

Guidance for registered
political parties,
candidates and agents

The
Electoral
Commission



Guidance on standing for election to the European Parliament

European Parliamentary elections in
Great Britain, 4 June 2009

Translations and other formats

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1 Introduction

1.1 A key aspect of the Electoral 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.

1.2 We issue **separate guidance on election finance and donations** for political parties and for candidates standing in the European Parliamentary election, and this is available on our website or in hard copy on request.

1.3 It is also our role to provide advice and guidance to anyone who wants to stand for election. This guidance covers the whole election process from nominations to the declaration of the result for the European Parliamentary elections in Great Britain on 4 June 2009, and includes relevant factual material as well as a guide to sources of further information.

1.4 Standing for election can be a complicated business. However, the purpose of this guidance is to help to make it as straightforward as possible.

How to use this guide

1.5 This guide aims to provide practical advice to anyone who wants to stand in the European Parliamentary elections in Great Britain on 4 June 2009.

1.6 This guidance covers each of the main steps towards standing in a European Parliamentary election. It is designed for:

- registered political parties
- candidates on registered political party lists
- the agents and supporters of political parties and their candidates
- individual candidates (i.e. those not standing for a political party)
- the agents and supporters of individual candidates

1.7 General advice in the main text of the guide is supplemented by references to the relevant legislation in footnotes. This advice is intended to complement rather than replace or replicate other sources of information produced by political parties, Regional Returning Officers, Local Returning Officers, electoral administrators or others.

1.8 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 the Commission cannot accept 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.

1.9 This guide is only for use at the European Parliamentary election on 4 June 2009 in Great Britain. The Commission, in conjunction with the Electoral Office for Northern Ireland, has developed separate guidance for those wishing to stand for election to the European Parliament in Northern Ireland, which is available to download from our website. The Commission has also produced a guide for those standing at the local government elections in England that are also scheduled to take place on 4 June 2009, which is available from our website or in hard copy.

Background

1.10 Elections to the European Parliament are scheduled to take place between 4 and 7 June 2009 across the 27 member states of the European Union. In the UK, the election will take place on **Thursday 4 June 2009**, and the results will be announced not earlier than **9pm on Sunday 7 June 2009**, when polls have closed across the European Union.

1.11 On 4 June 2009 there are also scheduled local government elections taking place in parts of England.

The Electoral Commission

1.12 The Commission is an independent statutory body established in November 2000 following the commencement of the Political Parties, Elections and Referendums Act 2000 (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.

1.13 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 national 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 national election and, if requested, on any other electoral matter. The Commission also accredits observers to be present at election proceedings.

1.14 The Commission has primary responsibility for providing advice and assistance on electoral matters to all those involved in elections, including Regional and Local Returning Officers, Electoral Registration Officers, electoral administrators, political parties and candidates. Although the first point of contact for candidates and agents seeking advice and guidance should be the appropriate Regional Returning Officer and their election team, Commission staff will be happy to provide advice on any matter discussed in this guide.

Contact information

Devolved and English offices

1.15 The first point of contact for any queries for the Commission should be directed to the appropriate regional or devolved office covering the European Parliamentary electoral region, as appropriate.

Scotland Office

Tel: 0131 225 0208

Email: infoscotland@electoralcommission.org.uk

Wales Office

Tel: 029 2034 6803

Email: infowales@electoralcommission.org.uk

London Office

Tel: 020 7271 0689

Email: london@electoralcommission.org.uk

Midlands Office

Tel: 02476 820092

Email: midlands@electoralcommission.org.uk

North of England Office

Tel: 01904 567993/4

Email: north@electoralcommission.org.uk

South of England Office

Tel: 020 7271 0660

Email: south@electoralcommission.org.uk

South West Office

Tel: 01392 332878

Email: southwest@electoralcommission.org.uk

Relevant legislation

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

Table 1: Abbreviations of Acts and Regulations

Full title	Abbreviation
Representation of the People Act 1983	RPA 1983
Representation of the People Act 1985	RPA 1985

Table 1 (cont.): Abbreviations of Acts and Regulations

Full title	Abbreviation
Political Parties, Elections and Referendums Act 2000	PPERA
Electoral Administration Act 2006	EAA
European Parliamentary Elections Act 2002	EPE Act
The European Parliamentary Elections Regulations 2004 (as amended by the European Parliamentary Elections (Amendment) Regulations 2009)	EPE Regulations
Schedule 1 of The European Parliamentary Elections Regulations 2004 (as amended by the European Parliamentary Elections (Amendment) Regulations 2009)	EPE Rules

The electoral framework

The electoral system

1.17 Members of the European Parliament (MEPs) representing the UK are elected under a form of closed list proportional representation. Electors can vote for either a registered political party with a list of candidates or for an individual candidate. Ballot papers are marked by placing a single 'X' in the appropriate box.

1.18 Seventy-two MEPs will be elected to represent the UK: 59 for England, 6 for Scotland, 4 for Wales and 3 for Northern Ireland.¹ Table 2 sets out how many MEPs will be elected to represent each electoral region in Great Britain.

Table 2: MEPs to be elected in each region

Electoral region	Number of MEPs
Scotland	6
Wales	4
East Midlands	5
Eastern	7
London	8
North East	3
North West	8

¹ Section 1, EPE Act.

Table 2 (cont.): MEPs to be elected in each region

Electoral region	Number of MEPs
South East	10
South West	6
West Midlands	6
Yorkshire & the Humber	6

Calculating the allocation of seats within an electoral region

1.19 In Great Britain, the seats within each region are allocated following a calculation carried out using the d'Hondt formula. This calculation sees the seats in each electoral region distributed in a way which is approximately proportionate to the number of votes cast for each party or individual candidate. For further explanation of this process, including a worked example, see Chapter 5, 'The poll and count', 'Seat allocation'.

Election timetable

1.20 Polling day for the European Parliamentary election in the UK is Thursday 4 June 2009. The election timetable is prescribed in law and key dates are given in Table 3. 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. **Regional and Local Returning Officers have no discretion to extend any deadline for any reason.**

1.21 Election timetables are generally calculated by excluding *dies non*, which are Saturday, Sunday, Good Friday and any other bank holiday.² 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.

Note: It is important to remember that the election timetable was changed in 2006. These changes include:

- the last date to register as an elector (now 11 working days before the poll)
- the last day for requests for a new postal vote (now 5pm, 11 working days before the poll)
- a new provision allowing for applications to vote by proxy on the grounds of medical emergencies after the deadline for standard proxy applications (up until 5pm on polling day)
- the last time to apply for replacements for lost or spoilt postal ballots (now 5pm on polling day)

² Please note that Maundy Thursday is no longer a *dies non*.

Table 3: Timetable for European Parliamentary elections in Great Britain, Thursday 4 June 2009

Event	Date
Deadline for completed application to be received by the Commission for registration of new political parties intending to field candidates at the election, to ensure that registration is completed on time	Thursday 2 April
Notice of election to be published not later than	Tuesday 28 April
Delivery of nomination papers	On any working day after notice of election is published, between 10am and 4pm
Deadline for delivery of nomination papers	4pm on Thursday 7 May
Deadline for making objections to nomination papers delivered on or before Wednesday 6 May	12 noon on Thursday 7 May
Deadline for making objections to nomination papers delivered on Thursday 7 May	5pm on Thursday 7 May
Deadline for withdrawal of nomination	4pm on Thursday 7 May
Deadline for notice of appointment of election agents	4pm on Thursday 7 May
Publication of statement of parties and individual candidates nominated and notice of poll/situation of polling stations	5pm on Thursday 7 May (if no objections are made) Not later than 4pm on Friday 8 May (if objections are made)
Last day to submit a registration application form to be included on the register of electors in order to be able to vote in the election	Tuesday 19 May
Deadline for requests to change or cancel an existing postal vote or proxy arrangement	5pm on Tuesday 19 May

Table 3 (cont.): Timetable for European Parliamentary elections in Great Britain, Thursday 4 June 2009

Event	Date
Deadline for new applications to vote by post	5pm on Tuesday 19 May
Deadline for new applications to vote by proxy (not postal proxy), except for medical emergencies	5pm on Wednesday 27 May
Last day for notice of appointment of polling and counting agents	Thursday 28 May
Last day for the appointment of sub-agents	Thursday 28 May
Polling day	7am – 10pm, Thursday 4 June
Deadline for new applications to vote by proxy on the grounds of a medical emergency	Not later than 5pm on Thursday 4 June
Verification of the ballot boxes, counting of the votes and declaration of result	To be decided by the Local Returning Officer and Regional Returning Officer. The result cannot be announced until after 9pm on Sunday 7 June
Last day for receipt of claims for election expenses	Monday 29 June if result is on Sunday or Monday
Last day for payment of claims for election expenses (e.g. bills, invoices)	Monday 6 July if result is on Sunday or Monday
Last day for the receipt of returns and declarations	Monday 27 July if result is on Sunday 7 June Tuesday 28 July if result is on Monday 8 June

Roles and responsibilities

1.22 A number of different agencies and individual officers are responsible for or concerned with the administrative aspects of European Parliamentary elections. Their roles and duties are described below.

Regional and Local Returning Officers

1.23 Responsibility for the conduct of the election is split between two Returning Officers – the Regional Returning Officer and the Local Returning Officer.

Regional Returning Officer

1.24 Each of Great Britain’s 11 electoral regions has a Regional Returning Officer, who has been appointed by the Secretary of State for Justice. The appointments for each electoral region are shown in Table 4.

Table 4: Regional Returning Officers

Electoral region	UK Parliamentary Constituency	Regional Returning Officer
Scotland	Edinburgh South	Tom Aitchison Tel: 0131 529 4980 elections@edinburgh.gov.uk
Wales	Preseli Pembrokeshire	Bryn Parry-Jones Tel: 01437 775713 glynne.morgan@pembrokeshire.gov.uk
Eastern	Huntingdon	David Monks Tel: 01480 388001 david.monks@huntsdc.gov.uk
East Midlands	Leicester East	Charles Poole Tel: 0116 2995960 Eastmidlands.RRO@leicester.gov.uk
London	Lewisham Deptford	Barry Quirk Tel: 07525 671 308 pat.parker@lewisham.gov.uk
North East	Sunderland South	Dave Smith Tel: 0191 561 1144 bill.crawford@sunderland.gov.uk
North West	Manchester Central	Sir Howard Bernstein Tel: 0161 234 4098 michelle.chard@manchester.gov.uk
South East	Southampton, Test	Mark Heath Tel: 02380 833954 Regional.Returning.Officer.SE@ southampton.gov.uk

Table 4 (cont.): Regional Returning Officers

Electoral region	UK Parliamentary Constituency	Regional Returning Officer
South West	Poole	Paul Morris Tel: 01202 633028 p.morris@poole.gov.uk
West Midlands	Birmingham, Ladywood	Stephen Hughes Tel: 0121 303 2731 yvonne_thompson@birmingham.gov.uk
Yorkshire & the Humber	Leeds Central	Paul Rogerson Tel: 0113 2476731 alex.meek@leeds.gov.uk

1.25 The Regional Returning Officer in each electoral region will be responsible for:

- the overall management of the election across the region, including agreeing effective lines of communication with Local Returning Officers
- preparing and publishing the notice of election
- all aspects of the nomination procedure
- receiving notices of appointment of election agents and sub-agents and publishing notices of such appointments
- determining the form of the ballot papers and, if the Regional Returning Officer so decides, printing and arranging the distribution of ballot papers to Local Returning Officers
- authorising the Local Returning Officer's announcement of the local count results
- calculating the results of the election within the region and allocating seats to candidates
- announcing the regional results and publishing the results of the election
- notifying the names and other details of elected MEPs to the Secretary of State

Local Returning Officer

1.26 The Local Returning Officer has the responsibility for running the election in the local counting area.³ The day-to-day work of the election is managed by the Local Returning Officer and their staff.

1.27 The Local Returning Officer is required to appoint a Presiding Officer for each polling station in the electoral area, and may appoint as many of the following staff as are needed to assist them in the conduct of the election:

- staff for the issue and receipt of postal votes
- Poll Clerks

³ The local counting area is the district, borough or unitary local authority area in England, the local authority area in Scotland and the UK Parliamentary constituency area in Wales.

- counting staff
- other staff to assist with other duties as part of the election process

1.28 It is important to note that Regional Returning Officers and Local Returning Officers and their respective staff must act impartially in their dealing with all political parties, candidates and agents at all times during the conduct of the election. Furthermore, no one employed by a Returning Officer can help a candidate ‘in or about the election’.⁴ While undertaking election duties, Regional and Local Returning Officers, although usually senior employees of the council, are not accountable to the local authority, but are independent and answerable only to the courts.

1.29 The same position applies to staff appointed by Regional and Local Returning Officers to help them run the election: any staff appointed during the election period are under the direction and control of the Regional and Local Returning Officers, irrespective of their normal employment.

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

1.31 Regional and Local Returning Officers and their staff may arrange briefings for candidates, agents and potential candidates. We strongly encourage all candidates, agents and potential candidates to attend any such sessions. Regardless of how experienced a candidate or agent may be, these meetings can still be beneficial, particularly as the legislation has changed significantly since the last European Parliamentary election. Briefings may also cover any local arrangements or policies to be adopted by the Regional and Local Returning Officers.

The Electoral Registration Officer

1.32 The Electoral Registration Officer is responsible for maintaining the register of electors. This is the person with responsibility for maintaining and supplying the electoral register and list of absent voters (postal and proxy voters). In England and Wales, the Electoral Registration Officer is normally a senior officer of the local authority and, in some instances, the Local Returning Officer and the Electoral Registration Officer may be the same person. In Scotland, the Electoral Registration Officer is normally the person who has also been appointed as Assessor.⁵

⁴ Rule 30, EPE Rules.

⁵ The only exception to this is Dundee City Council, which has appointed another senior officer of the local authority as Electoral Registration Officer.

Election staff

1.33 The day-to-day administration of the election is likely to be carried out by the election team at the local authority, working for the Local Returning Officer. This includes recruiting and training the staff needed to run the election, booking polling stations, delivering poll cards, processing postal and proxy voting applications, preparing polling station equipment and organising the counting of votes.

1.34 The Regional Returning Officer will also be supported by their local authority's election team. The Regional Returning Officer's election staff are likely to be the first and main point of contact for candidates and agents during the election.

The appointment of an election agent

1.35 The process for appointing an election agent is different depending on whether the appointment is for a registered political party standing in more than one electoral region, a registered political party standing in one electoral region, or an individual candidate, and this section is divided up accordingly.

