

CHARNWOOD BOROUGH COUNCIL

BOROUGH COUNCIL ELECTION

THURSDAY 3RD MAY 2007

CANDIDATES' GUIDE

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PART ONE

THIS GUIDE, ELECTIONS STAFF AND THE ELECTION TIMETABLE

1. ABOUT THIS GUIDE

This Guide has been prepared to help prospective candidates and election agents, and contains information on various aspects of the elections process which will be useful for all candidates. Inevitably it is lengthy, but it has been divided into sections to make it easier to use for reference. A more extensive version including examples and fuller explanation of terms is available from the Electoral Commission and can be downloaded from the website www.electoralcommission.org.uk.

The attention of prospective candidates and agents is particularly drawn to the sections relating to qualifications for candidature, the submission of Nomination Papers and Consents to Nomination, and the provisions of the Local Elections (Principal Areas) (England and Wales) Rules 2006, which should be read **BEFORE** the completion and submission of Nomination Papers.

If you have any queries on the Guide, or on elections generally, please do not hesitate to contact the elections office.

2. RETURNING OFFICER AND ELECTIONS STAFF

The Returning Officer is B. HAYES, and the elections office is at Electoral Services, Charnwood Borough Council Offices, Southfield Road, Loughborough, LE11 2TX. Elections Office staff can be contacted either via the Council's main number (01509 263151) or on 01509 634613/2. Enquiries about the electoral register should be made via the main number - 01509 263151.

3. TIMETABLE

The elections process is governed by a statutory timetable, which is summarised below. Within this Guide you will find further references to the matters required by the timetable and, where necessary, additional information will be supplied to Election Agents between the close of nominations and the day of the poll. For ease of reference, a separate timetable is included with the documents attached to this Guide.

Publication of Notice of Election	not later than Tuesday 27th March 2007 (Charnwood will publish on Friday 23rd March 2007)
Delivery of Nominations	from Friday 23rd March 2007 to NOON on Wednesday 4th April 2007
Statement as to Persons Nominated	not later than NOON on Tuesday 10th April 2007
Notice of Withdrawal	not later than NOON on Wednesday 11th April 2007
Appointment of Election Agent	not later than NOON on Wednesday 11th April 2007
Deadline for applications to be included on the register of electors in order to vote in the election:	Wednesday 18th April 2007
Postal Voting Applications or changes to existing postal or proxy appointment	not later than 5pm on Wednesday 18th April 2007
Proxy Voting Applications	not later than 5pm on Wednesday 25th April 2007

Publication of Notice of Poll not later than Wednesday 25th April 2007

Appointment of Polling or Counting Agents not later than Thursday 26th April 2007

Proxy Voting Applications
(Medical emergency) not later than 5pm on Thursday 3rd May 2007

Polling Day 7am to 10pm Thursday 3rd May 2007

Return of Election Expenses not later than Thursday 7th June 2007
or Friday 8th June 2007 if result declared after
Midnight.

PART TWO

CANDIDATES - NOMINATION/WITHDRAWAL AND APPOINTMENT OF ELECTION AGENT

4. QUALIFICATIONS FOR CANDIDATURE

To qualify as a candidate a person must be 18 years of age and a Commonwealth citizen, or a citizen of the Republic of Ireland or a citizen of another Member State of the European Union **and** either

- (a) be registered as a local government elector within the District ; or
- (b) have occupied as owner or tenant any land or other premises during the previous twelve months within the District ; or
- (c) his/her principal or only place of work during the previous twelve months has been in the area of the District ; or
- (d) have resided within the District during the previous twelve months.

(The 'previous twelve months' means the whole of the twelve months preceding the day on which he/she is nominated as a candidate).

There are certain disqualifications for election and holding office as a member of a local authority. These are contained in Section 80 of the Local Government Act, 1972 (as amended). The main disqualifications are as shown below and Section 80 (as amended) is included with the Nomination Papers attached to this Guide.

- (a) holding a paid office under the local authority ;
- (b) bankruptcy ;
- (c) having been sentenced to a term of imprisonment (whether suspended or not) of not less than three months without the option of a fine, during the five years preceding the election ;
- (d) being disqualified under any enactment relating to corrupt or illegal practices ;
- (e) holding a politically restricted post as laid down in the Local Government and Housing Act, 1989.

The qualifications for candidature are also set out on the *Candidates' Consent to Nomination* attached to this Guide (see also paragraph 7 below).

5. NOMINATION

Two Nomination Papers are attached to this Guide - only ONE need be submitted, the second is provided for use in case of errors or mistakes being made on the first. Further Nomination Papers, if required, may be obtained from the staff listed in paragraph 2.

