeting or event
- the purchase price of (or any other charge for access to) any publication
- payments made to place advertisements in publications which are made at the true commercial rate

Managing donations

10.11 As candidates must report the sources of all the campaign donations they receive over £50 in value, it is important that proper records be kept of all funding sources. This includes monetary (referred to below as 'cash') and in-kind contributions (referred to below as 'non-cash' or 'notional'), funding **from a candidate** to pay for aspects of their campaign and any contributions **from the candidate's political party**, whether this comes from the central party or a local constituency party.

Receiving donations

10.12 All cash and non-cash donations must be given directly to the candidate or their election agent.

10.13 Where a candidate receives a donation, they should pass it to their election agent to handle as the election agent is legally responsible for the financial conduct of the candidate's campaign.

10.14 If a candidate receives a donation before they have appointed an election agent, they may take the necessary steps to deal with the donation themselves. The candidate must pass the donation, and any relevant information received with it, to the election agent as soon as one is appointed.

10.15 A candidate is deemed to have received a donation on the date that they (or their election agent) take possession of the donation whichever is the earlier. If the donation is transferred electronically, the donation is deemed to have been received on the date the candidate is notified of the payment (e.g. the date they receive their next bank statement for the relevant account or check an online bank record).

10.16 Candidates and their election agents have **30 calendar days** from the date a donation is received in which to make any enquiries and take any action regarding the donation, i.e. to decide whether or not to accept the donation (see paragraph 10.32 on returning donations). If they decide not to accept the donation, they must take the necessary steps to deal with it within the 30-day period. If the donation has not been returned within that time, they will be deemed to have accepted the donation.

10.17 If an individual makes a donation to a candidate or their election agent on behalf of more than one person, each individual contribution of more than £50 should be reported as if it were a separate donation from each individual contributing that sum. Details of each individual donor will need to be provided to the election agent for reporting purposes.

10.18 Where a donation is made from a joint bank account, the donation should be treated as being made equally by all the account holders, and split

accordingly. Each account holder must be a permissible donor (see paragraph 10.22) and the details of each account holder will need to be provided to the election agent for reporting purposes.

10.19 The full name and address of any donor must be given to the candidate or their election agent. If a person provides a donation on behalf of someone else, the person transferring the donation must ensure that the candidate or their election agent is given the full name and address of the individual or organisation making the donation. Failure to do so may be an offence (see Appendix A).

10.20 Where a donation is made to a local party fighting fund, this constitutes a donation to the **party** rather than to the candidate (unless the person giving the donation specifies that it is for the benefit of a particular candidate). If money donated to the fighting fund is then passed on to the candidate or used to fund their campaign, this will constitute a **further donation from the party to the candidate** and should be reported as such.

Accepting donations

10.21 Candidates and their election agents may only accept donations of more than £50 from certain individuals and organisations, known as 'permissible donors'.

10.22 The following are classified as permissible donors:

- an individual registered on a UK electoral register (including bequests)
- a Great Britain-registered political party
- a UK-registered company
- a UK-registered trade union
- a UK-registered building society
- a UK-registered friendly society
- a UK-registered limited liability partnership
- a UK-based unincorporated association
- certain kinds of trusts (see Appendix C)

10.23 Paragraph 10.29 (on verifying the source of a donation) and the paragraphs that follow provide details of how to check whether an organisation or individual is a permissible donor.

10.24 In the Commission's view, donations from registered political parties include local party branches or constituency associations.

10.25 For the avoidance of any doubt, local councils are not permissible donors. Candidates may not accept donations, including the use of council facilities at a reduced rate, from any local council.

10.26 As donations of £50 or less are not regulated under the RPA 1983, a candidate or their election agent can accept a donation of £50 or less without checking whether it is from a permissible source.

10.27 Candidates and election agents should, however, be aware of any unusual donations with a value of £50 or less, such as numerous electronic transfers of exactly £50, and ensure that these are not intended to evade the controls on donations.

10.28 All accepted donations of more than £50 must be reported within a candidate's election expenses return.

Verifying the source of a donation

10.29 In order to identify whether or not a donor is permissible, a candidate or their election agent must confirm that the individual or organisation is a permissible source as listed above.

10.30 Table 3 below outlines the criteria that a donor must meet to be permissible.

Table 3: Permissibility checks on UK donors

Type of permissible donor/lender	Register/legislation/Order under which they must be registered
Individual	Either a register of Parliamentary or local government electors maintained under the Representation of the People Act (RPA) 1983; a register of relevant citizens of the EU under the European Parliamentary Elections Regulations 2004; or a register of peers maintained under Section 3 of RPA 1985.
Company	The Companies Act 1985 or the Companies (Northern Ireland) Order 1986; incorporated within the EU; and carrying on business* in the UK.
Registered party	A register of political parties maintained by the Electoral Commission under Part II of PPERA.
Trade union	The list maintained under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992
Building society	A building society within the meaning of the Building Societies Act 1986.
Limited liability partnership	The Limited Liability Partnerships Act 2000 (or equivalent Northern Ireland legislation); and carrying on business in the UK.

