



The
Electoral
Commission

Guidance for candidates and agents

Northern Ireland Assembly elections,
March 2007

Translations and other formats

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We are an independent body that was set up by the UK Parliament. Our mission is to foster public confidence and participation by promoting integrity, involvement and effectiveness in the democratic process.

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1 Introduction

1.1 This guide has been produced by the Electoral Commission in collaboration with the Electoral Office for Northern Ireland (EONI). It aims to provide practical advice for anyone who wants to stand as a candidate in the Northern Ireland Assembly election on Wednesday 7 March 2007. It covers the whole election process from nomination to the declaration of the result. It includes relevant factual material, as well as a guide to sources of further information. Standing for election can be a complicated business, but we hope that this guide will make it as straightforward as possible.

How to use this guide

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

1.3 The advice is provided as a **guide** to the requirements for candidates and agents during the election. It should not be relied on as legally definitive and neither the Electoral Commission nor EONI can accept any responsibility for any errors or omissions, or for 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 to seek their own legal advice.

Statutory references

1.4 A number of references are made in this guide to the legislation that underpins the electoral process in Northern Ireland and the UK. These references may be abbreviated, and a guide to the full titles of the Acts and Regulations is provided in Table 1 below.

Table 1: Abbreviations of Acts and Regulations

Abbreviation	Full title
ELA 1962	Electoral Law Act (Northern Ireland) 1962
1964 Rules	Election Petition Rules 1964
1975 Act	The Northern Ireland Assembly Disqualification Act 1975
RPA 1983	Representation of the People Act 1983
1985 Act	The Elections (Northern Ireland) Act 1985

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

Abbreviation	Full title
RPA 1985	Representation of the People Act 1985
Planning Regs 1992	The Planning (Control of Advertisements) Regulations (Northern Ireland) 1992
1998 Act	Northern Ireland Act 1998
RPPA 1998	Registration of Political Parties Act 1998
PPERA	Political Parties, Elections and Referendums Act 2000
RPA 2000	Representation of the People Act 2000
EPA 2001	Elections Publications Act 2001
RPR (NI) (Amend) 2001	Representation of the People (Northern Ireland) (Amendment) Regulations 2001
2001 Order	Northern Ireland Assembly (Elections) Order 2001
RPR 2001	Representation of the People (Northern Ireland) Regulations 2001
EFA 2002	Electoral Fraud (Northern Ireland) Act 2002
2002 Order	Northern Ireland Assembly (Elections) (Amendment) Order 2002
RPR (NI) (Amend) 2002	Representation of the People (Northern Ireland) (Amendment) Regulations 2002

Note: Changes contained in the Electoral Administration Act 2006 (EAA) will not be applied for the 2007 Northern Ireland Assembly election. However, the Northern Ireland Assembly (Elections) (Amendment) Order 2007 amends the 2001 Order to apply Section 27 of the EAA concerning the meaning or definition of election expenses.

2 Roles and responsibilities – who does what?

2.1 A number of organisations and individual officers are responsible for the administration of various aspects of an Assembly election. Their respective roles and duties are described below.

The Chief Electoral Officer

2.2 Douglas Bain, the Chief Electoral Officer for Northern Ireland, is the independent statutory office holder who is the Returning Officer for all constituencies in Northern Ireland. He is also the Electoral Registration Officer for the whole of Northern Ireland.

The Electoral Office for Northern Ireland

2.3 The Electoral Office for Northern Ireland (EONI) is the group of permanent staff whose role is to support the Chief Electoral Officer in the performance of his statutory duties. These staff are based in Area Electoral Offices throughout Northern Ireland and at EONI Headquarters in Belfast. Each Office is headed by an Area Electoral Officer.

2.4 It is customary for the Chief Electoral Officer to appoint the Area Electoral Officers to be his Deputy Returning Officers for Assembly elections. As such they are empowered to do everything that the Chief Electoral Officer can lawfully do in relation to that election, including the appointment of a Presiding Officer and Poll Clerk for each polling station and other staff as are necessary to deal with matters such as the issue and receipt of postal votes, the staffing of polling stations and the counting of votes.

2.5 The Chief Electoral Officer and the EONI can be contacted as follows:

15 Church Street
Belfast BT1 1ER

Freephone: 0800 432 0712
Tel: 028 9044 6688

Email: info@eoni.gov.uk

Area Electoral Offices

2.6 The staff of the Area Electoral Offices are likely to be the first and main point of contact for candidates and agents during the election. They may be contacted at the following addresses:

Ballymena Area Electoral Office

122 Broughshane Street
Ballymena
BT43 6EE

Tel: 028 9044 6688
Fax: 028 2564 6328

Administers elections for Mid Ulster and North Antrim constituencies.

Banbridge Area Electoral Office

52 Bridge Street
Banbridge BT32 3JU

Tel: 028 9044 6688
Fax: 028 4062 9766

Administers elections for Lagan Valley, Newry and Armagh, South Down, and Upper Bann constituencies.

Belfast Area Electoral Office

6–10 William Street
Belfast BT1 1PR

Tel: 028 9044 6688
Fax: 028 9024 8689

Administers elections for Belfast East, Belfast North, Belfast South and Belfast West constituencies.

Londonderry Area Electoral Office

20 Queen Street
Londonderry BT48 7EQ

Tel: 028 9044 6688
Fax: 028 7136 6074

Administers elections for East Londonderry and Foyle constituencies.

Newtownabbey Area Electoral Office

1–3 Portland Avenue
Newtownabbey BT36 5EY

Tel: 028 9044 6688
Fax: 028 9084 2130

Administers elections for East Antrim and South Antrim constituencies.

Newtownards Area Electoral Office

2(B) Regent Street
Newtownards BT23 4LH

Tel: 028 9044 6688
Fax: 028 9182 8387

Administers elections for North Down and Strangford constituencies.

Omagh Area Electoral Office

21 Kevlin Avenue
Omagh BT78 1ER

Tel: 028 9044 6688
Fax: 028 8224 8905

Administers elections for Fermanagh and South Tyrone, and West Tyrone constituencies.

The Electoral Commission

2.7 The Electoral Commission is an independent statutory authority established in November 2000, following the commencement of the Political Parties, Elections and Referendums Act 2000. The Commission is headed by a Chairman and, currently, four other Commissioners. The Chairman and Commissioners do not have affiliations to any political party, and the Commission is not accountable to the Government. It reports directly to the UK Parliament through a committee chaired by the Speaker of the House of Commons.

2.8 The Commission is responsible for overseeing a number of aspects of electoral law: the registration of political parties and third parties, monitoring and publication of significant donations to registered political parties, and the regulation of political party spending on election campaigns. The Commission also has a role in promoting voter awareness and is required to report on the administration of every major election.

2.9 The Commission has primary responsibility for providing advice and assistance on electoral matters to all those involved in elections, including administrators, political parties and candidates. Although the first point of contact for candidates

and agents seeking advice and guidance should be the appropriate Area Electoral Office, Commission staff will be happy to provide advice on any matter discussed in this guide.

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

2.11 For further information on standing as a candidate in the Northern Ireland Assembly election, please contact:

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

Tel: 028 9089 4023
Email: mlavery@electoralcommission.org.uk
www.electoralcommission.org.uk

3 The election timetable

3.1 Polling day for the elections to the Northern Ireland Assembly will be **Wednesday 7 March 2007**. Certain key dates and deadlines are legislated into what is known as the election timetable,¹ shown in Table 2 below. If no time is specified as the deadline for an event or requirement (i.e. noon or 5pm), the deadline is midnight on that day. The Chief Electoral Officer has no discretion to extend any deadline.

Table 2: Election timetable

Event	Deadline
Dissolution of Assembly and beginning of candidates' regulated period	Tuesday 30 January
Publication of Notice of Election	Wednesday 31 January
Deadline for new parties contesting the election to appear on the register	Friday 9 February
Delivery of nomination papers between the hours of 10am and 4pm on	Monday 12 February Tuesday 13 February
Delivery of notices of withdrawals of candidature between the hours of 10am and 4pm on	Monday 12 February Tuesday 13 February
The making of objections to nomination papers: between the hours of 10am and 4pm on and between 10am and 5pm on	Monday 12 February Tuesday 13 February
Last time for notice of appointment of election agents no later than 4pm on	Tuesday 13 February
Publication of statement of persons nominated as soon as possible after 5pm on	Tuesday 13 February
Last day for receipt of postal and proxy vote applications not later than 5pm on	Thursday 15 February
Last day for receipt of late postal and proxy vote applications on grounds of unforeseen physical illness not later than 5pm on	Tuesday 27 February

¹ Schedule 1, Rule 1, RPA 1983 as amended by Schedule 4, paragraph 73, RPA 1985 and applied by the 2001 Order and the Northern Ireland (St Andrews Agreement) Act 2006.

Table 2 (cont.): Election timetable

Event	Deadline
Last day for notice of sub-agents, polling and counting agents – not later than 5pm on	Monday 5 March
Polling day – 7am to 10pm on	Wednesday 7 March
Count commences	Thursday 8 March
Last day to receive claims for election expenses	21 days after the result of the election is declared
Last day to pay claims for election expenses	28 days after the result of the election is declared
Last day for the receipt of return of election expenses	35 days after the result of the election is declared

4 Becoming a candidate

4.1 In order to become a candidate at a Northern Ireland Assembly election you must be certain that you are eligible to stand and then submit a set of nomination papers (see Chapter 5, 'Getting nominated').

4.2 For the purposes of the law relating to elections to the Northern Ireland Assembly, a person will become a candidate either:

- on the date of 30 January 2007 if he or she has been declared by himself or by others to be a candidate at that election on or before that date; or otherwise
- on the date after 30 January 2007 on which he or she declares or is declared by others to be a candidate or is nominated as a candidate at that election (whichever is the earlier)²

Example box 1: Becoming a candidate

- A person declares himself to be a candidate for election in December 2006. He becomes a candidate on 30 January 2007.
- A person is declared by her local political party to be a candidate for election on 31 January 2007. She becomes a candidate on 31 January 2007.
- A person has not been declared to be a candidate for election, but delivers valid nomination papers to the Deputy Returning Officer on 13 February 2007. He becomes a candidate on 13 February 2007.

4.3 The definition of when a person becomes a candidate is particularly important for the calculation of his or her election expenses – see Chapter 9, 'Election expenses', for more details.

Qualifications

4.4 Eligibility to stand as a candidate for election to the Northern Ireland Assembly is based mainly on citizenship. In effect, those eligible to stand for election to the House of Commons (including Commonwealth citizens and citizens of the Republic of Ireland) are eligible to stand for election to the Northern Ireland Assembly, but in addition, Peers, anyone who has been ordained, ministers of any religious denomination³ and citizens of European Union member states resident in the United Kingdom are also eligible.⁴

² Section 118A(2), RPA 1983 (Section 118A was inserted by Section 135 of PPERA), modified by the Northern Ireland (St Andrews Agreement) Act 2006. The 2006 Act provides for the Assembly elected on 26 November 2003 to be dissolved on 30 January 2007.

³ Parliamentary election rules 1949 c68, as amended by RPA 1981.

⁴ Section 36(7), 1998 Act.

Disqualifications

4.5 The Northern Ireland Assembly Disqualification Act 1975 identifies a number of office holders who are disqualified from membership of the Northern Ireland Assembly. These include:

- holders of certain judicial offices (see Schedule 1 of the 1975 Act)
- persons employed by the Civil Service of Northern Ireland, the Northern Ireland Court Service, Her Majesty's Diplomatic Service and Her Majesty's Overseas Civil Service
- members of any of the regular armed forces of the Crown or the Royal Irish Regiment
- members of any police force maintained by a police authority
- members of the National Criminal Intelligence Service or the National Crime Squad
- members of the legislature of any country or territory outside the Commonwealth (other than Ireland)

4.6 A number of other office holders disqualified from membership of the Northern Ireland Assembly are listed in Schedule 1, Parts 2 and 3 of the 1975 Act.