Great care must be taken in the completion of Nomination Papers, to ensure that nominations are not ruled to be invalid, and the information contained in the following paragraphs should be read and adhered to.

Each candidate must be nominated on a separate Nomination Paper in the prescribed form.

The Nomination Paper must give the full names (surname first) and home address of the candidate. There are restrictions as to the unauthorised use of a *description* that may lead

voters to associate a candidate with a registered political party (see paragraph 7 for further information). If you are standing for election in the name of a qualifying registered party, you may use the authorised description of that party. If you are not standing for a qualifying registered party, then you must either use the word "Independent" or you may choose to use no description at all. Any description must not exceed **SIX** words in length. A candidate's description, as shown on the Nomination Paper, will appear on all notices, ballot papers etc. used in conjunction with his or her candidature. Where a candidate is commonly known by a name other than their first name or surname this can be included - for example, it could be entered as Jones, Anthony and the commonly used forenames section could show "Tony". This would mean that the ballot paper would read "Jones, Tony". This would then appear on all the various notices as well as the ballot paper.

Nomination Papers must be subscribed by a proposer, seconder and eight assentors.

The proposer, seconder and assentors must be local government electors of the Ward, and their electoral numbers must be given on the Nomination Paper. A person's electoral number is his/her number in the register to be used at the election together with the distinctive letters of the relevant parliamentary polling district (as shown on the published register). No person shall sign more Nomination Papers than there are vacancies in the Ward or sign more than one Nomination Paper in respect of the same candidate.

Care must be taken to ensure that the polling district letters and the electoral numbers used on the Nomination Paper are those for the current register and NOT those on a previous register.

The rules require these persons to **sign** the Nomination Paper and they should use their **usual signatures**, even if the Register of Electors entry happens to be different or inaccurate. **ON NO ACCOUNT SHOULD THE SURNAME BE WRITTEN FIRST** as is the order in the Register, or names written in full, unless that is their normal signature.

It would be very helpful if they could also **print their name as signed** alongside their signature, in the column provided.

In order to ensure the validity of the nomination, and to reduce the likelihood of its validity being challenged, you are advised to ensure that Nomination Papers are free of errors and crossings out. The use of tippex or other corrective fluids is not recommended, and could result in the nomination being declared invalid. In the event of a Nomination Paper being declared invalid, any person who signed the nomination cannot sign another Nomination Paper.

6. CONSENT TO NOMINATION

The candidate must, on or within one month before the last day and time for the delivery of Nomination Papers, deliver to the Returning Officer a *Consent to Nomination* signed by him/her and containing a statement declaring with reference to the day of his/her nomination that to the best of his/her belief he/she is qualified to be elected, and giving particulars of the qualification. The consent must be attested by a witness. The nomination is **NOT** valid unless the Consent, properly completed and attested, is delivered within the time stated.

A Consent Form is included with the Nomination Papers attached to this Guide.

As mentioned above there are several qualifications for candidature, and these are set out on the consent form - **all candidates are recommended to indicate ALL of the qualifications which apply to them**. Although failure to indicate more than one qualification will not, in itself, affect the validity of the nomination, it is good practice and could avoid a future loss of reasons for qualification.

7. USE OF NAME OF REGISTERED POLITICAL PARTY

As a consequence of the Political Parties, Elections and Referendums Act 2000, a nomination paper may **NOT** include a description of a candidate which is likely to lead voters to associate the candidate with a registered political party, unless the description is authorised by a certificate which is :-

- (a) issued on or on behalf of the registered nominating officer of the party, and
- (b) received by the Returning Officer during the period for the delivery of nomination papers.

If the Returning Officer is of the opinion that a nomination paper does not meet the requirements outlined above, at the close of the period for delivery of nomination papers he will declare the nomination invalid.

Because of the confusion that the mistaken or unauthorised use of a political description could cause, candidates and their agents are strongly advised to consider their use of any such description carefully before submitting a nomination paper. They should ensure that the proper authorisation certificate has been made and that it is submitted to the Returning Officer within the specified period, preferably at the same time as the submission of the nomination paper. A party description can be one of the 12 permissible descriptions registered with the Electoral Commission in respect of the relevant party.

Candidates may, alternatively, use a description of "Independent" or leave the description blank.

8. REQUEST FOR USE OF POLITICAL PARTY EMBLEM

Where a candidate has been properly authorised by a Party's Nominating Officer to use a description, a candidate may request that the ballot paper contains against their particulars the party's registered emblem.

The request for use of the registered emblem must be made in writing to the Returning Officer and be received by him during the period for delivery of nomination papers.

