

# Part G – After the declaration of result

## Contents

- 1 Storage, inspection and disposal of election documents
  - Forwarding documents to the relevant officer
  - Retention and public inspection of documents
  - Marked register of electors and absent voters lists
  - Copies of other documentation open to public inspection
- 2 Candidates' election expenses
  - Candidates' returns – election expenses
- 3 Returns to the Electoral Commission
  - Candidates' expenses
  - Performance standards
  - Other returns
- 4 Election petitions
  - Form of petition
- 5 Review of election procedures
- 6 Resources
  - Access to election documentation after the election



# 1 Storage, inspection and disposal of election documents

## Forwarding documents to the relevant officer

1.1 Following the election, the Local Returning Officer is required to send a number of specified documents to the relevant registration officer.<sup>1</sup> The relevant registration officer should be interpreted as follows:

- In England and Wales, the relevant registration officer is the Electoral Registration Officer for the local authority in whose electoral area the election is held. If there is more than one local government area in the local counting area, the documents are forwarded to the Electoral Registration Officer of the authority with the greater number of European Parliamentary electors.
- In Scotland, the Local Returning Officer is required to retain the documents on behalf of the Regional Returning Officer.<sup>2</sup>
- In Gibraltar, the Local Returning Officer is required to retain the documents.<sup>3</sup>

1.2 Throughout this guidance, the term 'relevant officer' will be used to refer to those persons set out above.

## Before the poll

1.3 Election staff should prepare containers and labels to show the contents of the various packets in advance of the election.

1.4 Appropriately robust packaging should be used with labels clearly showing the contents of each sack. The use of clear sacks should be considered to permit a check of the contents at a later time without having to open the packets.

1.5 Local Returning Officers should consider including in any information provided to registered parties, candidates and their agents an indication of the items that will be stored by the relevant officer, when and where these will be available for inspection and the period for which they will be held.

## During the verification and count

1.6 Depending on the space available within the verification and count venue and the way the proceedings are organised, Local Returning Officers might consider using the staff who administered the reception of the ballot boxes and parcels from the polling stations for the identification and separation of the items from the parcels that have to go to the relevant officer for storage.

1.7 After all ballot paper accounts and ballot boxes have been delivered to the verification venue and the verification process has been completed, a separate

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<sup>1</sup> Rule 64, European Parliamentary Elections Rules (EPE Rules), Schedule 1, European Parliamentary Elections Regulations 2004 (EPE Regulations), as amended by European Parliamentary Elections (Amendment) Regulations 2009.

<sup>2</sup> Rule 64(2), EPE Rules.

<sup>3</sup> Rule 64(3), EPE Rules.

secure area, if available, could be identified and used for separating the contents of the parcels into the elements to be forwarded to the relevant officer for storage.

1.8 By laying out the large sacks on the floor and placing the appropriate items on top, a visual check can be made, with reference to the ballot box control sheet, of the contents of each sack to ensure that the items appropriate for that particular sack are included.

1.9 At the conclusion of this process, these checks should reveal any gaps where a particular register, envelope or package is missing, and a list should be kept of missing articles. Any missing documents should then be located and matched up with the correct package.

## After the count

1.10 The documents that must be forwarded to the relevant officer are:<sup>4</sup>

- all ballot papers, which includes counted ballot papers, uncounted ballot papers, rejected ballot papers, unused ballot papers (both ordinary and tendered), spoilt ballot papers and used tendered ballot papers
- ballot paper accounts and statements of rejected ballot papers and the result of the verification of the ballot paper accounts
- declarations made by the companions of voters with disabilities
- list of tendered votes
- list of votes marked by the Presiding Officer
- list of voters with disabilities assisted by companions
- statement of the number of votes marked by the Presiding Officer
- marked copies of the absent voters list, proxy postal voters list and the lists of lost ballot papers and spoilt ballot papers
- marked copies of the register of electors (including any notices of alteration) and list of proxies
- list of persons to whom ballot papers are delivered after the Electoral Registration Officer determines that there is a clerical error in the register (if not included in the marked register)
- the packets containing the completed polling station and postal vote corresponding number lists
- certificates of employment on duty on polling day
- packets of the contents of the receptacles for postal voting statements and for votes rejected
- postal ballot paper envelopes and postal ballot papers marked 'rejected'
- postal ballot papers, statements and envelopes cancelled as a result of being returned as spoilt or lost
- unopened postal ballot packs received after the close of poll or returned as undelivered