4.7 The Representation of the People Act 1981 excludes a person currently serving a prison sentence in the UK or Republic of Ireland of more than one year following conviction for an offence.

4.8 The Northern Ireland Act 1998 also disqualifies 'a person who is Her Majesty's Lord-Lieutenant or Lieutenant for a county or county borough in Northern Ireland' from standing for election in a constituency partially or wholly within that county or county borough.⁵

4.9 An individual will also be disqualified from membership of the Northern Ireland Assembly for a specified period if he or she has been reported guilty of a corrupt or illegal practice by an election court.⁶

Advice

The full range of disqualifications for membership of the Northern Ireland Assembly is complex. Candidates are advised to consult the relevant legislation and to seek legal advice for clarification.

⁵ Section 36(3), 1998 Act.

⁶ Section 173(1), RPA 1983 (as substituted by Section 136, PPERA) and applied by the 2001 Order.

5 Getting nominated

5.1 The Notice of Election marks the beginning of the election process. Once it has been published you can become a candidate. If you are eligible, you will need to complete a set of nomination papers and submit them to the Deputy Returning Officer for the constituency in which you wish to stand no later than **4pm on Tuesday 13 February 2007**. The Electoral Office for Northern Ireland (EONI) will confirm the exact arrangements for the time and places for delivery of nomination papers in the Notice of Election, which will be published on or before **Wednesday 31 January 2007**. Only the candidate, their election agent,⁷ or the candidate's proposer or seconder (see paragraph 5.10 below) may deliver nomination papers to the Deputy Returning Officer. This must be done in person at the Area Electoral Office for the constituency. Nomination papers may not be posted or faxed.

5.2 The Deputy Returning Officer will supply you with as many copies of the nomination form and the form of consent to nomination as you need. The form can be downloaded from the EONI website (www.electoralofficeni.gov.uk). The Deputy Returning Officer will also prepare the nomination paper for your signature if required. See paragraph 2.6 for contact details of Area Electoral Offices.

Advice

It is recommended that prospective candidates complete and submit nomination papers as early as possible. Any nomination papers ruled invalid will have to be resubmitted before the closing date.

Any errors can be corrected more easily if nomination papers are submitted in good time. However, the Deputy Returning Officer is likely to insist that new nomination papers with correct details be submitted. The decision is at the discretion of the Deputy Returning Officer and is final.

Nomination paper

5.3 Each candidate must be nominated on a separate nomination paper. Candidates can submit any number of nomination papers and will be validly nominated if at least one of the papers is valid. The nomination paper must be delivered to the Deputy Returning Officer by **4pm on Tuesday 13 February 2007**.

5.4 The nomination paper must contain the candidate's name and home address in full. If they are standing as the candidate of a registered political party, a description of not more than six words may be included; if they are standing as an independent candidate, only the word 'independent' will be included in the description. The details on the nomination paper will be reproduced on the statement of persons nominated and, ultimately, the ballot paper.

⁷ Provided that the Deputy Returning Officer has previously been notified of the agent's name and address, or the notification is with the nomination paper that is being submitted.

Name

5.5 The form must include your full name, with your surname first, e.g.:

Bloggs, Joseph David

It is not acceptable to use initials. If you are normally known by another name you can include it as follows:

Bloggs, Joseph David (commonly known as Joe)

Your name will appear on the ballot paper exactly as you write it on the form.

Address

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

Description

5.7 Candidates may use a description, which will appear under their name on the ballot paper. However this is not compulsory and this part of the form may be left blank. Candidates can include one of the following two descriptions on the nomination paper:

- the word 'Independent' on its own – any candidate can use this description, **or**
- a description of not more than six words. This description must be authorised by a registered political party.⁸ Candidates wishing to use such a description must supply a valid certificate of authorisation with their nomination paper (see paragraphs 5.30 to 5.32 for more details)

5.8 It is important to note that while any candidate can use the description 'Independent', any other description including the word 'Independent' in combination with another word (e.g. 'Independent Ratepayer' or 'Anytown Independents') must be authorised by the registered nominating officer of a registered political party.

5.9 Any authorised description must not exceed six words. The Deputy Returning Officer will determine the entire nomination paper invalid if it does.⁹ It is also important to note that the Deputy Returning Officer may reject a candidate's description if they feel that it is likely to lead voters to associate the candidate with a different registered political party, or if it is otherwise invalid.

⁸ Rule 6A(1)b, RPA 1983 inserted by Schedule 2 to the RPPA 1998 applied by the 2001 Order.

⁹ Rule 6(3) was substituted by Section 38(2) of PPERA.

Signatories

5.10 A candidate's nomination paper must be signed as proposer and seconder by two electors from the constituency in which the candidate is standing. Eight other eligible electors from the constituency must also sign the nomination paper as subscribers.¹⁰

5.11 It is essential to ensure that the names of the people signing the nomination paper appear on the revised register of electors published on the first day of the month in which the Notice of Election is published, i.e. **Tuesday 2 January 2007**. The full electoral number (including ward number) of each elector must also be entered on the nomination paper. A nomination paper on which the electoral number of a subscriber is either incorrect or has been omitted is invalid. Each candidate is entitled to receive a copy of the register for the constituency being contested and should contact the relevant Area Electoral Office for further details.

5.12 It is important to note that electors can only subscribe as many nomination papers as there are vacancies in the particular constituency; that is, six in total.

5.13 It is advisable for candidates to submit their nomination papers well in advance of the deadline to allow time for any unintended errors to be corrected. No changes can be made, or fresh papers submitted, after the close of nominations. Nomination papers should be handed to the Deputy Returning Officer, or to a nominated member of staff, in person. If time permits, the Deputy Returning Officer will check them immediately.

Consent to nomination

5.14 In order for your nomination as a candidate to be valid, you must also formally give your consent to nomination in writing. The prescribed form will be provided by the Deputy Returning Officer. Consent to nomination must be given within one calendar month before the last day for delivery of nomination papers, which is **Tuesday 13 February 2007**. Your signature must be witnessed, and the witness must also sign the form and give their full name and address. The declaration of consent must be delivered in person to the Deputy Returning Officer in advance or preferably with the nomination paper and it must be delivered no later than **4pm** on **Tuesday 13 February** for the nomination to be valid.

5.15 The form includes a declaration by the candidate that they are aware of the provisions of the Northern Ireland Assembly Disqualification Act 1975, as amended, and that, to the best of their knowledge, they are not disqualified from standing for membership of the Assembly (see Chapter 4, 'Becoming a candidate', for more details on candidates' qualifications and disqualifications).¹¹ The candidate must also state their day, month and year of birth on the consent to nomination paper.

¹⁰ Rule 7(1), RPA 1983 as applied with modifications by the 2001 Order.

¹¹ Schedule 1, Rule 8(3)(b), RPA 1983 as applied with modifications by the 2001 Order.

Substitutes

5.16 A substitute is a person who, in the event of the candidate being returned at the election, but the seat of that candidate subsequently falling vacant during the term of the Assembly, is returned in place of that candidate as a member of the Assembly.

5.17 A 'notification of substitute' form will be included with the nomination forms. A candidate may submit to the Deputy Returning Officer the names and addresses of not more than six persons to act as substitutes for them and indicating, where more than one person is so named, the order of preference. This notice must be signed by the candidate and must be received by the Deputy Returning Officer before the close of nominations at **4pm on Tuesday 13 February 2007**.¹²

Deposit

5.18 In order to be validly nominated, a candidate must deposit the sum of £150 with the appropriate Deputy Returning Officer at the place of and during the time for delivery of nomination papers. Where the deposit is submitted on the candidate's behalf by another person, the person making the deposit must also give their name and address.¹³

5.19 Deposits will only be accepted by the Deputy Returning Officer in legal tender or by means of a UK banker's draft. Unless forfeited, candidates' deposits will be returned not later than the next working day after the result of the election is declared. The deposit will be returned by cheque drawn in the name of the person who lodged it unless an alternative instruction is given.¹⁴

5.20 The deposit made by or on behalf of the candidate shall be forfeited to HM Treasury if the number of votes credited to them at any stage of the counting of the votes does not exceed one quarter of the quota. (To find out how the quota is calculated, see Chapter 12, 'The count'.)

Offence: false statements in nomination papers

5.21 It is a serious offence to include false information pertaining to the name or address of a candidate in any nomination paper, or to falsify the signature of a subscribing elector.¹⁵ If you are found guilty of this offence you may be sentenced to imprisonment for up to a year, or face an unlimited fine, or both.¹⁶ If you or your agent are found guilty of making a false statement in a nomination paper your election may be void.¹⁷

¹² Schedule 1, Rule 8A, RPA 1983 as inserted by the 2001 Order. More information on substitutes may be found in Section 6 of the 2001 Order.

¹³ Schedule 1, Rule 9, RPA 1983 (as amended by the RPA 1985) as applied with modifications by the 2001 Order.

¹⁴ Schedule 1, Rule 53, RPA 1983 as applied with modifications by the 2001 Order.

¹⁵ Section 65A, RPA 1983 as applied by the 2001 Order.

¹⁶ Section 168, RPA 1983 as applied by the 2001 Order.

¹⁷ Section 159(1), RPA 1983 as applied by the 2001 Order.

Inspection and objection to nominations

5.22 Candidates and their agents, proposers and seconders have the right to attend at the nomination of candidates and to inspect other nomination papers and object to the nomination of other candidates. While the spouse or civil partner of a candidate may also attend the nomination proceedings, they do not have the right to inspect the nomination papers or to make objections.¹⁸ Objections to nominations may be made at any time during the nomination proceedings, i.e. between **10am and 4pm on Monday 12 February 2007** and between **10am and 5pm on Tuesday 13 February 2007**.

5.23 However, there is no procedure laid down for making objections to nominations, and the Deputy Returning Officer has no powers to act on an objection, or to consider it in adjudicating a nomination. The Deputy Returning Officer's decision cannot be challenged before the election, although the possibility exists to challenge the result of the election by a petition.

Publication of statement of persons nominated

5.24 As soon as possible after **5pm on Tuesday 13 February 2007**, the Deputy Returning Officer shall prepare and publish a statement of persons nominated to stand for election to the constituency. Where persons no longer stand nominated, the Deputy Returning Officer will state the reasons for this. Candidates will be listed alphabetically by surname, along with their address, descriptions as included on the nomination papers, and names of persons subscribing those papers.¹⁹

5.25 Included in the statement of persons nominated shall be a notice of the poll, stating the day and times during which the poll will be held.²⁰ The location of polling stations will have been made available by the EONI from the time of the Notice of Election.

5.26 The statement of persons nominated can be inspected at Area Electoral Offices during normal office hours after **5pm on Tuesday 13 February 2007**, until the day before polling day on **Tuesday 6 March 2007**.

¹⁸ Schedule 1, Rule 11, RPA 1983 as applied by the 2001 Order.

¹⁹ Schedule 1, Rule 14, RPA 1983 as applied by the 2001 Order.

²⁰ Schedule 1, Rule 23, RPA 1983 as applied by the 2001 Order.

Standing for a political party

5.27 Candidates wishing to stand for a registered political party have to gain the party's permission. Candidates wishing to establish a new political party must complete the appropriate documentation (see below).

Registering a new political party

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

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

5.29 Groups or individuals wishing to register a party to stand in a particular election must do so before the last day for the publication of the Notice of Election. Please note, however, that it may take up to four weeks (20 working days) to process any applications to register as a political party, so potential applicants should register their party well in advance of an election being called.