9. DELIVERY OF NOMINATION PAPERS

Nomination Papers (and the Consent to Nomination) must be delivered to the **Returning Officer at the Electoral Services Office, Electoral Services, Charnwood Borough Council Offices, Southfield Road, Loughborough, LE11 2TX by NOON on Wednesday 4th April 2007 at the LATEST.**

The Notice of Election will be published on Friday 23rd March 2007 and nominations may be delivered from that date, between the hours of 9 a.m. and 5 p.m. on Mondays to Fridays, excluding Good Friday and Easter Monday. Candidates are requested to submit the completed Nomination Papers as soon as they possibly can after the publication of the Notice of Election. In particular, nominations should not be left until the last two days if this can be avoided, as in the case of an error being discovered, the candidate may not have time to submit a fresh Nomination Paper. If a candidate is nominated by more than one Nomination Paper he/she is asked to indicate the one selected to be used for the purpose of the Notice of Poll. If he/she does not do so, the Returning Officer will select the one to be used.

Please note the requirement for both the Nomination Paper and the consent to be delivered to the **Electoral Services Office by NOON on Wednesday 4th April 2007**. On no account will any Nomination Paper or Consent be accepted after that time. The delivery by a candidate or agent of either document to an office other than the Electoral Services Office or to another of the Council's office locations will not be sufficient to meet this requirement.

10. VALIDITY OF NOMINATION

The Returning Officer or his Deputy will decide upon the validity or otherwise of nominations as soon as practicable after delivery of the Nomination Paper - where possible an informal indication will be given at the time of delivery, in the presence of the candidate or agent, however this may not always be possible, especially at busy periods. An informal check will also be carried out on request if, for example, a draft Nomination is faxed to the office. A notice of the decision on the validity of the Nomination will be sent to each candidate.

11. APPOINTMENT OF ELECTION AGENT

Every candidate must appoint an election agent, and must give notice of the appointment to the Proper Officer of the Council, at the Electoral Services Office. A Form for this purpose is included with the Nomination Papers attached to this Guide. The candidate may appoint some other person or may appoint himself/herself. If some other person is appointed then the notice of appointment must be signed by that person to indicate acceptance.

The appointment must show the election agent's name and address and also the address to which claims and other documents may be sent. The latter address must be within the District or in an adjoining borough or district or in the constituency (or one of the constituencies) in which the district is comprised.

The final date for the appointment of Election Agents is **NOON on Wednesday 11th April 2007**, although it would be helpful if appointments could be made at the time of submission of the Nomination Paper and Consent to Nomination.

Please note (i) that if a candidate does not appoint some other person as his/her election agent by the time and date referred to above, or if the appointment is revoked or the agent dies, and the candidate does not make a further appointment forthwith, he/she is deemed to be their own election agent ; and (ii) that correspondence will be addressed to the Election Agent, once appointed, with the exception of the Notice of Validity of Nomination and the Statement of Persons Nominated, which will be sent direct to candidates.

12. STATEMENT OF PERSONS NOMINATED

A Statement of Persons Nominated has to be published not later than **NOON on Tuesday 10th April 2007**. A copy of this Statement will be sent to candidates as soon as possible after the close of nominations.

As well as showing the persons who stand nominated, it will show the reasons why any other person nominated no longer stands nominated.

13. WITHDRAWAL FROM CANDIDATURE

A candidate may withdraw his/her candidature if a notice of withdrawal signed by himself/herself and attested by one witness is delivered to the Returning Officer by **NOON on Wednesday 11th April 2007**.

14. REGISTER OF ELECTORS

Each candidate is entitled to one free copy of the Register for the Ward in which he/she is intending to stand. This will be supplied on request and, unless a printed version is preferred, will be provided in data format.

15. FUTURE CORRESPONDENCE

As mentioned above, please note that correspondence and notices etc produced after the Statement of Persons Nominated will be sent to the Election Agent.

PART THREE

ADDITIONAL INFORMATION, ABSENT VOTING AND SECRECY

16. ADDITIONAL ARRANGEMENTS

As soon as possible after the last day for withdrawal (NOON on Wednesday 11th April 2007) the Candidate (via his/her Election Agent) will be notified of the polling station arrangements, arrangements for the opening of postal voters' ballot papers, appointment of polling and counting agents and agents for the opening of postal ballot papers (as to which see also paragraphs 21 to 23 below), and arrangements for the counting of votes.

17. ABSENT VOTERS

Supplies of forms for persons to apply to vote by post or proxy are available from the Electoral Services Office.

The final date for new postal vote applications or for electors or their proxies who already have an indefinite or fixed period absent vote to alter their details is 5pm on Wednesday 18th April 2007.