Table 3 (cont.): Permissibility checks on UK donors

Type of permissible donor/lender	Register/legislation/Order under which they must be registered
Friendly, industrial or provident society	The Friendly Societies Act 1974 or the Industrial and Provident Societies Act 1965 or the Provident Societies Act (Northern Ireland) 1969.
Unincorporated association	An association of two or more people which carries on the majority of its business or other activities in the UK and whose main office is in the UK.

10.31 Further information about the meaning of ‘carrying on business’ in the case of companies, limited liability partnerships and unincorporated associations can be found in the Commission’s *Donations and loans: guidance to political parties in Northern Ireland*, which can be found on the Commission’s website www.electoralcommission.org.uk. Candidates who have questions about the permissibility of donations from companies should contact the Commission or seek independent legal advice before accepting the donation in question.

Returning donations

10.32 If a candidate or their election agent is unable to ascertain the identity of a donor or determines that the donation was impermissible, the donation must be returned within 30 days of its receipt, to one of the following:

- If the donation was transmitted by an identifiable person, it should be returned to that person.
- If the donation came via an identifiable financial institution (e.g. a bank), it should be returned to that institution.
- Otherwise, it should be sent to the Commission for payment into the Government’s Consolidated Fund.

Example: Case study – donations from unidentifiable and other impermissible sources

Examples of donations that **should not** be accepted may include:

- £100 cash received in a blank envelope from an anonymous source
- a gift of a computer from an individual who is not registered on a UK electoral roll, or
- an offer of the sponsorship of an event made by a company that is not carrying on business in the UK

10.33 All donations of more than £50 from unidentifiable or otherwise impermissible sources must be reported within a candidate's election expenses return even though they were returned.

10.34 The Commission recognises that the legislation in this area is complicated. Candidates or agents who require any further advice or guidance regarding the rules for accepting or reporting donations should not hesitate to contact the Commission.

Valuing donations

10.35 This section sets out the Commission's guidance on how election agents and candidates should value donations in accordance with the Commission's interpretation of the legislation.

Non-cash donations

10.36 Where candidates receive non-cash donations, the value of the donation must be calculated and reported.

10.37 Non-cash donations of goods or services provided to candidates for free or at a discount (such as free use of an office or the provision of stationery supplies at a 50% discount) also constitute notional expenditure and should be reported as such. See paragraph 9.50 onwards for more information about valuing the notional expenditure incurred in such transactions.

Sponsorship

10.38 Sponsorship received by a candidate or their election agent should be valued at the commercial value of the cash, goods, services or facilities provided by the sponsor. Any benefit received by the sponsor should be discounted when valuing sponsorship.

Example: Valuing sponsorship

If a sponsor provided a candidate with promotional banners free of charge, on the basis that the sponsor's name would be displayed as well, the value of the sponsorship would be the price that the supplier would normally charge to produce a banner that did not include the supplier's name.

Commercial transactions

10.39 If a candidate or their election agent receives payment for providing goods/services, but the payment exceeds the commercial value of the goods/services provided, a donation is made if the difference between the value and the payment is more than £50. The value of the donation is the difference

between the commercial value of the services provided and the amount actually received by the candidate or their election agent.

Example: Valuing a donation where payment for services provided by the candidate exceeds commercial value

If a candidate holds a fundraising dinner for which there is a charge of £100 per 'plate', but the actual cost of hosting the dinner is £40 per attendee, the value of the donation would be £60 per plate.

In this example, each person who purchased a plate would have to be a permissible donor.

11 Polling day

11.1 Polling day for the European Parliamentary elections in the UK is Thursday 4 June 2009, and polling hours are between 7am and 10pm. Details of the locations of polling stations will be confirmed by the Returning Officer in a notice to your election agent after the publication of the statement of candidates nominated.

Entitlement to attend the polling station

11.2 All candidates and election agents are entitled to enter any polling station in the electoral region during polling day. Sub-agents are entitled to visit polling stations only in the area for which they have been appointed. Your polling agents may enter only the polling station for which they have been appointed. Only one of your polling agents is allowed to enter each polling station at any time. Election agents, sub-agents and polling agents will have to satisfy the Presiding Officer of their identity by production of one of the forms of photographic identification used by voters.