Certificate of authorisation

5.30 As noted at paragraph 5.7, candidates wishing to use a description on the ballot paper which would associate them with a registered political party²¹ must supply a certificate of authorisation issued by or on behalf of the registered nominating officer of the party concerned.

5.31 The certificate of authorisation must be signed by the registered nominating officer. If it is issued by someone else on behalf of the nominating officer, evidence of that person's authority to act is required. The certificate of authorisation should be delivered to the Deputy Returning Officer together with the other papers relating to the nomination before **4pm on Tuesday 13 February 2007**.

5.32 Candidates must ensure that the description used in their nomination paper matches exactly the description authorised by their party's registered nominating officer. If the descriptions do not match, the nomination paper will be invalid.

²¹ A registered political party is a party which appears on the Electoral Commission's Northern Ireland register of political parties on the last day for publication of the Notice of Election.

Request to use emblem on the ballot paper

5.33 Candidates who are authorised to use a description associating them with a registered political party can also, if they so wish, include the party emblem on the ballot paper next to their name.²² Each registered party can register up to three emblems, and all emblems of registered parties can be viewed or downloaded from the Commission's website, www.electoralcommission.org.uk.

5.34 A request to use a registered party's emblem on the ballot paper must state the name of the political party and enclose a paper copy of the particular emblem to be used. Candidates are not entitled to use a variation on a registered emblem. The request must be made in writing by the candidate and must be delivered to the Deputy Returning Officer together with the other required papers before **4pm on Tuesday 13 February 2007**.

If you no longer want to be a candidate

5.35 Once the Deputy Returning Officer has accepted your nomination papers, you can still withdraw from the election if you deliver a written notice to the Deputy Returning Officer before the close of nominations at **4pm on Tuesday 13 February 2007**. The notice must be signed by you, the candidate, and witnessed by one other person.

Uncontested elections

5.36 If, after any withdrawals, the number of candidates remaining validly nominated in a constituency is less than or equal to the number of seats to be filled in the election, those candidates are declared to be elected.²³

5.37 It is important to note that a candidate who is declared to be elected in an uncontested election must still make a declaration of their election expenses (see Chapter 9, 'Election expenses').

²² Rule 19(2)A, RPA 1983 as amended by Schedule 2, RPPA 1998.

²³ Schedule 1, Rule 17, RPA 1983 as applied with modifications by the 2001 Order.

Summary

Your nomination papers must be submitted before **4pm** on **Tuesday 13 February 2007** and must include:

- form of nomination
- candidate's consent to nomination, **and**
- deposit

If you are standing as a party candidate, you must also include:

- a certificate of authorisation on behalf of a registered political party, **and if desired**
- your request to use one of that registered party's emblems on the ballot paper

6 Your election agent

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

6.2 A candidate is not required to appoint a separate election agent. If they do not make such an appointment, they are deemed to be acting in that role themselves. Therefore, in this guide, where references are made to election agents, they also apply to candidates who have not appointed a separate election agent.

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

Who can be an election agent?

6.4 There are no particular qualifications for an election agent. However, you should take care in appointing your election agent, as you will be liable for their unauthorised acts if these are within the scope of your authority.

6.5 Certain people are prohibited from acting as a candidate's election agent. These include:

- any officer or clerk appointed under the election rules²⁴
- any partner or clerk of the above
- anyone not entitled to vote because of conviction of corrupt or illegal practice under the Representation of the People Act 1983²⁵

Appointing your election agent

6.6 As mentioned above, you may appoint an election agent, but you may also choose to act as your own agent. If an agent is not appointed by the close of nominations (**4pm on Tuesday 13 February**), you will assume the duties and responsibilities of the election agent as well as being the candidate.

6.7 You must declare in writing the name and home and office addresses of your election agent to the appropriate Deputy Returning Officer no later than the close of nominations at **4pm on Tuesday 13 February**. The written declaration should be

²⁴ Section 99(1), RPA 1983, i.e. anyone appointed to work for the Deputy Returning Officer at the election.

²⁵ Section 165(1), RPA 1983.

signed by you, as the candidate, and also by your agent to show their acceptance of the post. Although there is no prescribed form of declaration that must be used, the Deputy Returning Officer will provide you with a form as part of the nomination pack provided.

6.8 It is important to note that your election agent's office address must be in the contested constituency or in an adjoining constituency.²⁶ The agent's office address can be their home address, or alternatively that of a local political party. If you are acting as your own agent, the office address is deemed to be the address given on the statement of persons nominated (see Chapter 5, 'Getting nominated').

Advice

While the law does not require this, it is helpful to provide the Deputy Returning Officer with contact telephone number(s), including a mobile number and an email address for your election agent.

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

Sub-agents

6.10 Your election agent may appoint one deputy election agent, known as a 'sub-agent', to act in any particular part of the constituency. Only one such agent may be appointed in any area. Sub-agents can only be appointed in county constituencies and can only act within the part of the constituency defined by the election agent. Normally the smallest area considered for a sub-agent is a Council District Electoral Area. All the Northern Ireland constituencies, except for the four Belfast constituencies, are county constituencies.

6.11 A candidate will be liable for unauthorised acts or defaults by the sub-agent if they are within the scope of their authority.

6.12 A declaration must be made to the appropriate Deputy Returning Officer by the election agent not later than the second day before the poll, i.e. not later than **5pm on Monday 5 March**, listing the names and addresses of all sub-agents, along with the part of the constituency in which the sub-agent is appointed to act. The sub-agent's office address must be in the area in which they are appointed to act. Again, this may be their home address.

6.13 The appointment of a sub-agent may be revoked by the election agent.²⁷ However, this does not occur automatically if the election agent appointing them ceases to be an election agent.

²⁶ Section 69(2)(a), RPA 1983 as applied by the 2001 Order.

²⁷ Sections 68 and 69, RPA 1983 as applied by the 2001 Order.

7 Polling agents, counting agents and tellers

7.1 As well as an election agent, you can also appoint people to help you on election day in polling stations and at the count, although there is no obligation to appoint any such assistance. You can also act as your own polling or counting agent.

7.2 Your polling agents and counting agents are required to maintain the secrecy of voting and are subject to the legal requirements relating to secrecy under the RPA 1983, which are reproduced in Appendix B.

What does a polling agent do?

7.3 The main role of your polling agent is to aid in detecting the offence of personation (attempting to vote illegally as another person) at a polling station. Additional duties and responsibilities are outlined in Chapter 11, 'Polling day'.

7.4 You may appoint a number of polling agents to attend polling stations within a polling place.²⁸ However, only one of your polling agents will be permitted to attend a polling station at any one time. Each polling agent may be appointed to attend more than one polling station.

7.5 If you are not going to pay your polling agents, you can appoint them yourself as the candidate. All paid polling agents must be formally appointed by your election agent. The Deputy Returning Officer should be notified in writing of the appointment of any polling agents, giving the names and addresses of those appointed and the polling stations where appointed, no later than **5pm on Monday 5 March**.²⁹

What does a counting agent do?

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

²⁸ 'Polling station' refers to the ballot box and desk at which the Presiding Officer and Poll Clerk sit. A 'polling place' is the building in which voting takes place (i.e. school, community centre etc.).

²⁹ Rule 30(3), RPA 1983 as applied by the 2001 Order.

7.7 The Deputy Returning Officer will decide the maximum number of counting agents you will be allowed to appoint at each verification and count. The total will not normally be less than the number of counting clerks employed at the count divided by the total number of candidates. The Deputy Returning Officer has some discretion to limit the number in special circumstances, for example if a count centre is particularly small. You will be allowed to appoint exactly the same number of counting agents as other candidates. You and your election agent will be advised of the maximum number of counting agents allowed to attend the verification/count soon after the close of nominations.

7.8 A counting agent may be appointed by the candidate or by their election agent. The Deputy Returning Officer should be notified in writing of the appointment of any counting agents, giving the names and addresses of those appointed, no later than **5pm on Monday 5 March**.³⁰

Issue and receipt of postal votes

7.9 The only people who may be present at the proceedings on issue or receipt of postal ballot papers are:

- the Deputy Returning Officer
- candidates
- election agents (or a person appointed by a candidate to attend in the election agent's place)
- agents appointed by the candidate to attend the procedures

7.10 All persons attending the issue or receipt of postal ballot papers must be aware of the requirement to ensure the secrecy of the proceedings. All those attending such proceedings should be given a copy of Section 66 of the RPA 1983, which is reproduced in Appendix B. Any person who is found guilty of breaching the requirements set out in Section 66 may be fined up to £5,000, or may be imprisoned for up to six months.³¹

7.11 You can also appoint one or more people to act as agents at these proceedings. You will be given at least 48 hours' notice by the Deputy Returning Officer of when and where the postal vote issue will take place and when and where the postal voters' ballot boxes and the envelopes in them will be opened. The notices will also specify the number of agents you are allowed to appoint. The number will be decided by the Deputy Returning Officer. You must notify the Deputy Returning Officer in writing of the names and addresses of any agents you have appointed before the time of the issue or opening of the postal voters' ballot boxes.

³⁰ Rule 30(3), RPA 1983 as applied by the 2001 Order.

³¹ Section 66(6), RPA 1983 as applied by the 2001 Order.

Tellers

7.12 Candidates may sometimes use ‘tellers’ to stand outside polling places and record the electoral numbers of people who have voted. Tellers have no status in electoral law, and they are not allowed to enter the polling place itself. They should only concern themselves with recording numbers – anything else could give rise to allegations of undue influence, which is a corrupt practice. In practice, tellers are used infrequently at elections in Northern Ireland.

Checklist

- Your election agent must be appointed by **4pm** on **Tuesday 13 March**, or you will be deemed to be acting as your own agent.
- Written notice of the appointment of sub-agents, polling agents and counting agents must be delivered to the appropriate Deputy Returning Officer by **5pm** on **Monday 5 March**.
- Written notice of the appointment of agents to attend the proceedings at the issue and receipt of postal ballot papers must be delivered to the appropriate Deputy Returning Officer before the specified time for the issue of postal ballot papers or the opening of the postal voters’ ballot boxes.

8 Your election campaign

8.1 It is important to note that the definition of a 'candidate' described in Chapter 4, 'Becoming a candidate', also applies in relation to the provisions below.

Using the electoral register

8.2 As a candidate at a Northern Ireland Assembly election you are entitled to a free copy of the full electoral register for the constituency you are contesting. You will have already received a copy of the register to be used for the nomination process, i.e. the 2 January 2007 register which is the register published on the first day of the month in which the Notice of Election is published. The register to be used for the election campaign is that published on 1 February 2007 which includes all additions and alterations made up to the closing date for rolling registration on 11 January 2007.

8.3 The register will be supplied in data form unless a paper copy is specifically requested. The electoral registration software package used by the EONI will supply data from the register in a CSV (comma-separated values) format.

Using data in a CSV format

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

CSV files can be opened using most popular spreadsheet or database applications, such as 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.

8.4 Please note that a number of legal restrictions apply to the use of information in the full electoral register. If you have been supplied with a copy of the full electoral register for a particular constituency you must not:

- pass on a copy of the register to any other person
- disclose any information from the register (which is not contained in the edited version of the register), **or**
- make use of any such information other than for electoral purposes³²

³² Regulation 101, RPA (NI) (Amend) 2002.

8.5 You will be required to sign a commitment undertaking to use your copy of the register for electoral purposes only. Anyone who is found guilty of breaching these conditions may be fined up to £5,000.³³

8.6 You are also entitled to a copy of the lists of postal and proxy voters for the constituency.³⁴ These lists will be supplied by the relevant Area Electoral Office on request.