The final date for proxy voting applications in respect of this election is 5pm on Wednesday 25th April 2007.

The final date for late proxy voting applications on the grounds of a medical emergency (these must be countersigned by a suitably qualified person) is 5pm on Thursday 3rd May 2007.

Please note that the above deadlines are absolute and that properly completed applications must be received at the Electoral Services Office, Electoral Services, Charnwood Borough Council Offices, Southfield Road, Loughborough, LE11 2TX, by the times and dates shown.

Each candidate is entitled to a copy of the lists of absent voters. These will be supplied, on request, as soon as possible after the last time for the receipt of postal vote applications - i.e. Wednesday 18th April 2007.

18. REQUIREMENT FOR SECRECY

Candidates and all other persons concerned with the elections will be required to ensure the secrecy of the ballot in all its stages. Candidates, election agents, polling and counting agents, and agents appointed for the opening of postal ballot papers will be issued with a copy of the secrecy requirements.

19. NOTICE OF POLL AND POLL CARDS

Where an election is contested a Notice of Poll will be published, giving the details of the candidates and polling arrangements, and a copy of the Notice will be sent to election agents. Poll Cards will be issued, and will give details of the polling station, and the date and hours of the poll. It is intended to issue these in time for electors to have the opportunity to apply for a postal or proxy vote before the deadline referred to above. Postal Poll Cards will also be sent to postal voters to confirm existing arrangements and give time to change postal voting arrangements if necessary.

PART FOUR

TELLERS, POLLING/COUNTING AGENTS AND AGENTS FOR POSTAL VOTE PROCEEDINGS

20. TELLERS AT POLLING STATIONS

It is common practice for some candidates to appoint 'tellers' to stand outside polling stations and identify electors who have voted, but their activities can sometimes be confusing or intimidating to voters. Tellers are not permitted to be inside the polling station other than to exercise their own vote or to vote as a proxy.

Attached to this Candidates Guide is a "Tellers Guide", for election agents and tellers, which is based on guidance produced by the Home Office. A further copy of the Guide will be supplied to election agents later in the elections period, and they will be requested to ensure that all candidates and tellers are aware of its content. It will also be supplied to the Presiding Officers who will be officiating at polling stations on the day of the poll. The purpose of the Guide is to help ensure that the activities of tellers remain within the bounds of what is acceptable.

It must be noted that Tellers have no status as far as electoral law is concerned and should concern themselves **only** with checking who has voted. Anything else could give rise to the risk of allegations of undue influence or antagonising voters.

21. POLLING AGENTS

The appointment of any polling agents has to be notified to the Returning Officer by **no later than Thursday 26th April 2007**. A Form for this purpose will be supplied.

There is often confusion as to the necessity to appoint polling agents and as to their purpose. Please note therefore:

- (i) that there is no *requirement* for polling agents to be appointed ;
- (ii) that the purpose of polling agents is to detect personation in polling stations ;
- (iii) that a polling agent may mark a copy of the register at the polling station with the details of electors who have voted, but that a register will NOT be supplied by the Returning Officer for this purpose (other than on payment of the prescribed fee for copies of the electoral register) and that the removal of such a marked copy from the polling station is not permitted during the hours of the poll ;
- (iv) that not more than one polling agent may be admitted at the same time to a polling station on behalf of the same candidate ; and
- (v) that not more than four polling agents may attend at any particular polling station unless the Returning Officer, by notice, allows a greater number. In the event of a greater number being appointed, the Returning Officer shall draw lots to determine which agents are permitted to attend.

22. COUNTING AGENTS

Every candidate may appoint counting agents to attend at the counting of the votes. Notice of the appointment must be given by **no later than Thursday 26th April 2007** and a Form for the purpose will be supplied to the election agent in due course. The Returning Officer can set limits to the number of counting agents who can be appointed on behalf of each candidate, and the permissible number will be notified.

In the past there have been instances where candidates/agents missed the deadline for the appointment of counting agents, creating difficulties. The legal deadline MUST be adhered to and the necessary Form will be supplied to election agents - any appointments received after Thursday 26th April 2007 will NOT be allowed.

23. AGENTS FOR THE OPENING OF POSTAL BALLOT PAPERS

A candidate and his/her election agent may attend the opening of postal ballot papers without giving notice, and may also appoint agents to attend. Notice of the time/place for the opening and of the number of agents who may be appointed for each candidate will be given as soon as possible after the last day for withdrawals. Notice of any appointments must be given not later than the date and time fixed for the opening, and a Form for the purpose will be supplied.

PART FIVE

POLLING DAY, THE COUNT AND "AFTER THE ELECTION"

24. HOURS OF POLL

The hours of the poll will be 7 am to 10 pm.