Nominating Officer for registered political parties

1.36 The Nominating Officer, or someone on their behalf, is the only person able to submit nomination papers for registered political parties.⁶ The Nominating Officer for a party is listed on the Commission's website as part of that party's entry on the register of political parties. The Nominating Officer must either be the national election agent or election agent of the party or agree to the appointment of someone else to that position.

National election agent – registered political party standing in more than one electoral region

What they do

1.37 The national election agent is the person responsible in law for the election campaign, except for the campaign's financial management which is the responsibility of the party treasurer/registered campaigns officer, in every region in which the party is standing. National election agents are also entitled to observe various parts of the election process, including the conduct of the poll at the polling stations, postal vote opening sessions and the verification and counting of the votes.

National election agents⁷

1.38 Any registered political party standing in more than one electoral region must have a national election agent. This person must either be the registered Nominating Officer of the party or some other person with the written permission of the Nominating Officer. If the Nominating Officer is not the

⁶ Rule 6, EPE Rules.

⁷ Regulation 33, EPE Regulations.

appointed national election agent, the person appointed must⁸ produce a signed, written acceptance of the appointment.

1.39 The national election agent acts as the election agent for all of the electoral regions where the party is fielding a list of candidates. There can be only one national election agent for each party at any given time.

Appointment of national election agents for registered political parties⁹

1.40 The name, address and office address (if different) of the national election agent has to be notified in writing to the Secretary of State by the registered Nominating Officer of the party by 4pm on Thursday 7 May. The office address must be within the UK or Gibraltar. The Secretary of State will publish the details of the national election agents for all parties fielding a list of candidates in more than one electoral region.

1.41 A national election agent can have their appointment revoked. This can be done by the Nominating Officer (including revoking their own appointment) by giving notice to the Secretary of State.

1.42 In cases where the Nominating Officer is unable to act, e.g. as a result of illness, the registered party leader or, if they are also unable to act, any other registered party officer, may act as if they are the Nominating Officer for the purpose of appointments and revocations.

1.43 When a national election agent dies or has their appointment revoked, a new appointment must be made. In the case of an appointment being revoked, the new national election agent's name, address and office address (if different) should be stated on the notice to the Secretary of State.

1.44 A national election agent, once they have signed the consent to the appointment, cannot resign their post and must fulfil the duties and responsibilities of the post unless and until the appointment has been revoked, as detailed above.

1.45 If no appointment of a national election agent is made by 4pm on Thursday 7 May, the registered Nominating Officer is deemed to have appointed themselves as national election agent.¹⁰

1.46 In this guidance, any reference to the election agent should be read as a reference to the national election agent for any registered party standing in more than one electoral region.

Election agents – registered political party standing in one electoral region

Election agents

1.47 If a registered political party is standing in only one electoral region, an election agent must be appointed. The election agent is the person

⁸ Regulation 33(6), EPE Regulations.

⁹ Regulation 33, EPE Regulations.

¹⁰ Regulation 37(1)(a), EPE Regulations.

responsible in law for the election campaign, except for the campaign's financial management, which is the responsibility of the party treasurer/registered campaigns officer. The name, address and office address (if different) of the agent has to be notified to the Regional Returning Officer for that region by 4pm on Thursday 7 May.¹¹

Appointment of election agents for registered political parties¹²

1.48 The name, address and office address (if different) of the election agent has to be notified in writing to the Regional Returning Officer by the registered Nominating Officer of the party by 4pm on Thursday 7 May. The office address must be within the UK or, for the South West electoral region, in the UK or Gibraltar. The Regional Returning Officer will publish the details of the election agent in the electoral region. If the Nominating Officer is not the appointed election agent, the person appointed must¹³ produce a signed, written acceptance of the appointment.

1.49 An election agent can have their appointment revoked. This can be done by the Nominating Officer (including revoking their own appointment) by giving notice to the Regional Returning Officer.

1.50 In cases where the Nominating Officer is unable to act, e.g. as a result of illness, the registered party leader or, if they are also unable to act, any other registered party officer, may act as if they are the Nominating Officer for the purpose of appointments and revocations.

1.51 When an election agent dies or has their appointment revoked, a new appointment must be made. In the case of an appointment being revoked, the new election agent's name, address and office address (if different) should be stated on the notice to the Regional Returning Officer.

1.52 An election agent, once they have signed the consent to the appointment, cannot resign their post and must fulfil the duties and responsibilities of the post unless and until the appointment has been revoked, as detailed above.

1.53 If no appointment of an election agent is made by 4pm on Thursday 7 May, the registered Nominating Officer is deemed to have appointed themselves as election agent.¹⁴

Sub-agents for registered political parties¹⁵

1.54 An election agent can appoint a deputy to assist them in their work. Such deputies are known as sub-agents. Their name, address and office address must be given in writing by the election agent to the Regional Returning Officer and the office address must be within the UK or, for the South West

¹¹ Regulation 33(2), EPE Regulations.

¹² Regulation 34, EPE Regulations.

¹³ Regulation 34(6), EPE Regulations.

¹⁴ Regulation 37(1)(b), EPE Regulations.

¹⁵ Regulation 35, EPE Regulations.

region, in the UK or Gibraltar. The deadline for appointing a sub-agent is 28 May 2009.

1.55 A sub-agent can be appointed to act for a whole electoral region or for a specified part of an electoral region, e.g. a local authority area. Sub-agent areas must not overlap, however, as there cannot be two or more sub-agents for the same particular area. The sub-agent acts as the election agent for the area to which they are appointed.

1.56 Actions carried out by the sub-agent are deemed to have been done by the election agent. The election agent should therefore take care in the appointment of any sub-agents as the election agent may be liable for any unauthorised activities carried out by the sub-agent if they are within the scope of the election agent's authority.

1.57 An election agent can revoke the appointment of any of their sub-agents and new appointments can be made by the same process. Similarly, if a sub-agent dies, a new sub-agent can be appointed. The appropriate Regional Returning Officer should be notified in writing of any changes made to sub-agent personnel. The name and address of each sub-agent will be published by the Regional Returning Officer.

1.58 The death of the election agent or the revocation of the election agent's appointment does **not** affect the appointment of a sub-agent.

Election agents – individual candidates

What they do

1.59 The election agent is the person responsible in law for the proper management of the election campaign, which includes the financial management of the campaign. Election agents are also entitled to observe various parts of the election process, including the conduct of the poll at the polling stations, postal vote opening sessions and the verification and counting of the votes.

Election agent

1.60 Each individual candidate must appoint an election agent. This must be done by **4pm on Thursday 7 May**. If no appointment is made by that time, the candidate is deemed to be their own election agent. Each individual candidate can only appoint one election agent at any given time, and that election agent acts for the candidate across the whole of the electoral region.

Appointment of election agent¹⁶

1.61 To appoint the election agent, the individual candidate or someone on their behalf must apply in writing to the Regional Returning Officer, giving the name and address of the election agent and their office address, which must be within the UK or, for the South West region, in the UK or Gibraltar.

¹⁶ Regulation 38, EPE Regulations.

1.62 The election agent must agree to the appointment in writing, by signing an acceptance on the same notice that the candidate signs to make the appointment or on a separate acceptance notice.

1.63 The individual candidate may revoke the appointment of an election agent. This can be done in writing to the Regional Returning Officer.

1.64 When an election agent dies or has their appointment revoked, a new appointment must be made. In the case of an appointment being revoked, the new election agent's name, address and office address (if different) should be stated on the notice.

1.65 An election agent, once they have signed the consent to the appointment, **cannot resign their post** and must fulfil the duties and responsibilities of the post unless and until the appointment has been revoked, as detailed above.

Sub-agents for individual candidates¹⁷

1.66 An election agent can appoint a deputy to assist them in their work. Such a deputy is known as a sub-agent. Their name, address and office address must be given in writing by the election agent to the Regional Returning Officer, along with a description of the area they are appointed to. The office address must be within the UK or, for the South West electoral region, in the UK or Gibraltar. The deadline for appointing a sub-agent is 28 May 2009.

1.67 The sub-agent can be appointed to act for the whole electoral region or for a specified part of the electoral region, e.g. a local authority area. Sub-agent areas must not overlap, however, as there cannot be two or more sub-agents for the same particular area. The sub-agent acts as the election agent for the area to which they are appointed.

1.68 Actions carried out and expenditure incurred by the sub-agent are deemed to have been done by the election agent. The election agent should therefore take care in the appointment of any sub-agents as the election agent may be liable for any unauthorised activities or spending carried out by the sub-agent if they are within the scope of the election agent's authority.

1.69 An election agent can revoke the appointment of any of their sub-agents and new appointments can be made by the same process. Similarly, if a sub-agent dies, a new sub-agent can be appointed. The appropriate Regional Returning Officer should be notified in writing of any changes made to sub-agent personnel. The name and address of each sub-agent will be published by the Regional Returning Officer.

1.70 The death of the election agent or the revocation of the election agent's appointment does **not** affect the appointment of a sub-agent.

¹⁷ Regulation 39, EPE Regulations.

Effect of agent's office address

1.71 The office address of any election agent or sub-agent for any registered political party candidates or individual candidate is where any claims, notices, legal process and other documents can be sent.

1.72 The address also determines the jurisdiction should any agent be subject to legal action.



Description of election agents

In this guide, the term 'election agent' will be used to refer to a national election agent, an election agent for a registered political party and an election agent for an individual candidate.

The term 'election agent' or 'agent' should also be read as referring to any sub-agents appointed to act on behalf of the election agent.

Polling agents, counting agents, postal voting agents and tellers

General

1.73 Election agents, sub-agents or those authorised in writing by an election agent or sub-agent to make the appointments on their behalf may make the appointments of polling agents, counting agents and postal voting agents.¹⁸ However, there is no requirement to appoint any polling, counting and postal voting agents.

1.74 The appointments are required to be made to each individual Local Returning Officer within the region or regions that the party or individual candidate is standing.

1.75 Anybody apart from officials employed by the Returning Officer can be appointed to act as polling, counting and postal voting agents. Candidates can also act as their own polling, counting or postal voting agent.¹⁹

1.76 Polling, counting and postal voting agents are required to maintain the secrecy of voting, and are subject to the important legal requirements relating to secrecy contained in Regulation 29 of the EPE Regulations. These are reproduced in this guide in Appendix B.

Polling agents

What does a polling agent do?

1.77 The main duties and responsibilities of polling agents on polling day are summarised below:

¹⁸ Rule 33, EPE Rules; Paragraph 45, Schedule 2, EPE Regulations.

¹⁹ Rule 33(8), EPE Rules; Paragraph 45(6), Schedule 2, EPE Regulations.

- To be present at their designated polling station before the opening of the poll to observe the Presiding Officer showing the empty ballot box prior to sealing.
- To detect personation and prevent people from voting more than once at the same election. Voters believed to have committed the offence of personation or who attempt to vote twice should be challenged before they leave the polling station. To do this effectively, the polling agent should require the Presiding Officer to put the statutory questions to the elector before they are issued with a ballot paper.
- To report to their election agent any improper occurrences and retain notes for use in giving evidence to a court, if required.
- To be present when the Presiding Officer marks ballot papers at the request of electors.
- To be present at the close of poll when the various packets of documents are sealed. **At the close of poll only**, the polling agent may attach their seal to any packets made up by the Presiding Officer, including the ballot box.²⁰ (Please note that polling agents' seals **cannot** be attached to ballot boxes at the commencement of or during the poll.)
- To maintain the secrecy of the ballot. Polling agents must not give information to anyone as to who has or has not voted, or a person's elector number, or the official mark. Although polling agents may mark off on their copy of the register of electors those voters who have applied for ballot papers, if they leave the polling station during the hours of polling, their marked copy of the register must be left in the polling station in order not to breach the secrecy requirements.

1.78 An election agent can also do any of the things that a polling agent is authorised to do.²¹ However, just because a polling agent is entitled to witness various aspects of the polling procedure, the procedure is not invalidated if they have not witnessed it.²²

1.79 Any number of people may be appointed as a polling agent to attend any particular polling station, although only one polling agent for each registered political party or individual candidate will be allowed into a particular polling station at any time.²³ A person may be appointed as a polling agent for more than one polling station.

Appointment of polling agents

1.80 To appoint any polling agents, the Local Returning Officer must be notified in writing of the names and addresses of the polling agents by not later than Thursday 28 May 2009.²⁴ Polling agents do not need to sign an acceptance of their appointment.

²⁰ Rule 49(1), EPE Rules.

²¹ Rule 33(9), EPE Rules.

²² Rule 33(11), EPE Rules.

²³ Rule 36(3), EPE Rules.

²⁴ Rule 33(4), EPE Rules.

Counting agents

What does a counting agent do?

1.81 The main role of a counting agent is to observe the verification and counting process and to ensure that it is undertaken in an orderly, accurate and correct manner. The verification and counting processes may be held on different days. There is no separate appointment for verification agents, and counting agents are entitled to observe at the verification process as well as attend the counting of the votes. Counting agents are there to observe the proceedings and cannot participate directly in the administration of the verification or counting processes; e.g. counting agents must not handle the ballot papers.

1.82 Additional duties and responsibilities of counting agents include:

- to observe the verification of the number of ballot papers in each ballot box against the ballot paper account
- to challenge any ballot paper that appears doubtful so that it is adjudicated by the Local Returning Officer

1.83 One counting agent per party or individual candidate may also be authorised to ask for a recount of the votes at the time of the provisional result. The appointment of a registered political party's or individual candidate's counting agents should indicate which one of their counting agents, if any, has been given this additional power. Only one such counting agent per party or individual candidate, per local counting area, may be given this additional power.

1.84 The Local Returning Officer will decide the maximum number of counting agents that each election agent will be allowed to appoint. This will be no fewer than:

- at the verification, the number of assistants employed at the verification divided by the total number of registered parties and individual candidates standing in the electoral region, unless there are special circumstances
- at the count, the number of assistants employed at the count divided by the total number of registered parties and individual candidates standing in the electoral region, unless there are special circumstances²⁵

1.85 This figure should ensure that every assistant at the verification and the count will be observed by at least one counting agent irrespective of which registered political party or individual candidate they are acting for. All registered political parties and individual candidates will be allowed to appoint exactly the same number of counting agents to attend at the verification and the count. The Local Returning Officer will normally advise candidates and election agents of the maximum number of counting agents allowed soon after the close of nominations.

²⁵ Rule 33(3), EPE Rules.

Appointment of counting agents

1.86 To appoint any counting agents, the Local Returning Officer must be notified in writing of the names and addresses of counting agents by not later than Thursday 28 May 2009. If one of the counting agents is to be given the additional power to ask for a recount, that fact should be clearly marked on the notice.