Canvassers

8.7 You may want to use canvassers to help with your election campaign. This is acceptable, although they must be unpaid volunteers. It is illegal for any person to employ paid canvassers for the purpose of promoting or procuring the election of a candidate at the election, either before, during or after the election in question. The person employed is also guilty of illegal employment.³⁵ Members of the police forces are also prohibited from acting as canvassers.³⁶

Freepost

8.8 Each candidate is entitled to send one election address to voters free of charge.

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

- every address in the constituency, or
- every registered elector in the constituency

8.10 Your election address must contain material relating to the election only, and must not weigh more than 60 grams.

8.11 You may only take advantage of this entitlement if you are shown as included in the statement of persons nominated published on Tuesday 13 February. However, if you want to have your election address sent out before that date you will need to give the postal service provider some security, in case you do not eventually become nominated.

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

Northern Ireland Mail Centre
Enterprise Way
Newtownabbey BT36 4HQ

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

³³ Regulation 109, RPA (NI) (Amend) 2002.

³⁴ Regulation 62, RPR (NI) 2001.

³⁵ Section 111, RPA 1983 as applied by the 2001 Order.

³⁶ Section 100, RPA 1983 as amended by Schedule 3, paragraph 5, RPA 1985 and applied by the 2001 Order.

Your campaign publicity material

8.13 Your campaign publicity material is subject to a number of restrictions under electoral law, and is also subject to the general civil and criminal law relating to published material.

Imprint

8.14 All posters, placards and bills that make reference to the election must carry an imprint giving the name and address of the printer and publisher of the material on their face. Similarly, all printed material distributed for the purpose of promoting or procuring the election of a candidate must also carry the name and address of the printer and publisher.³⁷

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

8.16 The imprint might look like this:

Printed by Brown and Co Printers, 1 High Street, Belfast BT1 2DD
Published by and on behalf of The Politics Party, 20 Green Close, Belfast
BT2 5XY

or: Printed by Brown and Co Printers, 1 High Street, Belfast BT1 2DD
Published by David Smith, 45 Jones Way, Belfast BT3 8AB

or: Printed by Brown and Co Printers, 1 High Street, Belfast BT1 2DD
Promoted by The Brown Company, 1 High Street, Belfast BT1 2DD
Published by David Smith, 45 Jones Way, Belfast BT3 8AB

or: Printed by Brown and Co Printers, 1 High Street, Belfast BT1 2DD
Promoted and published by David Smith, 45 Jones Way, Belfast BT3 8AB

or: Printed, promoted and published by and on behalf of The Politics Party,
20 Green Close, Belfast BT2 5XY

8.17 For the purposes of the legal requirement, promoting or procuring the election of a candidate includes material criticising or disparaging another candidate at the election.

8.18 The potential consequences of a breach of the requirement to identify the printer and publisher are serious. If you or your agent breach the requirement you may be found guilty of an illegal practice, and your election may be invalidated. Any other person found guilty of breaching the requirement may be fined up to £5,000.³⁸

³⁷ Section 110, RPA 1983 as amended by Schedule 3, paragraph 5, RPA 1985 and applied by the 2001 Order.

³⁸ Sections 110(3) (as amended by Schedule 3, RPA 1985) and 159(1), RPA 1983 as applied by the 2001 Order.

False statements

8.19 It is an offence under electoral law to make or publish a false statement of fact in relation to the personal character or conduct of a candidate in order to affect the return of any candidate at an election.³⁹ Note that this restriction applies both before and during an election period, but is subject to the definition of a candidate, as explained in Chapter 5, 'Getting nominated'. It is also an offence to make a false statement of a candidate's withdrawal.

8.20 The potential consequences of a breach of this requirement are serious. If you or your agent breach the requirement, you may be found guilty of an illegal practice and the election may be invalidated.⁴⁰ Any other person found guilty of breaching the requirement may be fined up to £5,000.⁴¹

Display of advertisements

8.21 The display of all advertising is controlled by the Planning (Control of Advertisements) Regulations (NI) 1992. It is important to ensure that all election advertisements, including any bills, placards and posters, comply with the relevant requirements. You must ensure that no advertisement is displayed without the permission of the owner of the site or anyone else with an interest in the site. All adverts must be removed within 14 days of the election.⁴²

8.22 You should also be aware that some local authorities impose tighter regulations with regard to display of advertisements on council property, e.g. lamp posts.

8.23 It is important to note that it is an offence to pay an elector for displaying an election advertisement unless it is the normal business of the elector (as an advertising agent, for example) to display advertisements and a payment is made in the ordinary course of business.⁴³

Other restrictions

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

³⁹ Section 106(1), RPA 1983 as applied by the 2001 Order.

⁴⁰ Sections 159(1) and 169, RPA 1983 (as amended by Schedule 3, paragraph 5, RPA 1985) both applied by the 2001 Order.

⁴¹ Section 159(1), RPA 1983 as applied by the 2001 Order.

⁴² Planning Regulations 1992, Regulation 4 and Schedules 1 and 2 as applied with modifications by the 2001 Order. Advertisements relating specifically to a pending Northern Ireland Assembly are considered Class F advertisements.

⁴³ Section 109(1), RPA 1983 as applied by the 2001 Order.

8.25 Under the Public Order (Northern Ireland) Order 1987, it is an offence to publish or distribute threatening, abusive or insulting material which is intended to stir up hatred against a group of persons defined by reference to religious belief, colour, race, nationality (including citizenship) or ethnic or national origin.⁴⁴

Other electoral offences

8.26 You and your election agent should be aware of a number of other electoral offences specified in the RPA 1983. Bribery, treating and undue influence are three of the most common. If a successful candidate, or their election agent, is found guilty of any of these offences by an election court, the election may be invalidated. Persons guilty of these offences may also be fined up to £5,000.

Bribery

8.27 A person is guilty of the corrupt practice of bribery if they directly or indirectly give any money or procure any office to or for any voter, in order to induce any voter to vote or refrain from voting.⁴⁵

Treating

8.28 A person is guilty of the corrupt practice of treating if, either before, during or after an election, they directly or indirectly give or provide (or pay wholly or in part the expense of giving or providing) any food, drink, entertainment or provision in order to influence any voter to vote or refrain from voting.⁴⁶

Undue influence

8.29 A person is guilty of the corrupt practice of undue influence if they directly or indirectly make use of or threaten to make use of force, violence or restraint, or inflict or threaten to inflict injury, damage or harm in order to induce or compel any voter to vote or refrain from voting.⁴⁷ A person may also be guilty of undue influence if they impede or prevent the free exercise of the franchise of an elector.

Personation

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

⁴⁴ Part 3, 1987 Order.

⁴⁵ Section 113(2), RPA 1983.

⁴⁶ Section 114(2), RPA 1983.

⁴⁷ Section 115(2), RPA 1983.

Reporting offences

8.31 Neither the Returning Officer nor the Electoral Commission has any discretion to investigate allegations of offences under electoral law. If you believe that an offence has been committed, and are prepared to substantiate this allegation through a written statement, you should bring your complaint to the attention of the police. The Returning Officer will be able to provide appropriate contact details for the police. Reporting allegations to the police should not be considered unless the complaint is substantiated by evidence and the complainant is prepared to make a written statement.

9 Election expenses

9.1 **Important:** ‘election expense returns’ relate to permitted spending limits, which are required to provide accountability and transparency about the campaigns of candidates. Therefore, payments reported cannot be ‘claimed back’. Furthermore, even if no election expenditure is incurred, a ‘nil’ return along with the declarations still have to be submitted.

Note: it is an offence to fail to submit an expenses return.

Spending limits

9.2 Candidates contesting elections to the Northern Ireland Assembly are subject to limits on their spending on items and services used during the regulated period in advance of an election.

9.3 The spending limit for Northern Ireland Assembly elections depends on the number of electors in the ward being contested. The current limits are summarised in Table 3.⁴⁸

Table 3: Candidates’ spending limits

Election	Limit
County constituency	£7,150 plus 7 pence per elector
Borough constituency	£7,150 plus 5 pence per elector
By-election	£100,000

9.4 Please note that these limits are subject to change in line with inflation or in the light of any legislative changes that may come into effect. Agents and candidates should seek advice from the Electoral Commission prior to an election to ensure that they adhere to the correct limits.

9.5 The relevant register of electors is the register of electors in the constituency on the last day for publication of the Notice of Election. To avoid the possible miscalculation of expenditure limits, candidates and agents should confirm the relevant register figure with the Returning Officer. Written confirmation of the relevant figure is advisable. However, it is still the responsibility of the agent to adhere to the correct limit.

⁴⁸ The Representation of the People (Variation of Limits of Candidates’ Election Expenses) Order 2005 as applied by the 2001 Order.

Spending limits for joint candidates

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

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

- employ the same election agent
- use the services of the same clerks or messengers⁴⁹
- hire or use the same committee rooms at an election
- publish joint addresses, circulars or notices at elections

People can only be joint candidates when they stand in the same constituency.

Personal expenses

9.8 Candidates can also incur 'personal expenses'. Personal expenses do not count towards the maximum spending limits specified in Table 3.

9.9 Personal expenses are any spending on a candidate's travel, accommodation and subsistence in relation to their election.

9.10 A candidate may pay for any personal expenses incurred up to a specified limit, and a candidate's election agent must pay for any further personal expenses incurred. Table 4 details the limits.

Table 4: Personal expenses limits for Northern Ireland Assembly election candidates

Type of candidate	Limit
Constituency	£600

The regulated period

9.11 The regulated period is the period between the date a person becomes a candidate and the date of the poll.

9.12 A person contesting a Northern Ireland Assembly election becomes a candidate on the date the Assembly is dissolved (i.e. **30 January 2007**) if their candidacy has been declared on or before that date. The majority of candidates are selected some time in advance of the election and therefore become candidates for the purposes of their election spending on that date.

⁴⁹ This does not include the accidental, casual or trivial use of the same clerks or messengers.

9.13 An individual who has not been declared a candidate by that date therefore becomes a candidate **after** the date of dissolution. This will be on the date on which they are declared or nominated as a candidate, whichever is the earlier.

Example box 2: The date a person becomes a candidate

A Northern Ireland Assembly election is due to take place on **Wednesday 7 March 2007**, and the Assembly was dissolved on **30 January 2007**.

Mr Smith is interested in politics but had never considered standing for election. However, just before the election is called, the council takes a decision regarding the closing of a local park which, as a local resident, Mr Smith is strongly opposed to. After some consideration, Mr Smith decides that the only way to voice his opinion on this issue is to stand as a candidate at the upcoming Assembly election, and on **3 February 2007** he puts posters up around the area announcing himself as a candidate; the next day he submits his nomination papers.

Mr Smith had not declared himself a candidate by the date of dissolution, i.e. **30 January 2007**, and so could not have become a candidate on that date. Instead, Mr Smith became a candidate on the date he declared himself a candidate by putting up posters, i.e. **3 February 2007**.

Defining election expenses

9.14 A candidate's election spending is defined as:

any expenses incurred at any time in respect of any matter specified [below] which is used for the purposes of the candidate's election after the date when he becomes a candidate at the election.⁵⁰

This applies regardless of whether the money was spent before or after the date a person becomes a candidate. Therefore, money spent **before** the regulated period on goods or services that are used for the purpose of the candidate's election **during** the regulated period should be included within a candidate's election expenses return.⁵¹ This ensures that anything spent on items procured some time in advance of the election is accounted for. The categories of spending that are referred to above are described in paragraph 9.19 below.

⁵⁰ Section 90ZA, RPA 1983 as applied by the 2001 Order, as amended by The Northern Ireland (Elections) (Amendment) Order 2007.