1.11 Once all of the relevant documentation is secured in the appropriate corresponding packets, each packet should be endorsed with a description of its contents, the date of the election and the name of the electoral region and local counting area to which it relates. At the conclusion of the exercise, all items

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<sup>4</sup> Rule 64, EPE Rules; Paragraph 70, Schedule 2, EPE Regulations.

should be in their appropriate sacks with the tops sealed temporarily and the sacks stored securely. Agents may not affix their own seals to the sacks and packets.

1.12 A comprehensive check of the contents of each sack can then be made to ensure that all of the packets that need to be retained are present and, if necessary, the search can resume for any missing articles. On completion, the sacks can finally be sealed (again, no agents seal may be affixed) and endorsed and locked securely in a controlled storage area until such time as they can be forwarded on to the appropriate location for storage by the appropriate officer.

## Retention and public inspection of documents

1.13 All items should be stored securely for **one year**, after which, unless otherwise directed by an order of the Court of Session, High Court, Crown Court, a magistrates' court or an election court, they must be disposed of in a secure manner.<sup>5</sup>

1.14 Documents may be kept for longer than one year by order of a court as listed above. If the relevant officer is aware that an investigation or petition is ongoing or being considered they should consider contacting the interested parties to inform them of the destruction date of the documents, and to highlight the ability for them to apply for the documents to be retained for a longer period.



A number of significant changes to inspection arrangements have been introduced since the last European Parliamentary election.

Much will depend upon whether the person wishing to inspect the documentation is directly involved in the election as a candidate, agent, political party representative, etc., or is simply a member of the general public.

A summary of these new provisions can be found in Section 6, 'Resources'.

1.15 Most of the documents relating to the election must be available for inspection. The documents that are **not** available for inspection after the declaration of the result of the election are the:<sup>6</sup>

- ballot papers
- completed corresponding number lists
- certificates of employment on duty on polling day

1.16 Any person wishing to make an inspection must make their request in writing to the relevant officer and must:<sup>7</sup>

- specify which register or document they wish to inspect
- where the request is to inspect the marked register or lists, state any reason why inspecting the full register or unmarked lists would not be sufficient to achieve that purpose

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<sup>5</sup> Rule 66, EPE Rules.

<sup>6</sup> Rule 69(1)(b), EPE Rules.

<sup>7</sup> Rule 68, EPE Rules.

- state whether they wish to inspect a printed or data copy (where appropriate)
- state the purposes for which the information will be used (information can only be used for research purposes within the meaning of Section 33 of the Data Protection Act 1998, or for electoral purposes)
- state who will be inspecting the documents
- state the date on which they wish to make the inspection

1.17 The relevant officer must then make the relevant documents available for inspection under supervision within 10 working days of the date of receipt of the request. However, where a request has been made for the inspection of the marked register of electors or the marked absent voters lists and the relevant officer determines that the requestor's purposes can be met by the inspection of the full register or the unmarked absent voters lists, they should advise the requestor of that fact and instead make the full register or the absent voters lists available for inspection under supervision.<sup>8</sup>

1.18 The documents that are open to inspection can be kept in adequately secure storage at any place where the relevant documents can be retrieved and made available for inspection within the 10 working day time limit for inspection.

## Marked register of electors and absent voters lists

1.19 The relevant officer must, if requested, supply to the Electoral Commission, elected representatives, local constituency parties, registered political parties, candidates, police forces and security agencies, and government departments and other bodies, copies of the marked register of electors and the marked lists of absent voters.<sup>9</sup> Those who are able to apply for supply of the marked register fall into one of the categories of people entitled to a full register mentioned in the Representation of the People Regulations 2001 (RPR) (as amended) under:

- in England and Wales, Regulation 100, 103, 105, 106, 108, 109 or 113
- in Scotland, Regulation 99, 102, 104, 105, 107, 108 or 112

1.20 Requests for the supply of copies of the marked register of electors or the marked absent voters lists must be made in writing and specify:<sup>10</sup>

- which of the marked register or lists are requested
- the purposes for which the marked register or lists will be used and why the supply or purchase of a copy of the full register or unmarked lists would not be sufficient to achieve that purpose
- whether they wish to receive a printed or data copy

1.21 Recipients of the marked register and absent voters lists may only use the information for research purposes within the meaning of Section 33 of the Data Protection Act 1998, for electoral purposes, or for any purposes set out in the

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<sup>8</sup> Rule 69(3), EPE Rules.