Postal voting agents

1.87 Postal voting is where electors decide to vote by post rather than voting in person at a particular polling station. Anyone is allowed to choose to vote this way if they wish. The elector will be sent their ballot paper by post and can return it by post from anywhere in the world and free of charge within the UK. The completed postal ballot pack can also be delivered by hand to the Local Returning Officer's office or to a polling station in the Local Returning Officer's area.

1.88 A Code of conduct for political parties, candidates and canvassers on handling postal vote applications and postal ballot papers has been agreed with a number of the larger political parties. A copy of this Code of conduct is reproduced in Appendix D.

What does a postal voting agent do?

1.89 Postal voting agents can observe the opening of postal voting ballot boxes containing returned postal votes. They can observe the opening and verification of the returned postal ballot packs and can object to any postal vote that is rejected due to the postal voting statement being rejected.



The administration of postal votes has changed following the introduction of the EAA, adding further security to the process. This includes:

- The postal voter must give their date of birth and, unless they have successfully applied to waive this requirement, sign a postal voting statement.
- The checking of at least 20% of all returned postal ballots in each postal ballot box to check the signature and date of birth against those previously collected during the application stage.
- The introduction of new offences and higher maximum sentences on conviction for offences relating to absent voting (see Appendix A).

1.90 The Local Returning Officer will decide on the maximum number of postal voting agents that each election agent may appoint. The Local Returning Officer will also give at least 48 hours' notice 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 that can be appointed.

1.91 The Local Returning Officer must be notified in writing of the names and addresses of any agents appointed before the time fixed for the opening of the postal ballot box.²⁶

1.92 While agents can observe the opening of postal votes, they are not entitled to attend the issue of postal votes.

Tellers

1.93 Guidance for tellers has been developed which is designed to be used by the Local Returning Officer in conjunction with local arrangements in that area. The full guidance can be found in Appendix C. Registered political parties and individual candidates should ensure that any of their supporters acting as tellers abide by any decisions regarding their conduct made by the Local Returning Officer or the Presiding Officer at the polling station.

Attendance at the allocation of the seats

1.94 The Regional Returning Officer will calculate and declare the result of the election for the electoral region at the allocation of the seats. The list of those who are entitled to attend is in Chapter 5, 'The poll and count'. There is no legal deadline for appointing those entitled to attend on behalf of or as guests of eligible people; however, early appointment of these people may prevent a long waiting time as there may be tight security at the entrance to the allocation.

Electoral observers

1.95 Electoral proceedings may be observed by representatives of the Commission and by observers accredited by the Commission.²⁷

1.96 Representatives of the Commission are entitled to observe the working practices of the election 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 (not including political parties) may apply to the Commission to be accredited to observe the proceedings at the issue and receipt of postal ballot papers, the poll and the counting of the votes.

1.97 Electoral observation is a legitimate and valuable part of the electoral process and care should be taken not to hinder or obstruct the conduct of the observation. Electoral Registration Officers and Returning Officers are 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.²⁸

1.98 Accredited observers and Commission representatives may ask questions of any candidate or agent, electoral staff and electors. Accredited

²⁶ Paragraph 45(2), Schedule 2, EPE Regulations.

²⁷ Sections 6A–6F, PPERA.

²⁸ Section 6E, PPERA.

observers will have a silver photographic identity badge and Commission representatives a pink photographic identity badge.

1.99 More information on observers, including the Code of practice for observers, can be found on the Commission's website.²⁹

²⁹ www.electoralcommission.org.uk/elections/electoral_observers

2 Running for election

Qualifications and disqualifications

2.1 In order to be eligible to stand for election, whether as a candidate on a registered party list or as an individual candidate, a person must be qualified to stand and not be disqualified.

Qualifications required for candidature

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

- have attained the age of at least 18 years **and**
- be a British citizen, a qualifying Commonwealth citizen, or a citizen of any other member state of the European Union³⁰

2.3 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 Gibraltar³¹

2.4 A citizen of a member state of the European Union who is not also a British, Irish or Commonwealth citizen (Cyprus and Malta) is only qualified if their home address is within the UK.³²

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

2.5 A candidate who is a national of a member state of the European Union but who is 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 must complete a declaration stating:

- their nationality
- their full home address in the UK

³⁰ Section 10, EPE Act.

³¹ 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.

³² Section 10(3), EPE Act.

- that they 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 they were last registered to vote in the locality or constituency in the member state

2.6 Any candidate who is required to complete the declaration above must also supply a certification from the authorities in their member state stating that:

- they 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

2.7 This certification may take some time to obtain and so should be applied for as soon as possible. The Regional Returning Officer cannot make any exceptions for certificates that cannot be obtained or are not received in time to be submitted with the nomination and consent forms by 4pm on Thursday 7 May 2009.

Disqualifications from standing as a party list candidate or individual candidate

2.8 Certain persons are disqualified from standing for election to the European Parliament.

2.9 The disqualifications which prevent a person standing for election as an MEP are similar to the disqualifications which prevent a person standing for election as a Member of the UK Parliament, although certain of those disqualifications are **not** applicable at European Parliamentary elections. A person is not disqualified from being an MEP by:³³

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

2.10 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.

2.11 Additionally, a person is disqualified if:

³³ 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,³⁴ or
- their estate has been sequestrated by a court in Scotland and they have not been discharged,³⁵ or
- they are adjudged bankrupt by a court in Northern Ireland,³⁶ or
- they are bankrupt under the law of Gibraltar³⁷

2.12 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.

2.13 A person is not allowed to stand for election as an MEP if they are a Member of the UK Parliament.³⁸ 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.³⁹

2.14 If any person has any doubt regarding their qualification or disqualification for standing to be elected as an MEP, it is strongly advised that they seek their own legal advice.

Nomination

Getting nominated

2.15 In order to become nominated, a set of nomination papers will need to be completed and submitted to the Regional Returning Officer by 4pm on Thursday 7 May. The Regional Returning Officer has no discretion over this deadline and cannot extend it for any reason, and so any nomination paper delivered late will not be accepted.

2.16 Nomination papers can only be delivered between the hours of 10am and 4pm on any working day after the date the notice of election is published. It is advisable to contact the Regional Returning Officer before making delivery as they can confirm the exact arrangements as to where nomination papers can be delivered. Additionally, the Regional Returning Officer may arrange an appointment to carry out an informal check of the nomination paper prior to it being submitted, in order to highlight any errors on the paper which can then be corrected prior to formal submission.

2.17 It is advisable to submit a set of nomination papers as early as possible so that there is time to submit a fresh one if the first contains a mistake and is invalid.

³⁴ Section 426A, Insolvency Act 1986.

³⁵ Section 427, Insolvency Act 1986.

³⁶ Section 427, Insolvency Act 1986.

³⁷ Article 3(a), European Parliament (Disqualification) (United Kingdom and Gibraltar) Order 2008.

³⁸ Article 5, Decision of the Council of the European Community (76/787) ECSC, EEC, Euratom, as amended by Council Decision 2002/772/EC, Euratom.

³⁹ Section 10(4), EPE Act; Section 1(2), House of Commons Disqualification Act 1975.

The nomination paper

2.18 There is no prescribed form of nomination paper but the information a nomination paper must contain is prescribed and must be provided in full. The Regional Returning Officer will produce a nomination paper for use. Early contact should be made with the Regional Returning Officer to arrange collection of the blank nomination papers and any other guidance as soon as they are made available.

2.19 Please note that it is a serious offence to make a false statement in a nomination paper. This corrupt practice can lead to a penalty on conviction of imprisonment for up to one year and/or a fine.⁴⁰

Nomination of registered political parties⁴¹

2.20 A registered political party wishing to nominate a list of candidates to contest the election in an electoral region must complete a nomination paper.

2.21 The nomination paper must:

- state in full the party name as registered with the Commission
- include a statement that the party is nominated by or on behalf of the Nominating Officer of the party, and be signed by the person making that statement
- include a valid list of candidates for the party in the region (further explanation of this is provided below)

2.22 The nomination must be accompanied by a valid deposit. Further information on the required deposit and methods of payment can be found below.

2.23 The nomination paper may, if desired, contain a party description to be used on the ballot paper in addition to and following the party name. Parties can register up to 12 descriptions with the Commission, and any description provided must match exactly one of these descriptions.⁴²

2.24 In Wales, any party name in English or Welsh can be used along with the Welsh or English language translation of the party name if the translation is also registered with the Commission. If a description is to be used in addition to and following the party name, any description of the party registered with the Commission and, if requested, a translation of the description as registered with the Commission can be used.

2.25 In England and Scotland, nominations may only be submitted in English. In Wales, nominations can be submitted in English or Welsh. Nomination papers cannot be translated into any other language.

⁴⁰ Regulations 27 and 109, EPE Regulations.

⁴¹ Rule 6, EPE Rules.

⁴² Rules 6(2) and (3), 15(2), 22(2) and (5), EPE Rules.

2.26 A nomination paper can be resubmitted. The later delivered nomination paper will supersede and replace the earlier delivered one. This should also be delivered with a new list of candidates (see ‘Withdrawal of nominations and replacement of candidates’ in this chapter).

Nomination of registered political parties – list of candidates⁴³

2.27 The list of candidates which must accompany the nomination paper must:

- list the candidates
- not exceed the number of MEPs to be elected in the electoral region
- give the full names and, if desired, any commonly used names (see below) of each candidate
- give the full home address of each candidate

2.28 Seats won by a party will be allocated to the candidates in the order that they are listed; the person listed first on the list will be declared elected if and when the first seat is allocated to the party; the person listed second will receive any second seat allocated to the party; and so on. Nominating Officers should bear this fact in mind when submitting their party’s list of candidates.

2.29 A party list of candidates can be resubmitted. This can only be done by resubmitting both the nomination paper and list of candidates together. The later delivered nomination paper and party list will supersede and replace the earlier delivered ones (see ‘Withdrawal of nominations and replacement of candidates’ in this chapter).

Nomination of individual candidates⁴⁴

2.30 An individual candidate wishing to be nominated to stand for election to the European Parliament in an electoral region must complete a nomination paper.

2.31 The nomination paper must:

- give the full name (surname first and then any other names) of the individual candidate and, if desired, any commonly used names to be used on the ballot paper (see below)
- give the candidate’s full home address
- be signed by the individual candidate themselves or by a person authorised in writing by the individual candidate to sign the nomination paper on their behalf
- give a description of ‘Independent’ (and/or ‘Annibynnol’ in Wales), or give no description

2.32 The nomination must be accompanied by a valid deposit. Further information on the required deposit and methods of payment can be found below.

⁴³ Rule 7, EPE Rules.

⁴⁴ Rule 4, EPE Rules.

2.33 If a candidate wishes to use a description other than Independent or Annibynnol, it is necessary to register a political party with the Commission, details of the process for which can be found below. If this process is successfully completed, the nomination should then be submitted following the process for registered party lists outlined above.

2.34 In England and Scotland, nominations may only be submitted in English. In Wales, nominations can be submitted in English or Welsh. Nomination papers cannot be translated into any other language.

2.35 A nomination paper can be resubmitted. The later delivered nomination paper will supersede and replace the earlier delivered one (see 'Withdrawal of nominations and replacement of candidates' in this chapter).

Candidates' names

2.36 Each candidate on a registered political party's list of candidates and each individual candidate must state their full name. Full names must be given, and so there is a risk that a nomination paper may be rejected by the Regional Returning Officer if initials are used.

2.37 For individual candidates, the surname must appear first, followed by their other names in full. For candidates on a party list, the order of names is not prescribed.

2.38 'Commonly used' surname(s) and forename(s) are now permitted. A candidate, whether on a party list or standing as an individual, may stand under a commonly used name but only if they actually commonly use a name that is different from their full name.⁴⁵ There is no requirement to use a commonly used name: candidates have the option to stand either under their full name or any commonly used name they have. The candidate should not add their commonly used name to the nomination paper if they decide to stand under their full name.

2.39 The Regional 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.⁴⁶ If the name(s) are not permissible, the Regional Returning Officer will write to the candidate stating the reason for disallowing the commonly used name, and in that instance, although the candidate will remain validly nominated, their full name will be used.

2.40 The exact wording of the candidate's name, as entered on the nomination paper or party list, will appear on the statement of parties and individual candidates nominated and the ballot paper. If the Regional Returning Officer does allow the commonly used name(s), they will appear on each of these occasions instead of the candidate's full name.

⁴⁵ Rules 4(3) and 7(3), EPE Rules.

⁴⁶ Rule 15(5), EPE Rules.

Address

2.41 The home address of candidates on a registered party's list and of individual candidates must be completed in full and should not contain any abbreviations. The address must be the candidate's current home address, even if they have just moved to this address and do not yet appear on the electoral register at their new address. Business addresses must not be used.

Minor errors

2.42 The Regional Returning Officer is permitted to correct minor errors made on a nomination paper, including obvious errors of spelling in relation to the details of a candidate.



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

Consent to nomination

2.43 In order for their nomination as a candidate to be valid, every candidate contesting the European Parliamentary elections, whether included on a registered party's list or standing as an individual candidate, must also give their consent to nomination in writing.⁴⁷

2.44 A candidate's consent to nomination must state:⁴⁸

- their name
- their date of birth
- that they are aware of the provisions of Section 10 of the EPE Act (a copy of which can be found in Appendix E)
- that to the best of their knowledge and belief they are not disqualified from membership of the office of MEP
- for candidates included on a registered party's list, the political party they are standing for

2.45 Candidates must sign and date the consent to nomination within one calendar month before the last day for delivery of nomination papers, Thursday 7 May 2009.

2.46 The candidate's signature must be witnessed. While not a requirement, the witness should also sign the form and give their full name and address in case of any query regarding the witnessing. There is no restriction as to who may witness the candidate's signature.

⁴⁷ Rule 8, EPE Rules.

⁴⁸ Rule 8(1), EPE Rules.

2.47 The consent to nomination must be delivered by hand to the Regional Returning Officer⁴⁹ before the close of nominations, that is before 4pm on Thursday 7 May 2009.

2.48 If a candidate is outside the UK, there is an exception to the normal rules for completing the consent to nomination. 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 Regional Returning Officer is satisfied that due to the absence of a candidate from the UK it has not been 'reasonably practicable'⁵⁰ for their consent to be given in writing. No witness to the consent is required in this case.

2.49 If a candidate is or expects to be outside the UK, the candidate or election agent should contact the Regional Returning Officer to explain the situation. The Regional Returning Officer has to be satisfied that the candidate is indeed outside the UK and is not able to consent in the normal manner before accepting this method of consent.

Additional requirements for certain candidates

2.50 The following requirements apply if a candidate is a citizen of a European Union member state but not also a British, Irish or Commonwealth citizen (Cyprus and Malta).