⁵¹ Section 81, RPA 1983 as applied by the 2001 Order.

Example box 3: Money spent before the start of the regulated period

A Northern Ireland Assembly election will be held in March 2007. In January 2007, an individual spent £1,000 on leaflets in relation to their election campaign. They distributed half of them in the first three weeks of January. They legally became a candidate on **30 January 2007**. In February they distributed the other half of the leaflets.

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

9.15 The definition of expenses incurred for the purposes of the candidate's election includes promoting or procuring a candidate's election by prejudicing the electoral prospects of another candidate.⁵²

9.16 Examples of materials that promote a candidate are:

- materials encouraging people to vote for candidate A at a specified election
- materials criticising candidate B or comparing them unfavourably to candidate A

9.17 Election spending includes 'notional expenditure' of more than £50. Notional expenditure is incurred when an organisation or individual bears the cost of goods or services for which the candidate or their election agent would otherwise have been liable.⁵³ Further guidance is provided from paragraph 9.65.

9.18 Notional expenditure must also be treated as a donation to the candidate if it is more than £50.

Categories of spending

9.19 The EAA introduced amendments to the RPA 1983 (applied to the 2001 Order by The Northern Ireland (Elections) (Amendment) Order 2007) which introduced categories that constitute election spending. Only items related to these matters are considered election spending and count against a candidate's limit. The categories are:

- advertising
- unsolicited material addressed to electors
- transport

⁵² Section 90ZA, RPA 1983 as applied by the 2001 Order, as amended by The Northern Ireland (Elections) (Amendment) Order 2007.

⁵³ Section 90C, RPA 1983 as applied by the 2001 Order.

- public meetings
- services of an election agent or other staff
- accommodation and administrative costs⁵⁴

Advertising

9.20 The advertising category covers advertisements of any nature or using any medium. The costs of advertising include agency fees, design costs, printing and delivery costs. Costs include the costs of both producing the material and displaying or otherwise circulating it. Advertising includes a range of methods, including print advertisements (e.g. in newspapers) and posters.

9.21 For information about allocating the costs of advertising that mentions more than one candidate, see paragraphs 9.87 to 9.89.

Unsolicited material

9.22 This category covers any material sent, whether it is addressed to electors by name or intended for delivery within a particular area. This is the category where the costs associated with leaflets delivered through the freepost entitlement should be recorded and reported.

9.23 Costs in this category include design, printing and distribution costs. If material is distributed using a candidate's freepost entitlement, the notional cost of the freepost distribution facility does not need to be included.

9.24 For information about allocating the costs of unsolicited material that mentions more than one candidate, see paragraphs 9.87 to 9.89.

Transport

9.25 Transport costs cover transport of people by any means to any place. There are some exemptions on transport if it is by personal means of transport (see paragraph 9.43 below).

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

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

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

⁵⁴ Schedule 4A to the RPA 1983 as applied by the 2001 Order.

Public meetings

9.29 The public meetings category covers public meetings of any kind. Costs to record and report under the heading of public meetings include the hire of a venue; the costs associated with the attendance of people at the meeting; and the cost of any goods, services or facilities provided at the meeting.

9.30 Where a hustings organiser invites candidates on a selective basis, the Commission considers that the provision of a public platform for those candidates who attend constitutes a non-cash donation (benefit in kind) to the candidate or the party on whose behalf they are standing, and notional expenditure by the candidate or their party. A separate guidance document for hustings can be found on our website, www.electoralcommission.org.uk.

Services of election agents and other staff

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

9.32 If a political party or members association pays for the salary of an election agent or any other staff for a candidate, the agent's salary must be included in the candidate's expenses return as notional expenditure. If the amount exceeds £50, it must also be reported as a non-cash donation.

9.33 If an election agent is responsible for multiple candidates, their salary should be split between those candidates. The apportionment should reflect the time the agent has devoted to each individual candidate for whom they acted as agent.

9.34 If an election agent is not employed full time but charges a candidate for their services, then the full amount of that invoice constitutes election spending.

9.35 The provision of services by any volunteer, including a person acting as the candidate's agent, who provides their services free of charge and in their own time is not an election expense.

9.36 Where an employee of a party (or other organisation) devotes a significant amount of time to a candidate's campaign, an estimate should be made of the amount of time they have spent working on the candidate's campaign during the regulated period. Using this basis, the appropriate proportion of their salary should be reported as notional expenditure by the candidate. If the amount exceeds £50, it must also be reported as a non-cash donation.

9.37 If a candidate or election agent is self-employed and during the regulated period takes time off work to campaign and employs someone to cover their work during this period, the Commission's view is that this does not constitute an election expense.

Accommodation and administrative costs

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

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

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

Example box 4: Valuing an office used for a candidate's campaign (1)

If an office, rented at the rate of £500 a month (i.e. £16.13 per day in a 31-day month), is used four days a week for a month during the regulated period (i.e. 16 days of that month), the election spending will be £258.08 ($£16.13 \times 16$).

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

Example box 5: Valuing an office used for a candidate's campaign (2)

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

Average commercial rent:	£150 per week
Period over which office is used:	4 weeks
Amount to be reported as actual spending:	£0
Amount to be reported as notional expenditure:	£600
Donation to be reported in return:	£600

9.42 Use of the sole or main residence of the candidate, or the sole or main residence of a person who does not charge the candidate for use of the residence, is not an election expense (see paragraph 9.43).

Exemptions

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

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

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

Party campaign spending or candidates' election expenses

9.44 Parties and candidates are subject to separate limits on their spending. Some items will be attributable to party spending limits while others will count against candidates' limits.

9.45 Items to include as candidates' spending include:

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

9.46 Items to report as party spending include:

- Northern Ireland-wide advertising campaigns
- party political broadcasts
- manifestos
- unsolicited material outlining the party's policies

9.47 For items such as unsolicited material to electors, or advertisements that could constitute either candidate or party spending, it is important to look at the **content** of the material. Items that mention a candidate by name obviously fall under the candidate's limit. However, items that mention a particular constituency by name or address issues of identifiable interest to residents of a particular constituency may also be candidates' election spending. Parties and candidates are advised to judge each item on a case-by-case basis and decide whether, on balance, the purpose of the item is to promote the candidate or the party as a whole.

9.48 Where material focuses on a party's policies rather than on a candidate or candidates, or is distributed across a wide area, it is more likely that the expenditure incurred on the material should be treated as party expenditure.

Planning and managing election expenses

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

9.50 Any individual or organisation that incurs or pays for election expenses in breach of the requirements of the RPA 1983 may be committing an offence under the legislation. Appendix A details the offences and penalties that can be committed under the RPA 1983.

Incurring election spending

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

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

- the candidate
- the election agent
- any individual or organisation authorised in writing by the election agent⁵⁵

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

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

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

Paying election expenses

9.56 In most instances, only the election agent can legally make payments for items of election spending.⁵⁶

9.57 However, the following payments may be made other than by the election agent:⁵⁷

- A candidate may make payments due to be made before an election agent is appointed.
- Any individual or organisation authorised in writing by the election agent may make payments in respect of 'petty expenses' (e.g. stationery, postage, etc.). This authorisation should include the total amount up to which the election agent has authorised the individual or organisations to make payments.
- Payments made before the date a person becomes a candidate may also be paid for other than by the election agent.⁵⁸

⁵⁵ Section 75, RPA 1983 as applied by the 2001 Order.

⁵⁶ Section 73, RPA 1983 as applied by the 2001 Order.

⁵⁷ Section 74, RPA 1983 as applied by the 2001 Order.

⁵⁸ Section 90ZA, RPA 1983 as applied by the 2001 Order, as amended by The Northern Ireland (Elections) (Amendment) Order 2007.

9.58 Except as outlined above, party members, including local party treasurers, are not authorised to make payments relating to candidates' election expenses. Where a party purchases or provides items used for the candidate's election, this constitutes notional expenditure and must be reported as such. Further guidance on notional expenditure is given from paragraph 9.65 onwards.

Time limits for claims and payments

9.59 When agreeing contracts, suppliers should be advised that all claims for payment **must be made to the election agent within 21 days of the date the election result is declared.**⁵⁹ Claims that are not received by the election agent within this period are called unpaid claims. Unpaid claims cannot legally be paid unless a court order is gained granting leave to pay the claim.

9.60 For example, if an election is held on Wednesday 7 March and the result is declared two days later, all claims for payment must be received by Friday 30 March. Any invoices received later than this date cannot be paid without a court order.

9.61 All claims for payment that are received within the specified period (i.e. 21 days after the election result) **must be paid by the election agent within 28 days of the date the election result is declared.**⁶⁰ Claims that have not been paid by this time are called disputed claims. Disputed claims cannot legally be paid without a court order first being gained granting leave to pay the claim.

9.62 For example, for an election held on Wednesday 7 March, where the result is declared two days later, all claims received by Friday 30 March must be paid by Friday 6 April.

9.63 Any claim paid after the 28-day deadline for payments, following a successful application to a court, and after the deadline for the submission of election expenses returns, must be reported in writing to the relevant Returning Officer within seven days of payment and be accompanied by a copy of the court order.⁶¹

Valuing notional expenditure and other spending

9.64 This section sets out the Commission's guidance on how election agents and candidates should value and report notional election expenditure and other spending in accordance with our interpretation of the provisions of the legislation.

⁵⁹ Section 78, RPA 1983 as applied by the 2001 Order.

⁶⁰ Section 79, RPA 1983 as applied by the 2001 Order.

⁶¹ Section 81, RPA 1983 as applied by the 2001 Order.

Notional expenditure

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

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

9.67 Controls on notional expenditure only apply where the expenditure is valued at more than £50.⁶²

9.68 The value of notional expenditure is the difference between the normal commercial cost of goods or services provided and the amount the candidate or their election agent actually paid for them (if anything).⁶³ Where goods or services have been discounted by more than 10% from normal commercial rates, the difference should be declared as notional expenditure if it is more than £50. Notional expenditure should also be treated as a donation to the candidate if it is more than £50.

9.69 To determine the normal commercial cost of goods or services, the Commission advises that election agents and candidates use the average cost of two or three commercial quotes for the same or similar goods or services.

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

9.71 Items specifically excluded from being candidate's election expenses (see paragraph 9.43), such as the use of a supporter's house, do not count as candidate's election expenses as long as the candidate is not charged for their use.

⁶² Section 90C, RPA 1983 as applied by the 2001 Order.

⁶³ Section 90C(4)(b), RPA 1983 as applied by the 2001 Order.

Example box 6: Valuing notional expenditure

Provision of free travel

If a supporter provides a candidate with free use of a car, the candidate's election agent should treat the normal commercial cost of hiring a car as notional expenditure.

Normal cost of hiring a car:	£150 per week
Period car provided for:	4 weeks
Total notional expenditure incurred:	£600

Discounted supply of printed material

A firm supplies a candidate with 5,000 election leaflets at a discounted rate.

Normal cost of printing 5,000 leaflets:	£1,000
Cost charged to candidate:	£400
Actual spending to be included in return:	£400
Notional expenditure to be included in return:	£600
Donation to be reported in return:	£600

9.72 As part of the candidate's expenses return, the candidate's election agent is required to sign a declaration of value in respect of notional expenditure incurred.

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

Items paid for by the party and use of party facilities

9.74 Where a party purchases or provides goods or services used for the candidate's election, or sells items to a candidate or their election agent at less than market rates, this constitutes notional expenditure and must be reported as such. Donations from the candidate's constituency association should be reported in the appropriate section of the expenses form.