Role of your polling agent

11.3 Details of the qualification criteria and appointment procedure for polling agents are outlined in Chapter 7, 'Polling agents, counting agents, tellers and observers'. In addition, each polling agent will be issued with instructions by the Returning Officer. The polling agent must comply with these instructions and with any lawful directions given by, or on behalf of, the Presiding Officer. Failure to do so is likely to result in exclusion from the polling station.

11.4 The main duties and responsibilities of polling agents during 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 to prevent people voting more than once. If a polling agent believes that a voter is guilty of that offence, the Presiding Officer should be required to ask the voter the statutory questions.⁷² The Presiding Officer has power to have such a person arrested.
- To mark off on their copy of the electoral register those voters who have applied for ballot papers. If polling agents leave the polling station during the hours of polling, their marked copy of the register must be left in the polling station in order not to breach the secrecy requirements. Failure to do so is

⁷² Rule 37, EPE Rules.

likely to result in exclusion from the polling station for the remainder of the day and in the matter being referred to the police.⁷³

- To report to their election agent or candidate any improper occurrences and retain notes for use as evidence in 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. The polling agent may attach their seal to any packets made up by the Presiding Officer, including the ballot box.

11.5 Polling agents must not give information to anyone as to who has or has not voted, or a person's electoral number, or the official mark.

11.6 At 12 noon, 5pm and 9pm, or as soon as practicable thereafter, the Presiding Officer will display a notice showing the number of ballot papers issued. The law prohibits him, or any of the polling staff, from giving this information in any other way. Asking for this information would be a breach of the instructions and would be likely to lead to exclusion from the polling station for the remainder of the day.

11.7 You and/or your election agent (or any sub-agent in their area) may do anything that a polling agent is authorised to do. However, where a polling agent is authorised to witness various aspects of the polling procedure, the procedure is not invalidated if the polling agent has not witnessed them.

Importance of secrecy

11.8 All polling agents will be given a copy of the Returning Officer's guidance and an extract of the relevant legislation about the secrecy of the poll. Any agent suspected of breaching the secrecy requirements will be reported to the police for investigation. If convicted, they could be fined up to £5,000 or sent to prison for up to six months.⁷⁴

Tellers

11.9 As noted in Chapter 7, 'Polling agents, counting agents, tellers and observers', candidates may sometimes use 'tellers' to stand outside polling places and record the electoral numbers of people who have voted. They are not allowed to enter the polling place or observe at any polling station. Tellers have no legal status in electoral law and have no right to demand that a voter gives them any information. They need to act with courtesy to avoid risk of being accused of committing the criminal offences concerning intimidation and undue

⁷³ Regulation 30, EPE Regulations.

⁷⁴ Regulation 30, EPE Regulations.

influence. Anyone suspected of these offences will be reported to the police for investigation.

11.10 Tellers are not generally used to any extent in Northern Ireland. However, if you are intending to deploy tellers, you should contact the Electoral Commission for a copy of its *Guidance for tellers*.

11.11 Voters must not in any way be impeded or obstructed on their way into or out of the polling station or polling place.

Keeping order

11.12 The Presiding Officer has a statutory duty to keep order at the polling station. All those present at any polling station must comply with the lawful instructions of the Presiding Officer. The Presiding Officer has the power to exclude any person from the polling station and in certain circumstances have them arrested. However, in exercising this power, the Presiding Officer must not prevent voters who are otherwise entitled from casting their vote.⁷⁵

⁷⁵ Rule 35, EPE Rules.

12 The count

Time and location of the count

12.1 Both the verification and counting of ballot papers for the European Parliamentary elections in June 2009 for the Northern Ireland electoral region take place at:

The King's Hall
Balmoral
Belfast BT9 6GW

12.2 Verification will take place on Friday 5 June from 9.30am and counting of ballot papers will take place from 9am on Monday 8 June.

Importance of secrecy

12.3 All those attending the counting of ballot papers, including the verification of ballot paper accounts and the receipt of postal ballot papers, must be aware of the requirement to ensure the secrecy of the ballot. All those attending these proceedings should be given a copy of Regulation 30 of the EPE Regulations, which is reproduced in Appendix B. Any person who is found guilty of breaching the requirements set out in Regulation 30 may face a fine of up to £5,000 or may be imprisoned for up to six months.

Postal votes

12.4 Returned postal votes will be placed in sealed boxes. The last box must be opened at the verification of votes. The other boxes can be opened and processed earlier provided the Deputy Returning Officer gives each election agent at least 48 hours' notice of the time and place of opening.