2.51 Their home address must be within the UK.⁵¹

2.52 They must also produce two documents in addition to the consent to nomination: the declaration stating they live in the UK and are not standing at this European Parliamentary election in any other member state, and the certification from their home member state that they are not disqualified from standing for election there, as detailed above.

2.53 These two documents, along with the consent to nomination, must be delivered to the Regional Returning Officer by 4pm on Thursday 7 May.

Delivering the nomination paper and consents

2.54 Nomination papers must be delivered to the office of the Regional Returning Officer as listed on the notice of election in person and by hand. Nomination papers cannot be posted, faxed or sent by electronic means. Only certain qualified people may deliver a nomination paper.

Registered political party

2.55 For a registered political party, the nomination paper must be delivered

⁴⁹ Rule 8(1)(d), EPE Rules.

⁵⁰ Rule 8(2), EPE Rules.

⁵¹ Section 10(3), EPE Act.

in person by the registered Nominating Officer of the party or by someone authorised in writing to deliver it on their behalf.⁵²

2.56 The person delivering the nomination paper may be asked to produce documentation showing that they are the registered Nominating Officer as shown on the Commission's website or that they have a written authorisation to deliver the nomination paper on their behalf.

Individual candidates

2.57 For an individual candidate, the nomination paper must be delivered in person by the candidate or by someone authorised in writing to deliver it on their behalf.

Offences of false statement on nomination papers and consent to nomination

2.58 It is a serious offence to include false information:

- about the name or address of a candidate or the candidate's date of birth on nomination papers
- stating that the candidate is qualified and not disqualified in a consent to nomination when this is not true
- by purporting to be able to deliver a nomination as or on behalf of the Nominating Officer of a registered party

2.59 If a person is found guilty of such an offence, they may be sentenced to imprisonment for up to a year, or a fine, or both.⁵³ If a candidate is elected and then an election court finds them guilty under this provision, they will lose the seat.⁵⁴

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

2.61 The Regional Returning Officer must take each application on face value. It is therefore important that candidates and election agents check all of the details carefully.

Attendance and objections to nomination papers

2.62 Other than a person who is entitled to deliver a nomination paper, certain people may attend at the delivery of nomination papers. These people are:

- validly nominated candidates (either a person included on a registered party's list or a person standing nominated as an individual candidate)

⁵² Rule 6, EPE Rules.

⁵³ Regulations 27 and 109, EPE Regulations.

⁵⁴ Regulation 107, EPE Regulations.

- the election agent of a registered political party or an individual candidate after their relevant nomination papers have been delivered
- a person authorised in writing to deliver a nomination paper
- one other person chosen by the candidate (who, for as long as the candidate stands nominated, can also attend at the delivery of nominations for other individual candidates and registered parties)
- Electoral Commission representatives

2.63 All of these people, excluding Commission representatives and the one other person chosen by the candidate, may inspect any nomination paper or list of candidates and make objections to their validity.

Objections to nominations

2.64 The time within which an objection can be made to a nomination depends on when the nomination paper is delivered.

2.65 Objections must be made by 12 noon on Thursday 7 May to any nomination paper delivered up to and including Wednesday 6 May.

2.66 Objections must be made by 5pm on Thursday 7 May to any nomination paper delivered on Thursday 7 May.

2.67 If, for any reason, a nominated individual candidate appears to the Regional Returning Officer to be disqualified due to being imprisoned and serving a sentence of more than one year, the objection period is later. The Regional Returning Officer will publish a draft statement of individual candidates nominated and objections can be made between 10am and 4pm on Friday 8 May.⁵⁵

2.68 The grounds allowed to make an objection to a nomination paper are limited to ensuring that the nomination paper is completed and that an individual candidate is not currently imprisoned and serving a sentence of a year or more.⁵⁶ The Regional Returning Officer will make their decisions on any objection by 4pm on Friday 8 May.

Decisions on nominations

2.69 The Regional Returning Officer's decision on the validity of any nomination paper is made on the face value of the nomination paper and cannot be challenged during the election. Nomination papers and qualifications of candidates can only be challenged by a legal process known as an election petition. The process for this is described later in this guide.⁵⁷

2.70 The Regional Returning Officer has the power to reject the nomination of any particular candidate on a party list, such as when they have failed to submit a valid consent to nomination or have not supplied a certificate from their member state of the European Union (if required to due to their

⁵⁵ Rule 18, EPE Rules.

⁵⁶ Rule 13, EPE Rules; Section 1, Representation of the People Act 1981.

⁵⁷ Rule 13(10), EPE Rules.

nationality) and delete their name from the party list. Again, this decision cannot be challenged during the election but can be challenged by way of an election petition.⁵⁸

Deposit⁵⁹

2.71 In order to be validly nominated, each registered party and individual candidate in an electoral region must deposit the sum of £5,000 with the Regional Returning Officer before the deadline for the delivery of nomination papers.

2.72 Where the deposit is made on behalf of the registered party or individual candidate, the person delivering the deposit must supply their name and address to the Regional Returning Officer unless they have already provided their address by way of their appointment as the candidate's agent.

2.73 The Regional Returning Officer will accept payment in the following ways:⁶⁰

- in legal tender
- by means of a UK banker's draft

2.74 With the consent of the Regional Returning Officer, payment by other means may also be permitted, such as:⁶¹

- the electronic transfer of funds
- bank transfers
- debit or credit card payments⁶²

2.75 Any party or candidate considering paying their deposit in any way other than by using legal tender or a UK banker's draft should make early contact with the Regional Returning Officer to discuss the payment options. The notice of election will give details of any other methods for paying the deposit other than by legal tender and banker's draft. The notice may direct candidates and agents to contact the Regional Returning Officer for more details or to a separate detailed document on the options in each particular electoral region.

2.76 The deposit will be returned after the election if the registered party or individual candidate polls more than 2.5% (one-fortieth) of the total number of valid votes cast for all the registered political parties and individual candidates in the electoral region.⁶³

⁵⁸ Rule 13(10) and (11), EPE Rules.

⁵⁹ Rule 10, EPE Rules.

⁶⁰ Rule 10(3)(a) and (b), EPE Rules.

⁶¹ Rule 10(3)(c), EPE Rules.

⁶² The full £5,000 must be received by the Regional Returning Officer and if there are transaction fees for the card payment they may be required to be paid by the individual candidate or registered party. Details will be available from the Regional Returning Officer.

⁶³ Rule 62(5), EPE Rules.

Registering a political party

2.77 People wishing to register a party name for a candidate to use at the European Parliamentary election 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.

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

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

2.79 Further information and guidance on registering a political party can be found in the Commission's document *Guidance on registering a political party*, which can be found on the Commission's website, or obtained by telephoning 020 7271 0500 or by emailing pef@electoralcommission.org.uk

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

Request to use an emblem on the ballot paper

2.81 A registered political party that submits a valid nomination can request that one of the party's official emblems is used on the ballot paper next to their registered party name and, if given, description. Each registered party can register up to three emblems; these emblems can be viewed or downloaded from the Commission's website.

2.82 The request to use an emblem must:

- be made in writing by the registered Nominating Officer or by someone authorised to do so on their behalf
- be delivered to the Regional Returning Officer before the deadline for delivering nomination papers, 4pm on Thursday 7 May
- state the name of the political party
- state the description of the emblem to be used as it is described on the Commission's website

2.83 Registered emblems cannot be varied in any way, but the party may be asked to provide a print quality format of their party emblem for use in the production of the ballot papers.

Withdrawal of nominations and replacement of candidates

Political parties

Withdrawing the entire nomination

2.84 A political party can withdraw their entire nomination paper and with it their list of candidates. This can only be done by completing a notice of withdrawal which is signed by the party's Nominating Officer or someone authorised in writing to be able to sign the withdrawal on their behalf. This notice must be delivered to the Regional Returning Officer at the place for the delivery of nomination papers by the deadline for withdrawals (4pm on 7 May 2009).

Changing the party nomination and list of candidates

2.85 At any time up to the deadline for delivering nomination papers, a list of candidates can be replaced by the submission of a new nomination paper and list of party candidates. Any person on the previous list can be included or excluded from the new list, or the order changed if desired.⁶⁴ The new nomination paper and list of candidates must be submitted in the same way as the original set and will completely replace the previous nomination paper and list of candidates. The Regional Returning Officer should be contacted if this is being considered to ascertain the local practice.

Individual candidate

Withdrawing a nomination

2.86 If an individual candidate wants to withdraw their candidature they must complete and sign a notice of withdrawal, attested by one witness, who should also sign and give their details in case of any query. The notice must be delivered by hand to the place for the delivery of nominations by the deadline for notices of withdrawal (4pm on 7 May 2009).

Altering a nomination

2.87 An individual candidate can change any aspect of their nomination paper by submitting a new nomination paper by the deadline for the delivery of nomination papers.

2.88 The later dated paper will be the one used, superseding any delivered previously.

Death of candidate

2.89 The death of any candidate, whether a candidate on a registered party's list or an individual candidate, has no effect on the conduct of the election, although the Regional Returning Officer is required to arrange the placement of a notice in the polling booths informing electors of any deaths.⁶⁵

⁶⁴ Rule 6(7), EPE Rules.

⁶⁵ Rule 32(9), EPE Rules.

3 The campaign

3.1 This chapter outlines the rights and responsibilities for all those standing for election and their agents at the European Parliamentary election. Many of the responsibilities are legal requirements that must be followed in order to prevent the risk of a challenge to the election, or personal prosecution.

The electoral register

Registered political parties

3.2 On making a written request, the election agent of a registered political party is entitled to a free copy of the full electoral register for the whole of the electoral region. The register can only be supplied after the Nominating Officer of the party, or someone authorised in writing to act on their behalf, has submitted a nomination paper, and in any event a copy cannot be supplied earlier than the last date for the publication of the notice of election, which is Tuesday 28 April 2009.

3.3 Registered political parties are, however, entitled to obtain and use the electoral register before this date by virtue of separate provisions, which are explained further below.

Individual candidates

3.4 On making a written request, an individual candidate is entitled to a free copy of the full electoral register for the whole of the electoral region. The register can only be supplied after they or others have declared themselves to be a candidate or they have submitted a nomination paper, whichever is the earliest. However, in any event a copy cannot be supplied earlier than the last date for the publication of the notice of election, which is Tuesday 28 April 2009.

Other individuals and groups

3.5 A number of other specified individuals and groups can obtain a copy of the full electoral register at any time on written request to be used for electoral purposes. Such groups and individuals include:

- any registered political party (at a national level)
- any registered political party (local constituency level), for the UK Parliamentary constituency they cover
- any elected representative (including, for example, MEPs) for the area they have been elected to represent

Supply of the electoral register

3.6 The written request for a copy of the full electoral register must be made to the Electoral Registration Officer for each registration area. There will be a number of registration areas within each electoral region, and a separate

application will need to be made to each Electoral Registration Officer. There is not a central electoral register which covers the whole of the electoral region.

3.7 Most Electoral Registration Officers will have a form for completion which will satisfy the requirement for making a written request, and which will set out what you can and cannot do with the information on the register. Further information on the restrictions as to use can be found below.

3.8 Contact details for Electoral Registration Officers in the electoral region can be obtained from the Regional Returning Officer or by visiting www.aboutmyvote.co.uk

3.9 The copy of the register to be supplied will be the one that is in force at the time of the request. This will, if applying during the election period, be either the version last updated on 1 April 2009, or the version last updated on 1 May 2009, depending on the time the request is made. Individual candidates and election agents of registered political parties will be entitled to receive updates to the register during the election period but not afterwards.



Electors may register to vote up until the eleventh working day before the election, 19 May 2009. Individual candidates and election agents of registered political parties are entitled to request the list of newly registered electors when this is officially published five working days before the poll, on 28 May 2009.

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

- pass on a copy of the register to any other person
- disclose any information from the register⁶⁶
- make use of any information from the register

3.11 If found guilty of breaching these restrictions a candidate or person could face a fine of up to £5,000.

3.12 Candidates may only use their copy of the register for electoral purposes, such as canvassing support for their election or the checking of the validity of donors to their campaign (for details on restrictions on donors, see Chapter 4, 'Election spending and donations').

Postal and proxy voters lists

3.13 Those who are entitled to receive a copy of the full electoral register may also obtain the list of those electors who will be voting by post or who have appointed a proxy to vote for them. These lists – the postal voters list and the proxy voters list – are together referred to as the absent voters list. These lists

⁶⁶ Disclosure is not prohibited if the details are also included on the edited register. The edited register may be purchased from the Electoral Registration Officer by any person.

will be supplied upon written request. Further copies of the lists may also be requested during the election, for example those entitled to receive a copy of the absent voters list may wish to request an updated copy of the lists after the deadline for new applications for a postal or proxy vote has passed.

3.14 As with the electoral register, the absent voters list must only be used for electoral purposes.

Format of the electoral register and absent voters list

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

3.16 CSV files can be read or modified with 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 program. In particular, CSV files can be used with the mail-merge function of most word-processing programs to create mailing labels or form letters.

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

Freepost⁶⁷

3.18 Every registered political party and individual candidate standing at a European Parliamentary election is entitled to free postage on an election communication to be sent out across the electoral region. Registered political parties or individual candidates wishing to make use of this provision should contact a universal service provider such as Royal Mail to make arrangements. Such providers can require their own reasonable terms and conditions to be complied with, and these terms and conditions are matters for negotiation between the service provider, their regulator and the parties, candidates and agents.

3.19 The postage will be free on either:

- one unaddressed election communication up to 60 grams to every postal address, or
- one election communication up to 60 grams addressed to each elector

3.20 The election material will also be sent to any proxy who has been appointed to vote for an elector and to any anonymously registered elector on

⁶⁷ Regulation 63, EPE Regulations.

request. These arrangements should be made with the Regional Returning Officer.⁶⁸

3.21 The material being sent free of charge must not contain information on any other election or any other advertising.

Use of rooms for public meetings

3.22 Any party list candidate or individual candidate is entitled to use certain kinds of room free of charge to hold public meetings at reasonable times between 28 April 2009 and 3 June 2009. While there is no hire charge for the use of these rooms, the registered political party or individual candidate must pay for any expenses incurred during their meeting, such as heating, lighting and cleaning, and for any damage to the premises.⁶⁹

3.23 In broad terms, the rooms that can be used are those funded by the local authority. For example, suitable rooms in any community, foundation or voluntary school in the electoral region can be used.