<sup>9</sup> Rule 69, EPE Rules.

<sup>10</sup> Rule 69(2), EPE Rules.

regulation that separately gives them the right to receive a copy of the full register of electors.<sup>11</sup>

1.22 Eligible applicants are entitled to buy a copy or copies of the marked register, although they may only buy a copy or copies of the marked register for the area for which they were entitled to a free copy of the register. For example, a district councillor may purchase the marked copy of the European Parliamentary register for their ward, whereas an MP can purchase a copy for their constituency area.

1.23 The fee for the provision of the marked register of electors and the marked absent voters lists is prescribed: for data copies, this is a £10 administration fee plus £1 for each 1,000 entries (or part of 1,000 entries), and for paper copies, this is a £10 administration fee plus £2 for each 1,000 entries (or part of 1,000 entries).<sup>12</sup>

1.24 The single £10 administration fee is for each request and will cover the whole of the area that the applicant is entitled to. For example, a local constituency party should be charged one fee for all of the register for that part of the Electoral Registration Officer's area which falls within their UK Parliamentary constituency and the European Parliamentary electoral region. Additional administration fees should not be charged based on the number of wards or polling districts in the area. Similarly, in calculating the number of thousand or part thousand electors on the list, this should be calculated for the whole of the relevant area, not by ward or polling district within that area.

1.25 The administration fee covers one copy in one format (either printed or data). Additional copies of any part or in a different format will require an additional fee. Therefore, in practice, applying for a marked copy of the register in data and printed formats will attract an administration fee of £20 plus £3 for each 1,000 or part 1,000 entries in the area as a whole.

1.26 Although the marked register of electors and absent voters lists may be inspected by any person (subject to satisfying the relevant officer as to the necessity of seeing the information), copies may only be supplied to those specifically referred to above. All others making inspections of the marked register of electors or marked absent voters lists may only make handwritten notes. The use of copying machines, photography and laptop computers is not permitted.

## Copies of other documentation open to public inspection

1.27 The other documentation that is open to public inspection may not be copied, either electronically or by handwritten notes. The only exception to this is where a person or organisation covered by:

- in England and Wales, Regulation 109, RPR 2001
- in Scotland, Regulation 108, Representation of the People (Scotland) Regulations 2001 (RPR (Scotland))

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<sup>11</sup> Rule 70, EPE Rules.

<sup>12</sup> Rule 71, EPE Rules.

(i.e. police forces, the security services, etc.) requires the information. In such cases, the copies must be supplied free of charge.<sup>13</sup>

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<sup>13</sup> Rule 69(8), EPE Rules.

## 2 Candidates' election expenses

### Candidates' returns – election expenses

2.1 The receipt of candidates' expenses is a matter for the Regional Returning Officer, and so any candidates with a question about the submission of a return should be directed to the appropriate contact point identified by the Regional Returning Officer.

2.2 Questions about the completion of expenses forms should be directed to the Commission at:

- **020 7271 0616**
- **pef@electoralcommission.org.uk**



A guide for candidates and agents is available on the Commission's website at [www.electoralcommission.org.uk](http://www.electoralcommission.org.uk), and can also be ordered from the Commission's distributor free of charge.

Individual candidates and their agents can download explanatory notes on completing expenses forms, the form of return of candidates' election expenses, the declaration by the election agent as to election expenses and the declaration as to candidates' election expenses from the Commission's website.

Party list candidate expenses are party expenditure and are the responsibility of the party treasurer (or campaigns officer if the party has registered one).

## 3 Returns to the Electoral Commission

### Candidates' expenses

3.1 The Local Returning Officer does not have any responsibility for dealing with candidates' expenses returns at a European Parliamentary election: this is a matter for the Regional Returning Officer.