There are provisions for a poll not to take place or to be abandoned or adjourned in the event of the death of a candidate or of "riot or open violence". In the hopefully unlikely event of any of these circumstances arising, the Election Agents will be advised as soon as possible.

25. POLLING STATIONS - LOCATION AND ADMISSION

Details of polling stations will be forwarded after the final date for withdrawal of candidature.

The only persons entitled to be in a polling station are as follows:-

- The Returning Officer and members of his staff
- Presiding Officer
- Poll Clerk(s)
- Police Officer
- Voter (and person assisting voter with disabilities)
- Candidate
- Election Agent
- Polling Agents
- Accredited observers appointed by the Electoral Commission

As mentioned in paragraph 18, all persons in attendance at the polling station must adhere to the statutory provisions relating to the requirement for secrecy.

26. THE COUNT

Details of the venue and time of the count, and of the number of counting agents who may be appointed, will be supplied. The candidate and his/her spouse/partner and election agent may attend the count without giving notice.

Please note that only the Returning Officer and his staff can enter the enclosed Counting area.

27. ACCEPTANCE OF OFFICE

A successful candidate must not act as a Councillor unless he/she has made a "Declaration of Acceptance of Office" in a prescribed form within two months (or as otherwise specified) of the day of election. If he/she fails to do so within the appointed time his/her office will become vacant. Further information will be given to the successful candidates.

28. QUESTIONING AN ELECTION

A local authority election can be questioned only by way of an election petition. The petition must normally be presented to the High Court within 21 days after the date on which the election was held. If presented on the grounds of a corrupt or illegal practice after the election, or of a complaint relating to election expenses, it may, in certain cases, be presented at a later date.

29. ELECTION EXPENSES

The Return of Election Expenses must be submitted by **Thursday 7th June 2007**, or Friday 8th June 2007 if the result is declared after midnight.

Part Six of this Guide gives information about election expenses, and candidates/election agents are recommended to read it carefully. The law relating to election expenses is complex, and Part Six attempts to summarise the law as far as possible. However, if your election campaign is being financed partly by donations or sponsorship, then it is your responsibility to make yourself aware of all of the statutory requirements.

PART SIX

ELECTION EXPENSES AND THE ELECTION CAMPAIGN

The following guidance is only intended to provide the candidate and election agent with general information on this complex matter. Candidates and their agents should always obtain their own legal advice regarding this subject.

30. DEFINITION OF CANDIDATE

A person becomes a candidate at an election under the local government Act either:-

- (a) on the last day for publication of notice of an election if on or before that day he has been declared by himself (or by someone else) to be a candidate; or otherwise, either;
- (b) on the day on which he declares himself (or is so declared by someone else) to be a candidate; or
- (c) on the day on which he is nominated as a candidate at the election (whichever is the earlier).

31. DEFINITION OF ELECTION EXPENSES

Election expenses in relation to a candidate means expenses incurred in respect of:

- (a) the acquisition or use of any property, or
- (b) the provision by any person of any goods, services or facilities,

which is or are used for the purpose of the candidate's election after the date when he becomes a candidate at the election (see definition of candidate above). This applies whether the expenses were incurred before or after that date.

The following, however, are not regarded as election expenses:

- (a) the payment of any candidate's deposit required in respect of the election.
- (b) the publication of any matter, other than in an advertisement, relating to the election in:
 - (i) a newspaper or periodical
 - (ii) a broadcast made by the BBC or SC4
 - (iii) a programme including any service licensed under the Broadcasting Acts
- (c) the provision of any facilities provided in pursuance of any right conferred on candidates at an election (e.g. schools and meeting rooms), other than facilities in respect of which expenses fall to be defrayed by virtue of ss.95(4) and 96(4) of the RPA 1983.
- (d) the provision by any individual of his own services which he provides voluntarily in his own time and free of charge. (The Electoral Commission takes the view that this includes normal paid annual leave, but excludes special paid leave or additional annual leave provided by an employer to allow such voluntary work to be undertaken).

32. INCURRING OF ELECTION EXPENSES

Candidates should treat the actual expense incurred in respect of the use of any property, goods, services or facilities as the election expense. Where property, goods, services or facilities used for the purposes of a candidate's election were also used for some other purpose, the election expense is regarded as that proportion of the total costs that can reasonably be apportioned to the use of the property etc. for the purpose of the candidate's election.

33. NOTIONAL EXPENDITURE

Where property, goods, services or facilities are provided to a candidate (and used for the purpose of his election) free of charge or at a discount of more than 10% of the market/commercial value, candidates should value these expenses at the commercial/market rate that would otherwise have been payable in respect of the services etc. incurred.