12.5 The only people entitled to attend at the opening of postal voters ballot boxes are:

- the Returning Officer and his staff
- you, the candidate
- your election agent, or anyone appointed by you to attend in place of your election agent
- any agent appointed by you to attend at the opening of postal voters ballot boxes (see Chapter 7, 'Polling agents, counting agents, tellers and observers' for details of appointment)
- any representative of the Electoral Commission
- any accredited electoral observers

12.6 To gain entry to the opening, candidates, election agents and persons appointed to attend the opening will be required to produce photographic identification of a type that may be used by an elector. Representatives of the Commission and accredited observers will have to show their pass.

12.7 Proceedings at the opening of postal voters ballot boxes are not invalidated if any person entitled to attend is not present.

12.8 All valid postal votes will be taken to the count venue, and will be mixed with the contents of at least one other ballot box at the count before being counted in the normal manner, as detailed below.

Verification

12.9 The only persons entitled to attend the verification of votes are:

- candidates and one guest
- the Returning Officer and his staff
- election agents
- counting agents
- representatives of the Electoral Commission
- accredited election observers

12.10 To gain entry to the verification, candidates, election agents, counting agents and guests will be required to produce photographic identification of a type that may be used by an elector. Representatives of the Commission and accredited observers will have to show their pass.

12.11 On completion of the verification of each box, the Returning Officer will seal the packet of ballot papers. Any counting agent may affix their seal to the packet.

12.12 The Returning Officer may also permit other people to attend the verification of votes at his discretion, but is not obliged to do so. The decision of the Returning Officer as to who may attend the verification is final.

Count procedure

12.13 The following people are entitled to attend the count:

- candidates and one guest
- the Returning Officer and his staff
- election agents
- counting agents
- representatives of the Electoral Commission
- accredited election observers

12.14 To gain entry to the count, candidates, election agents, counting agents and guests will be required to produce photographic identification of a type that may be used by an elector. Representatives of the Electoral Commission and accredited observers will have to show their pass.

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

12.16 The duties of your counting agents can be summarised as follows:

- to maintain and aid in maintaining the secrecy requirements
- 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 counting assistants any bad or doubtful ballot papers and to defend, if justified, every ballot paper given for their candidate to which objection is taken. However, counting agents are not permitted to handle ballot papers unless explicitly authorised to do so by the Returning Officer
- 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 agent

12.17 The Returning Officer must give your counting agents reasonable facilities for overseeing the proceedings at the count and fulfilling the various duties described above. In particular, the counting agents should be able to verify that the ballot papers are rightly sorted between the candidates. Either you or your election agent are also entitled to do anything that your counting agent is authorised to do, and you should be given the same facilities as a counting agent. Again, it is important to note that proceedings at the count are not invalidated if any person entitled to attend is not present.

The counting system

12.18 The Single Transferable Vote (STV) system is a complex one; candidates are advised to consult the relevant provisions of the EPE Rules for more details.⁷⁶

First stage

12.19 A 'stage of the count' is interpreted variously throughout the count as one of the following:

⁷⁶ Rules 52–63, EPE Regulations.

1. the process of determining the first preference vote for each candidate
2. the transfer of a surplus of a candidate deemed to be elected or
3. the exclusion of one or more candidates at any given time

12.20 The Returning Officer shall sort the ballot papers into parcels according to the candidates for whom the first preference votes are given. The numbers of first preference votes given to each candidate shall then be recorded, along with the total number of valid ballot papers.

12.21 The total number of valid ballot papers will then be divided by a number exceeding by one the number of members to be elected. As there are three members to be returned to the electoral region of Northern Ireland, the total number of valid ballot papers will be divided by four. The quota, i.e. the number of votes sufficient to secure the election of a candidate, will be equal to this number, increased by one. Any fractions in calculating the quota are disregarded.

12.22 At any stage in the count, where the total number of votes for a candidate equals or exceeds the quota, the candidate in question will be deemed to be elected.

Calculating the quota

The quota (Q) can be calculated as follows:

$$Q = \left[\frac{\text{Total number of valid ballot papers in the electoral region}}{\text{Number of members to be elected to that electoral region} + 1} \right] + 1$$

Subsequent stages

12.23 Where the first preference votes for any candidate exceed the quota, all ballot papers on which first preference votes are given for that candidate will be sorted into sub-parcels, grouped according to the next available preference given on those papers for any continuing candidate. Where no further preference is given, these papers will be grouped as a sub-parcel of non-transferable votes.

12.24 Each subsequent stage of the count will be either a transfer of a surplus from a candidate whose votes exceed the quota or the exclusion of a candidate with the least number of votes.

12.25 A candidate attaining the quota at the completion of a transfer of a surplus or at the completion of an exclusion will be deemed elected.