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

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

Example box 7: Valuing and reporting items paid for by the party and use of party facilities

Election materials paid for by the party

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

Cost of 5,000 leaflets:	£1,075
Amount to be reported as actual spending:	£0
Amount to be reported as notional expenditure:	£1,075
Donation to be reported in return:	£1,075

Use of loudhailers owned by the party

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

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

Promotional items sold at less than cost price

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

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

9.76 Some candidates receive leaflets or other printed materials at cost from organisations that may be part of or affiliated to their political party. In this case, the candidate or agent should determine the **full commercial value** of the materials. If the difference between the value and the amount paid is more than 10% and more than £50, the difference between the payment and value is notional expenditure and counts against the candidate's limit. If the printed materials are not prepared by an organisation but instead by people who have volunteered their time to the candidate, the election spending on the leaflets consists of the cost of the materials used to prepare them plus a notional charge based on the market rate for hiring similar printing equipment (unless printed on a personal computer, see paragraph 9.43).

If the volunteers have volunteered their time to the candidate, there is no need to cost their labour as an election expense. See paragraph 9.69 for more about determining commercial rates.

Canvassing and distribution

9.77 The payment or promise of payment of **canvassers** is prohibited. Any such payment, or arrangements for payment, may constitute an illegal practice.⁶⁴

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

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

Websites

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

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

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

⁶⁴ Section 111, RPA 1983 as applied by the 2001 Order.

Example box 8: Valuing election spending incurred on the use of websites

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

Set-up costs (registering a global domain name):	£25.00
Running costs (annual hire of web space):	£18.50
Running costs during regulated period (four weeks):	£1.42
Actual spending to be reported:	£26.42

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

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

Items to be used at more than one election

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

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

9.85 Where a party purchases or owns items used for campaigning at elections and rents these items to candidates or their election agents for use during their campaign, the full cost of the actual rent paid to the party constitutes an election expense. For example, if a constituency association were to charge £55 for the use of loudhailers owned by the association, that amount would need to be reported in the candidate's expenses return. If, however, the loudhailers were lent without charge, this would constitute notional expenditure (see paragraph 9.65 onwards).

Allocating election spending

9.86 Costs may be incurred on goods or services used for the benefit of more than one candidate. In such instances, an appropriate proportion of the total spending incurred should be allocated to each relevant candidate.

Example box 9: Allocating election spending between candidates

During the regulated period in advance of a Northern Ireland Assembly election, a constituency office is used by three candidates as their campaign headquarters. During this time, the party does not use the office for any other business. Candidates Smith and Jones use the office two days a week each, while Candidate Brown uses the office one day a week. Use of the office is provided free of charge by the constituency association.

Average commercial rent:	£60 per day
Length of the regulated period:	5 weeks (25 working days)
Total notional expenditure incurred by the three candidates:	£1,500 (60 × 25)

Candidate Smith

Actual spending to be reported:	£0
Notional expenditure to be reported:	£600 (60 × 10)
Donation to be reported:	£600

Candidate Jones

Actual spending to be reported:	£0
Notional expenditure to be reported:	£600 (60 × 10)
Donation to be reported:	£600

Candidate Brown

Actual spending to be reported:	£0
Notional expenditure to be reported:	£300 (60 × 5)
Donation to be reported:	£300

Election materials promoting more than one candidate

9.87 As a general principle, costs incurred on materials promoting more than one candidate should be split between all relevant candidates.

9.88 Where these candidates are standing in the same constituency, the costs should be equally divided between the candidates.

9.89 Where the candidates are standing in different constituencies, the costs per candidate should be calculated by how many leaflets, posters, etc. were distributed within the constituency in which each candidate was standing. This can be roughly based on the number of electors per constituency if the actual number distributed in each constituency is unknown (e.g. if leaflets are distributed in a shopping mall).

Example box 10: Allocating costs incurred on materials promoting multiple candidates

The Imaginary Party orders generic election leaflets to promote its party candidates in three neighbouring constituencies at a Northern Ireland Assembly election. The party is putting up two candidates in each constituency. Each of the candidates contesting the seats is listed on the back of the leaflet.

Total cost of the leaflets produced:	£8,400
Total number of leaflets produced:	105,000
Unit cost (i.e. cost per leaflet):	£0.08

The spending allocated to each candidate would depend on the number of leaflets delivered in the constituency where they are standing:

Constituency A	
Number of leaflets distributed:	50,854
Spending to be reported for that constituency:	£4,068.32 (50,854 × £0.08)
Spending to be reported per candidate in that constituency:	£2,034.16 (£4,068.32 ÷ 2)

Constituency B	
Number of leaflets distributed:	51,340
Total spending to be reported for that constituency:	£4,107.20 (51,340 × £0.08)
Spending to be reported per candidate in that constituency:	£2,053.60 (£4,107.20 ÷ 2)

Constituency C	
Number of leaflets distributed:	0
Total spending to be reported for that constituency:	£0
Spending to be reported per candidate in that constituency:	£0

Important: candidates and agents should not spread costs by dividing the total cost of leaflets produced by the number of candidates contesting seats in the constituencies, and then allocating equal expenses to each candidate, i.e.:

$$£8,400 \div 6 = £1,400 \text{ per candidate}$$

This does not provide an accurate reflection of the candidates' campaigns or the distribution of the materials on which the expenses were incurred.

10 Donations

Defining donations

10.1 This section sets out the controls on donations to candidates.

Regulated donations

10.2 Cash and non-cash donations made to candidates or their election agents for the purpose of meeting election expenses incurred by or on behalf of a candidate are regulated.⁶⁵

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

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

Definition

10.5 The RPA 1983 defines a donation as any of the following:

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

10.6 Common examples of donations may include:

- a cash donation of £1,500 to meet a candidate's expenses made by the constituency association
- a cheque for £100 given by a supporter
- stationery supplies worth £65
- payment of costs for a newspaper advertising campaign
- a 50% discount offered on printing of election materials
- free use of an office valued at £200
- free use of a hire car valued at £100

⁶⁵ Schedule 2A to the RPA 1983 as applied by the 2001 Order.

Exclusions

10.7 Under the RPA 1983 (as applied by the 2001 Order), the following are not donations:

- anything with a value of £50 or less
- the provision of facilities in connection with rights conferred on the candidate, e.g. free postage for a mailing to electors (excluding other costs incurred, e.g. the cost of printing the items to be posted)
- the provision by an individual of their own services, voluntarily, in their own time and free of charge
- any interest accruing to a candidate or their election agent in respect of a donation from an unidentifiable or otherwise impermissible source, which is dealt with by the candidate or their election agent in accordance with the relevant legislation (see paragraph 10.34)

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

Sponsorship

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

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

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

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

Managing donations

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

Receiving donations

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

10.13 Where a candidate receives a donation, they should pass it to their election agent to handle.

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

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

10.16 Candidates and their election agents have **30 days** from the date a donation is received in which to make any enquiries and take any action regarding the donation, i.e. to decide whether or not to accept the donation (see paragraph 10.22). If they decide not to accept the donation, they must take the necessary steps to deal with it within the 30-day period. If the donation has not been returned within that time, they will be deemed to have accepted the donation.

10.17 If a donation is given to an election agent acting on behalf of more than one candidate, the agent will need to ascertain whether the donor intended the donation to be divided equally between all the candidates. Alternatively, it may have been intended specifically for one or more of the candidates on whose behalf the election agent is acting. The donation should be apportioned between the candidates on the basis of the information supplied by the donor.

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

10.19 Where a donation is made from a joint bank account, the donation should be treated as being made equally by all the account holders, and split accordingly. Each account holder must be a permissible donor and the details of each account holder will need to be provided to the election agent for reporting purposes.

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

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

Accepting donations

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

10.23 The following are classified as permissible donors:

- an individual registered on a UK electoral register
- a UK-registered political party
- a UK-registered company
- a UK-registered trade union
- a UK-registered building society
- a UK-registered friendly society
- a UK-registered limited liability partnership
- a UK-based unincorporated association⁶⁶

10.24 Paragraph 10.31 and the paragraphs that follow provide details of how to check whether an organisation or individual is a permissible donor.

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

10.26 For the avoidance of any doubt, local councils are not permissible donors. Candidates may not accept donations, including the use of council facilities at a reduced rate, from any local council. This does not apply to statutory entitlements under the RPA 1983 as applied by the 2001 Order.

10.27 In addition to the above, a donation can also be accepted if it is from one of the following:

- an exempt trust (see Appendix C)
- transmitted by a trustee on behalf of a person who is a permissible donor
- the bequest of an individual who was registered to vote at any time in the five years before their death

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

⁶⁶ Section 54(2), PPERA.

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

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

Verifying the source of a donation

10.31 In order to identify whether or not a donor is permissible, a candidate or their election agent must confirm that the individual or organisation making the donation is registered within the UK.

10.32 Table 5 outlines the relevant legislation under which a donor must be registered in order to be permissible.

Table 5: Checking the permissibility of donors

Type of permissible donor	Register/list/legislation/order on or under which donor must be registered to be a permissible donor
Individual	Either a register of Parliamentary or local government electors maintained under the RPA 1983; a register of relevant citizens of the EU under the European Parliamentary Elections Regulations 2004; or a register of peers maintained under Section 3 of the RPA 1985.
Company	The Companies Act 1985 or the Companies (Northern Ireland) Order 1986; incorporated within the EU; and carry on business in the UK.
Registered party	A register of political parties maintained by the Electoral Commission under Part II of PPERA.
Trade union	The Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992.
Building society	A building society within the meaning of the Building Societies Act 1986.
Limited liability partnership	The Limited Liability Partnerships Act 2000 (or equivalent Northern Ireland legislation) and carry on business in the UK.
Friendly society	The Friendly Societies Act 1974 or the Industrial and Provident Societies Act 1965 or the Industrial and Provident Societies Act (Northern Ireland) 1969.
Unincorporated association	Must be an association, not covered by any of the above categories, of two or more people, which carries on the majority of its business or other activities in the UK and whose main office is in the UK.

10.33 Further information about the meaning of ‘carrying on business’ in the case of companies, limited liability partnerships and unincorporated associations can be found in the Commission’s *Donations and loans: guidance to political parties in Great Britain*. Although the guidance does not apply to political parties in Northern Ireland, the advice on ‘carrying on business’ is relevant to Northern Ireland candidates. Candidates who have any questions about the permissibility of donations from companies should contact the Electoral Commission or seek independent legal advice before accepting the donation in question.

Returning donations

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

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

Example box 11: Donations from unidentifiable and other impermissible sources

Examples of donations that should not be accepted may include:

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

10.35 All donations of more than £50 from unidentifiable or otherwise impermissible sources must be reported within a candidate’s election expenses return.

10.36 We recognise that the legislation in this area is complicated. If you require any further advice or guidance regarding the rules for accepting or reporting donations, please do not hesitate to contact us.

Valuing donations

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

Non-cash donations

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

10.39 Non-cash donations of goods or services provided to candidates without charge or at a discount of more than 10% (such as free use of an office or the provision of stationery supplies at a 50% discount) also constitute notional expenditure and should be reported as such. See paragraph 9.64 for more information about valuing the notional expenditure incurred in such transactions.

Sponsorship

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

Example box 12: Valuing sponsorship

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

Commercial transactions

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

Example box 13: Valuing a donation where payment for services provided by the candidate exceeds commercial value

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

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

11 Polling day

11.1 Polling day is **Wednesday 7 March 2007**. Polling hours are between **7am and 10pm**.

11.2 Details of the locations of polling places will be supplied by the Deputy Returning Officer to election agents and/or candidates soon after the statement of persons nominated has been published.