### Performance standards

3.2 We intend to publish standards for Returning Officers in February 2009, in advance of the elections in June 2009. These standards will be accompanied by guidance on how to assess performance against the published standards. This guidance will be made available in due course, and will be designed to be inserted into this manual as Part I.

3.3 Returning Officers will be asked to report on their performance against the standards and, once the self-assessment has been completed and returned, we will carry out a limited verification exercise, which may include asking for additional evidence to support the assessment made against the standards. This will enable the Commission to provide a level of reassurance to all stakeholders about the consistency of the assessment.

3.4 After submission of the reports from Returning Officers, we plan to publish an assessment of the level of performance by Returning Officers against the standards. Our assessment should provide an overall picture of levels of performance, identifying those procedures, policies or practices where performance is particularly weak and to which Returning Officers may need to pay particular attention in future. It will also identify where performance is particularly strong and from which other Returning Officers may be able to benefit in future. We intend to make available publicly the assessments submitted by each individual Returning Officer of their performance against the standards.

### Other returns

#### Statement as to postal ballot papers

3.5 Local Returning Officers are required after the election to send to the Commission and the Secretary of State a copy of the statement as to postal ballot papers (Form R). The Commission will provide a form and explanatory notes for this purpose with details of where to return it.

#### Election reporting

3.6 The Commission is statutorily required to report on the administration of European Parliamentary elections. As a result, the Commission asks Returning Officers (and other key stakeholders) to assist with factual data gathering and to submit further information and feedback following the election.

3.7 Details as to what information and assistance the Commission will be seeking from Local Returning Officers will be confirmed by way of a circular in advance of the election.

3.8 Your cooperation and help is much appreciated – such data is vital to us, and others, as we work to make evidence-based policy recommendations.



For further information on the review of election procedures, see Section 5, 'Review of election procedures'.

## 4 Election petitions

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

4.2 Any person wishing to consider a petition should be advised to take their own legal advice, including to ensure that the information provided below, including court fees and likely costs involved, remain accurate at that time.

4.3 An election petition can be issued by:<sup>14</sup>

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

4.4 The allowable grounds for a petition are that there has been an:<sup>15</sup>

- undue election, or
- undue declaration

4.5 The person(s) whose election is questioned by the petition must be made a respondent to the petition. If the petition complains about the conduct of the Returning Officer or their staff during the election, the Returning Officer must also be a respondent. Therefore, depending on circumstances, the Regional and/or Local Returning Officer may be a respondent to a petition. In any event, the Local Returning Officer may be required to give evidence on any event or process at issue, and so a written note of any issues, such as any correction of procedural errors, made contemporaneously may assist with an accurate recall of events.



As they are personally liable, Local Returning Officers should ensure that they have adequate insurance cover. The Ministry of Justice (MoJ) is examining the practicalities and costs associated with purchasing either insurance or an indemnity for Local Returning Officers.

For further information, see Part B, 'Preparing for a European Parliamentary election', Section 1, 'Planning and risk management'.

4.6 The petition must be presented within 21 days after the day on which the election result was declared and can be issued at any time up to, but not later than, **12 midnight** on the last day.<sup>16</sup> There may be provision to launch a petition after this time if the reason is an unlawful payment made after the petition deadline, although independent legal advice should be taken if this is being considered.

<sup>14</sup> Regulation 89(1), EPE Regulations.

<sup>15</sup> Regulation 88(1), EPE Regulations.

<sup>16</sup> Regulation 90, EPE Regulations.

## Form of petition

4.7 The petition itself should follow the form prescribed by Part 4 of the EPE Regulations.

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

### Costs

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

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

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

#### **In England and Wales:**

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

Tel: 020 7947 6423  
Fax: 020 7947 6807

#### **In Scotland:**

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

Tel: 0131 240 6747  
Fax: 0131 240 6755

4.12 A person seeking to make an election petition, and any person who is a respondent to such a petition, would be well advised to take legal advice at the earliest possible opportunity.

## Public notice of an election petition

4.13 The prescribed officer of the court will send a copy of any election petition to the Regional Returning Officer. This will be published in the electoral region and the Local Returning Officer may be asked to publish a copy in their area.<sup>17</sup>

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<sup>17</sup> Regulation 89(4), EPE Regulations.