Last vacancies

12.26 Although the attainment of the quota secures election, it is not essential for election. Indeed, if many papers have become non-transferable, it may not be possible for each of the required number of candidates to attain the quota.

12.27 If at any stage, as the result of a proposed exclusion of one or more candidates, the number of continuing candidates would equal the number of places remaining unfilled, then such continuing candidates are deemed elected and the proposed exclusion is not affected.

Recount

12.28 On completion of each stage of the count, the Returning Officer will, before proceeding with the next stage, call on all the candidates and election agents to assemble so that he can inform them of the outcome of the stage and of his intention, subject to a request for a recount, to proceed to the next stage. Candidates and agents must attend when called: proceedings will not be delayed if they fail to do so. Candidates or their election agents may request the Returning Officer to recount the last completed stage before proceeding to the next stage. The Returning Officer is obliged to conduct one recount if requested, but may refuse further recounts. Only the most recent completed stage can be recounted.

Declaration of result

12.29 As soon as possible after the result of the count of the votes has been determined, the Returning Officer will declare the names of those who have been elected, and the order in which they were elected. He will also give public notice of the number of first preference votes for all candidates, any transfer of votes, and the total number of votes for each candidate at each stage in the count at which such transfer took place.⁷⁷

⁷⁷ Rule 60, Schedule 1, EPE Regulations.

13 After the election

Election petitions

13.1 The outcome of a European Parliamentary election can be challenged only by the issue of an election petition. The procedure for presenting an election petition is described below. An election petition can be presented by:⁷⁸

- a person who voted as an elector at the election or had a right to vote
- a person claiming to have had a right to be elected or returned at the election
- a person alleging to have been a candidate at the election

13.2 The allowable grounds for a petition are:⁷⁹

- undue election or
- undue return

13.3 The Member whose election or return is complained of must be a respondent to the petition, and if the petition complains about the conduct of the Returning Officer or his staff during the election, the Returning Officer is deemed to be a respondent.

13.4 The petition must be issued within 21 days after the day the result of the election was declared and can be issued at any time up to, but no later than, **midnight** on the last day.

13.5 However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward that has taken place since the election, or an illegal practice relating to election expenses, further time may be allowed.

13.6 Any person considering lodging a petition is strongly advised to take their own legal advice, including ensuring that the information provided below, including court fees and likely costs involved, remain accurate at the time.

Form of petition

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

- the capacity in which the petitioner or petitioners are acting
- the date and result of the election in question
- the grounds on which relief is sought
- the relief claimed

⁷⁸ Regulation 80, EPE Regulations.

⁷⁹ Regulation 79, EPE Regulations.

13.8 The petition must be presented to the Clerk of the Crown at the Royal Courts of Justice. Petitioners should contact the Clerk of the Crown at the address below for further details of how to present the petition.

13.9 The petition must be signed by each petitioner personally and three copies must be left for the Clerk of the Crown at the address below.

Costs

13.10 In addition to the fees payable on issue of the election petition, security for costs must be agreed and lodged with the relevant authority. Legal aid is not available.

Advice

Litigation of any type in the High Court can be a serious and costly procedure, and it is advisable to take specialised legal advice before pursuing this course of action.

13.11 For more detailed information on the processes to be followed in issuing an election petition, petitioners should consult the relevant legislation and contact:

The Clerk of the Crown
Royal Courts of Justice
Chichester Street
Belfast BT1 3JF

Tel: 028 9072 4699

Election expenses returns

Submitting an election expenses return

13.12 After an election, the election agent of **every candidate** must submit a return as to the election expenses of that candidate to the Returning Officer within a specified time limit.⁸⁰

13.13 Table 4 details the submission requirements for candidates and election agents at local elections. Documents must be submitted to the Returning Officer.

⁸⁰ Regulation 47, EPE Regulations.

Table 4: Documents to be submitted

Document required	Deadline for submission
Election expenses return	Within 50 days of declaration of result
Election agent's declaration	Within 50 days of declaration of result
Candidate's declaration	Within 7 days of submission of return

13.14 Downloadable copies of the required forms and explanatory notes to aid candidates and election agents to complete them can be found on the Electoral Commission's website (www.electoralcommission.org.uk). Advice on completing the forms can be obtained by telephoning the Commission on 028 9089 4025 or 028 9089 4022.

13.15 The Commission recommends that candidates or their agents keep a copy of any completed return or declarations submitted to a Returning Officer. It is also recommended that the person submitting the return and declarations ask for a receipt from the Returning Officer.

Note: It is important to note that a 'nil' return must be submitted even where no expenses are incurred.

Election expenses are not reimbursed.