Entitlement to attend the polling station

11.3 Within each polling place are one or more polling stations (the term 'polling station' refers to the ballot box and table at which the Presiding Officer and Poll Clerk sit). You and your election agent are entitled to attend polling stations in the constituency during polling day. Polling agents may attend the polling station(s) for which they have been appointed. Only one polling agent per candidate is allowed to attend a polling station at any time.⁶⁷

Role of your polling agent

11.4 Details of the qualification criteria and appointment procedure for polling agents are outlined in Chapter 7, 'Polling agents, counting agents and tellers'. In addition, each polling agent will be issued with specific guidance notes by the EONI. The polling agent must follow directions from the Presiding Officer to maintain order in the polling station.

11.5 The main duties and responsibilities of polling agents during polling day are summarised below:

- To be present at their designated polling station before the opening of the poll to observe the Presiding Officer showing the empty ballot box prior to sealing.
- To detect personation and to prevent people voting more than once. Voters believed to have committed either offence 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.⁶⁸ Polling agents may cause the Presiding Officer to have such a person arrested.
- To mark off on their copy of the electoral register those voters who have applied for ballot papers. If polling agents leave the polling station during the hours of polling, their marked copy of the register must be left in the polling station so that secrecy requirements are not breached.
- Polling agents must not give information to anyone as to who has or has not voted, or a person's electoral number, or the official mark.
- Generally to ascertain the number of voters throughout the day and gauge 'how the election is going'.

⁶⁷ Schedule 1, Rule 32, RPA 1983 (as amended by Section 13(4), RPA 2000) as applied by the 2001 Order.

⁶⁸ Schedule 1, Rule 35, RPA 1983 as amended by Section 2(1)A, EFA 2002.

- To report to their election agent/candidate any improper occurrences and retain notes for use as evidence in court, if required.
- To be present when the Presiding Officer marks ballot papers at the request of electors.
- To be present at the close of poll when the various packets of documents are sealed. The polling agent may attach their seal to any packets made up by the Presiding Officer, including the ballot box.

11.6 You and/or your election agent (or any sub-agent) may do anything that a polling agent is authorised to do. However, where a polling agent is authorised to witness various aspects of the polling procedure, the procedure is not invalidated if the polling agent has not witnessed them.⁶⁹

Importance of secrecy

11.7 All those who enter any part of the polling place should be aware of the requirement to ensure secrecy of the ballot. All those attending at a polling station should be given a copy of Section 66 of the RPA 1983, which is reproduced in Appendix B. Any person who is found guilty of breaching the requirements set out in Section 66 may be fined up to £5,000, or may be imprisoned for up to six months.⁷⁰

Tellers

11.8 As noted in Chapter 7, 'Polling agents, counting agents and tellers', candidates may sometimes use 'tellers' to stand outside polling places and record the electoral numbers of people who have voted. However, tellers have no legal status in electoral law and they are not allowed to enter the polling place or observe at any polling station.

11.9 Tellers should not hand out election material, or attempt to influence the way someone votes. They should not ask any voter who they voted for, or how they intend to vote. Voters are not required to give any information to tellers and they should not be pressed if they refuse to answer. Tellers should not give the impression that the information is required for official purposes.

11.10 Tellers have not been used to any extent in Northern Ireland. However, if candidates are intending to deploy tellers, they should contact the Electoral Commission, which will supply them with a copy of guidance notes issued by the Commission in Great Britain.

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

⁶⁹ Rule 30, RPA 1983 as applied by the 2001 Order.

⁷⁰ Section 66(6), RPA 1983 as applied by the 2001 Order.

Keeping order

11.12 It is important to note that it is the Presiding Officer's duty to keep order at the polling station and that they may order the removal of any person from the polling station.⁷¹ However, in exercising this duty, the Presiding Officer must not prevent a voter who is otherwise entitled from casting their vote.

Commission attendance at polling stations

11.13 The Northern Ireland Assembly (Elections) (Amendment) Order 2003 allows Electoral Commissioners and members of staff of the Electoral Commission to be admitted to and attend polling stations at Assembly elections. The Order also makes provision for individuals appointed by the Electoral Commission to attend polling stations on behalf of the Commission.

⁷¹ Schedule 1, Rule 33(2), RPA 1983 as applied by the 2001 Order.

12 The count

Time and location of count

12.1 The counting of ballot papers for the election will commence at **9am** on **Thursday 8 March** and shall continue until all vacant seats are filled. The Deputy Returning Officer will write to each counting agent with details of the exact time and location of the appropriate count.⁷²

Importance of secrecy

12.2 All persons attending the opening of postal ballots and the count should be aware of the requirement to ensure secrecy of the ballot. All those attending the count must be given a copy of Section 66 of the RPA 1983, which is reproduced in Appendix B. Any person who is found guilty of breaching the requirements set out in Section 66 may face a fine of up to £5,000, or may be imprisoned for up to six months.⁷³

Postal votes

12.3 As envelopes containing postal votes are returned to the Deputy Returning Officer up to the close of poll, they will be placed unopened into the postal voters' ballot box. While at least one ballot box must be retained until the close of poll, any other boxes and postal ballot envelopes contained within them may be opened beforehand.⁷⁴ The Deputy Returning Officer must give at least 48 hours' advance notice of the time and place for the opening of the postal voters' ballot box.⁷⁵ Those entitled to attend the opening of postal voters' ballot boxes and witness proceedings are:

- you, the candidate
- your election agent, or anyone authorised by the candidate to attend in place of their election agent
- one or more agents appointed by you to attend the opening of postal voters' ballot boxes as authorised by the Deputy Returning Officer for the constituency
- the Returning Officer or an officer of the EONI appointed by them, **and**
- the Deputy Returning Officer for the constituency⁷⁶

⁷² Schedule 1, Rule 44, RPA 1983 as applied with modification by the 2001 Order.

⁷³ Section 66(6), RPA 1983 (as amended by Schedule 3, paragraph 3, RPA 1985) as applied by the 2001 Order.

⁷⁴ Regulations 79 and 80, RPR 2001 as applied with modifications by the 2001 Order.

⁷⁵ Regulation 77, RPR 2001 as applied by the 2001 Order.

⁷⁶ Regulation 67, RPR 2001 as applied by the 2001 Order.

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

12.5 Candidates and agents may observe, but may never interfere with, the opening process. All those attending the opening of postal ballots must maintain the secrecy of the ballot, and candidates and agents must not try to see how each individual ballot paper is marked or take notes on how ballot papers are marked.

12.6 All valid postal votes will be taken to the count venues (see Table 6) and will be mixed with the contents of at least one other ballot box at the count before being counted in the normal manner.

Table 6: Count centres

Constituency area	Location
Fermanagh and South Tyrone West Tyrone	Omagh Leisure Complex Old Mountfield Road Omagh Co Tyrone BT79 7EG
East Antrim South Antrim	Antrim Forum Lough Road Antrim BT41 4DQ
Belfast East Belfast West Belfast North Belfast South	Nugent Hall King's Hall Complex Upper Lisburn Road Belfast BT9 8GW
Upper Bann Newry and Armagh	Banbridge Leisure Centre 15 Downshire Road Banbridge BT32 3JY
Lagan Valley South Down	Lisburn LeisurePlex 12 Lisburn Leisure Park Governors Road Lisburn BT28 1LP
East Londonderry Foyle	Templemore Sports Complex Buncrana Road Londonderry BT48 7QL
North Antrim Mid Ulster	Seven Towers Leisure Centre Trostan Avenue Ballymena Co Antrim BT43 7BL
North Down Strangford	Ards Leisure Centre William Street Newtownards BT23 4EJ

Count procedure

12.7 The following people are entitled to attend the count:

- the Returning Officer or an officer of the EONI appointed by the Returning Officer
- the Deputy Returning Officer and their staff
- the candidate and one guest
- the election agents, **and**
- the counting agents

12.8 The Chief Electoral Officer (see paragraph 2.2) may also permit other people to attend the count at their discretion, but is not obliged to do so. The decision of the Chief Electoral Officer as to who is permitted to attend the count is final. The Chief Electoral Officer may delegate this discretion to the Deputy Returning Officer in respect of any particular constituency.

12.9 As noted in Chapter 7, 'Polling agents, counting agents and tellers', the maximum number of counting agents to be appointed by each candidate will be determined by the Deputy Returning Officer, but will not be less than the total number of counting clerks divided by the total number of candidates. Each candidate must be permitted the same number of agents.

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

- to maintain and aid in maintaining the secrecy requirements
- to be present at all stages of the count
- to oversee the counting process and see that it is undertaken in an orderly, accurate and correct manner
- to draw to the attention of the counting assistants any bad or doubtful ballot papers and to defend every ballot paper given for their candidate to which objection is taken. However, counting agents are not permitted to handle ballot papers, **and**
- at the close of the count, when the Deputy Returning Officer seals the sacks of ballot papers and other material, to add their seals, if they wish to

12.11 The Deputy Returning Officer must give the counting agents reasonable facilities for overseeing the proceedings at the count and fulfilling the various duties described above. In particular, the counting agents should be able to verify that the ballot papers are accurately sorted between the candidates. The candidate or their election agent is also entitled to do anything that a counting agent is authorised to do, and should be given the same facilities as a counting agent. However, proceedings at the count are not invalidated if any person entitled to attend is not present.

12.12 During the count, as doubtful ballot papers are identified, the Deputy Returning Officer will make adjudications in the presence of election agents. Election agents may make objections to ballot papers, and may defend ballot papers given for their candidate to which objections are made. They may also require the Deputy Returning Officer to mark on a rejected ballot paper the words 'rejection objected to' if they object to the Deputy Returning Officer's decision.

The counting system

12.13 The Single Transferable Vote (STV) system is a complex one; candidates are advised to consult the relevant legislation for more detail on how Assembly seats are allocated.

First stage

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

- the process of determining the first preference vote for each candidate
- the transfer of a surplus of a candidate deemed to be elected, **or**
- the exclusion of one or more candidates at any given time⁷⁷

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

12.16 The total number of valid ballot papers will then be divided by a number exceeding by one the number of members to be elected. As there are to be six members to be returned to each constituency, the total number of valid ballot papers will be divided by seven. The quota, i.e. the number of votes sufficient to secure the election of a candidate, will be equal to this number, increased by one.⁷⁸ Any fractions in calculating the quota are disregarded.

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

⁷⁷ Schedule 1, Rule 44A, RPA 1983 as inserted by Schedule 1 of the 2001 Order.

⁷⁸ Schedule 1, Rule 44E, RPA 1983 as inserted by Schedule 1 of the 2001 Order.

Calculating the quota

The quota (Q) can be calculated as follows:

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

Subsequent stages

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

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

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

12.21 Candidates and agents are strongly advised to consult the relevant legislation for more detail about the vote transfer system.⁷⁹

Last vacancies

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

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

⁷⁹ Schedule 1, Rules 44D, 44F, 44G, 44H, 44J, RPA 1983 as inserted by Schedule 1 of the 2001 Order. For a detailed explanation of how the Assembly seats were allocated during the 1998 Assembly election, see www.ark.ac.uk/elections/friley98.htm.

Recount

12.24 On completion of each stage of the count, the Deputy Returning Officer shall, before proceeding with the next stage, inform all the candidates and their election agents of their intention, subject to a request for a recount, to proceed to the next stage. Candidates or their election agents may request the Deputy Returning Officer to re-count the last completed stage before proceeding to the next stage. The Deputy Returning Officer is obliged to conduct one recount if requested, but may refuse further recounts.⁸⁰ Only the most recent completed stage can be re-counted.