34. ELECTION EXPENSES LIMITS

Election expenses must not exceed £600 with an additional 5p for every entry in the register for the Ward as at the time of publication of the Notice of Election.

Where there are two joint candidates for the same Ward then the maximum amount mentioned above shall be reduced by a quarter and if there are more than two joint candidates by one-third. Joint candidates are candidates who have appointed the same election agent, or employ the same clerks or messengers, or hire or use the same committee room or publish a joint address, circular or notice at the election.

Where the poll is countermanded or abandoned because of the death of a candidate, the maximum for any other candidates remaining validly nominated is twice the amount calculated as above.

Any candidate or election agent who incurs, or authorises the incurring of election expenses where they knew, or ought reasonably to have known that the expenses would be incurred in excess of the permitted maximum, will be guilty of an illegal practice.

35. PAYMENT OF ELECTION EXPENSES

Every payment made by an election agent in respect of election expenses must, except where the amount is less than £20, be vouched for by a bill stating the particulars, or by a receipt. Every claim against the candidate or his/her election agent must be sent to the election agent not later than 21 days after the declaration of the result of the election. If not so sent, it must not be paid except by order of a court.

All election expenses must be paid not later than 28 days after the declaration of the result of the election. Any claim not so paid, because the election agent disputes it or otherwise, must not be paid except by order of a court.

No payment in respect of election expenses may be made by a candidate or any other person unless made by or through the candidate's election agent. Exceptions to this requirement include:

- (i) any personal expenses paid by the candidate (see Section 36 below), election expenses which fall to be paid before the appointment of an election agent, payments made under a Court order of leave, or payment of a disputed claim by order of a court;
- (ii) petty expenses (see Section 36 below);
- (iii) expenses which are incurred by or on behalf of the candidate for a purpose other than the candidate's election, but which fall to be treated as election expenditure because of the use of those goods, services etc; and
- (iv) expenses incurred by the candidate or his agent, or a person authorised by one of these people, before the date on which he became a candidate, but which are to be treated as election expenses.

Payments that were incurred by or on behalf of a candidate for purposes other than the candidate's election but which were subsequently used for this purpose, are exempt from the requirement that payment must be made through the election agent and are excluded from the time limit for sending in and paying claims, and disputed claims. **The candidate's agent must, however, make a declaration of the value of any election expenses incurred in this way.**

36. CANDIDATES' PERSONAL EXPENSES AND PETTY EXPENSES

The following count as the candidate's personal expenses and as petty expenses, which are not required to be paid through the Election Agent:

- (a) personal expenses, e.g. fares, meals etc. The candidate must send to the election agent within 21 days of the declaration of the result of the election a statement of the amount of such expenses ;
- (b) small expenses legally incurred by some person and not repaid to him - e.g. a canvasser's bus fare, in respect of which he makes a claim ;
- (c) petty expenses paid by a person authorised by the election agent for stationery, postage etc. to an amount named in writing by the election agent and to be repaid by him. A statement of the particulars of such payments must be sent to the election agent within 21 days of the declaration of the result of the election.

37. EXPENSES OF MEETINGS, ADVERTISEMENTS, ELECTION LITERATURE ETC

Only the candidate, the election agent, or persons authorised in writing by the election agent, may incur any expense in connection with (a) holding a public meeting or organising a display ; (b) issuing advertisements, circulars or publications ; (c) otherwise presenting to the electors (except in newspapers or periodicals or in a broadcast made by the B.B.C., Sianel Pedwar Cymru, or the holder of any licence granted by the Independent Television Commission or the Radio Authority.) the candidate or his/her views, or the extent or nature of his/her backing or disparaging another candidate. Any authorised person incurring any such expense must send to the Proper Officer of the Council within 21 days of the declaration of the result of the election *a return* of the amount, and *a declaration* verifying the return and giving full particulars.

Incurring such expense without the election agent's authority constitutes a corrupt practice, and failing to send the declaration or return constitutes an illegal practice ; either offence might render the election void. All expenses under these headings must be paid by the election agent, and count towards the permitted maximum total.

38. DONATIONS TO CANDIDATES

Any money or other property provided (whether as a gift or a loan) by someone other than the candidate or agent in order to help the candidate meet his election expenses, must be given to the candidate or his agent. This does not include any money or other property provided for meeting any expenses which may lawfully be paid by a person other than the candidate or his agent (or sub-agents), but does include donations for the purpose of securing that any such expenses are not so incurred. Anyone who provides any money or other property in contravention of this section is guilty of an illegal practice.