Information to be included in a return

13.16 A candidate's election expenses return must include details of the following:

Spending

- all payments made
- spending by a person authorised by the election agent
- any disputed and/or unpaid claims
- notional expenditure
- a breakdown of all spending by category as described in Chapter 9, 'Election expenses' above
- personal expenses (not included in the above categories and do not count against the candidate's limit)

Donations

- the candidate's contribution from their own resources to cover their spending
- the total of all donations under £50 (but no details of the donations comprising the total)

- all permissible donations of more than £50 accepted by the candidate or their election agent (including donations from a constituency party)
- all anonymous or otherwise impermissible donations of more than £50 received by the candidate or their election agent and an explanation of the manner they were dealt with

13.17 The return must be accompanied by an invoice or receipt for any payment made of more than £20 (not including notional expenditure).

13.18 For all donations over £50, the candidate or agent must provide the name and address of the donor. For donations from registered companies, they must give the company registration number. For donations from exempt trusts, the following information should be given depending on the type of exempt trust:

Pre-1999 exempt trusts

- the date on which the trust was created
- the full name of the person who created the trust
- the full name of every person who transferred property to the trust before 27 July 1999

Permissible donor exempt trusts

- the name and registered address of the permissible donor who created the trust and, in the case of a company, the registration number
- the name and registered address of all the permissible donors who have transferred property to the trust and, in the case of a company, the registration number

Declarations

13.19 Election agents and candidates are also required to submit declarations vouching for a candidate's election expenses return.

13.20 Declarations can be downloaded from the Commission's website at www.electoralcommission.org.uk.

Appendix A – Breaches of electoral law in relation to election expenses

The relevant electoral law for European Parliamentary elections is mainly contained in the European Parliamentary Elections (Northern Ireland) Regulations 2004 (as amended), although other electoral legislation and other criminal legislation also apply. The following table sets out the list of offences (including statutory references and the individuals(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 relevant legislation.

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 offences 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.

Offence	Legislation	Who can commit	Penalty (maximum)
Provision of money or other property provided for the purpose of meeting a candidate's election expenses provided to any person other than the candidate or their election agent	Regulation 38(3) EPE Regulations	Any person	Fine not exceeding level 5 on the standard scale (currently £5,000).
Making payments in respect of election expenses other than as specified in Regulation 39(5)	Regulation 39(6) EPE Regulations	A candidate at election or any other person	Fine not exceeding level 5 on the standard scale (currently £5,000).
Incurring expenses without the written authority of the election agent (except as specified under Section 75)	Regulation 42(5) EPE Regulations	Any person who incurs, aids, abets, counsels or procures any other person to incur expenses without written authority	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.
Making a false declaration as to expenses incurred, with the written authority of the election agent	Regulation 42(5) EPE Regulations	Any person required to submit a Section 75 return and declaration	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.

Offence	Legislation	Who can commit	Penalty (maximum)
Failing to submit a return and declaration as to expenses incurred, with the written authority of the election agent	Regulation 42(5) EPE Regulations	Any person required to submit a Section 75 return and declaration	Fine not exceeding level 5 on the standard scale (currently £5,000).
Incurring expenses in excess of the legal maximum	Regulation 43(3) EPE Regulations	Candidate and/or election agent	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	Regulation 44(4) EPE Regulations	Election agent	Fine not exceeding level 5 on the standard scale (currently £5,000).
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	Regulation 44(4) EPE Regulations	Election agent	Fine not exceeding level 5 on the standard scale (currently £5,000).
Making a false declaration as to election expenses	Regulation 48(6) EPE Regulations	Candidate and/or election agent	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, 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	Regulation 49 EPE Regulations	Candidate and/or election agent	Fine not exceeding level 5 on the standard scale (currently £5,000).

Offence	Legislation	Who can commit	Penalty (maximum)
Payment of canvassers	Regulation 69 EPE Regulations	The person employing the canvasser and the person employed as a canvasser	Fine not exceeding level 5 on the standard scale (currently £5,000).
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	Schedule 4 EPE Regulations	Principal donors or any person providing a donation on behalf of another person	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, 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 4, EPE Regulations	Candidate and/or election agent	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.

Offence	Legislation	Who can commit	Penalty (maximum)
Knowingly giving the responsible person false information about donations	Section 61(2)(a), PPERA as enacted by Schedule 4, EPE Regulations	Any person	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.
Withholding information about donations from the responsible person with intent to deceive	Section 61(2)(b), PPERA as enacted by Schedule 4, EPE Regulations	Any person	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.

Appendix B – Secrecy requirements

The requirements in Regulation 30 of the European Parliamentary Elections (Northern Ireland) Regulations 2004 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. Regulation 30 is reproduced below in full, for use by candidates, election agents, polling and counting agents.