Declaration of result

12.25 As soon as possible after the conclusive stage in the counting, the Deputy Returning Officer will declare the names of those who have been elected and the order in which they were elected. They will also give public notice of the number of first preference votes for all candidates, any transfer of votes, and the total number of votes for each candidate at each stage in the count at which such transfer took place.⁸¹

⁸⁰ Schedule 1, Rule 44k, RPA 1983 as inserted by Schedule 1 of the 2001 Order.

⁸¹ Schedule 1, Rule 50, RPA 1983 as applied with modifications by the 2001 Order.

13 After the election

Declaration of acceptance of office

13.1 Having been elected to a seat at the Northern Ireland Assembly, successful candidates have to formally take their seat by signing the Assembly's Roll of Membership at the first meeting of the new Assembly at which they are present. A member may not participate in Assembly proceedings or have title to the privileges of office until he or she has signed the Roll of Membership.⁸²

Election petitions

13.2 The outcome of an Assembly election can be challenged by the issue of an election petition. An election petition can be issued by:

- any person alleging that he or she was a candidate at the election
- any person claiming to have had a right to be elected or returned at the election, **or**
- any elector who voted or was entitled to vote at the election⁸³

13.3 The allowable grounds for a petition are:

- undue election, **or**
- undue return⁸⁴

13.4 The Assembly member whose election or return is challenged must be 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 is deemed to be a respondent.⁸⁵

13.5 Normally, the petition must be issued 21 days after the date on which the result of the election is declared. However, if the petition complains of corrupt or illegal practices involving the payment of money which have taken place since the election, or an illegal practice relating to election expenses, further time may be allowed.⁸⁶

⁸² See the Northern Ireland Assembly Standing Orders, 5 July 2000.

⁸³ Section 121, RPA 1983 as applied by the 2001 Order.

⁸⁴ Section 120, RPA 1983 as applied by the 2001 Order.

⁸⁵ Section 121, RPA 1983 as applied by the 2001 Order.

⁸⁶ Section 122, RPA 1983 as applied by the 2001 Order.

Form of petition

13.6 The petition itself should follow the form prescribed by the Election Petition Rules 1964, and the following information must be included:

- the capacity in which the petitioner or petitioners are acting
- the date and result of the election in question
- the grounds on which relief is sought
- the relief claimed⁸⁷

13.7 If referring to alleged corrupt or illegal practices other than those for which petitions must be issued within 21 days, the petition must include the date from which the time for the presentation of the petition is to be calculated. The petition must be presented to the Clerk of the Crown at the Royal Courts of Justice. Petitioners should contact his office at the address below for further details of how the petition should be presented.

13.8 The petition must be signed by each petitioner personally and three copies left at the Clerk of the Crown at the address below. If the office is closed, the petition can be left in the letterbox provided, but petitioners must swear an affidavit the next working day confirming the date and time when the petition was deposited.

Costs

13.9 In addition to the fees payable on issue of the election petition, security for costs must be agreed and lodged with the Court of Session. The precise amount of security required will be determined by the Royal Courts of Justice, or a judge of the Royal Courts of Justice.

Advice

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

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

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

Tel: 028 9072 4699

⁸⁷ Rule 3, 1964 Rules as applied with modifications by the 2001 Order.

Election expenses returns

Submitting an election expenses return

13.11 After an election, the election agent of **every candidate** must submit a return as to the election expenses of that candidate to the appropriate officer within a specified time limit.

13.12 Table 7 details the submission requirements related to candidates' expenses. Documents must be submitted to the appropriate Returning Officer.

Table 7: Deadlines for the declaration and return of election expenses for candidates at Northern Ireland Assembly elections

Document required	Deadline for submission
Return of election expenses incurred by authorised persons under Section 75 of the RPA 1983 and accompanying declarations	Within 21 days of declaration of result
Election expenses return	Within 35 days of declaration of result
Election agent's declaration	Within 35 days of declaration of result
Candidate's declaration	Within seven days of submission of return

13.13 Downloadable copies of the Commission's recommended form and explanatory notes to aid you in completing it can be found on our website (www.electoralcommission.org.uk). Paper copies of the form and advice about its completion can be requested from the Commission by phoning 028 9089 4022.

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

Note: A 'nil' return must be submitted even where no expenses are incurred.

Election expenses are not reimbursed.

Information to be included in a return

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

- all election expenses incurred
- all payments made by the election agent
- expenses incurred before an election agent was appointed
- petty expenses
- expenses incurred by a person authorised by the election agent
- any disputed and/or unpaid claims
- amount of expenses incurred before a person became a candidate on goods or services used during the election
- a declaration of value in relation to items purchased for purposes other than the election but subsequently used for that purpose
- a declaration of value in relation to notional expenditure of more than £50
- the amount of any money contributed by the candidate from their own resources to meet the costs of the election
- all permissible donations of more than £50 accepted by the candidate or their election agent
- all anonymous or otherwise impermissible donations of more than £50 received by the candidate or their election agent and an explanation of the manner it was dealt with

13.16 The return must be accompanied by an invoice or receipt for any payment made of more than £20, other than notional expenditure.

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

Pre-1999 exempt trusts

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

Permissible donor exempt trusts

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

13.18 A form of return is provided for use by the Commission. While there is no legal obligation for candidates to use this form, it is strongly recommended that they do so as it does meet the full requirements of the law. Forms are available from the Commission's website at www.electoralcommission.org.uk.

13.19 Where an election agent chooses to use a form other than that provided by the Commission they must ensure that it contains all the information required by law to be included within an election expenses return (as listed above). Failure to do so may constitute failure to meet the requirements of the relevant legislation, which is an illegal practice.

Declarations

13.20 Election agents and candidates are also required to submit declarations vouching for a candidate's election expenses return (see Table 7).

13.21 The content of these declarations is prescribed by law. Different declarations apply to different elections.

13.22 Declarations are available for completion from the Commission at www.electoralcommission.org.uk.

Appendix A – Penalties

The RPA 1983 specifies the relevant penalties that can be imposed on an individual in respect of a breach of the Act. The following table sets out the offences and relevant penalties.

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

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

Offence	Legislation	Who can commit	Penalty (maximum)
False statements in nomination papers, etc. – supplying false names and addresses of candidates on a nomination paper; forging the signatures of electors; or getting electors to subscribe to a nomination paper under false pretences	Section 65, RPA 1983	Any person	On indictment, one year's imprisonment, or a fine, or both. On summary conviction, up to six months' imprisonment, or a fine not exceeding the statutory maximum (currently £5,000), or both.
Contravention of the secrecy requirements (see Appendix B)	Section 66(6), RPA 1983	All persons attending a polling station, the issue and opening of postal ballots, and the count	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 provided to any person other than the candidate or his election agent	Section 71A(3), RPA 1983	Any person	Fine not exceeding level 5 on the standard scale (currently £5,000).
Making payments in respect of election expenses other than as specified in Section 73(5)	Section 73(6), RPA 1983	A candidate at election or any other person	Fine not exceeding level 5 on the standard scale (currently £5,000).

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

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

Offence	Legislation	Who can commit	Penalty (maximum)
Treating	Section 114, RPA 1983	Any person – directly or indirectly, by himself 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.
Undue influence	Section 115, RPA 1983	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.
Failure to provide all required information at the time a donation is received by the candidate or election agent where the donation is being made on behalf of others	Paragraph 6(7) of Schedule 2A, RPA 1983	Principal donors or any person providing a donation on behalf of another person	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.
Failure to return a donation from an impermissible or unidentifiable source	Section 56(3) or (4), PPERA, as enacted by Schedule 2A, RPA 1983	Candidate and/or election agent	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.

Offence	Legislation	Who can commit	Penalty (maximum)
Knowingly giving the responsible person false information about donations	Section 61(2)(a), PPERA, as enacted by Schedule 2A, RPA 1983	Any person	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.
Withholding information about donations from the responsible person with intent to deceive	Section 61(2)(b), PPERA, as enacted by Schedule 2A, RPA 1983	Any person	On summary conviction, statutory maximum fine or six months' imprisonment. On indictment, fine or one year's imprisonment.

Appendix B – Secrecy requirements

The requirements in Section 66 of the Representation of the People Act 1983 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 count. Section 66 is reproduced below in full, for use by candidates, election agents and counting agents.

Requirement of secrecy

Section 66, Representation of the People Act 1983

66. – (1) The following persons –

- (a) every Returning Officer and every Presiding Officer or clerk attending at a polling station,
- (b) every candidate or election agent or polling agent so attending,

shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to –

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station;
- (ii) the number on the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not –

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.

(3) No person shall –

- (a) interfere with or attempt to interfere with a voter when recording his vote;
- (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;
- (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
- (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.

- (4) Every person attending the proceedings in connection with the issue or the receipt of ballot papers for persons voting by post shall maintain and aid in maintaining the secrecy of the voting and shall not –
- (a) except for some purpose authorised by law, communicate, before the poll is closed, to any person any information obtained at those proceedings as to the official mark; or
 - (b) except for some purpose authorised by law, communicate to any person at any time information obtained at those proceedings as to the number on the back of the ballot paper sent to any person; or
 - (c) except for some purpose authorised by law, attempt to ascertain at the proceedings in connection with the receipt of ballot papers the number on the back of any ballot paper; or
 - (d) attempt to ascertain at the proceedings in connection with the receipt of the ballot papers the candidate for whom any vote is given in any particular ballot paper or communicate any information with respect thereto obtained at those proceedings.
- (5) No person having undertaken to assist a blind voter to vote shall communicate at any time to any person any information as to the candidate for whom that voter intends to vote or has voted, or as to the number on the back of the ballot paper given for the use of that voter.
- (6) If a person acts in contravention of this section he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months.

Appendix C – Glossary

Absent voting

Absent voting is the term used at elections to describe postal and proxy voting. The elector must submit an application to the Electoral Office for Northern Ireland (EONI) before the statutory deadline in order to do this. The different methods of doing this are as follows:

Postal voting

Postal vote applications must be made to the EONI and must be accompanied by a valid reason. Valid reasons include the inability to attend the polling place due to illness, physical incapacity, absence on the day of the poll due to work commitments, holiday arrangements or an elector having moved outside the locality of their previous polling place. The deadline for postal vote applications is 15 February 2007.

Proxy voting

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

Candidates' election expenses

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

Candidates' election expenses return

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

Commercial cost/rates

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

Date donation received

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

Disputed claim

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

Election agent

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

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

Exempt trust donation

A donation from the trustee of any trust that was:

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

or

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

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

Joint candidates

Candidates at local elections are considered to be joint candidates when they employ the same election agent, or use the services of the same clerks or messengers, hire or use the same committee rooms at an election, or publish joint addresses, circulars or notices at elections. Joint candidacy only applies when the candidates are standing in the same constituency. Maximum spending limits are reduced in the case of joint candidates.

Per elector

Per elector means the number of entries on a register of electors. The relevant 'register of electors' is the register of electors for the constituency as on the last day for publication of the Notice of Election. To avoid the possible miscalculation of spending limits, candidates and agents are advised to obtain written confirmation of the register figure from the relevant officer.

Petty expenses

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

Registered party

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

Regulated period

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

UK-based unincorporated association

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

UK-registered building society

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

UK-registered company

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

UK-registered friendly society

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

UK-registered limited liability partnership

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

UK-registered trade union

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

Appendix D – Feedback form

It would help us to have your comments on this guidance and how useful you found it.

Did you find the guidance 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 guidance particularly unhelpful? Please provide details.	

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

Name:
Organisation/party:
Address:
Tel:
Email:

Please return this form to: Margaret Lavery, The Electoral Commission, Seatem House, 28–32 Alfred Street, Belfast BT2 8EN; Tel: 028 9089 4022; Fax: 028 9089 4026; Email: mlavery@electoralcommission.org.uk
The form is also available online at: www.electoralcommission.org.uk/elections2007

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