3.24 Any public meeting room situated in the region that is supported out of public funds may also be used.

3.25 The Electoral Registration Officer in England and Wales and the Returning Officer in Scotland must keep a list of the location and availability of suitable meeting rooms in their area. The list will be available for inspection during reasonable hours between 28 April 2009 and 3 June 2009. Owners of the facilities must be given reasonable notice when booking the use of a room, or the request may be declined.⁷⁰

3.26 It is important to note that the right to use the rooms described above does not authorise any interference with the hours during which a school is used for educational purposes, or with the prior letting of a meeting room.

3.27 It is the Commission's view that a local authority or Returning Officer may not develop and apply any policy for discriminating between parties/candidates so as to grant or deny these rights on the merits of particular applications.

3.28 Electoral law makes it an illegal practice to act in a disorderly manner, or to incite others to do so, for the purpose of preventing the business of a public meeting being transacted.⁷¹ The maximum fine on conviction is £5,000. Candidates are reminded that in addition to being subject to electoral law, they are still bound by non-electoral legislation, including the law on public order, such as the law on acts intended or likely to stir up racial hatred and on possession of racially inflammatory material.

⁶⁸ Regulation 63(2A), EPE Regulations.

⁶⁹ Regulation 67, EPE Regulations.

⁷⁰ Regulation 67(5), EPE Regulations.

⁷¹ Regulation 68, EPE Regulations.

Canvassers

3.29 Candidates may wish to use canvassers to help with the election campaign. It is, however, **illegal** to employ **paid** canvassers for the purpose of promoting or procuring a particular result at an election before, during or after the election.⁷² In addition, members of police forces, whether paid or unpaid, are prohibited from acting as canvassers.⁷³

3.30 The legislation describes canvassing as:

... by word, message, writing or in any other manner, endeavour to persuade any person to give or dissuade any person from giving, his vote, whether as an elector or proxy.⁷⁴

3.31 For these purposes, the delivery of election campaign leaflets is not considered to be canvassing if the person delivering them does not engage in trying to persuade anyone to vote for or against a particular party, candidate or policy.

Campaign publicity material

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

3.33 In summary, all materials:

- that are published must contain the required imprint
- must not make a false statement about the personal conduct of any candidate
- must not be paid to be displayed, unless paid advertising is the usual business of that particular site
- can only be displayed with correct permission (for example, no fly-posting)
- must be removed after the election according to local and statutory planning rules
- are subject to the normal civil and criminal law relating to all published material
- must not resemble a poll card⁷⁵

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

⁷² Regulation 75, EPE Regulations.

⁷³ Regulation 70, EPE Regulations.

⁷⁴ Regulation 70(1), EPE Regulations.

⁷⁵ Regulation 66, EPE Regulations.

3.35 It is a common complaint that campaign materials are not available in large print. In order to be more accessible to elderly or visually impaired people, it is advisable to consider producing materials in this format. Where appropriate, languages other than English should also be considered, as 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 parties and candidates in order to help them make an informed choice. Further information on accessibility issues can be found on the Commission's website.

Newspaper articles and advertisements

3.36 Some newspapers run stories during the election featuring some or all of the parties and 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 parties and candidates at the election and may include as much or as little coverage as they decide. The inclusion of a party or a candidate in a newspaper article does not count towards election expenses, although paying for an advertisement in a newspaper does.

Imprint requirements

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

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

- Regulation 74 of the EPE Regulations applies to any material that can be reasonably regarded as intended to promote or procure the election of a candidate at an election, whether or not it can be regarded as intended to achieve any other purpose as well.
- Section 143 of PPERA applies to election material relating to parties. See below for a full definition.

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

3.40 In the view of the Commission, an email address would not be acceptable as an imprint address because an email address is not a physical address, and it is possible to create one using false or fictitious details.

3.41 There is no specific legislation regarding the use of a Post Office (PO) box for the purpose of imprints. Due to the importance of imprints in enabling parties or candidates to be contacted during the election period, the Commission's view is that, wherever possible, a PO box should not be used. This is because they do not allow the originator of the material to be contacted quickly to request further information or in the event of a complaint, nor do they aid transparency.

3.42 For the purposes of the imprint requirement:

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

3.43 While it should be clear who the printer is, the publisher might be, for example, the same person as the printer, a candidate or agent, the local party organisation or a separate individual.

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

1. promote or procure electoral success at any relevant election for –
 - a. one or more particular registered parties,
 - b. one or more registered parties who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of such parties, or
 - c. candidates who hold (or do not hold) particular opinions or who advocate (or do not advocate) particular policies or who otherwise fall within a particular category of candidates, or
 2. otherwise enhance the standing
 - a. of any such party or parties, or
 - b. of any such candidates
- with the electorate in connection with future relevant elections (whether imminent or otherwise).⁷⁶

3.45 Where election publicity can reasonably be regarded as referring to a party list of candidates or more than one candidate on the same list, it can be regarded as being published on behalf of the party, and not on behalf of the candidate(s).⁷⁷

⁷⁶ Section 85(3) and (4), PPERA.

⁷⁷ Section 143(2A) and (2B), PPERA.

Materials that require imprints

3.46 In general, any material that can reasonably be regarded as having the intent to promote, oppose, procure or prevent the election of any individual or party list candidate,⁷⁸ or of any political party, must contain an imprint.

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

3.48 Any website that refers to an election, party or candidate(s) should have an imprint as a matter of good practice. Further, any posters that are available for download from such a website should also carry an imprint, such as 'printed and promoted on behalf of...'.⁷⁹

3.49 Election publicity also includes materials that prejudice, criticise or disparage the electoral prospects at the election of other parties or candidates or (as the case may be) by prejudicing the standing with the electorate of other parties or candidates, even if that material does not expressly mention the name of any party or candidate.⁷⁹

3.50 If there is any doubt as to whether certain material requires an imprint, it is suggested that one should be added. The potential consequences of a breach of these requirements are serious. **If the promoter** of the material or any other person by whom the material is so published **or the printer** of the document **commits this offence, they are liable to a fine of up to £5,000.**⁸⁰

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

Examples

3.52 To assist in understanding these rules, we provide the following example:

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

promoted by [insert name and address of the person who causes the material to be published, generally the individual or party list candidate, election agent or party],

⁷⁸ Regulation 74(1), EPE Regulations.

⁷⁹ Section 85(4), PPERA.

⁸⁰ Regulation 74(7), EPE Regulations.

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

Example box 1: Sample imprints

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

Individual or party list candidate name: Jane Doe
Agent name: Joe Bloggs
Party name: The Electoral Party
Printer: The Duplication Company

Imprints for individual candidates

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

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

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

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

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

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

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

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

Imprints for candidates representing a political party

When material is produced for a party, depending on the situation, the imprint might look like:

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

Or like this:

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

Display of advertisements

3.53 The display of all advertising is regulated by legislation⁸¹ although practice can vary between local authorities depending on where advertisements are to be displayed. Parties, individual candidates and agents should ensure that all election advertisements, including any bills, placards and posters, comply with the relevant requirements for the area where they are displayed by contacting that local authority. In particular, remember that **no advertisement should be displayed without the permission** of the owner of the site or anyone else with an interest in the site.

3.54 Parties, individual candidates and agents should also be aware that local authorities exercise tight regulations with regard to display of advertisements on council property, e.g. lamp posts, open spaces, highway verges, etc. Parties, individual candidates and agents are strongly advised to consult the appropriate council officer for guidance; the election office will be able to advise who this officer is.

3.55 It is an offence to pay an elector for displaying election advertisements, unless it is part of their normal business (as an advertising agent, for example) and a payment is made in the ordinary course of business.⁸² Asking people to display an advertisement on their own property is legal as long as they are not paid for doing so.

3.56 It is important to note that Regional Returning Officers and Local Returning Officers are not responsible for monitoring the conduct of parties, individual candidates, agents and campaigners. Where a party, candidate, agent or campaigner has any concerns about the conduct of another person during the election campaign that could amount to electoral malpractice, if they are prepared to substantiate such a claim and are also willing to make a formal statement, the matter should be referred to the police. Allegations should not be made as a campaign tactic.

Restrictions and offences

3.57 The Commission does not regulate the content of political campaigns and does not investigate individual allegations of electoral malpractice, as these are a matter for the police. A candidate may print or make any statement about themselves or other candidates which mentions politics or policy as long as no offence listed above is committed. A political party's or candidate's right to make their views known to the electorate is an important pillar of any modern democracy. It is the elector who, at the point of voting, will weigh up the worth of political claims and cast their verdict.

⁸¹ Town and Country Planning (Control of Advertisements) (England) Regulations 2007; Town and Country Planning (Control of Advertisements) Regulations 1992; and Town and Country Planning (Control of Advertisements) (Scotland) Regulations 1984.

⁸² Regulation 73, EPE Regulations.

False statements

3.58 It is an illegal practice to make or publish a false statement of fact about the personal character or conduct of an individual candidate or a candidate on a registered party list in order to affect the return of an individual candidate or a registered party's candidates at an election.⁸³ It is a defence to show reasonable grounds for believing that the statement was true. This provision applies to any candidate on a registered party's list from the time the list is submitted to the Regional Returning Officer⁸⁴ and for any individual candidate when they, or others, have declared them to be a candidate, or when they deliver a nomination paper, whichever is the earlier date, but no earlier than Tuesday 28 April.⁸⁵

3.59 The potential consequences of breaching this provision are serious. If a candidate is elected and then an election court finds them guilty under this provision, they will lose the seat.⁸⁶ Anyone found guilty of breaching this provision may, upon summary conviction, be fined up to £5,000.⁸⁷ Further, people who have been found guilty of a corrupt or illegal practice are subsequently banned from registering to vote at UK Parliamentary elections or at local government elections in Great Britain for a period of three years.⁸⁸ In addition to this, they are unable to hold office in the House of Commons or any other elected office.

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

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

Other offences

3.62 Election campaign material will also be subject to general restrictions of the criminal law and the law on civil liability, and must not contain statements or comments that are defamatory. Defamatory comments in a written form constitute libel and are liable to serious legal action. Rules on copyright should also be taken into account when producing materials.

3.63 Under the Public Order Act 1986, it is an offence to publish or distribute threatening, abusive or insulting material which is intended to stir up racial hatred.⁸⁹

⁸³ Regulation 71, EPE Regulations.

⁸⁴ Regulation 31(2), EPE Regulations.

⁸⁵ Regulation 31(2), EPE Regulations.

⁸⁶ Regulation 107, EPE Regulations.

⁸⁷ Regulation 110, EPE Regulations.

⁸⁸ Regulation 107, EPE Regulations.

⁸⁹ Part III, Public Order Act 1986.

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

Bribery

3.65 A person is guilty of bribery if they, directly or indirectly, give any money, procure any office to or for any voter, or make such a gift in order to induce any voter to vote, refrain from voting, or return any person or party at an election.⁹⁰

Treating

3.66 A person is guilty of the corrupt practice of treating if they corruptly, directly or indirectly, either before, during or after an election, give or provide (or pay wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to influence corruptly any voter to vote or refrain from voting.⁹¹

Undue influence

3.67 The importance of unimpeded access to the polling station cannot be overemphasised. The **intention** to influence unduly is also an offence.

3.68 A person is guilty of the corrupt practice of undue influence if:⁹²

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

3.69 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 registered political party or individual candidate is considering the use of tellers or campaigners outside 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 (Appendix C).

Absent voting

Postal and proxy votes

3.70 A person commits an offence if they:

- engage in an act specified below, and

⁹⁰ Regulation 77, EPE Regulations.

⁹¹ Regulation 78, EPE Regulations.

⁹² Regulation 79, EPE Regulations.

- 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

3.71 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 Local 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

3.72 A person who commits such an offence or who aids, abets, counsels or procures the commission of such an offence is guilty of a corrupt practice.⁹³

Offences associated with absent voting

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

Reporting offences

Note: Neither the Returning Officer nor the Electoral Commission have any discretion to investigate allegation of offences under electoral law. If it is believed that an offence has been committed, and the complainant is prepared to substantiate this allegation through a written statement, this should be brought to the attention of the police.

Campaigning on polling day

3.74 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. Presiding Officers must ensure that electors can quietly and privately cast their vote free of any intimidation (whether real or perceived) and provide a space where the secrecy of the ballot will be respected. Electors should be able to enter the surrounding area in the same manner.

⁹³ Paragraph 11, Schedule 2, EPE Regulations.

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

3.76 The Presiding Officer will not allow large groups of a candidate's supporters or detractors to gather in the vicinity of the polling station, and will be particularly alert to actions that may lead to electors feeling intimidated or influenced. Influencing includes deterring an elector from voting at all, as well as influencing them to vote or not for a particular registered political party or individual candidate.

3.77 It is for the Local Returning Officer and Presiding Officer to decide whether particular campaign activities around a polling station should be permitted to continue or not, bearing in mind the need to balance the needs of campaigners and electors. Local police may also act to ensure public order at or near polling stations.

3.78 If a venue contains more than one polling station, the Local Returning Officer may request that the principal Presiding Officer assumes responsibility for monitoring the area. However, other Presiding Officers would retain responsibility for their particular polling stations.

4 Election spending and donations

4.1 This chapter provides basic information about the controls on election spending and donations.

4.2 All individuals and registered parties contesting the European Parliamentary elections must comply with controls on their spending and on the donations they can accept. There is a limit on how much they can spend on campaigning during a specified period in the run-up to the election ('the regulated period').

4.3 Breach of these requirements may be a criminal offence.

4.4 As the controls are different for those standing as individual candidates and those standing on party lists, we have produced separate detailed guidance for each. The guidance is published on the Commission's website, or for a hard copy please telephone 020 7271 0616 or email pef@electoralcommission.org.uk

4.5 The sections below highlight some key points and identify the relevant guidance to which candidates and election agents will need to refer.

Party lists

4.6 The regulated period for political parties begins on 5 February 2009. All campaign spending on the European Parliamentary election counts towards the party's limit. Candidates on the list do not have a separate limit as all spending must be accounted for by the party.

4.7 Spending can only be incurred by the party's registered treasurer (or, if there is one, the campaigns officer), any deputies registered with the Commission or anyone authorised by any of them in writing. Please note that party election agents and sub-agents must not incur spending unless they have this authorisation.

4.8 Parties should continue to submit their usual quarterly donation and loan reports to the Commission. No additional donation reports are required during the regulated period.

4.9 The Commission's detailed guidance is called *Campaign expenditure: guidance for party treasurers and campaigns officers* and can be downloaded at: www.electoralcommission.org.uk/guidance/candidates-agents/parties It includes information on the spending limit, the items which count towards that limit, and what needs to go into the campaign expenditure return after the election.

