

I want to challenge the outcome of a Parliamentary/Local Government election or the election of a member of the European Parliament

This leaflet gives an outline of the procedure; it should not be regarded as a definitive guide. For further information please see:

Part III of the Representation of the People Act 1983 as amended by Schedule 17 to the Political Parties, Elections and Referendums Act 2000
Election Petition Rules 1960
(Statutory Instrument 1960/543)
European Parliamentary Election Petition Rules 1979
(Statutory Instrument 1979/521)
Local Elections (Principal Areas) Rules 1986
(Statutory Instrument 1986/2214)
Local Elections (Parishes and Communities) Rules 1986
(Statutory instrument 1986/2215)
European Parliamentary Elections Regulations 1999
(Statutory Instrument 1999/1214)
European Parliamentary Elections Regulations 2004
(Statutory Instrument 2004/293)
Local Elections (Parishes and Communities)(Amendment)
(England and Wales) Rules 2004
(Statutory Instrument 2004/224)

Who can make a challenge?

The outcome of an election can be challenged on the grounds of some irregularity by the issue of an election petition.

In the case of a Parliamentary or European Parliamentary Election by:

- a voter or someone who had the right to vote; or
- an unsuccessful candidate; or
- a person alleging him/herself to have been a candidate.

In the case of a Local Government election by:

- 4 or more voters or persons who had the right to vote; or
- a person alleging him/herself to have been a candidate.

Who is the respondent?

The successful candidate must be a respondent and the returning officer if his conduct, or that of his staff, is complained of.

What form does an election petition take?

An example is to be found at the back of the Election Petition Rules 1960 and the European Election Petition Rule 1979 and Atkins Court Forms, volume 18(1).

The Rules require that the petition must state:

- The capacity in which the petitioner(s) is (are) acting;
- The date and result and, in the case of a Parliamentary Election, the date the return was made to the Clerk of the Crown in Chancery (the returning officer should be able to provide this);
- The date from which the time for lodging the petition is calculated, if not within 21 days;
- The grounds on which relief is sought; and
- The relief claimed.

The petition must be signed by each petitioner personally; it cannot be signed by a solicitor on his/her behalf.

Is there a time limit for issuing an election petition?

Yes. Generally it must be issued within 21 days after

- In the case of a Parliamentary Election – the return of the writ with the name of the successful candidate was made to the Clerk of the Crown in Chancery;
- In the case of a European Parliamentary Election – the day the result was declared under the rules governing that declaration;
- In the case of a Local Government Election – the day on which the election was held.

Further time may be allowed when the petition questions the election on the grounds of corrupt or illegal practices involving the payment of money or other reward or in connection with election expenses.

The fee for an election petition is £400 (payable on issue)

You may issue your petition at any time up to midnight on the last day. If the Election Petitions Office is closed, you may deliver your petition by posting it in the letterbox provided at that office (Room E08 at the Royal Courts of Justice). You must swear an affidavit the next working day confirming the day and time at which you deposited the petition.

How much will it cost?

The fee payable on issue of an election petition is currently £400.

Will there be anything else to pay?

Yes. At the same time as you issue your election petition, you must apply to the Prescribed Officer (the Senior Master of the Queen's Bench Division) or, in this absence, to a Queen's Bench Master to fix the amount of the security for costs which the law says you must give. You should use form PF 244; there is a fee (currently £50) payable on issue of the application. You must pay security for costs within 3 working days of issuing an election petition.

What is security for costs?

This is a sum of money, which you must pay into the Court Funds Office, or a number of sureties to cover, or go towards covering, any costs which you may be ordered to pay. The maximum security which you can be ordered to give is:

- In the case of Parliamentary/European Parliamentary Election - £5,000;
- In the case of a Local Government Election - £2,500;
- In the case of a Parish Council Election - £1,500.

Security for costs may be given (a) in cash or (b) by up to 4 sureties, or a combination of both. The respondent has the right to object to any surety on the grounds that they are not worth the amount they have agreed to stand in or, if the Prescribed Officer ordered a smaller amount than the maximum security, on the grounds that the amount is insufficient.

If you fail to give security for costs within 3 working days of issue of election petition, you cannot take any further action.

PLEASE NOTE: whatever amount is fixed as security for costs, if the petition fails, or you do not pursue it, you may be ordered to pay the costs of the respondent(s) and these will probably exceed the amount fixed as security for costs.

How do I serve the election petition?

You must serve a notice of presentation of the petition and of the amount and nature of the security given, together with a copy of the petition and of the affidavit accompanying any recognisance, on each respondent in one of the following ways: (a) personally; (b) by 1st class post (in which case the date of service is deemed to be the second day after posting) or (c) on a solicitor authorised to accept service. In addition you must serve a copy of the notice of presentation and attachments on the Director of Public Prosecutions at 50 Ludgate Hill, London, EC4M 7EX. A suggested form of notice of presentation can be found in Atkin's Court Forms, volume 18 (1).

You must serve the above documents within 5 working days of giving security for costs. If you fail to do so, you cannot take any further action on the petition.

How can I get further advice?

The staff in the Election Petitions office can advise you on the procedure for issuing an election petition but they cannot give you any legal advice or any indication of whether you are likely to be successful. The Returning Officer and his staff are also unable to give you legal advice.

**I made a mistake as a result of which I
Am guilty of an illegal practice
(e.g. in connection with my election
literature or expenses).
What can I do?**

Application for relief

If, by mistake, you have acted in a way that contravenes the election law, it may be possible for you to apply to the court for relief from the consequences of your action. Any such application can be made to the High Court or the election court; alternatively, an application under section 86 of the Representation of the People Act 1983 (failure to deliver return of expenses etc.) or section 167 if it relates to a contravention of section 78(1) or (2) or paragraph 1 of Schedule 4 to the Act (late submission or payment of expenses) may be made to a county court.

How do I issue an application for relief?

An application to the county court may be issued in any county court office. An application to the High Court or an election court is issued in the Election Petitions Office, Room E19. There is a fee (currently £400) payable on issue. You must serve a copy of the application, together with a witness statement in support, on each of the opposing candidates and on the returning officer and publish the application in a local newspaper. You must also notify the Director of Public Prosecutions who may attend the hearing if he so wishes.

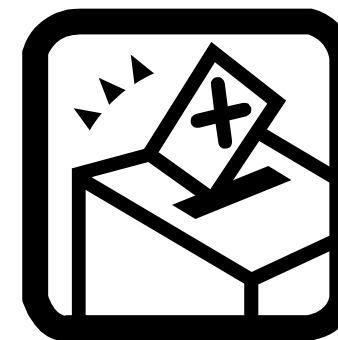
Issued by:

The Election Petitions Office
Room E19
Royal Courts of Justice
Strand, London WC2A 2LL
Tel: 020 7947 7529
Fax: 020 7947 7339/6807
The Office is open to personal
callers between 10am and 4.30pm

Election Petitions Office, RCJ



**I want to:
Challenge the
outcome of an
election
Apply for relief**



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