Donations of more than £50 to a candidate or his election agent for the purpose of meeting election expenses incurred by or on behalf of the candidate include:

- gifts of money or other property (including a bequest or other form of testamentary disposition);
- sponsorship (see below);
- money spent by another person in paying any election expenses incurred by or on behalf of the candidate;
- any money lent to the candidate or his election agent otherwise than on commercial terms; and
- the provision, otherwise than on commercial terms, of any property, services or facilities for the use of benefit of a candidate (including the services of a person).

The following would not count as a donation:

- any donation with a value of £50 or less;
- any facilities received by a candidate in pursuance of the rights conferred on candidates under the Representation of the People Act 1983;
- the provision by an individual of his own services, where they are provided voluntarily (i.e.

- in his own time) and free of charge;
- any interest accruing from a donation dealt with by a candidate or his agent as required under the Act.

39. SPONSORSHIP

Sponsorship is provided where any money or other property is transferred to the candidate (or to any other person) to help meet (or avoid incurring by or on behalf of the candidate), expenses in connection with:

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

Sponsorship does **not** include the making of any payment in respect of:

- any payment for admission to a conference, meeting or other event;
- the purchase price of (or any other charge made for access to) any publication; or
- any payment made at the commercial rate in respect of the inclusion of any advertisement in any publication .

40. LIST OF PERMISSIBLE DONORS

A candidate or his agent must accept donations only from permissible donors. These are:

- (a) an individual registered in an UK electoral register;
- (b) a company -
 - (i) registered under the Companies Act 1985 or the Companies (Northern Ireland) Order 1986, and
 - (ii) incorporated within the United Kingdom or another member State of the European Community,which carries on business in the UK;
- (c) a registered party (except parties on the Northern Ireland register from whom candidates in Great Britain are prohibited from accepting donations);
- (d) a trade union in the list kept under the Trade Union and Labour Relations (Consolidation) Act 1992 or the Industrial Relations (Northern Ireland) Order 1992;
- (e) a building society (within the meaning of the Building Societies Act 1986);
- (f) 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 United Kingdom;
- (g) 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; and
- (h) any other unincorporated association of two or more persons which does not fall within any of the above categories but which carries on business or other activities wholly or mainly in the United Kingdom and whose main office is there.

In addition a donation from the following types of trusts are regarded as donations from a permissible source, provided that it is not received as a result of the exercise of any discretion vested by the trust in the trustee or any other person:

- (a) an exempt trust created before 27 July 1999 ; or
- (b) a permissible donor exempt trust .

A candidate or his agent may not accept donations from individuals or organisations that do not fall into one of the categories listed above, or from an unidentifiable source.

41. HANDLING OF DONATIONS

Where a donation is received after the deadline for appointing an election agent, the candidate shall pass the donation (and all relevant information) to the agent immediately, and the donation will then be treated as if the agent had received it on the date on which it was received by the candidate.

If the donation was received before the deadline for appointing an agent but after an agent has been appointed, the candidate shall immediately pass the donation to the agent, or deal with it as required by s.56 of the Political Parties Elections and Referendums Act. The candidate must let the agent have any details necessary for him to comply with the relevant reporting requirements.

On receiving a donation, a candidate or his agent must first decide whether there is any immediate reason to not accept the donation. If not, all reasonable steps must be taken to confirm (or, if necessary find out) the following details:

- (a) the identity of the donor ;
- (b) whether he/she is a permissible donor;
- (c) the name and address of the individual or organisation that has made the donation, and company registration number if applicable.

A candidate or election agent are allowed a period of 30 days (starting with the date of receipt of the donation) in which to make any enquiries, and to take any necessary action. After that time a candidate or agent will be regarded as having accepted the donation, unless a record can be produced showing that it has been returned to the donor or otherwise been disposed of in accordance with the requirements of the Act. The donation may be held in a candidate or agent's account whilst enquiries are being undertaken.

If the donation has a value of more than £50 but is from an impermissible donor, the candidate or agent must return the donation, or a payment of an equivalent amount, to the person who made the donation (or any person appearing to be acting on his/her behalf) within 30 days, beginning with the date when the donation was received.

If a candidate or agent is unable to find out the identity of a donor they must, within 30 days of the date of receipt of the donation, return the donation either to the person who transmitted the donation to the candidate, or to the relevant financial institution, or otherwise to the Electoral Commission (for payment into the Consolidated Fund), if the former cannot be ascertained.

It is an offence for any person to knowingly participate in any arrangement to evade the controls on donations to candidates. It is also an offence for any person to give the candidate and/or the agent any false details about the amount of the donation or the donor.