4.10 If a candidate on a party list accepts a personal donation of more than £200 for their political activities, they will need to make sure that the donor is a permissible UK-based source. Donations must be reported to the Commission if more than £1,000 is received from the same source in the same year. For more information, please refer to the Commission's guidance, *Donations and*

loans: guidance for regulated donees in Great Britain. This is available at: www.electoralcommission.org.uk/guidance/candidates-agents/regulated-donees

Individual candidates

4.11 For individual candidates, the regulated period begins on the date when they formally become a candidate. This is the later of 28 April 2009 or the date on which they declare themselves to be a candidate.

4.12 Individual candidates may accept donations of £50 or less from any source. However, donations over £50 which are made in connection with their election expenses can only be accepted from certain UK-based sources. All such donations must be reported on their election expense return.

4.13 The Commission's detailed guidance is called *European Parliamentary election 2009: Guidance on election expenses and donations for individual candidates and agents*. It is available at: www.electoralcommission.org.uk/guidance/candidates-agents/candidates-and-agents. It includes more information on when someone becomes a candidate, what the spending limit is and what counts towards it, how to handle donations, and what needs to go onto the election expenses return after the election.

5 The poll and count

The poll

5.1 Polling day for the European Parliamentary election 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 Local Returning Officer in a notice to election agents.

5.2 In some parts of England, the European Parliamentary election poll will be combined with the poll at scheduled local government elections.

Entitlement to attend the polling station

5.3 Candidates on registered party lists, individual candidates and election agents are entitled to visit any polling station within the electoral region during polling day; polling agents may also attend at the polling station(s) for which they have been appointed. Only one polling agent from each registered political party or individual candidate is allowed to enter the polling station at any time.

Importance of secrecy

5.4 All those who enter the polling station should be aware of the requirement to ensure the secrecy of the ballot. All polling agents should be given a copy of Regulation 29 of the EPE Regulations, which is reproduced in Appendix B. Also, if a copy of the register of electors is taken into a polling station by a polling agent and marked when electors come to vote, the register must not be taken out of the polling station until after the close of poll at 10pm. No information about who has voted, obtained as a result of being present in the polling station, can be disclosed to any other person until after 10pm.

5.5 Any person who is found guilty of breaching the requirements set out in Regulation 29 of the EPE Regulations may face a fine of up to £5,000, or may be imprisoned for up to six months.⁹⁴

Keeping order

5.6 It is the Presiding Officer's duty to maintain order at the polling station and they may order the removal of any person from the polling station. However, in exercising this duty, the Presiding Officer must not prevent a voter who is entitled to vote from casting their vote.

Collection of postal ballots from the polling station

5.7 During polling hours, the Local Returning Officer may arrange for the collection, on one or more occasions during the day, of any postal votes that have been handed in to a polling station. In each case, the Presiding Officer

⁹⁴ Regulation 29, EPE Regulations.

will seal the postal ballots into a packet before collection. Polling agents who are present can also add their own seals to the packet.

The opening of postal ballots

The opening of postal votes

5.8 Postal voting is a method by which electors can vote other than at the polling station. Postal ballot papers can be sent to electors who have applied to vote by post as soon as the deadline for such applications, 5pm on Tuesday 19 May, has passed. The issuing process is a time-consuming process and can take several days to complete.

5.9 The Local Returning Officer will then open and process the postal votes when they are returned, in a process called a postal vote opening. There will usually be several of these postal vote openings during the election period and the final one will occur after the polls have closed.

5.10 The Local Returning Officer will give notice of the time and place for the opening of any postal voters ballot boxes at least 48 hours in advance.⁹⁵ Other than the Local Returning Officer and their staff, those entitled to attend the opening of postal voters ballot boxes and observe proceedings are:⁹⁶

- an election agent or someone appointed by them to attend in their place
- a sub-agent
- any individual or registered party list candidate
- any agent appointed to attend the opening of postal votes (see Chapter 1, 'Introduction', for details of appointment)
- any accredited observers
- representatives of the Commission

5.11 In order to improve the security of the postal vote system, each postal voter must now sign and state their date of birth on a postal voting statement when they cast their postal vote. At least 20% of these signatures and dates of birth are then checked for validity against the same identifiers previously collected by the Electoral Registration Officer.

5.12 Those electors who are unable to provide a signature or a consistent signature can apply to the Electoral Registration Officer for a waiver. Once a waiver has been granted, the elector will not be required to sign the postal voting statement when they cast their postal vote, although they will still be required to state their date of birth. Postal voting statements sent to such electors will not have a signature box on them.

Importance of secrecy

5.13 As with all other aspects of the election process, all those attending the opening of postal ballots must be aware of the requirement to ensure the

⁹⁵ Paragraph 56, Schedule 2, EPE Regulations.

⁹⁶ Paragraph 44, Schedule 2, EPE Regulations.

secrecy of the ballot. All those attending the opening of postal ballots must be given a copy of the legislation on secrecy,⁹⁷ which is reproduced in Appendix B. Any person who is found guilty of breaching the requirements set out in law⁹⁸ may face a fine of up to £5,000, or may be imprisoned for up to six months.⁹⁹

Postal ballots

5.14 Postal vote return envelopes are placed in one or more postal voters ballot boxes by the Local Returning Officer as they are returned during the election period. Given the large number of postal votes that will be issued and returned at this election and the need to verify personal identifiers, there are likely to be a number of official ‘openings’ of the returned postal votes before polling day.

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

5.16 The following represents a brief summary of the process. It must be emphasised that responsibility rests with Local Returning Officers and each one may organise the process slightly differently to take account of local circumstances. Generally, the Local Returning Officer will organise staff into teams, with a number of supervisors. Any questions about the process should be directed to the Local Returning Officer.

- Postal votes are brought to the opening session in postal voters ballot boxes. First, all the covering envelopes are taken out and counted and the total entered on a form that will be handed to the supervisors.¹⁰⁰
- Each team will then open each return envelope (marked envelope ‘B’) and remove the postal voting statement and ballot paper envelope (marked envelope ‘A’). They will check that the number on the postal voting statement matches the number on envelope A. Where the numbers match, staff will check that the statement has been signed¹⁰¹ and the elector has provided a date of birth.
- Any postal voting statements that are not correctly completed will result in the ballot being rejected; all parts of the ballot pack will be marked ‘rejected’, paper-clipped together and placed in the receptacle for

⁹⁷ Regulation 29, EPE Regulations.

⁹⁸ Regulation 29, EPE Regulations.

⁹⁹ Regulation 29, EPE Regulations.

¹⁰⁰ Paragraph 60(1), Schedule 2, EPE Regulations.

¹⁰¹ There are limited circumstances in which a postal voting statement does not need to be signed: in such a case, no signature box will appear on the statement.

rejected votes.¹⁰² Any queries the staff may have will be referred to supervisors and the Local Returning Officer for adjudication.

- Where either the postal voting statement or the ballot paper envelope is missing, or where mismatched documents have been returned, the document(s) received will be set aside, recorded and stored securely in packets. The Local Returning Officer is obliged to match up postal voting documents received separately, as long as the statement is completed correctly and received by the close of poll.¹⁰³
- At least 20% of each box of returned postal votes will be set aside for personal identifier verification. The Local Returning Officer may decide to verify 100% of the returned postal votes. The signature and the date of birth of these will be compared with those held on the personal identifiers record. The Local Returning Officer will:
 - correlate the ballot paper number shown on the postal voting statement with the ballot paper number on the corresponding number list so as to determine to whom the postal ballot paper was addressed
 - compare the signature on the postal voting statement with that on the personal identifiers record
 - compare the date of birth on the postal voting statement with that on the personal identifiers record
- The returned postal votes that were subject to personal identifier verification will be kept separate from those that are not subject to the more detailed check. Those in the packet of postal votes that were not subject to the more detailed check may be subject to personal identifier verification at a later postal vote opening if the Local Returning Officer considers it to be appropriate.

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

- either because a signature¹⁰⁴ or date of birth is missing
- or, in the case of those set aside for personal identifier verification, because the signature or date of birth supplied on the postal voting statement does not match that on the personal identifiers record,

the postal voting statement will be attached to the relevant ballot paper or ballot paper envelope, marked 'rejected', shown to any agents present and then placed in the receptacle for rejected votes. Any agent present may object to this decision, in which case the words 'rejection objected to' will be added but the ballot paper will remain rejected.

5.18 Once the postal voting statements have been dealt with and removed from the tables, the teams will open the ballot paper envelopes (envelope A) and remove the ballot papers. The number on the back of each ballot paper will be checked against the number on the ballot paper envelope. The valid

¹⁰² Paragraph 62(2) or 63(2), Schedule 2, EPE Regulations.

¹⁰³ Paragraph 68, Schedule 2, EPE Regulations.

¹⁰⁴ Except in the limited circumstances where an elector has been granted a waiver and is not required to supply a signature.

ballot papers (not the votes) will be counted and the total number will be recorded.

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

The verification and local count

Timing and attendance

5.20 The timing of the verification and count processes is subject to the discretion of the Local Returning Officer in consultation with the Regional Returning Officer. In some cases, the verification will begin after the first ballot boxes are delivered to the verification centre on the evening of Thursday 4 June following the close of poll, whereas in others it may be carried out on the Friday, Saturday, Sunday or Monday. The count may take place immediately after the verification or at any time afterwards, with the result unable to be declared earlier than 9pm on Sunday 7 June in any event.

5.21 The following people are entitled to attend the verification and the count:¹⁰⁵

- the Regional Returning Officer
- the Local Returning Officer and their staff
- each registered party list candidate and individual candidate, and one guest each
- election agents
- any appointed counting agents
- representatives of the Electoral Commission
- accredited observers

5.22 The Local Returning Officer may also permit other people to attend, such as the media and the police, at their discretion, but are not obliged to do so. Their decision as to who may attend the count is final.

5.23 The Local Returning Officer will give notice in writing to the counting agents who have been appointed to attend of the time and place at which both the verification and the count will begin.¹⁰⁶ The appointment of verification and counting agents is covered in Chapter 1, 'Introduction'.

5.24 The duties of counting agents can be summarised as follows:

¹⁰⁵ Rules 50 and 52, EPE Rules; Sections 6A–6D, PPERA.

¹⁰⁶ Rule 51(1), EPE Rules.

- to maintain and aid in maintaining the secrecy requirements
- to be present at all stages of the verification and count
- to oversee the verification and counting processes and see that they are undertaken in an orderly, accurate and correct manner
- to draw to the attention of the count staff any bad or doubtful papers
- to defend ballot papers marked for their candidate to which objection is taken
- to require the Local Returning Officer to mark on a rejected ballot paper the words 'rejection objected to' if they object to the decision of the Local Returning Officer
- if the verification or count is suspended for any reason, when the Local Returning Officer seals the packets, envelopes and ballot boxes, the counting agents are entitled to add their seals until the count resumes
- counting agents are not permitted to handle ballot papers at any time

5.25 The Local Returning Officer will give counting agents reasonable facilities for overseeing the proceedings at the verification and count and for fulfilling the duties described above. In particular, the counting agents will be able to verify that the ballot papers are correctly sorted between the registered political parties and individual candidates. Either the candidate or their election agent is also entitled to do anything that the counting agent is authorised to do, and will be given the same facilities as a counting agent. It is important to note that proceedings at the verification and count are not invalidated if any person entitled to attend is not present.

The verification process

5.26 The verification of ballot papers is an integral part of the process of ensuring that there is an accurate result. This process sees the total number of ballot papers counted as being in the ballot boxes reconciled with the number issued by Presiding Officers at polling stations. The number of returned postal vote ballot papers from the postal vote openings will also be verified.

5.27 During the verification process, ballot papers will remain **face down** at all times.¹⁰⁷

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

5.29 At the end of the verification, a statement of the verification will be produced by the Local Returning Officer.¹⁰⁸ This statement will set out the figures for the number of ballot papers counted against the number expected,

¹⁰⁷ Rule 51(4), EPE Rules.

¹⁰⁸ Rule 51(5), EPE Rules.

and will be shown to the counting agents. In some instances, for example where polling places contain more than one polling station and electors may have put their ballot paper in the wrong ballot box, there may be a small discrepancy between the number counted and the number expected as per the ballot paper account. The Local Returning Officer will undertake a process to determine the reasons for any such variance and produce a final verified number after this process is complete.

5.30 If the verification and count are taking place on separate days or at separate times, once the verification process is complete, the Local Returning Officer will secure the ballot papers and other documents relating to the election by sealing them in a box, after which the candidates and agents present can apply a seal of their own. The boxes will then be stored in a secure place until the count commences.

Postal ballot papers

5.31 There may also be some unopened postal ballot papers still to be processed at the verification, including those that have been delivered to the Local Returning Officer's office and those that have been handed in at polling stations on polling day. The Local Returning Officer may choose to open these postal votes at the verification venue itself or elsewhere, e.g. at the election office. Whichever location is chosen, the Local Returning Officer will give 48 hours' notice in writing detailing when and where each opening is to take place in order to allow inspection of the process.

5.32 The postal voters ballot boxes containing the postal votes already received and opened by the Local Returning Officer will have been delivered separately to the verification venue. The postal ballot papers will be verified and then mixed with verified ballot papers from polling stations, before the counting of votes commences.

Counting the votes

5.33 At a European Parliamentary election, the counting of the votes may commence before polling closes in the remainder of the European Union,¹⁰⁹ i.e. before 9pm on Sunday evening, but there can be no disclosure of the results until after that time – known as 'the material time'.¹¹⁰ The decision on when to count the votes will be made together by the Local Returning Officer and the Regional Returning Officer.

5.34 Counting assistants will sort the ballot papers according to the votes marked on them for each registered political party or individual candidate. Unlike at the verification process, the ballot papers will be kept **face upwards** throughout this process in order to prevent the number and other unique identifying mark on the back of the ballot papers being seen. Candidates and

¹⁰⁹ Rule 52(1), EPE Rules.

¹¹⁰ Rule 53(7), EPE Rules.

agents must not attempt to write down any ballot paper number or unique identifying mark.¹¹¹

5.35 Any doubtful ballot papers will be handed to the supervisor, who will then pass them to the Local Returning Officer to adjudicate. Those deemed to be valid for a registered political party or individual candidate will be added to the bundles for that party or candidate. Those considered invalid will be accounted for and placed in a separate receptacle for rejected votes.

Provisional result

5.36 Once all the votes have been counted, the Local Returning Officer will produce a provisional result. This provisional result cannot be disclosed until after 9pm on Sunday, except to the Regional Returning Officer. Once the provisional result has been produced and it is later than the material time, 9pm on Sunday, those candidates and agents present will be shown the figures. At this point any candidate on a registered party list, individual candidate, election agent or authorised counting agent may request the Local Returning Officer to have the votes recounted or, following a recount, recounted again. The Local Returning Officer may refuse to do so if they believe that the request is unreasonable.