European Parliamentary Election (Northern Ireland) Regulations 2004

Requirement of secrecy

- 30 (1) The following persons –
- (a) the 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 2000 Act,
- 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 verification of the ballot paper accounts or 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 attending at the verification of the ballot paper accounts or shall express to any person an opinion based on information obtained at that verification the likely result of the election.
- (4) 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 way in which 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 way in which 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 way in which he has voted.
- (5) 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.
- (6) No person having undertaken to assist a voter with disabilities to vote shall communicate at any time to any person any information as to the way in which 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.
- (7) If a person acts in contravention of this regulation 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.

Appendix C – Glossary

Absent voting

Absent voting is the term used at elections to describe postal and proxy voting. The elector must submit an application to the appropriate Deputy Returning Officer before the statutory deadline in order to do this. The different methods of doing this are as follows:

Postal voting

Postal vote applications must be made to the appropriate Deputy Returning Officer and must state a valid reason. Valid reasons include the inability to attend the polling place due to illness, physical incapacity, absence on the day of the poll due to work commitments, holiday arrangements or an elector having moved outside the locality of their previous polling place. The deadline for postal vote applications is Thursday 14 May 2009.

Proxy voting

A proxy voter is an elector who appoints another person to vote on their behalf. The proxy must either go to the elector's allocated polling station and vote on behalf of the elector or request a postal vote (known as a postal proxy). Those wishing to make use of a proxy vote must make an application for a proxy vote and also provide the appropriate Deputy Returning Officer with a valid reason as to why they require a proxy vote. Valid reasons are the same as those applying for postal votes. The deadline is as above.

Candidates' election expenses

Any spending, including notional expenditure of more than £50, incurred on goods or services used for the purpose of a candidate's election after the date a person became a candidate.

Candidates' election expenses return

The return required to be submitted by the election agent of every candidate who has contested an election. Candidates' election expenses returns must be accompanied by declarations verifying the returns.

Commercial cost/rates

The commercial cost of goods or services is the amount they would have cost had they been purchased from a supplier in a commercial market. The commercial rate is the rate at which goods or services would have been charged if they were purchased from a supplier in a competitive market.

Date donation received

The date a candidate or their election agent takes possession of a donation. If the donation is transferred electronically, the donation is deemed to have been received on the date the candidate is notified of the payment.

Disputed claim

Any claim for payment that is received by a candidate or agent within 21 days of the date the election result is declared but which is not paid within 28 days of the date the election result is declared.

Election agent

The election agent is the person responsible to the candidate and in law for the proper management of the candidate's campaign. In particular, the election agent is responsible for the financial management of the election campaign and for ensuring that a candidate's election expenses returns and the accompanying declarations are properly completed and delivered within the specified time.

A candidate must appoint an election agent, but they may act as their own agent. If an agent is not appointed by the statutory deadline, the candidate is deemed to be their own election agent.

Election literature

For the purposes of this guidance, election literature refers to any election campaign publicity material (see Chapter 8, 'Your election campaign' for further details).

Exempt trust donation

A donation from the trustee of any trust that was:

- (i) created before 27 July 1999
- (ii) to which no property has been transferred on or after that date and
- (iii) whose terms have not been varied on or after that date

or

- (i) created by a person who was a permissible donor at the time when the trust was created, or created by the will of a person who was a permissible donor at the time of their death and
- (ii) to which no property has been transferred except by a person who was a permissible donor at the time of the transfer

provided that (in the case of either type of exempt trust) the donation has not been made by the exercise of any discretion which is vested by the trust in the trustee or any other person.

Petty expenses

These include costs incurred on telephone and internet costs, postage and stationery.

Registered party

A party registered under Part II of PPERA, i.e. any party on the Great Britain and/or Northern Ireland register of political parties.

Regulated period

The period from the date a person becomes a candidate until the date of the poll (this is not a statutory term).

UK-based unincorporated association

Any unincorporated association of two or more persons which does not fall within any other category of permissible donor but which carries on business or other activities wholly or mainly in the UK and whose main office is in the UK.

UK-registered building society

A building society within the meaning of the Building Societies Act 1986.

UK-registered company

A company registered under the Companies Act 1985 or Companies (Northern Ireland) Order 1986 which is incorporated within the UK or another European Union state and which carries on business in the UK.

UK-registered friendly society

A friendly society registered under the Friendly Societies Act 1974 or a society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.

UK-registered limited liability partnership

A limited liability partnership registered under the Limited Liability Partnerships Act 2000, or any corresponding enactment in force in Northern Ireland, which carries on business in the UK.