## 5 Review of election procedures

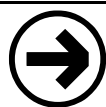
5.1 Following completion of the statutory post-election procedures, it is good practice to carry out an evaluation of the conduct of the election. It may be particularly valuable to assess how effectively any legislative changes were managed, and what lessons can be learnt for future elections.

5.2 The evaluation should ideally be completed within four weeks from the close of poll when all the issues will still be clear in the minds of the members of staff involved in the conduct of the election.

5.3 The scope of the review should cover all aspects of the election, but areas deserving particular scrutiny are likely to be working with the Regional Returning Officer, polling stations, the quality of the register, the performance of contractors and suppliers, staffing, equipment and supplies, finance, security and integrity of the election, verification and count arrangements, communications (both internal and external) and postal voting processes.

5.4 It may be pertinent to invite some of the more experienced polling station staff to a discussion along with 'first timers' in order to address all aspects of the polling station process, from training and briefing sessions through to dealing with difficult situations during polling day. It would also be beneficial to involve political parties, individual candidates and their agents in the review process to gather their feedback on the various aspects of the election.

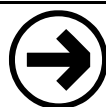
5.5 The Commission will hold a series of seminars shortly after elections have taken place as part of its statutory remit to report on the conduct of elections. These are an ideal opportunity for those involved in running elections to share experiences with the Commission as to how the elections went and to raise any particular issues of concern. This information will then feed into the writing of the Commission's statutory report. In addition, the Commission welcomes feedback from Returning Officers and their staff from internal reviews of election procedures that they may have undertaken.



Contact details for the Commission are given in Part A, 'Context', Section 5, 'Resources'.

5.6 The Regional Returning Officer may also wish to conduct a review of the election.

5.7 The information collected through post-election reviews can be used to inform the project plan and contingency planner for the next election.



The important role that post-election evaluation has to play in informing the planning process for future elections is also discussed in Part B, 'Preparing for a European Parliamentary election'.

## 6 Resources

### Access to election documentation after the election

#### Documents not open to inspection except by court order

6.1 The following documentation is not available for inspection, except by court order.<sup>18</sup>

- ballot papers
- completed corresponding number lists
- certificates of employment on duty on polling day

#### Access to restricted documents<sup>19</sup>

6.2 The following documents:

- rejected ballot papers
- counted ballot papers
- corresponding number lists and certificates of employment

may be accessed if a High Court or a county court in England and Wales or the Court of Session or Sheriff in Scotland is satisfied by evidence on oath that the application is for one of the following reasons:

- instituting or maintaining a prosecution for an offence in relation to ballot papers
- the purpose of a European Parliamentary election petition

6.3 The court will make certain conditions about access to the documents, for example how any particular person voted must not be disclosed until it has been proved by a court that the vote was invalid.

6.4 An appeal to any decision on access can be made to the High Court in England and Wales or the Court of Session in Scotland.<sup>20</sup>

6.5 Applications do not have to be made in open court: they can be made by a judge from the relevant court either in open court or otherwise.<sup>21</sup>

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<sup>18</sup> Rule 66(2), EPE Rules.

<sup>19</sup> Rule 65, EPE Rules.

<sup>20</sup> Rule 65(4), EPE Rules.

<sup>21</sup> Rule 65(5), EPE Rules.

**Table 1: Public inspection of election documentation**

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<b>Document type</b>	<p>Any person may request that the following be made available for inspection:</p> <ul style="list-style-type: none"><li>• marked register of electors</li><li>• marked postal voters list</li><li>• marked list of proxies</li><li>• marked proxy postal voters list</li><li>• any other document relating to the election (except the ballot papers, completed corresponding number lists and certificates of employment on duty on polling day)</li></ul>
<b>Conditions</b>	<p>The request must:</p> <ul style="list-style-type: none"><li>• be made in writing</li><li>• specify who will be inspecting the documents</li><li>• specify the date on which they wish to inspect the documents</li><li>• specify whether they would prefer to inspect the documents in printed or electronic data format</li></ul> <p>In the case of a request to inspect the marked register or lists, the request must:</p> <ul style="list-style-type: none"><li>• state the purpose for which the information will be used and why the inspection of a copy of the full register or unmarked list(s) would not be sufficient to achieve that purpose</li></ul> <p>Where the Electoral Registration Officer determines that the purposes for which the applicant wishes to use the information may be achieved by inspecting a copy of the full register, they shall advise the applicant of their decision and make the full register available for inspection under supervision.</p> <p>The relevant documentation must be made available for inspection within 10 days of the receipt of the request:</p> <ul style="list-style-type: none"><li>• Only handwritten notes of the marked register of electors and the marked absent voters lists may be made; laptop computers and other recording equipment may not be used.</li><li>• Copies of the other election documentation open to inspection may not be made in any form.</li></ul>