5.37 Authorised counting agents are those who have been appointed with the additional power to request a recount. Chapter 1, 'Introduction', gives further information on these appointments.

5.38 Once the local count, including any recount(s), has been completed, the Local Returning Officer will draw up a statement showing the number of votes given for each registered political party and each individual candidate (excluding rejected ballot papers).¹¹²

5.39 The Local Returning Officer will then convey the contents of that statement to the Regional Returning Officer.¹¹³

Declaration of local results

5.40 Once the local result has been agreed and confirmed with the Regional Returning Officer, the Local Returning Officer will publish the local result. In most cases this will include a public announcement of the local result at the local count venue. The statement of rejected votes will also be made available.

5.41 The Regional Returning Officer can only perform the calculation and allocation of seats once the final local results from each Local Returning Officer in the region have been transmitted to the Regional Returning Officer.

¹¹¹ Regulation 29, EPE Regulations.

¹¹² Rule 57(1), EPE Rules.

¹¹³ Rule 57(2), EPE Rules.

5.42 No recount of any or all of the local results can be carried out at this stage, as the local results are final and can only be challenged by election petition.

Seat allocation

5.43 As soon as the Regional Returning Officer has received the totals from all of the Local Returning Officers in a region, the Regional Returning Officer will total all the local results for each registered political party and individual candidate and perform a seat allocation calculation.¹¹⁴

Attendance at the allocation of seats.

5.44 The following people are entitled to attend the allocation of seats:

- the Regional Returning Officer and their staff
- the election agent of a registered political party or an individual candidate, or a person acting on their behalf
- each candidate on a registered party's list, each individual candidate, and one person chosen by each of them
- the Nominating Officer of any registered political party standing a list of candidates in that electoral region
- Electoral Commission representatives
- accredited observers
- any other person that the Regional Returning Officer allows to attend (e.g. the media and police)

Allocating the seats

5.45 All Local Returning Officers will transmit the total number of votes cast for each registered political party or individual candidate in their local counting area to the Regional Returning Officer. The Regional Returning Officer will then total all of the votes cast within the region before applying the d'Hondt formula to carry out the allocation of seats:

Total number of votes received

Number of seats list/individual has already been allocated in electoral region + 1

5.46 The first seat is therefore allocated to the individual candidate or registered party list which has received the highest number of votes cast in the electoral region. The second and subsequent seats are allocated in the same way except that where a registered party has already been allocated a seat, their original total is divided by one plus the number of seats already allocated to that party/individual in the region: for example, a party which has been allocated one seat already will have its original total divided by two.

¹¹⁴ Rule 59, EPE Rules.

5.47 Any individual candidate who has been allocated a seat or any registered party which has been allocated as many seats as there are candidates on its list can be excluded from the subsequent stages of the calculation.

5.48 The seats to which each registered political party is entitled are filled by the candidates in the order in which their names appear on their party list.

Table 5: Worked example

	Party A	Party B	Party C	Party D	Party E
Votes	340,000	280,000	160,000	60,000	15,000
Seat 1	340,000	280,000	160,000	60,000	15,000
Seat 2	170,000	280,000	160,000	60,000	15,000
Seat 3	170,000	140,000	160,000	60,000	15,000
Seat 4	113,333	140,000	160,000	60,000	15,000
Total seats	2	1	1	0	0

5.49 In the worked example in Table 5, there are four seats available and these have been allocated as follows:

- **Seat 1** – Party A obtained the highest number of votes (340,000) and is therefore entitled to the first available seat.
- **Seat 2** – The allocation of the next seat is calculated by dividing the total number of votes each registered party list received by the number of seats it has already been allocated in the region, plus one. As a result, Party A's original total must be divided by two, while the other parties' totals are still divided by one and so remain the same. Party B, with its total of 280,000, wins the second seat.
- **Seat 3** – To calculate the allocation of the third seat, both Party A's and Party B's total number of votes are divided by two, while Party C and Party D still have their totals divided by one. This results in this seat being allocated to Party A with its total of 170,000.
- **Seat 4** – As Party A now has two seats, its original total of 340,000 is divided by three. At this stage, Party C, with a total of 160,000, wins the fourth and final seat.

5.50 Parties often list more candidates than the number of seats they expect to fill, although they are not allowed to include more names on the list than there are seats available.

Equality of votes

5.51 If at any stage of the allocation of seats an equality of votes exists between two or more registered party lists or individual candidates and, at that point of the allocation process, they have a higher total than anyone else,

each shall be allocated a seat unless there are insufficient seats left to be allocated for this to happen.

5.52 If the situation arises where two registered party lists or individual candidates have an identical total and only the last seat remains to be allocated, or if there are three identical totals and only two seats left, etc., the Regional Returning Officer will add one vote to the original total number of votes cast for each of the registered party lists or individual candidates concerned. The calculation will then be repeated.¹¹⁵

5.53 If this fails to separate the registered political parties or candidates concerned, the matter will be decided by the drawing of lots.¹¹⁶ There is no prescribed form of drawing lots, but a lot is defined as an object, e.g. a slip of paper or a straw, drawn or thrown out from among a number in order to reach a decision by chance. The most common method is to place and mix slips of paper, each marked with the name of the individual candidate or party with the same number of votes, into a container and draw one from the container. The Regional Returning Officer may, however, choose to use another method of drawing lots. Whichever registered political party or individual candidate wins the lot will win that round of seat allocation.

¹¹⁵ Rule 60, EPE Rules.

¹¹⁶ Rule 60(2), EPE Rules.

6 After the election

Successful candidates

6.1 Successful candidates will take up their membership of the European Parliament at the first session of the Parliament following the election, Tuesday 14 July 2009. The period of office is five years starting from Tuesday 14 July 2009 and ending at the first session of the new Parliament following the next scheduled European Parliamentary election in 2014.¹¹⁷

6.2 Successful candidates must make a written declaration before taking their seat in Parliament, stating that they do not hold any office incompatible with that of an MEP. Following the 4 June 2009 election, this declaration must be made, where possible, no later than six days prior to Parliament's first sitting. Until such time as Members' credentials have been verified or a ruling has been given on any dispute, and provided that they have previously signed the written declaration, they can take their seat in Parliament and on its bodies and gain the rights of being an MEP.¹¹⁸

Return of deposits¹¹⁹

6.3 The deposits of individual candidates and registered party lists that have polled more than 2.5% (one-fortieth) of the total number of votes cast for all registered party lists and individual candidates in the electoral region, excluding any rejected votes. The deposits will be returned not later than the next working day after the result of the election is declared. The deposit will be returned in the name of the person who lodged it. Although the deposit can instead be returned to their personal representative, this is usually only done when an arrangement has been made with the Regional Returning Officer in advance.

6.4 The deposit of an individual candidate or registered political party standing at a regional election will not be returned if, after the total number of regional votes has been calculated, the candidate or party is found not to have polled more than 2.5% (one-fortieth) of the total number of votes polled by all the individual candidates and registered parties in the electoral region, excluding any rejected votes.

6.5 Deposits will be returned as soon as practicable if an individual candidate or party has withdrawn their candidature by the deadline for withdrawals, or if an individual candidate dies.¹²⁰

¹¹⁷ Rule 4(1) and (2), Rules of Procedure of the European Parliament.

¹¹⁸ Rule 3, Rules of Procedure of the European Parliament.

¹¹⁹ Rule 62(5), EPE Rules.

¹²⁰ Rule 62(4), EPE Rules.

Election petitions

6.6 Election petitions are used to challenge the result of elections. The procedure for issuing an election petition relating to a European Parliamentary election is described below.

6.7 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 that time.

6.8 An election petition can be issued by:¹²¹

- a person who voted as an elector at the election or had a right to vote, except for anonymously registered electors¹²²
- 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

6.9 The allowable grounds for a petition are that there has been an:¹²³

- undue election, or
- undue declaration

6.10 The person(s) whose election is questioned by the petition must be made a respondent to the petition. If the petition complains about the conduct of the Returning Officer or their staff during the election, the Returning Officer must also be a respondent.

6.11 An election petition must be presented within 21 days after the day on which the election result was declared and can be issued at any time up to, but not later than, **12 midnight** on the last day.¹²⁴ There may be provision to launch a petition after this time if the reason is an unlawful payment made after the petition deadline, although independent legal advice should be taken if this is being considered.

Form of petition

6.12 The petition itself should follow the form prescribed by Part 4 of the EPE Regulations. These are described in detail in The European Parliamentary Election Petition Rules 1979 (as amended) and the Rules of the Court of Session 1994.

6.13 In England and Wales, three copies of the petition must be submitted, and in Scotland six copies of the petition must be submitted. The petition should contain:

¹²¹ Regulation 89(1), EPE Regulations.

¹²² Regulation 89(1A), EPE Regulations.

¹²³ Regulation 88(1), EPE Regulations.

¹²⁴ Regulation 90, EPE Regulations.

- details of the capacity by which the person or persons are qualified to bring the petition
- the date and result of the election
- in Scotland only, the proceedings at the election
- the grounds on which the election petition is being brought and setting out the facts (but not the evidence) of why the court should change the result of the election
- how the declared result should be changed (e.g. require a new election to be held or declare someone else elected to the European Parliament)¹²⁵
- such other details and formatting as the rules may require

6.14 The petition must be signed personally by each petitioner. The petition must be delivered to the appropriate officer at the address given below.

Costs

6.15 A fee of £360 in England and Wales, or £175 in Scotland, is payable on the issue of an election petition. In addition, an application to fix the amount of security for costs must be issued, and the fee for this is £40 in England and Wales, and £45 in Scotland. The amount of security for costs will be fixed by the Prescribed Officer of the court.

6.16 It is important to note that while the security for costs will not be more than £5,000, the total costs to be paid by the petitioner will almost certainly exceed that amount if the petition is unsuccessful.

6.17 For more detailed information on the processes to be followed in issuing an election petition, contact:

In England and Wales:

Supreme Court Cost Office
Room 2.14
Clifford's Inn
Fetter Lane
London EC4A 1DQ

Tel: 020 7947 6423

Fax: 020 7947 6807

In Scotland:

Petitions Department
Court of Session
Parliament House
Parliament Square
Edinburgh EH1 1RQ

¹²⁵ Rule 4, The European Parliamentary Election Petition Rules 1979 (as amended); Chapter 69, Rules of the Court of Session 1994.

Tel: 0131 240 6747

Fax: 0131 240 6755

In Gibraltar:

Petitions for the South West region, which includes Gibraltar, may be sent to the Royal Courts of Justice via the Supreme Court Registry of the Gibraltar Supreme Court.



Any person seeking to make an election petition, and any person who is a respondent to such a petition, is strongly advised to take legal advice at the earliest possible opportunity.

Appendix A – Breaches of electoral law and penalties

The relevant electoral law for European Parliamentary elections is mainly contained in the European Parliamentary Elections Regulations 2004 (as amended), although other electoral legislation and other criminal legislation also apply. Table A1 sets out the list of offences (including statutory references and the individual(s) who can be found to have committed them) and relevant penalties.

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

Table A1: Offences and penalties

Offence	Legislation	Who can commit	Penalty (maximum)
Personation – when any individual votes as someone else (whether that person is living or dead or is a fictitious person)	Regulation 23, EPE Regulations	Any person	On indictment: up to two years' imprisonment, or a fine, or both. On summary conviction: up to six months' imprisonment, or a fine not exceeding the statutory maximum (currently £5,000), or both.
Other voting offences – voting or acting as a proxy while disqualified or acting as a proxy for more than two people who are not close relatives; voting twice at the same election; knowingly appointing two proxies for the same election	Regulation 24, EPE Regulations	Any person	On summary conviction: a fine not exceeding level 5 on the standard scale (currently £5,000).
Tampering with election documents, e.g. nomination papers, ballot papers, etc. – defacing or destroying them, fraudulently opening packets of election material or ballot boxes, taking ballot papers out of the polling station, or putting material other than the ballot paper in the ballot box	Regulation 26, EPE Regulations	Any person	The Returning Officer or their staff: on indictment; a fine or up to two years' imprisonment, or both. On summary conviction: a fine not exceeding the statutory maximum, or up to six months' imprisonment, or both. Any other person: on summary conviction; a fine not exceeding level 5 on the standard scale (currently £5,000), or up to six months' imprisonment, or both.

Table A1 (cont.): Offences and penalties

Offence	Legislation	Who can commit	Penalty (maximum)
False statements on nomination papers, etc. – supplying false names and addresses of candidates on a nomination paper, or forging the signatures of electors, or getting electors to subscribe a nomination paper under false pretences, or falsifying a candidate's date of birth, qualification to stand for election, or disqualification from being elected at that election	Regulation 27, EPE Regulations	Any person	On summary conviction: up to six months' imprisonment, or a fine not exceeding the statutory maximum, or both. On indictment: one year's imprisonment, or a fine, or both.
Contravention of the secrecy requirements (requirements reproduced at Appendix B)	Regulation 29, EPE Regulations	All persons attending a polling station, the issue and opening of postal ballots and the count	A fine not exceeding level 5 on the standard scale (currently £5,000).
Provision of money or other property provided for the purpose of meeting a candidate's election expenses to any person other than the candidate or their election agent	Regulation 42, EPE Regulations	Any person	A fine not exceeding level 5 on the standard scale (currently £5,000).

Table A1 (cont.): Offences and penalties

Offence	Legislation	Who can commit	Penalty (maximum)
Making payments in respect of election expenses other than as specified in Regulation 43, EPE Regulations	Regulation 43(5), EPE Regulations	A candidate at the election or any other person	A 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 in Regulation 46, EPE Regulations)	Regulation 46(5), EPE Regulations	Any person who incurs, aids, abets, counsels or procures any other person to incur expenses without written authority	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment.
Making a false declaration as to expenses incurred, with the written authority of the election agent	Regulation 46, EPE Regulations	Any person required to submit a return and declaration	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment.
Failing to submit a return and declaration as to expenses incurred, with the written authority of the election agent	Regulation 46(5), EPE Regulations	Any person required to submit a return and declaration	A fine not exceeding level 5 on the standard scale (currently £5,000).

Table A1 (cont.): Offences and penalties

Offence	Legislation	Who can commit	Penalty (maximum)
Incurring expenses in excess of the legal maximum	Regulation 47(3), EPE Regulations	Candidate and/or election agent	A fine not exceeding level 5 on the standard scale (currently £5,000).
Paying a claim in respect of election expenses where the claim was received more than 21 calendar days after the date on which the election result was declared	Regulation 48(4), EPE Regulations	Election agent	A fine not exceeding level 5 on the standard scale (currently £5,000).
Making a false declaration as to election expenses	Regulation 52(6), EPE Regulations	Candidate and/or election agent	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment.
Failure to submit a return or declaration, or to comply with the requirements as to the contents of a return	Regulation 54, EPE Regulations	Candidate and/or election agent	A fine not exceeding level 5 on the standard scale (currently £5,000).
Payment of canvassers	Regulation 75, EPE Regulations	The person employing the canvasser and the person employed as a canvasser	A fine not exceeding level 5 on the standard scale (currently £5,000).