42. REPORTING OF DONATIONS

Details of relevant donations should be included in the candidates election expenses return, as follows:

- (a) **accepted** donations over £50:
 - (i) amount or value and nature
 - (ii) date donation received
 - (iii) date donation accepted
 - (iv) full name and address of donor
 - (v) status of donor eg individual, trade union etc (including company registration number, if applicable). (See above for details required in the case of exempt trust donations).
- (b) donations over £50 from **impermissible** donors:
 - (i) name and address of donor
 - (ii) amount or value and nature of donation
 - (iii) date donation received
 - (iv) date when, and manner in which dealt with (in accordance with s.56(2)(a) of the Political Parties, Elections and Referenda Act 2000 (PPERA))

- (c) donations over 50 from **unidentifiable** donors:
 - (i) details of manner in which donation was made
 - (ii) amount or value and nature
 - (iii) date donation was received
 - (iv) date when and manner in which it was dealt with in accordance with s.56(2)(b) of the PPERA

43. RETURN OF ELECTION EXPENSES

All returns must be delivered to the Proper Officer of the Council in the prescribed form showing all payments made by him/her together with the bills or receipts for amounts over £20. The return must be delivered not later than thirty five days after the declaration of the result of the election - i.e. **Thursday 7th June 2007**. (NB: This deadline would be extended by one day in respect of any result declared after midnight on Thursday 3rd May 2007). The return must be accompanied by a declaration, also in a prescribed form, made by the election agent declaring that to the best of his/her knowledge and belief the return is true and correct.

This return is required for the purpose of confirming that the expenses incurred do not exceed the authorised amount. **It does not entitle the candidate to any refund of such expenses from the Council.**

At the same time that the election agent delivers the return and declaration or within seven days afterwards, the candidate (unless he/she was his/her own election agent) must deliver to the Proper Officer a declaration in a prescribed form.

The necessary forms will be forwarded to election agents.

Failure by an election agent or candidate to send in the return or declaration within the prescribed time constitutes an illegal practice ; knowingly making a false declaration constitutes a corrupt practice. A candidate or election agent may in certain instances, e.g. illness or inadvertence, apply to a court for an 'authorised excuse'.

Candidates and election agents should be aware that the returns and declarations must be kept by the Proper Officer at the Electoral Services Office, Electoral Services, Charnwood Borough Council Offices, Southfield Road, Loughborough, LE11 2TX for a period of two years after they have been delivered, and during that time they are available for inspection by any person on payment of the prescribed fee (£5.00). Copies must also be provided, again on payment of the prescribed fee (£0.20 per side). However, copies of returns that include a statement of donations will not include the address of any individual donor.

IT IS NOT THE DUTY OF THE PROPER OFFICER OR THE RETURNING OFFICER TO REMIND CANDIDATES AND ELECTION AGENTS WHO HAVE NOT SUBMITTED THEIR RETURNS AND DECLARATIONS ON TIME NOR TO CHECK ANY PART OF THE RETURNS OR DECLARATIONS.

44. CORRUPT AND ILLEGAL PRACTICES

The following guidance is only intended to provide the candidate with general information on this complex matter. Candidates and their agents should always obtain their own legal advice regarding this subject.

A person found guilty of a corrupt practice is, in general, liable to imprisonment, or to a fine, or to both, and is disqualified for five years from being registered as an elector, voting or holding any elective office. If an elected candidate is reported guilty of a corrupt practice by an election court, his/her election will be void.

It is a corrupt practice to influence, or attempt to influence, a person in the way he/she votes by:-

- (a) treating, i.e. providing food, drink or entertainment
- (b) undue influence, i.e. using or threatening any kind of force, violence or duress
- (c) bribery, i.e. giving any gift or procuring any office

It is also now a corrupt practice to make a false statement of the name or home address of a candidate or to forge or fraudulently obtain the signature of a subscriber on a nomination paper.

A person convicted of an illegal practice is, generally, liable to a fine and is disqualified from being registered as an elector, voting or holding elective office for three years. If an elected candidate is reported guilty of an illegal practice by an election court, his/her election will be void.

A candidate or election agent may be convicted of an illegal practice if he/she :-

- (a) makes or publishes any false statement of fact in relation to the candidate's personal character or conduct unless he/she can show that he/she had reasonable grounds for believing, and did believe the statement to be true.
- (b) publishes a false statement of a candidate's withdrawal for the purpose of promoting or procuring the election of another candidate.
- (c) pays any voter for the exhibition of any election address, bill or notice unless the voter's ordinary business is that of an advertising agent ;
- (d) prints, publishes, posts or distributes any bill, placard or poster promoting or procuring the election of a candidate **unless it bears on the face of it the name and address of the printer and promoter and of any person on whose behalf it is being published (and who is not the promoter) ;**