UK-registered trade union

A trade union entered in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992.

Appendix D – Disqualifications for being a Member of the European Parliament

Section 10 of the European Parliamentary Elections Act 2002 (as amended) gives details of who may and who may not be a candidate at the European Parliamentary elections. Section 10 is reproduced below in full and candidates must be aware of the following text before they sign their consent to nomination.

European Parliamentary Elections Act 2002 (as amended)

Entitlement to be MEP

Section 10. Disqualification

- (1) A person is disqualified for the office of MEP if:
 - (a) he is disqualified for membership of the House of Commons.
- (2) But a person is not disqualified for the office of MEP under subsection (1)(a) merely because:
 - (a) he is a peer,
 - (b) he is a Lord Spiritual,
 - (c) he holds an office mentioned in section 4 of the House of Commons Disqualification Act 1975 (c24) (stewardship of the Chiltern Hundreds etc.), or
 - (d) he holds any of the offices described in Part 2 or 3 of Schedule 1 to that Act which are designated by order of the Secretary of State for the purposes of this section.
- (3) A citizen of the European Union who is resident in the United Kingdom or Gibraltar is not disqualified for the office of MEP under subsection (1)(a) merely because he is disqualified for membership of the House of Commons under section 3 of the Act of Settlement (12&13 Will 3 c.2.) (disqualification of persons, other than qualifying Commonwealth citizens and Republic of Ireland citizens, who are born outside Great Britain and Ireland and the dominions).
- (3A) A Commonwealth citizen who is resident in Gibraltar and who:
 - (a) does not, under the law of Gibraltar, require a permit or certificate to enter or remain there, or

(b) for the time being has (or is by virtue of any provision of the law of Gibraltar to be treated as having) a certificate of permanent residence issued under the Immigration Control Ordinance,

is not disqualified for the office of MEP under subsection (1)(a) merely because he is disqualified for membership of the House of Commons under section 3 of the Act of Settlement (12&13 Will 3 c 2) (disqualification of persons, other than qualifying Commonwealth Citizens and Republic of Ireland citizens, who are born outside Great Britain and Ireland and the dominions).

(3B) But subsection (3A)(a) does not cause a person to be qualified for the office of MEP if he does not require a permit or certificate to enter Gibraltar by virtue only of section 14(1) of the Immigration Control Ordinance (certain exemptions from requirement of permit or certificate).

(4) A person is disqualified for the office of MEP for a particular electoral region if, under section 1(2) of the House of Commons Disqualification Act 1975 (c. 24), he is disqualified for membership of the House of Commons for any parliamentary constituency wholly or partly comprised in that region.

(4A) The Secretary of State may by order make such other provision as he thinks appropriate for persons of a description connected to Gibraltar (including any description of persons who are disqualified for membership of the Gibraltar House of Assembly) to be disqualified from the office of MEP.

(4B) The Secretary of State must consult the Electoral Commission before making an order under subsection (4A).

(5) A person who:

(a) is a citizen of the European Union, and

(b) is not a Commonwealth citizen or a citizen of the Republic of Ireland,

is disqualified for the office of MEP if he is disqualified for that office through a criminal law or civil law decision under the law of the member state of which he is a national (and in this subsection “criminal law or civil law decision” has had the same meaning as in Council Directive 93/109/EC).

(6) If a person who is returned as an MEP for an electoral region under section 2, 3 or 5:

(a) is disqualified under this section for the office of MEP, or

(b) is disqualified under this section for the office of MEP for that region,

his return is void and his seat vacant.

(7) If an MEP becomes disqualified under this section for the office of MEP or for the office of MEP for the electoral region for which he was returned, his seat is to be vacated.

(7A) In this section “the Immigration Control Ordinance” means the Gibraltar Ordinance of that name (Ord, 1962 No 12).

(7B) The Secretary of State may by regulations amend this section if he considers it necessary or expedient to do so in consequence of developments in the law of Gibraltar relating to immigration control.

(7C) Such regulations may:

- (a) make transitional or saving provision;
- (b) make provision extending or applying to (or extending or applying only to) Gibraltar or any part of the United Kingdom.

(8) Subsection (1) is without prejudice to Article 7(1) and (2) of the Act annexed to Council Decision 76/787 (incompatibility of office of MEP with certain offices in or connected with Community institutions).

Appendix E – 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

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: Margaret Lavery, The Electoral Commission, Seatem House, 28–32 Alfred Street, Belfast BT2 8EN; Tel: 028 9089 4022; Fax: 028 9089 4026; Email: mlavery@electoralcommission.org.uk

The form is also available online at: www.electoralcommission.org.uk

NI 2009

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