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**Table 1 (continued): Public inspection of election documentation**

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	Any information obtained through the inspection of the election documentation may only be used for:
	<ul style="list-style-type: none"><li>• research purposes within the meaning of Section 33 of the Data Protection Act 1998 (research, history and statistics)</li><li>• electoral purposes</li></ul>
<b>May be inspected by</b>	<ul style="list-style-type: none"><li>• any person</li></ul>

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**Table 2: Copies of the marked register of electors and absent voters lists**

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<b>Document type</b>	<ul style="list-style-type: none"><li>• On request and on payment of a fee calculated by reference to Rule 68 of the EPE Rules, specified individuals and organisations are entitled to copies of the:<ul style="list-style-type: none"><li>• relevant part of the marked register of electors</li><li>• relevant part of the marked postal voters list</li><li>• relevant part of the marked list of proxies</li><li>• relevant part of the marked proxy postal voters list</li></ul></li></ul>
<b>Conditions</b>	<p>The request must:</p> <ul style="list-style-type: none"><li>• be made in writing</li><li>• specify which marked register or list(s) (or relevant part) is required</li><li>• state whether a printed or data copy of the marked register or list(s) is required</li><li>• state the purpose for which the marked register or list(s) will be used and why the supply or purchase of a copy of the full register or unmarked list(s) would not be sufficient to achieve that purpose</li></ul> <p>There must be payment of a fee comprising a single administration fee of £10 plus £1 per 1,000 entries or part of 1,000 entries for data copies and £2 per 1,000 entries or part of 1,000 entries for printed copies.</p> <p>If the Electoral Registration Officer is not satisfied that the requestor needs to see the marks on the marked register or list(s) for the purpose for which it is requested, they may treat the request as one for information in unmarked lists or for a copy of the full register, or both.</p> <p>The marked register of electors and lists may only be used for:</p> <ul style="list-style-type: none"><li>• research purposes within the meaning of Section 33 of the Data Protection Act 1998 (research, history and statistics)</li><li>• electoral purposes</li><li>• purposes that are applicable under the regulation entitling the individual or body to the use of the full register of electors</li></ul>

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**Table 2 (continued): Copies of the marked register of electors and absent voters lists**

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<b>Must be supplied on satisfaction of the above conditions to</b>	<ul style="list-style-type: none"><li>• the Electoral Commission</li><li>• elected representatives for electoral purposes</li><li>• local constituency parties</li><li>• registered political parties</li><li>• candidates</li><li>• police forces and other security agencies</li><li>• government departments and other bodies</li></ul>
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**Table 3: Copies of other election documentation**

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<b>Document type</b>	Any election documentation open to public inspection, and any other document relating to the election, <b>excluding:</b> <ul style="list-style-type: none"><li>• ballot papers</li><li>• completed corresponding number lists</li><li>• certificates as to employment on duty on polling day</li></ul>
<b>May be inspected by and supplied on request to</b>	<ul style="list-style-type: none"><li>• any police force in Great Britain</li><li>• the Police Service of Northern Ireland and the Police Service of Northern Ireland (Reserve)</li><li>• the Serious Organised Crime Agency</li><li>• the Police Information Technology Organisation</li><li>• any body of constables established under an Act of Parliament</li><li>• the Security Service</li><li>• the Government Communications Headquarters</li><li>• the Secret Intelligence Service</li></ul>
<b>Conditions</b>	Supply of a copy of the documents and access for inspection is free of charge.  Information supplied may only be used for the purposes set out in the regulation under which the body can obtain the full register.

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