Table A1 (cont.): Offences and penalties

Offence	Legislation	Who can commit	Penalty (maximum)
Bribery	Regulation 77, EPE Regulations	Any person – directly or indirectly, by themselves or by any other person	On indictment: one year's imprisonment, or a fine, or both. On summary conviction: six months' imprisonment, or a fine not exceeding the statutory maximum (currently £5,000), or both.
Treating	Regulation 78, EPE Regulations	Any person – directly or indirectly, by themselves or by any other person	On summary conviction: six months' imprisonment, or a fine not exceeding the statutory maximum (currently £5,000), or both. On indictment: one year's imprisonment, or a fine, or both.
Undue influence or intention to unduly influence	Regulation 79, EPE Regulations	Any person	On summary conviction: six months' imprisonment, or a fine not exceeding the statutory maximum (currently £5,000), or both. On indictment: one year's imprisonment, or a fine, or both.
Failure to provide all required information at the time a donation is received by the candidate or election agent where the donation is being made on behalf of others	Paragraph 6(7), Schedule 6, EPE Regulations	Principal donors or any person providing a donation on behalf of another person	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment.

Table A1 (cont.): Offences and penalties

Offence	Legislation	Who can commit	Penalty (maximum)
Failure to return a donation from an impermissible or unidentifiable source	Paragraph 7, Schedule 6, EPE Regulations	Candidate and/or election agent	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment.
Knowingly giving the responsible person false information about donations	Paragraph 9, Schedule 6, EPE Regulations	Any person	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment.
Withholding information about donations from the responsible person, with intent to deceive	Paragraph 9, Schedule 6, EPE Regulations	Any person	On summary conviction: a statutory maximum fine or six months' imprisonment. On indictment: a fine or one year's imprisonment.
Absent voting offences:	Schedule 2, EPE Regulations:	Any person	On indictment: one year's imprisonment, or a fine, or both. On summary conviction: six months' imprisonment, or a fine not exceeding the statutory maximum (currently £5,000), or both.
<ul style="list-style-type: none"> • applying for a postal or proxy vote as some other person (whether living, dead or fictitious) • otherwise making a false connection with an application for a postal or proxy vote 	Paragraph 11(2)(a) Paragraph 11(2)(b)		

Table A1 (cont.): Offences and penalties

Offence	Legislation	Who can commit	Penalty (maximum)
<ul style="list-style-type: none"> inducing an Electoral Registration Officer or a Returning Officer to send a communication relating to a postal or proxy vote to an address that has not been agreed by the voter 	Paragraph 11(2)(c)		
<ul style="list-style-type: none"> causing such a communication not to be delivered to the intended recipient 	Paragraph 11(2)(d)		

Appendix B – Secrecy requirements

The requirements in Regulation 29 of the European Parliamentary Elections Regulations 2004 (as amended) help to maintain the secrecy of the ballot. They apply to all candidates, election agents and polling agents, and to every person attending at the polling stations, the issue and receipt of postal ballot papers and the count. Regulation 29 is reproduced below in full, for use by candidates, election agents, polling and counting agents.

European Parliamentary Elections Regulations 2004 (as amended)

Requirement of secrecy

Regulation 29

(1) The following persons –

- (a) every Local 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 votes the number or other unique identifying mark on the back of any ballot paper;
- (b) communicate any information obtained at the verification of the ballot paper accounts or the counting of the votes as to the way in which any vote is given on any particular ballot paper.

(3) No person attending at the verification of the ballot paper accounts shall express to any person an opinion based on information obtained at that verification as to 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;

(b) except for some purpose authorised by law, communicate to any person at any time any 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;

(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 way in which 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 six months.

Appendix C – Tellers in and around polling places

1 Introduction

- 1.1 Regulation 8 of the European Parliamentary Elections Regulations 2004 (as amended) defines a polling place as a geographical area within a polling district. If a polling district has no designated polling place, the polling district is taken to be the polling place.
- 1.2 For the purposes of this guidance:
 - ‘Polling place’ means the building in which polling stations are located. More than one polling station may be located within a polling place.
 - ‘Polling station’ is defined as the room or area within a polling place where electors cast their votes, which contains the polling booths, ballot box and Presiding Officer’s table. It is usually a room within a building (i.e. polling place) or a single room in temporary accommodation, such as a mobile caravan, a tent or even a garage. The polling station is a self-contained area which only those allowed by law may enter.
- 1.3 This guidance replaces Circular RPA 359 issued by the Home Office in 1991 and previous guidance issued by the Commission on this subject for European Parliamentary elections.
- 1.4 Although not mandatory, this revised guidance provides advice for those involved in administering and contesting elections, and aims to ensure that tellers, party activists, agents, candidates and polling station staff know precisely what is and is not accepted when campaigning in and around polling places. These guidelines intend to promote appropriate standards of conduct to be maintained throughout the UK. Candidates and agents who also act as tellers are also subject to the provisions in this guidance.
- 1.5 It can be difficult to achieve consensus on the matter of whether elector numbers should be collected from voters as they are on their way in or out of the polling station. This guidance is issued in support of the Returning Officer; as they are ultimately responsible for the conduct of elections their decision is final.

2 Tellers

- 2.1 Tellers are usually volunteers who stand outside polling places and record the electoral numbers of electors who have voted. They can then identify likely supporters who have not voted and urge them to vote before the close of poll. Tellers play an important role in elections, and may increase turnout.
- 2.2 Tellers must not impede or interfere with the efficient and secure administration of the election and must comply with any instructions issued by the Local Returning Officer or Presiding Officer.

- 2.3 Tellers have no official legal status. They should not be confused with polling agents, whose appointment and duties are described in legislation. Tellers, unlike polling agents, may not be admitted to the polling station in their capacity as tellers (see paragraphs 3.8 and 3.9 below).

3 Tellers' activities

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

Numbers of tellers

- 3.7 There should be no more than one teller at a polling station for each candidate or political party at any time. Where a polling place contains more than one polling station with separate entrances, it may be appropriate for

there to be tellers at each entrance, but no more than one per candidate or party. Their behaviour and numbers should never be capable of being seen as intimidating in any way.

Location

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

Poll cards

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

Appearance

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

4 Application of the guidance

- 4.1 With regard to the collection of elector numbers from voters on the way in or out of the polling station, this guidance is intended to be amended to coincide with any guidelines or instructions provided by the Local Returning Officer. The Local Returning Officer is ultimately responsible for the conduct of an election; as such, their decision is final. Each individual Local

Returning Officer is independent of the local authority when they are conducting the election, and everything is done under their personal responsibility.

- 4.2 The value of local agreements cannot be over-emphasised. It is recommended that the Local Returning Officer arranges a meeting with all candidates, agents, tellers and campaigners at the earliest opportunity following the close of nominations to communicate the same message to all concerned. This will ensure that everyone is aware of the local circumstances and conducts their campaign within the same guidelines. It may pre-empt problems by discussing campaigning in and around polling places and the conduct of tellers, and reaching consensus amongst those present as to what is acceptable, especially with regard to whether to gather elector numbers as voters either enter or leave the polling station. Guidance should be distributed at pre-election meetings or with nomination packs.
- 4.3 On polling day, Local Returning Officers may find it helpful to provide Presiding Officers with posters to display that outline the main responsibilities of tellers. The poster could be displayed outside the polling station close to where tellers stand, serving both to self-regulate the activity of tellers and to alert voters that tellers are not official polling station staff. A sample copy is attached to this guidance, and is intended to be used by the Local Returning Officer in conjunction with agreed local arrangements on the collection of elector numbers before being distributed.
- 4.4 If in doubt about the actions of a teller, the Presiding Officer or Local Returning Officer should consider: 'What would a reasonable observer think?' This guideline was prepared based on the test advocated by the Third Report of the Committee on Standards in Public Life.¹

5 Complaints

- 5.1 If a complaint is received about the conduct of tellers or campaigners, the electoral administrator should contact the relevant Presiding Officer and request that the matter be dealt with and monitored by the polling staff there. Presiding Officers have the power to keep order in the station and may require any teller or campaigner who refuses to carry out their instructions to be removed.
- 5.2 If it is not possible to contact the Presiding Officer, or there are continuing difficulties with the activities of campaigners or tellers, a member of the Local Returning Officer's staff should visit the polling place. The elections officer should speak to the Presiding Officer before approaching the campaigners or tellers. Tellers may be reminded of this guidance, provided

¹ Committee on Standards in Public Life, *Standards in Public Life: Standards of Conduct in Local Government in England, Scotland and Wales, Third Report*. Chairman Lord Nolan (The Stationery Office: London, 1997).

with a copy if necessary, and advised that it is an offence for anyone to impede or interfere with any electors prior to their voting.

- 5.3 Tellers or campaigners should be advised that if the interference persists the police will be called. The Presiding Officer should be advised of the action taken and asked to monitor the situation and report any further problems to the elections office. The agent of the party or independent candidate they are representing should also be informed. This enables the party or candidate concerned to take action against such tellers and ensure that they are properly briefed before being allowed to act as tellers or campaigners in future elections.

6 Tellers in and around polling places

- 6.1 Tellers work for political parties. They stand outside polling stations or polling places and record the electoral number of voters who have voted. By identifying electors who have not voted and relaying this information to the party, tellers play an important role in elections. Parties may then contact the voters who have not yet been to vote during election day and persuade them to vote, which may help to increase turnout.

- 6.2 There should be no more than one teller at a polling station for each candidate or political party at any time. Where a polling place contains more than one polling station with separate entrances, it may be appropriate for there to be tellers at each entrance, but no more than one per candidate or party.

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

- Tellers must:**
- (a) Always remain outside the polling station/place
 - (b) Only enter the polling station to cast their own vote, to vote as a proxy or to accompany a voter with disabilities
 - (c) Always comply with the instructions of the Local Returning Officer and Presiding Officer
- Tellers must not:**
- (a) Be able to see or hear what is happening inside the polling station
 - (b) Impede, obstruct or intimidate voters on their way in or out of the polling station/place
 - (c) **Demand** any information relating to a voter's elector number, name or address
 - (d) Ask voters to re-enter the polling station to ascertain their elector number
 - (e) Have discussions with voters that may give rise to allegations of undue influence (e.g. voting intentions, party affiliations or party campaigns)

- (f) Display any campaign material in support of or against any particular political party or individual candidate other than a rosette

Tellers may:

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

Please refer to the Electoral Commission's guidance *Tellers in and around polling places*, available from www.electoralcommission.org.uk

Appendix D – Code of conduct for political parties, candidates and canvassers on the handling of postal vote applications and postal ballot papers

Introduction

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

Key principles

All political parties, candidates and canvassers handling postal vote applications and postal ballot papers will adhere to the following two key principles:

- Candidates and supporters should assist in the efficient and secure administration of elections and uphold the secrecy of the ballot.
- No candidate or supporter should place themselves in a situation where their honesty or integrity – or that of the party or candidate – can be questioned.

What the law says

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

the person entitled to the vote, or to cause a postal ballot paper not to be delivered to the intended recipient.¹

- It is an offence to supply false information to the Electoral Registration Officer for any purpose connected with the registration of electors.²

See Appendix A, ‘Breaches of electoral law and penalties’, for further information on specific electoral and general offences of which you should be particularly aware.

Applications for postal voting

- If you develop a bespoke application form, it should conform fully with the requirements of electoral law, including all the necessary questions and the options open to electors.
- Electors should be encouraged to ask for the postal vote to be delivered to their registered home address, unless there are compelling reasons why this would be impractical. This reason must be stated on the application form.
- Because of the risk of suspicions that the application may be altered and the risk of the application form being delayed or lost in transit, the local Electoral Registration Officer’s address should be the preferred address given for the return of application forms.
- If an intermediary address is used, forms should be despatched unaltered to the relevant Electoral Registration Officer’s address within two working days of receipt.
- If you are given a completed application form, you should forward it directly and without delay to the local Electoral Registration Officer.
- The Electoral Registration Officer may check the signature on an absent voting application against any other copies of the elector’s signature or date of birth which they hold or is held by any authority which they are authorised to inspect.³
- The Electoral Registration Officer must confirm in writing to all successful applicants that they will receive a postal ballot.

Postal voting ballot papers

- You should not touch or handle anyone else’s ballot paper. If you are asked for assistance in actually completing a ballot paper, you should always refer the voter to the Returning Officer’s staff at the elections office who can arrange a home visit if necessary. Assistance will also be available for electors at polling stations.
- It is absolutely clear that anyone acting on behalf of a party should not solicit the collection of any ballot paper. Wherever practical, the voter

¹ Sections 62A(2) and 115(2), RPA 1983; Regulation 79 and Paragraphs 10 and 11, Schedule 2, EPE Regulations.

² Section 13D, RPA 1983.

³ Regulation 51A, Representation of the People Regulations 2001 (as amended); Paragraph 19, Schedule 2, EPE Regulations.

should be encouraged to post or deliver the completed ballot paper themselves.

- It is recognised that people working for a party may be approached by a voter who is unable to post their ballot paper or make arrangements for it to be returned in time. If you are asked to take the completed ballot paper, you should ensure that the voter has sealed it first and then post it or take it to a polling station or office of the Returning Officer immediately, without interfering in any way with the package.
- If you are with a voter when they complete their ballot paper, remember they should complete it in secret. Equally, you should ensure that the voter seals the envelopes personally and immediately. If you are asked to give advice, it is acceptable and often helpful to explain the voting process but do not offer to help anyone to complete their ballot paper.

If you are in any doubt about the probity or propriety of your actions, you should ask yourself the question, '**What would a reasonable observer think?**' This draft code has been prepared based on this test, as advocated by the Third Report of the Committee on Standards in Public Life.⁴

Agreed December 2006 (and current for elections in 2009)

⁴ Committee on Standards in Public Life, *Standards in Public Life: Standards of Conduct in Local Government in England, Scotland and Wales, Third Report*. Chairman Lord Nolan. (The Stationery Office: London, 1997).

Appendix E – 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 election. Section 10 is reproduced below in full and applies to all candidates, both individual and party list candidates, who must all 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 (c.24) (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 F – Feedback form

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

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

If YES, please provide details:

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

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

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

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

Name:

Organisation/party:

Address:

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

European Parliamentary elections, 4 June 2009

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